

THE TOWN OF  
**Windermere**



**MAYOR AND COUNCIL OF THE TOWN OF WINDERMERE**

**Mayor Jim O'Brien**  
**Council Members**  
**Robert McKinley**  
**Andy Williams**  
**Chris Sapp**  
**Bill Martini**  
**Liz Andert**

*Agenda*

*Agenda*

**July 9, 2019**  
**6:00 PM**

**WINDERMERE TOWN HALL**  
**520 MAIN STREET**  
**WINDERMERE, FL 34786**

**PLEASE TURN OFF ALL CELL PHONES AND PAGERS**

**PLEASE NOTE:** IN ACCORDANCE WITH F.S. 286.26: Person with disabilities needing assistance to participate in any such proceeding should contact the Office of the Town Clerk at least 48 hours beforehand at (407) 876-2563

Pursuant to Resolution No. 2005-12 adopted on December 13, 2005, the following Civility Code shall govern all proceedings before the Town of Windermere Town Council:

1. All electronic devices, including cell phones and pagers, shall be either turned off or otherwise silenced.
2. Prolonged conversations shall be conducted outside Council meeting hall.
3. Whistling, heckling, gesturing, loud conversations, or other disruptive behavior is prohibited.
4. Only those individuals who have signed the speaker list and/or who have been recognized by the Mayor (or Chair) may address comments to the Council.
5. Comments at public hearings shall be limited to the subject being considered by the Council.
6. Comments at Open Forums shall be directed to Town issues.
7. All public comments shall avoid personal attacks and abusive language
8. No person attending a Town Council meeting is to harass, annoy, or otherwise disturb any other person in the room.

Any member of the public whose behavior is disruptive and violates the Town of Windermere Civility Code is subject to removal from the Town Council meeting by an officer and such other actions as may be appropriate. **PLEASE NOTE:** IN ACCORDANCE WITH F.S. 286.0105: Any person who desires to appeal any decision at this meeting will need a record of this proceeding. For this, such person may need to ensure that a verbatim record of such proceeding is made which includes the

# AGENDA

- THE MEETING IS CALLED TO ORDER BY THE MAYOR
  - FLAG SALUTE
  - INVOCATION
1. OPEN FORUM/PUBLIC COMMENT (3 Minute Limit)
  2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS
    - a. Rep. Geraldine F. Thompson: Legislative Updates
    - b. Windermere Mayoral Proclamation Designating the Month of July as Windermere Staff Appreciation Month. (Attachment-Mayor O'Brien to Present)
  3. TIMED ITEMS AND PUBLIC HEARING
  4. CONSENT AGENDA:
    - a. Z19-006 - 235 Magnolia Street - Robert & Leslie Hartog - Variances to allow greater than 10% expansion of non-conforming home and to allow a reduced side setback. (Attachments-DRB Recommends Approval)
    - b. Z19-007 - Windermere Elementary School - Orange County School Board - Variances to allow a ground sign in excess of 20 square feet and to allow an illuminated LED sign. (Attachments-DRB Recommends Approval with conditions)
  5. NEW BUSINESS
    - a. MINUTES
      - i. Town Council Meeting Minutes June 11, 2019 (Attachments-Staff Recommends Approval)
      - ii. Town Council Workshop Meeting Minutes June 25, 2019 (Attachment-Staff Recommends Approval)
    - b. RESOLUTIONS/ORDINANCES FOR APPROVAL/FIRST READING
      - i. Resolution 2019-02 of the Town Council for the Town of Windermere, Florida changing The 2020 Municipal Election Date, Canvassing Board and Qualifying Date (Attachment-Staff Recommends Approval)
      - ii. ORDINANCE NO. 2019-05 (Attachment-Limiting hours for garbage pickup-Board Option)

AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO HEALTH, SAFETY AND WELFARE; AMENDING THE TOWN'S CODE OF ORDINANCES TO ADD A NEW SECTION 28-8 TO CHAPTER 28 OF THE TOWN'S CODE OF ORDINANCES TO BE TITLED "PERMISSIBLE HOURS FOR GARBAGE COLLECTION"; PROVIDING THAT RESIDENTIAL AND NON-RESIDENTIAL GARBAGE MAY BE COLLECTED ONLY DURING THE HOURS BETWEEN 7:00 A.M. AND 10:00 P.M., EACH DAY OF THE WEEK; PROVIDING FOR SEVERABILITY AND CODIFICATION; PROVIDING AN EFFECTIVE DATE.

- c. APPOINTMENTS: COMMITTEES AND BOARDS
- d. CONTRACTS AND AGREEMENTS
  - i. Ocoee Fire Service Agreement (Attached-Staff Recommends Approval)
  - ii. Architect Design Group Contract New Facilities (Attachments-Staff Recommends Approval)
  - iii. Withers-LLC Design Review Schedule & Fees (Attachments-Staff would recommend exception and Proposal to be approved)
  - iv. Purchase of Railroad ROW across from 3348 S Lake Butler Blvd; Sorenson (Attachments-Staff Recommends Approval)
  - v. Purchase/Donation of Railroad ROW across from 10 Main St; Rubio (Attachments-Staff Recommends Approval)
- e. FINANCIAL
- f. OTHER ITMES FOR CONSIDERATION
  - i. Kellogg Boat Dock Request: 416 E 5<sup>th</sup> (Attached-Board Option)
  - ii. Amending Sign Ordinance (Attachment-DRB Recommends Approval 4-1)
  - iii. Cut Thu Traffic Continued Discussions (Attachment-Board Option)

6. MAYOR & COUNCIL LIAISON REPORTS

- a. MAYOR O'BRIEN
- b. COUNCILMAN MCKINLEY
- c. COUNCILMAN WILLIAMS
- d. COUNCILMAN SAPP
- e. COUNCILMAN MARTINI
- f. COUNCILMEMBER ANDERT

7. STAFF REPORTS

- a. TOWN MANAGER ROBERT SMITH
- b. TOWN ATTORNEY TOM WILKES
  - i. FEMA UPDATE
- c. POLICE CHIEF DAVE OGDEN
- d. PUBLIC WORKS DIRECTOR SCOTT BROWN

8. ADJOURN

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• **REPORTS: NO ACTION REQUIRED**

- a. Town Council Liaison Reports
- b. Town of Windermere Downtown Speed Limit Recommendations
- c. Gray Robinson FEMA/DEM Memo
- d. Operation Dusty Roads Part Deux

- FILED ITEMS
- IMPORTANT DATES
- July 11<sup>th</sup> – Parks & Recreation Meeting
- July 12<sup>th</sup> – Farmers Market
- July 16<sup>th</sup> – Rotary Club Meeting
- Development Review Board Meeting
- July 17<sup>th</sup> – Willows HOA Meeting
- July 18<sup>th</sup> – Windermere Tree Board Meeting
- July 19<sup>th</sup> – Farmers Market
- July 23<sup>rd</sup> – Rotary Club Meeting
- Town Council Workshop
- July 25<sup>th</sup> – Long Range Planning Committee Meeting
- July 26<sup>th</sup> – Farmers Market
- Food Truck Night
- July 30<sup>th</sup> – Rotary Club Meeting
- July 31<sup>st</sup> – Historical Preservation Board Meeting
- AUGUST
- August 1<sup>st</sup> – Food Truck / Farmers Market Selection Committee Meeting
- August 2<sup>nd</sup> – Farmers Market
- August 5<sup>th</sup> – Projects Meeting
- August 6<sup>th</sup> – Rotary Club Meeting
- Code Enforcement Hearing
- August 7<sup>th</sup> – Downtown Business Committee Meeting
- August 8<sup>th</sup> – Parks & Recreation Meeting
- August 9<sup>th</sup> – Farmers Market
- August 13<sup>th</sup> – Rotary Club Meeting
- Town Council
- August 15<sup>th</sup> – Windermere Tree Board Meeting
- August 16<sup>th</sup> – Farmers Market
- August 20<sup>th</sup> – Rotary Club Meeting
- Development Review Board Meeting
- August 21<sup>st</sup> – Willows HOA Meeting
- August 22<sup>nd</sup> – Long Range Planning Committee Meeting
- August 23<sup>rd</sup> – Farmers Market
- Food Truck Night
- August 27<sup>th</sup> – Rotary Club Meeting
- Town Council Workshop
- August 28<sup>th</sup> – Historical Preservation Board Meeting
- SEPTEMBER
- September 2<sup>nd</sup> – Projects Meeting
- September 3<sup>rd</sup> – Rotary Club Meeting
- Code Enforcement Hearing

- **September 5<sup>th</sup> – Food Truck / Farmers Market Selection Committee Meeting**
- **September 6<sup>th</sup> – Farmers Market**
- **September 10<sup>th</sup> – Rotary Club Meeting**
- **Town Council**
- **September 11<sup>th</sup> – 9/11 Commemoration**
- **Town Council Tentative Budget Hearing**
- **September 12<sup>th</sup> – Parks & Recreation Meeting**
- **September 17<sup>th</sup> – Rotary Club Meeting**
- **Development Review Board Meeting**
- **September 18<sup>th</sup> – Willows HOA Meeting**
- **September 19<sup>th</sup> – Windermere Tree Board Meeting**
- **September 20<sup>th</sup> – Farmers Market**
- **September 23<sup>rd</sup> – Town Council Final Budget Hearing**
- **September 24<sup>th</sup> – Rotary Club Meeting**
- **Town Council Workshop**
- **September 25<sup>th</sup> – Historical Preservation Board Meeting**
- **September 26<sup>th</sup> – Long Range Planning Committee Meeting**
- **September 27<sup>th</sup> – Farmers Market**
- **Food Truck Night**



**WINDERMERE MAYORAL PROCLAMATION DESIGNATING THE MONTH OF JULY AS  
WINDERMERE TOWN STAFF APPRECIATION MONTH**

**WHEREAS:** The Town of Windermere takes great pride in being a community that serves its residents and is fortunate to have men and women who choose a profession that serves our community; and

**WHEREAS:** Our Town staff is comprised of individuals who work to make our town a better place to live and Windermere's staff has worked to improve the lives of not only Windermere's residents, but all of those who surround us, and those who travel through our Town; and

**WHEREAS:** Our Town staff has worked on numerous projects improving traffic and pedestrian safety, as well as storm water initiatives, which protect the Butler Chain of Lakes; and

**WHEREAS:** In addition to all of these projects, the Town of Windermere has continued to make customer service its number one priority, while at the same time, maintaining one of the lowest tax millage rates in Orange County, year after year; and

**WHEREAS:** The Town of Windermere is the community it is through the work of our Town staff and their commitment and dedication. Windermere, and all of Central Florida's quality of life, is greatly enhanced by these men and women who choose to serve the residents of the Town of Windermere;

**NOW, THEREFORE, I, Jim O'Brien, Mayor of the Town of Windermere, do hereby declare July, 2019 as Windermere Town Staff Appreciation Month and extend the sincere appreciation and gratitude of not only the residents and elected officials of Windermere, but for all of those almost 20,000 people who travel through our town every work day and do not take the time to realize that their travels are made safer and better through the work of Windermere's town staff.**

**Dated this 9th day of July, 2019.**



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**Jim O'Brien, Mayor  
Town of Windermere**

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

## Development Review Board June 18, 2019

## Town Council July 9, 2019

**Case No.:** Z19-006

**Applicant:** Robert and Leslie Hartog

**Property Owner:** Robert and Leslie Hartog

**Representative:** Dean and Lesha Miller

**Requested Action:** Variance to allow a greater than 10% expansion to a non-conforming home for an addition up to 2,608 square feet (82% increase) and allow for the north side setback at 10.03 feet for Area A, 9.84 feet for Area B, and 9.89 feet for Area C.

**Property Address:** 235 Magnolia Street

**Legal Description:** PLAT OF WINDERMERE G/36 THE SOUTH 80 FEET OF BLOCK C

**Future Land Use/Zoning:** Residential/Residential

**Existing Use:** Residential (Single Family)

### Surrounding Future Land Use/Zoning

**North:** Residential/Residential  
**South:** E 3<sup>rd</sup> Avenue passive green space  
**East:** Lake Butler  
**West:** Residential/Residential

### **CASE SUMMARY:**

Scott and Leslie Hartog, who are the owners of 235 Magnolia Street, submitted a request for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow a greater than 10% expansion to a non-conforming home for an addition up to 2,608 square feet (82% increase from 3,180.5 SF to 5,788.0 SF) and allow for the north side setback at 10.03 feet for Area A, 9.84 feet for Area B, and 9.89 feet for Area C. See attached information.

The existing home on this property was constructed in 1969. The existing home on this property is non-conforming in that it does not meet the side (North) setback. The existing structure has a side (North) setback of 9.9 feet at the front corner of the building and 10.0 feet at the back corner of the building (10.75 feet required).

The applicant is requesting a variance to allow for an expansion of 82% of the existing non-conforming home. The proposed expansion increases the gross floor area of the existing home from 3,180.5 square feet to 5,788 square feet. The applicant is requesting a variance to allow for the addition areas A, B, and C be less than the required 10.75-foot side setback. The side setback for proposed Area A is 10.03 feet, the proposed side setback for Area B is 9.84 feet, and the setback for the proposed Area C is 9.89 feet. The proposed Areas A, B, and C are in line with the existing footprint of the building. The difference in the side setback distances is a result of the shape of the lot. The proposed additions are compliant with all other setbacks, gross floor area limitations, and impervious area limitations.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on these variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

### **CASE ANALYSIS:**

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the



regulation;

3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or another hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted a site plan and other materials in support of the variance request. The following is a summary of the information provided by the applicant in support of their variance request:

1. Desire to renovate existing house to maintain consistency with neighborhood;
2. Existing house on a relative narrow lot for neighborhood;
3. Increase the livability, value of the property, enhance exterior aesthetics of home and lakefront lot.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property on May 31, 2019 (35 notices sent). As of June 25, 2019, 8 responses were returned in support and none in opposition.

**DEVELOPMENT REVIEW BOARD RECOMMENDATION:**

On June 18, 2019, the Development Review Board (DRB) held a public hearing to consider this variance. Based on the information within the staff report and testimony provided at the public hearing and by a vote of 5-0, the DRB found the requested variance to be compliant with the variance criteria of Section 10.02.02 of the LDC and recommended approval of the variance.

Scott and Leslie Hartog  
3326 Just a Mere Ct.  
Windermere, FL 34786  
[scott@hartog.net](mailto:scott@hartog.net)  
(407)963-9029

May 28, 2019

Mr. Brad Cornelius, Vice-President  
WadeTrim  
8010 Woodland Center Blvd. Ste. 1200  
Tampa, FL 33614

Dear Mr. Cornelius,

We are writing to seek a variance for a renovation at a single-family home that we recently purchased at 235 Magnolia St. in Windermere. We plan to reside in the home once the renovations are complete, and these renovations are necessary to update and improve the livability of the home, increase the value of the property, and enhance the exterior aesthetics of the home and lakefront lot, which is adjacent to a town public area.

It is our desire to renovate the existing home rather than rebuild. This allows us to achieve our desired home size and design, enhance the property in keeping with the surrounding neighborhood, and stay within our budget. However, it means that we must work with the existing location of the house, which was built before lot lines and setback regulations were in effect. Changes to the current location and footprint are also constrained because of the unusually narrow lot.

Variances are required because the current house is nonconforming with the north side setback of 9.9 and 10 feet, compared to the required setback of 10.75 feet. Any expansion without a variance is thus limited to a maximum of 10% of the existing gross floor area. As such, we are requesting the following two variances. Please refer to the pictures and marked up survey attached to this letter. The setbacks of the proposed changes are less than an inch different than the existing setbacks.

- 1) Allow the expansion of a non-conforming home by 82.0% (3,180 square feet to 5,788.0 square feet). Please see the attached "Under Roof Increase Calculation" page for more details on this calculation.
  - Area A — Extend roof to form covered patio on east side of home
    - Dim: 20.0 x 33.7 + 11.4 x 33.3 feet
    - Area: 1053.6 square feet
    - Some of this area may be under A/C.
  - Area B — Add area for attached garage
    - Dim: 35.0 x 26.0 feet (rectangular)
    - Area: 910.0 square feet
    - If Area C is not in the final build plan, then Area B will move east 10 feet and be abutted to the house.
  - Area C — Utility/laundry room under A/C
    - Dim: 10x10 feet (rectangular)
    - Area: 100.0 square feet

- Area D — Add roof over existing entry way
  - Dim: 18.1 x 12.0 feet (rectangular)
  - Area: 217.2 square feet
- Area E — Main house area under A/C
  - Dim: 6.0 x 62.6 feet (rectangular)
  - Area: 375.6 square feet

2) Allow an addition on the north side with a side setback at 10.03 feet for Area A, a side setback of 9.84 feet for Area B, and a side setback of 9.89 feet for Area C. The required side setback is 10.75 feet (12.5% of the lot width at the widest point of the home which the front entryway where Area D is proposed).

- The proposed setback for Area A is about 1/8" more than the setback of the current NE patio corner, and the proposed setback for Area B is about 5/8" less than the setback of the current NW corner of the house. Adhering to the required setback of 10.75 feet would require offsets of the roof lines, slab, and wall of 9 and 11 inches for the patio and garage respectively, which would be non-aesthetic.
- This requested setback from the property line is consistent with the immediate neighbors who have a pool house within five feet of the property line.

The plans are in compliance with requirements for a 50-foot setback from the Normal High Water Elevation and the 25-ft setback from the front property line. Public areas and streets are unaffected. It is not anticipated that there will be a need for additional variances.

If approved, these enhancements would require relocating and installing a new septic system on the west (street) side of the home. Note on the survey that the existing 50-year old septic system is currently located in the back yard, on the lake side of the home. Additionally, new berms and swales would be likely be required to provide adequate water retention on the property. Both of these modifications would be beneficial to preserving the water quality of Lake Down.

The proposed modifications change the non-permeable ratio from 20.0% to 25.9%. Please see the attached "Non-permeable Ratio Calculation" page for more details on this calculation.



We hope that you agree that this variance request is reasonable and necessary and that the planned renovations will improve the value of our property and the surrounding neighborhood.

Respectfully,

Scott and Leslie Hartog

# AGENT AUTHORIZATION FORM

I/WE, (PRINT PROPERTY OWNER NAME) ROBERT J. and LESLIE HARTOG, AS THE OWNER(S) OF THE REAL PROPERTY DESCRIBED AS FOLLOWS, 235 MAGNOLIA ST., WINDERMERE, FL 34786, DO HEREBY AUTHORIZE TO ACT AS MY/OUR AGENT (PRINT AGENT'S NAME), DEAN and LESHA MILLER, TO EXECUTE ANY PETITIONS OR OTHER DOCUMENTS NECESSARY TO AFFECT THE APPLICATION APPROVAL REQUESTED AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS, VARIANCE REQUESTS, AND TO APPEAR ON MY/OUR BEHALF BEFORE ANY ADMINISTRATIVE OR LEGISLATIVE BODY IN THE COUNTY CONSIDERING THIS APPLICATION AND TO ACT IN ALL RESPECTS AS OUR AGENT IN MATTERS PERTAINING TO THE APPLICATION.

Date: 4/26/19  Signature of Property Owner ROBERT S. HARTOG Print Name Property Owner  
Date: 4/26/19  Signature of Property Owner LESLIE H. HARTOG Print Name Property Owner

STATE OF FLORIDA :  
COUNTY OF ORANGE :

I certify that the foregoing instrument was acknowledged before me this 26 day of APRIL, 2019 by ROBERT/LESLIE HARTOG He/she is personally known to me or ~~has produced~~ as identification and ~~did not~~ take an oath.

Witness my hand and official seal in the county and state stated above on the 26 day of APRIL, in the year 2019.



  
Signature of Notary Public  
Notary Public for the State of Florida

My Commission Expires: 8/10/2019

Legal Description(s) or Parcel Identification Number(s) are required:
PARCEL ID #: <u>17-23-28-9337-03-005</u>
LEGAL DESCRIPTION: <u>PLAT OF WINDERMERE G/36 THE S 80 FT OF BLK C</u>

# PERRY SURVEYING

370 Waymont Court • Lake Mary, FL 32746 • VOICE: 407.688.9727 • FAX: 407.688.7691 • frontdesk@perrysurveying.com

**SEE SEPARATE ENLARGEMENT  
OF HOUSE FOR MORE DETAIL**

**Existing under roof:  
3180.5sqft**

**Proposed under roof:  
5788.0sqft**

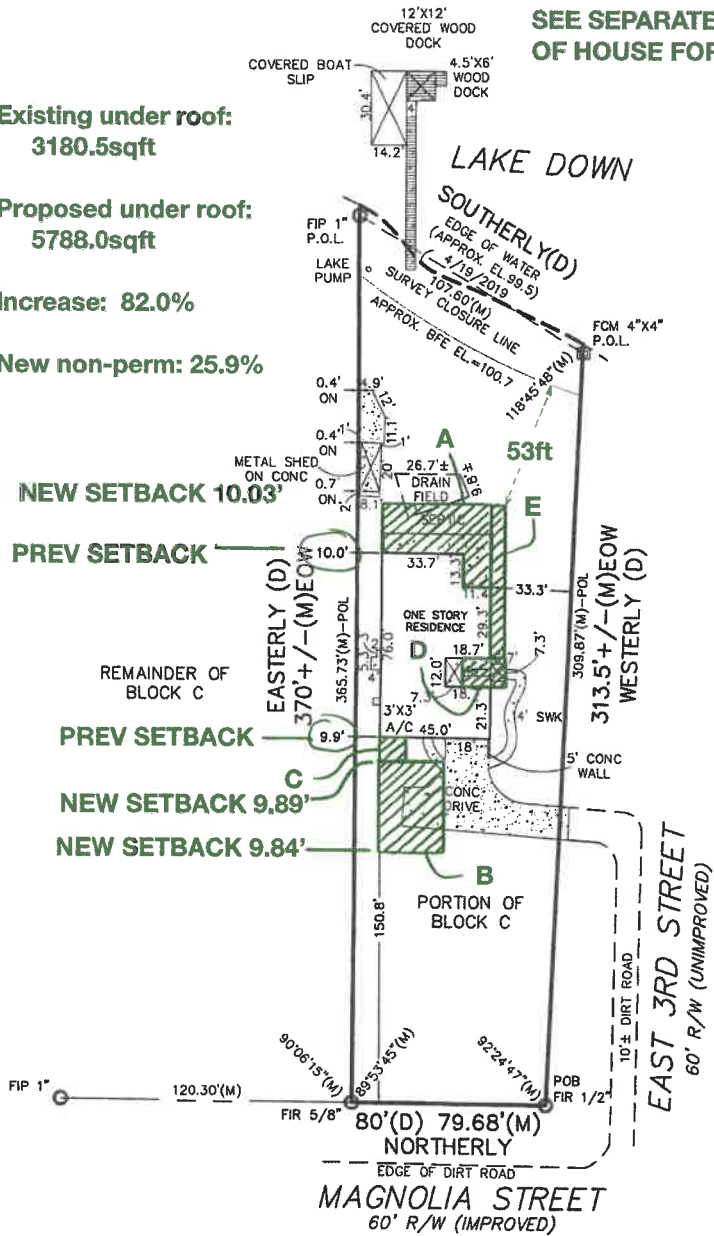
**Increase: 82.0%**

**New non-perm: 25.9%**



SCALE: 1"=60'

NORMAL HIGH WATER LINE  
ELEVATION=99.5 DATED: 11/1/92  
PER ORANGE COUNTY LAKE INDEX  
DATED: 6/2009



**A — Dim: 20.0 x 33.7ft  
+ 11.4 x 33.3ft  
Area: 1053.6sqft  
Covered porch  
Under A/C**

**B — Dim: 35.0 x 26.0ft  
Area: 910.0sqft  
Garage**

**C — Dim: 10.0 x 10.0ft  
Area: 100.0sqft  
Under A/C**

**D — Dim: 18.1 x 12.0ft  
Area: 217.2sqft  
Covered entry**

**E — Dim: 6.0 x 62.6ft  
Area: 375.6sqft  
Under A/C  
Covered porch**

Property Address:  
235 Magnolia Street  
Windermere, FL 34786

Survey number: PS 10826

**LEGEND**

—○—○—	Wire Fence	D	Description of Dens	P & B	Plat Book
—□—□—	Wood Fence	D.E	Drainage Easement	P.E	Pool Equipment
—○—○—	Overhead Utilities	D.U.E	Drainage & Utility Easement	P.O.B	Point of Beginning
⊕	P.P. Power Pole	D.W	Driveway	P.O.C	Points of Commencement
⊕	Water Meter	E.S.M.T	Easement	P.C.C	Point of Compound Curve
⊕	Electrical Facility	E.O.P	Edge of Pavement	P.C	Point of Curvature
⊕	Asphalt	E.O.W	Edge of Water	P.I	Point of Intersection
⊕	Block Wall	E.C.R	Encroachment	P.R.C	Point of Reverse Curvature
⊕	Brick/Pavers	F	Field	P.T	Point of Tangency
⊕	Concrete/Asphalt Surface	F.D	Field	P.O.L	Point on Line
⊕	Covered Area	F.N.D	Found Nail & Gisc	P.L	Property Line
⊕	Cyberline	F.C.M	Found Concrete Monument	R	Record
⊕	Center Angle/Delta	F.I.P	Found Iron Pipe	R/W	Right of Way
⊕	Line Break Not to Scale	F.I.R	Found Iron Rod	S.I.R	Set Iron Rod & Cap
A/C	Air Conditioner	L	LENGTH	SWK	Sidewalk
B.R	Bearing Reference	L.B	Licenser Business	T.B	Telephone Facilities
B.M	Bench Mark	M	FIELD MEASURED	T.O.B	Top of Bank
CATV	Cable Riser	M.H	Manhole	TYP	Typical
C	Calculated	O.R.E	Official Records Book	U.E	Utility Easement
C.I.F	Chain Link Fence	O.N.P	On Property Line	W.F.	Wood Fence
CH	Chord	P.G	Page	W.C	Witness Corner
C.B	Chord Bearing	V.F	Utility Fence		
CBS	Conc. Block & Slucon	P.V.M.T	Permanent Control Point		
CONC	Concrete	P.C.P	Permanent Control Point		
C.M	Concrete Monument	P.R.M	Permanent Reference Monument		
COV	Covered	P	Plat		

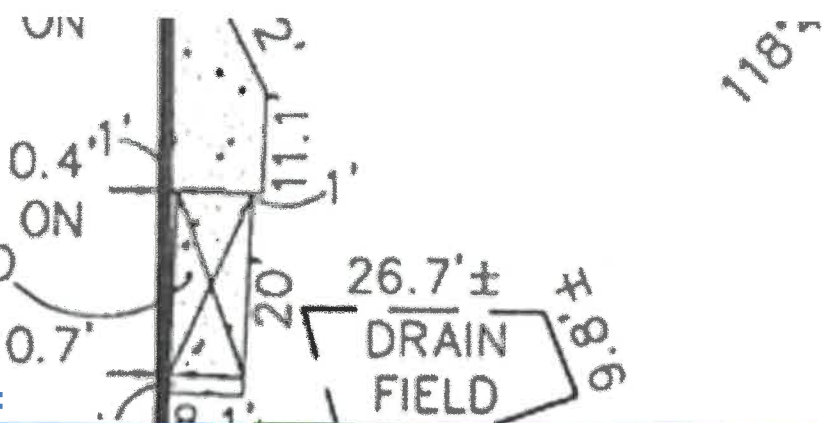
**GENERAL NOTES**

1. Legal description provided by others.
2. There may be additional easements and/or restrictions either recorded or unrecorded not shown hereon that may affect this property.
3. Only visible encroachments located.
4. This is a BOUNDARY SURVEY unless otherwise noted.
5. This survey or the copies thereof are not valid without the signature and the original raised seal of a Florida licensed surveyor and his/her seal.
6. This survey is not to be used for construction of any kind.
7. Unless otherwise noted, flood zone information provided by others.
8. Spot elevations and detailed location shown hereon is APPROXIMATE and are based upon visual location only.
9. Fence locations along property line may be exaggerated for clarity.
10. This survey complies with the Standards of Practice promulgated by the Florida Board of Professional Land Surveyors, Part of the Florida Administrative Code, Section 11C.03, Florida Statutes.

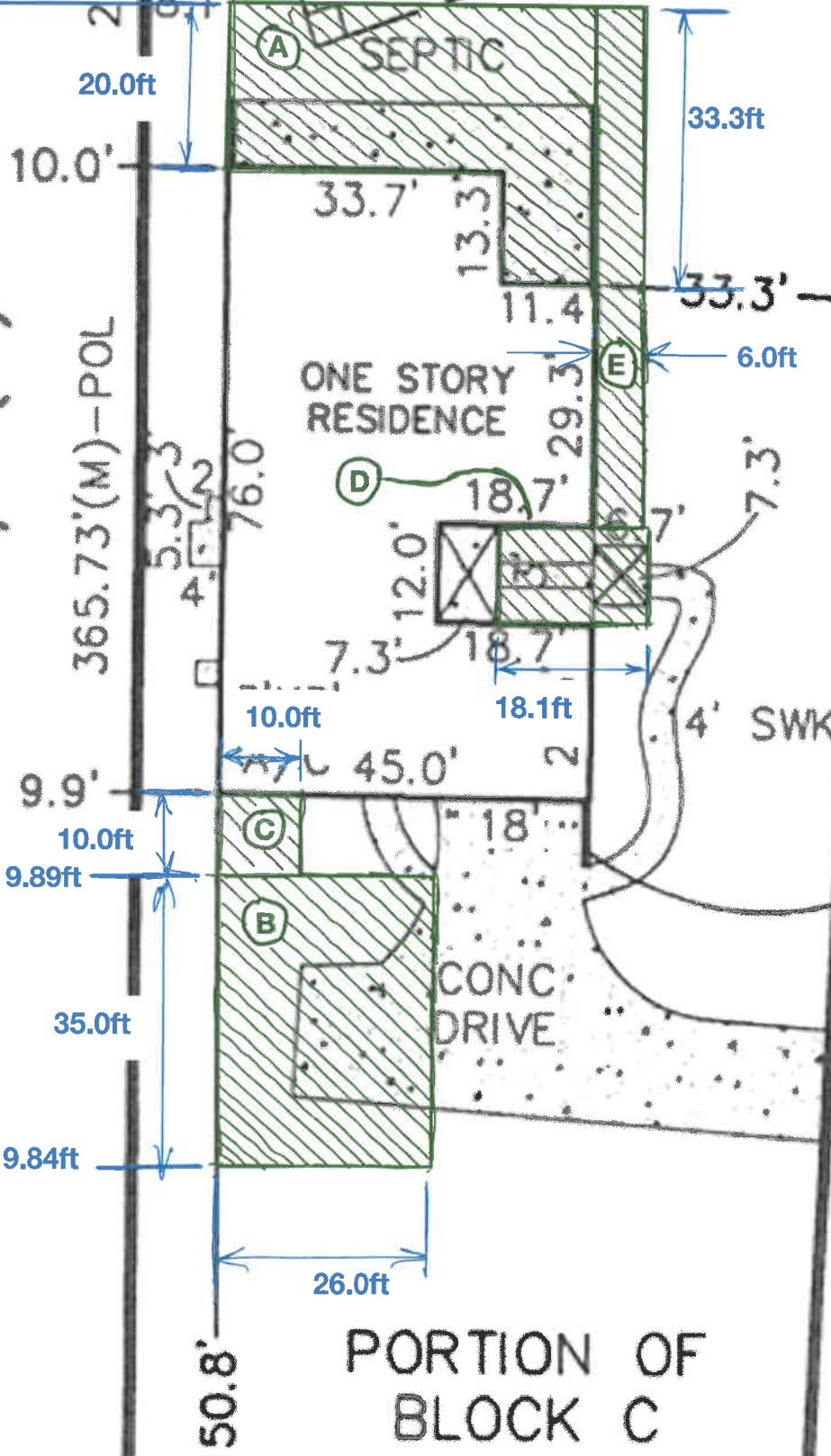
Jeffrey S. Hightower  
I hereby certify that this survey is a true and correct representation of a survey prepared under my direction.

ETAL SHED  
ON CONC

New setback:  
10.03ft



EASTERLY (D)  
370' ± / - (M)EOW



309.87'(M)-POL  
313.5' ± / - (M)EOW  
WESTERLY (D)

New setback: 9.89ft

New setback: 9.84ft

PORTION OF  
BLOCK C

# Under Roof Increase Calculation

## Original House Under Roof

Main rect	3420	(from survey dimensions)
SE corner	-151.62	(from survey dimensions)
Entry	-224.4	(from survey dimensions)
Covered Entr	<u>87.6</u>	(from survey dimensions)
	3131.6	3131.58

## Original Under Roof

Front turret	<u>48.9</u>	(from survey dimensions)
	48.9	48.9

## Proposed New Under Roof

Area A	1053.6	
Area B	910.0	
Area C	100.0	
Area D	168.3	(excludes existing front entry turret under roof)
Area E	<u>375.6</u>	
	2607.5	2607.5

<b>Original Under Roof</b>	<b>3180.5</b>
<b>Proposed Under Roof</b>	<b>5788.0</b>
Proposed Increase:	82.0%



## Non-permeable Ratio Calculation

Lot	Main rect	24773.8	(from survey dimensions, dividing lot into rectangle and trapezoid)
	South Tri	1836.7	
	Back Tri	<u>2573.4</u>	
		29183.9	

Original House			
	Main rect	3420	(from survey dimensions)
	SE corner	-151.62	(from survey dimensions)
	Entry	-224.4	(from survey dimensions)
	Covered Entr	<u>87.6</u>	(from survey dimensions)
		3131.6	3131.58

Original Other			
	Front turret	48.9	(from survey dimensions)
	Entry walk	34.2	(from survey dimensions)
	Back Patio	516.9	(current patio at 8.1 feet measured from survey)
	Front path	52.6	(from survey traced in CAD program)
	Side path	190.5	(from survey traced in CAD program)
	Driveway	1482.1	(from survey traced in CAD program)
	Shed	178.2	(from survey dimensions)
	Shed Patio	<u>193.2</u>	(from survey dimensions)
		2696.7	2696.7

Proposed			
	Area A	536.7	(excludes existing patio area)
	Area B	597.3	(excludes existing front path and intersecting part of driveway)
	Area C	100.0	
	Area D	134.1	(excludes existing entry walk and turret)
	Area E	<u>375.6</u>	
		1743.7	1743.7

<b>Original Non-permeable Ratio</b>	<b>20.0%</b>
<b>Proposed Non-permeable Ratio</b>	<b>25.9%</b>

Area A



Area B



Area C



Area D



Area E



Adjacent lot to the north from NE corner



Property line towards Lake Down



# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

WALTER MICHAEL S  
305 MAGNOLIA ST  
WINDERMERE, FL 34786

**RE: Public Notice of Variance Public Hearing for 235 Magnolia Street – Revised Variance Request**

Scott and Leslie Hartog, who are the owners of 235 Magnolia Street, submitted a request with their authorized representatives Dean and Lesha Miller, for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow a greater than 10% expansion to a non-conforming home (82% expansion) and to allow for additions on the northside with a side setback of 10.03 feet (Area A), 9.84 feet (Area B), and 9.89 feet (Area C). The required side setback is 10.75 feet. All other setback, floor area, and impervious area limitations are compliant with the code.

Enclosed is additional information regarding this request.

Pursuant to the Town of Windermere Code of Ordinances, you as a surrounding property owner are entitled to comment on this matter. If you wish to comment, this form must be received by the Town of Windermere either by hand delivery to the Town Clerk or by use of the enclosed stamped envelope to Wade Trim, Inc. by **June 14, 2019**.

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Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
888-499-9624  
[town@wadetrim.com](mailto:town@wadetrim.com)  
Encl.

**RECOMMEND – Z19-006 (235 Magnolia Street)**

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_

SIGNATURE: Walter Michael S DATE: 6-4-19

WALTER MICHAEL S

Received  
JUN 11 2019  
Wade Trim

RECOMMEND - Z19-006 (235 Magnolia Street)

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_

SIGNATURE: Betty J. Trawick DATE: 6-4-19

TRAWICK BETTY J

Received  
Wade Trim

RECOMMEND - Z19-006 (235 Magnolia Street)

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_

SIGNATURE: Danielson DATE: 5/5/19

DANIELSON RICHARD R LIFE ESTATE

Received  
Wade Trim

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Received

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

VAN DURAND STUART KENNIS LIFE ESTATE  
PO BOX 797  
WINDERMERE, FL 34786

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Scott and Leslie Hartog, who are the owners of 235 Magnolia Street, submitted a request with their authorized representatives Dean and Lesha Miller, for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow a greater than 10% expansion to a non-conforming home (82% expansion) and to allow for additions on the northside with a side setback of 10.03 feet (Area A), 9.84 feet (Area B), and 9.89 feet (Area C). The required side setback is 10.75 feet. All other setback, floor area, and impervious area limitations are compliant with the code.

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888-499-9624  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

**RECOMMEND – Z19-006 (235 Magnolia Street)**

APPROVAL: YES DISAPPROVAL \_\_\_\_\_

COMMENTS: *This is the second time I have had to sign for this property. It is inconvenient to stand in line at the post office when you have to be there. Especially when the property is over 2 blocks away, that will have no effect on my property.*

SIGNATURE: *Neel Kennis Van Durand* DATE: *6/5/19*

**VAN DURAND STUART KENNIS LIFE ESTATE**



# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Received

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

BRYNNA E CONNORS REVOCABLE TRUST  
217 OAKDALE ST  
WINDERMERE, FL 34786

RE: Public Notice of Variance Public Hearing for 235 Magnolia Street – Revised Variance Request

Scott and Leslie Hartog, who are the owners of 235 Magnolia Street, submitted a request with their authorized representatives Dean and Lesha Miller, for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow a greater than 10% expansion to a non-conforming home (82% expansion) and to allow for additions on the northside with a side setback of 10.03 feet (Area A), 9.84 feet (Area B), and 9.89 feet (Area C). The required side setback is 10.75 feet. All other setback, floor area, and impervious area limitations are compliant with the code.

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Wade Trim, Inc.  
888-499-9624  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

**RECOMMEND – Z19-006 (235 Magnolia Street)**

APPROVAL: ✓ DISAPPROVAL \_\_\_\_\_

COMMENTS: \_\_\_\_\_

SIGNATURE: Brad Cornelius DATE: 6/9/19

**BRYNNA E CONNORS REVOCABLE TRUST**

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Received



Mayor  
JIM O'BRIEN

Town Manager  
ROBERT SMITH  
Wade Trim

Clerk  
DOROTHY BURKHALTER

May 31, 2019

ERICKSON RUSSELL W  
PO BOX 1440  
WINDERMERE, FL 34786

**RE: Public Notice of Variance Public Hearing for 235 Magnolia Street – Revised Variance Request**

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Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
888-499-9624  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

---

**RECOMMEND – Z19-006 (235 Magnolia Street)**

APPROVAL:   X   DISAPPROVAL \_\_\_\_\_

COMMENTS: Looks Great!

ERICKSON RUSSELL W

SIGNATURE: \_\_\_\_\_ DATE: 6-10-19

ERICKSON RUSSELL W

RECOMMEND - Z19-006 (235 Magnolia Street)

APPROVAL: YES DISAPPROVAL NO

COMMENTS: I have met this couple and welcome them to our neighborhood (cc)

SIGNATURE: Barbara P. Heckman DATE: June 17, 2019

HECKMAN BARBARA P

Received

Wade Trim

Received

JUN 25 2019

Wade Trim

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103



Mayor  
JIM O'BRIEN

Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

MCGRATH LESLIE H JR  
PO BOX 640  
WINDERMERE, FL 34786

**RE: Public Notice of Variance Public Hearing for 235 Magnolia Street – Revised Variance Request**

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Encl.

---

**RECOMMEND – Z19-006 (235 Magnolia Street)**

**APPROVAL:**  **DISAPPROVAL:**

**COMMENTS:** \_\_\_\_\_

**SIGNATURE:** Leslie H. McGrath **DATE:** 6-24-2019

**MCGRATH LESLIE H JR**

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103



Mayor  
JIM O'BRIEN

Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

HURLEY SUE S  
315 MAGNOLIA ST  
WINDERMERE, FL 34786

**RE: Public Notice of Variance Public Hearing for 235 Magnolia Street – Revised Variance Request**

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Wade Trim, Inc.  
888-499-9624  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

*Welcome & good luck to the Hartogs!!*

**RECOMMEND – Z19-006 (235 Magnolia Street)**

**APPROVAL:** \_\_\_\_\_ **DISAPPROVAL** \_\_\_\_\_

**COMMENTS:** *No Objection. Moving Septic System further from Wake Down - GREAT move!*

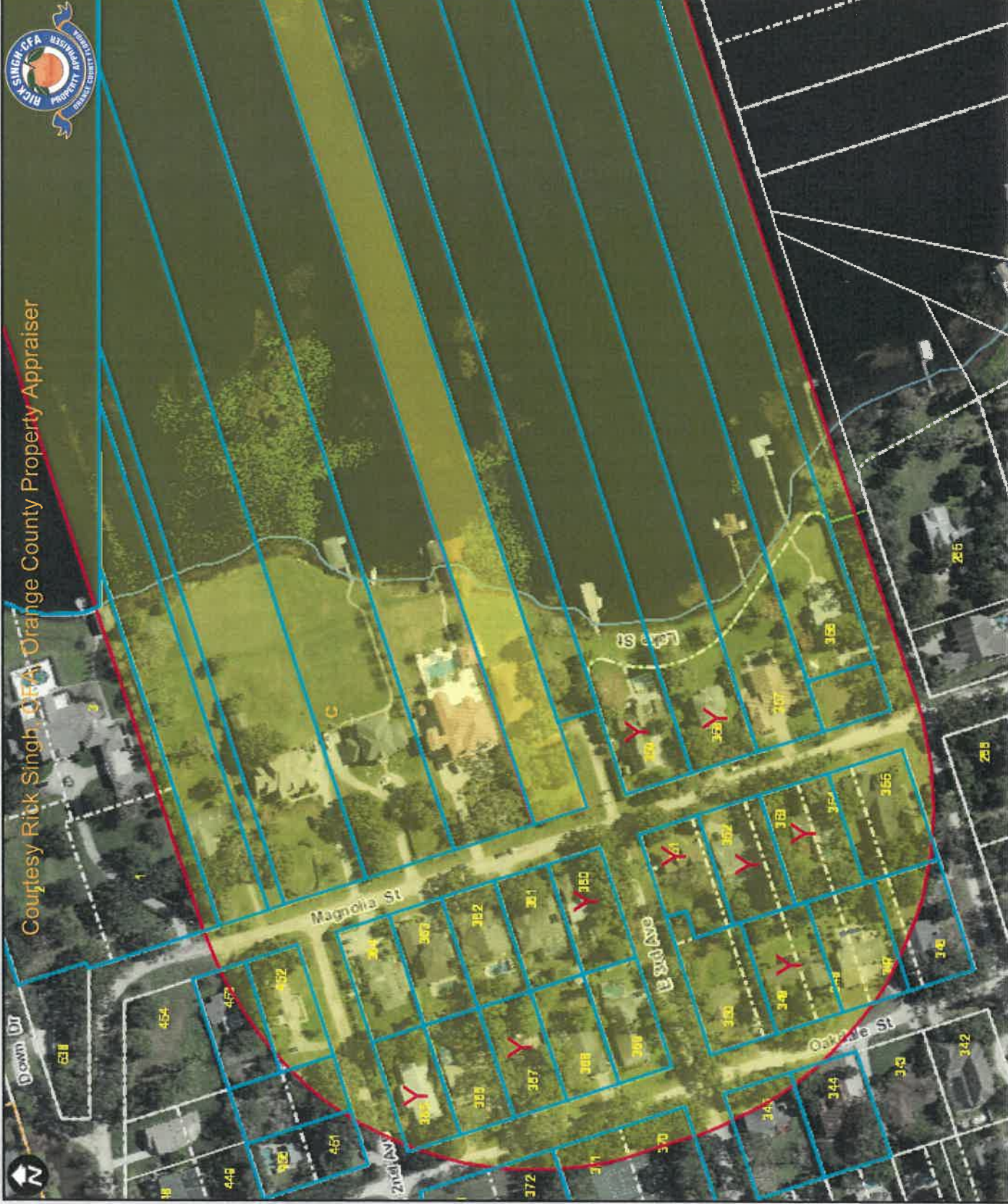
**SIGNATURE:** *Sue S. Hurley* **DATE:** *06-13-19*

**HURLEY SUE S**

*Hurley  
55 year  
resident  
  
Creating more roof rain runoff may indeed create more need for additional Berming, etc.*



Courtesy Rick Singh, CFA, Orange County Property Appraiser



- Florida Juniper
- Interstate 4
- Toll Road
- Major Roads
- Public Roads
- Canal Floods
- Road Under Construction
- Proposed Road
- US Road
- State Road
- County Road
- Toll Ramp
- Interstate Ramp
- One Way
- Brick Road
- Rail Road
- Proposed SunRail
- Block Line
- Lot Line
- Residential
- Agriculture
- Commercial Institutional
- Governmental Institutional
- Miss
- Commercial/Industrial/Vacant Land
- Hydro
- Waste Land
- Agricultural Curbage
- County Boundary
- Parks
- Golf Course
- Lakes and Rivers
- Building
- Power Plant

Created: 4/29/2019 9:40 Aerial 2019

This map is for reference only and is not a survey

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

## Development Review Board June 18, 2019

## Town Council July 9, 2019

**Case No.:** Z19-007

**Applicant:** Orange County School Board of Florida

**Property Owner:** Orange County School Board of Florida

**Representative:** CT Allen

**Requested Action:** The purpose of the variance request is to allow for a larger sign area of 29.63 sq. ft., compared to the allowed 20 sq. ft. for a two-sided sign and to allow an illuminated LED marquee sign.

**Property Address:** 11125 Park Avenue

**Legal Description:** REPLAT OF METCALF PARK Q/18 FROM N1/4 COR SEC 7-23-28 RUN N 88 DEG E 1415.25 FT FOR A POB TH N 21 DEG W 344.24 FT N 32 DEG E 400 FT E 570 FT TO W R/W RR SLY ALONG R/W TO N R/W PARK AVE S 57 DEG W 716 FT N 21 DEG W 466.11 FT TO POB & BEG AT INT OF N R/W LINE OF PARK AVE & W R/W LINE OF SCL R/R RUN NLY 614 FT E 60 FT SLY 580.01 FT S 57 DEG W 60.66 FT TO POB IN SEC 6-23-28 SE1/4 & 7-23-28 NE1/4 SEE 4233/4336 (LESS COMM NE COR OF NE1/4 OF SEC 07-23-28 TH N89-11-20W 69.60 FT CONT N89-11-20W 411.28 FT TO ELY R/W OF ABANDONED RR R/W & POB & A CURVE CONCAVE NELY W/ RAD OF 1402.43 FT & CHORD BEARING OF S19-03-40E TH SELY THROUGH CENT ANG OF 01-33-

31 FOR 38.15 FT TH S61-32-02W 60.66 FT TO WLY R/W OF ABANDONED RR R/W & A NON-TAN CURVE CONCAVE NELY W/ RAD OF 1462.43 FT & CHORD BEARING OF N15-55-47W TH NWLY THROUGH CENT ANG OF 217.63 FT TH N78-20-14E 60 FT TO ELY RR R/W & A NON-TAN CURVE CONCAVE NELY W/ RAD OF 1402.43 FT & CHORD BEARING OF S14-58-20E TH SELY THROUGH CENT ANG OF 06-37-09 FOR 162.02 FT TO POB

**Future Land Use/Zoning:** Public Use/ Public Use

**Existing Use:** School (Public Use)

**Surrounding Future Land Use/Zoning**

**North:** Residential & Recreation /Residential& Recreation  
**South:** Residential/Residential  
**East:** Residential & Recreation /Residential & Recreation  
**West:** Conservation/Conservation

**CASE SUMMARY:**

Orange County School District in regard to Windermere Elementary School, located at 11125 PARK AVE, submitted a request with their authorized agent CT Allen, for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for a larger sign area of 29.63 sq. ft., compared to the allowed 20 sq. ft. for a two-sided sign and to allow an illuminated LED marquee sign. All other setbacks and height limitations are compliant with the code. See attached information.

The applicant wishes to replace the existing school sign with an updated state-of-the-art LED marquee sign that will allow the school to get information out to parents easier and faster. The proposed sign is 94" high, two-sided with a proposed 66% sign area of 29.63 sq. ft.

Section 8.05.01 of the Town's Land Development Code states "when two sign faces are placed back to back and the faces are at no point more than 4-inches apart, the area of the sign shall be taken at 66% of the sum of the two faces. The area of a ground sign shall not exceed 20 square feet."

The height from the finished grade to the base of the supporting structure is 94" or 7.8 feet high, which is under the 8-foot requirement per Section 08.05.03 and is not included as part of this variance request.

However, the proposed sign is two-sided. As shown in the rendering, the copy area on each side is 37.8" H x 68" L or 17.85 square feet per side, for a total of 35.70 square feet on both sides. Applying the factor of 66%, the total copy area is 29.63 square feet. The applicant is requesting a 9.63 square foot variance to allow the sign to exceed the 20 sq. ft. allowable area.



Section 08.02.02 of the LDC states “The following signs are expressly prohibited – Signs that are internally lit or with visible luminary, as well as lights or illuminations that flash or flicker, neon lighting emitting diode, and fiber optic signs.” The applicant is requesting a variance from this section regarding illumination to allow for the proposed illuminated LED marque sign.

Division 10.02.00 of the LDC empowers the Development Review Board to review and make recommendations for approval, approval with conditions or denial to the Town Council on these variance requests.

Division 10.02.00 of the LDC requires the Town Council to consider the recommendation of the Development Review Board and to take final action to either approve or deny the variance request.

### **CASE ANALYSIS:**

Section 10.02.02 of the LDC provides the specific standards by which the Development Review Board and Town Council are to review to consider the approval or denial of a variance application. In addition, this Section requires a positive finding, based on substantial competent evidence, for each of the standards. These standards are summarized as follows:

1. The need for the variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the subject property. Variances should be granted for conditions peculiar to the property and not the result of actions of the property owner;
2. There are practical or economic difficulties in carrying out the strict letter of the regulation;
3. The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
4. The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire or another hazard to the public;
5. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site;
6. The effect of the proposed variance is in harmony with the general intent of this Land Development Code and the specific intent of the relevant subject areas of this Land Development Code; and
7. The variance will not encourage further requests for changes where such a land use would not be deemed appropriate.

It is also important to note that this Section also provides specific standards that are not to be considered in the review of a variance application. These standards are:

1. That the implementation of these regulations would impose an economic hardship on the cost of the building or redevelopment project;
2. That these regulations impose a hardship by decreasing the maximum density of a property in terms of the number of units, square footage of buildings, etc.; and
3. That other adjacent lands, structures or buildings not in conformance with these regulations provide a rationale for a lessening of their application in this specific case.

Section 10.02.02(c) of the LDC allows the imposition of conditions and restrictions as may be necessary to allow a positive finding to be made on any of the variance standards to minimize the negative effect of the variance. The conditions and restrictions should further the interest of the LDC.

The applicant submitted the proposed sign rendering and other materials in support of the variance request. The following is a summary of the information provided by the applicant in support of their variance request:

1. Desire to replace the school's sign is a final part of a series of renovations to make the school more state-of-the-art;
2. The sign is will be completely paid for by the Mustang Education Fund, not taxpayer dollars;
3. The new sign is proposed to be placed in the same location as the existing sign;
4. The sign was designed to enhance information getting to parents, and to not have an impact on our surrounding neighbors;
5. The school will have the capability to dim and turn off the sign at programmable times.

**PUBLIC NOTICE:**

Public notices were mailed to property owners within 500 feet of the subject property on May 31, 2019 (64 notices sent). As of June 25, 2019, 15 responses were returned, 13 in support and 2 in opposition.

**DEVELOPMENT REVIEW BOARD RECOMMENDATION:**

On June 18, 2019, the Development Review Board (DRB) held a public hearing to consider this variance. Based on the information within the staff report and testimony provided at the public hearing and by a vote of 5-0, the DRB found the requested variance to be compliant with the variance criteria of Section 10.02.02 of the LDC and recommended approval of the variance with the following conditions:

1. The digital marquee is equipped with light sensors that dim the sign to appropriate day and

night settings, as well as safe modes to ensure that display never exceeds appropriate light output levels;

2. The digital marquee will be on from 6 a.m. to 10 p.m.;
3. The digital marquee will be turned off nightly at 10 p.m.;
4. The text on the marquee will be simple, clear, and unobtrusive;
5. No animation will be used on the digital marquee;
6. School approved images will be used but the images will not move;
7. The marquee is run from software on the school campus. Any of the settings can be adjusted at any time to accommodate the local community.



6501 Magic Way · Building 200 · Orlando, Florida 32809 · (407) 317-3700 · www.ocps.net

---

May 22, 2019

**VIA E-MAIL: bcornelius@wadetrim.com**

Mr. Brad Cornelius  
Wade Trim  
One Tampa City Center  
201 N. Franklin Street, Suite 1350  
Tampa, Florida 33602

**RE: Windermere Elementary School sign**

Dear Mr. Cornelius,

As we discussed, attached is the agent authorization and related materials in order to request a variance for the Windermere Elementary School electronic sign. Please accept this letter as OCPS's formal request to initiate a variance request from Article VIII - Signs, Section 8, of the Town's Land Development Code ("LDC"). This request is being submitted by The School Board of Orange County, Florida in conjunction with Ms. CT Allen.

The variance is being requested from the following applicable Sections of the LDC:

- 1) Section 8.05.01 Sign area. When two sign faces are placed back to back and the faces are at no point more than 4-inches apart, the area of the sign shall be taken at 66% of the sum of the two faces. The area of a ground sign shall not exceed 20 square feet.
  - a. Attached is a rendering with dimensions of the proposed sign. The height from the finished grade to the base of the supporting structure is 94" or 7.8 feet high, which is under the 8-foot requirement per Section 08.05.03 and is not included as part of this variance request.

However, the proposed sign is two-sided. As shown in the rendering, the copy area on each side is 37.8" H x 68" L or 17.85 square feet per side, for a total of 35.70 square feet on both sides. Applying the factor of 66%, the total copy area is 29.63 square feet. This application requests a 9.63 square foot variance from this provision.

2) Section 08.02.02 Specifically. The following signs are expressly prohibited – Signs that are internally lit or with visibly luminary, as well as signs with lights or illuminations that flash or flicker, neon lighting emitting diode, and fiber optic signs.

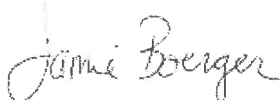
- a. This application requests a variance from this section regarding illumination since the proposed sign is an illuminated LED marque.

I am available to meet at a time convenient to you or other staff should you wish to review any of these materials in person.

Thank you for your assistance in this matter.

If you have any questions, please contact me at 407-317-3700 ext. 2022391 or via e-mail at [jamie.diluzioboerger@ocps.net](mailto:jamie.diluzioboerger@ocps.net).

Sincerely,



Jamie Boerger, AICP, LEED AP  
Administrator  
Facilities Planning

cc: CT Allen (via e-mail)  
Robert Smith, Town Manager, Town of Windermere (via e-mail)  
Laura Kelly, OCPS (via e-mail)



72" L

54" H

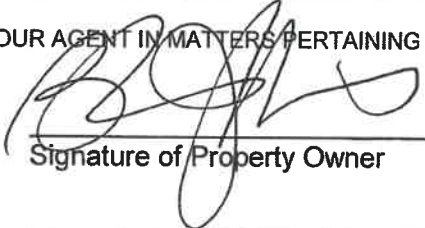
94" H

 **WINDERMERE**  
ELEMENTARY SCHOOL   
LED VIDEO MESSAGE  
CENTER  
VIEWABLE AREA:  
37.8 H X 68L

# AGENT AUTHORIZATION FORM

I/WE, (PRINT PROPERTY OWNER NAME) Barbara M. Jenkins, Ed.D., Superintendent, AS THE OWNER(S) OF THE REAL PROPERTY DESCRIBED AS FOLLOWS, 11125 Park Avenue, Windermere, Florida 34786, DO HEREBY AUTHORIZE TO ACT AS MY/OUR AGENT (PRINT AGENT'S NAME), Jamie Boerger, AICP, Orange County Public Schools, TO EXECUTE ANY PETITIONS OR OTHER DOCUMENTS NECESSARY TO AFFECT THE APPLICATION APPROVAL REQUESTED AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS, Variance application through the Town of Windermere for the Windermere Elementary School sign, AND CT Allen acting as applicant TO APPEAR ON MY/OUR BEHALF BEFORE ANY ADMINISTRATIVE OR LEGISLATIVE BODY IN THE COUNTY CONSIDERING THIS APPLICATION AND TO ACT IN ALL RESPECTS AS OUR AGENT IN MATTERS PERTAINING TO THE APPLICATION.

Date: 5/8/19

  
Signature of Property Owner

Barbara Jenkins  
Print Name Property Owner

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Print Name Property Owner

STATE OF FLORIDA :  
COUNTY OF Orange :

I certify that the foregoing instrument was acknowledged before me this 8th day of MAY, 2019 by Barbara Jenkins He/she is personally known to me or has produced \_\_\_\_\_ as identification and did/did not take an oath.

Witness my hand and official seal in the county and state stated above on the 8th day of MAY, in the year 2019.



  
Signature of Notary Public  
Notary Public for the State of Florida

My Commission Expires: \_\_\_\_\_

<b>Legal Description(s) or Parcel Identification Number(s) are required:</b>
PARCEL ID #: 07-23-28-5616-00-012
LEGAL DESCRIPTION: See attached page



7525 Currency Drive, Orlando, FL 32809  
 TEL: 407-999-2215 WEB: www.DragonFireIndustries.com  
 FAX: 407-999-0177 EMAIL: Tim@DragonFireIndustries.com

**QUOTATION**

Date: 2-5-18

<b>Name:</b>	Amy Diederich		
<b>Company:</b>	Windermere ES-OCPS		
<b>Address:</b>			
<b>City, State Zip:</b>			
<b>Phone:</b>		<b>Fax:</b>	<b>Email:</b>

**Windermere ES Digital Marquee**

Item Description Includes Install	Qty	Unit Cost	Total
Standard Digital Marquee 3' x 8' EMC and new cabinet as per OCPS specs installed between existing brick columns	1	\$19,896.00	\$19,896.00
Remove old sign and dispose	9.0 hours	\$75.00	\$675.00
Electrical run additional power/circuits from electrical room (Semco)	10%	\$9,975.28	\$10,972.81
Labor for programming antennas and hook up to school WiFi	6.5 hours	\$75.00	\$487.00

**THANK YOU FOR THIS OPPORTUNITY**

All invoices are payable upon receipt. A service charge of 2% per month will be charge on balances unpaid after 30 days. There is a \$30 charge on all returned checks. Once a deposit is made and production commences, the deposit amount is non-refundable. Once the layout is approved for production, any subsequent changes will be at an additional charge. All art work created remains our exclusive property and is not eligible for distribution in any form. Until the order balance is paid in full, all signs and related materials remain the property of DragonFire Industries, Inc. and may be removed or uninstalled in the event of non-payment. When a product is picked up by you or your agent, it is understood that it is acceptable "as is" and should any subsequent changes be deemed necessary, it will be at an additional charge. The prevailing party in any action brought to enforce the terms and provisions of this agreement shall be entitled to recover its reasonable attorney fees and court costs. The exclusive venue shall lie in Orange County, Florida.

<b>Subtotal</b>	\$32,030.81
<b>Sales Tax (6.5%)</b>	
<b>Total</b>	\$32,030.81



**SEMCO ELECTRIC COMPANY**  
**Vendor #125506**

Prepared by:Kishor Pherwani  
 kishor@semcoelectric.com  
 407-749-2622

**Windermere Elementary School ; Power to new sign**

1. Install ( 1 ) HV contactor controlled by new timer
2. Install ( 1 ) Transformer and panel for sign
3. Install new ( 1" ) conduit underground including excavation & directional bore under driveway
4. Install ( 3 ) new circuits 120V/20A for new marquee sign
5. Install ( 1 ) new surge arrester.

Bid Item #	Bid Item Description	Unit	Estimated Qty	Unit Price	Extended Price
	Furnish & install PVC conduit sch 40, 1" diameter, , incl 2 terminations, support, and couplings .	L.F.	100	2.20	220.00
	Furnish & install EMT metallic conduit, 1" diameter, , incl 2 terminations, support, and couplings .	L.F.	20	2.80	56.00
	Install 10/2 Metal-Clad Cable w/ground including connectors and termination of cable ar	L.F.	150	3.00	450.00
	Labor cost to pull 4 of #12 cu wire into empty conduit length in Linear Foot	L.F.	20	1.50	30.00
	Labor cost to pull 4 of #10 cu wire into empty conduit length in Linear Foot	L.F.	300	1.80	540.00
	Install S.P. circuit breaker in panel (Square D or equivalent)*****	Ea.	3	25.00	75.00

\$1,371.00

Qty	Non Bid Item Description	Unit	Bare Mat +5% mark up	Bare Labor \$35/Hour	Total
1	Loadcenter, 1Ph, 125A, mainbreaker, N3R, 6 space	Ea.	533.13	155.25	\$688.38
1	Transformer, 3KVA, 1Ph, 480VAC Pri / 120B/208V Sec, N3R	Ea.	777.75	187.42	\$965.17
1	Disconnect, 600VAC, 1Ph, 30A, N3R	Ea.	239.59	86.55	\$326.14
1	Square D 2P / 20A / 480V breaker	Ea.	864.73	322.50	\$987.23
1	Ground rod 5/8" x 10', copper clad	Ea.	43.17	124.75	\$167.92
1	Ground rod clamps	Ea.	38.19	54.15	\$92.34
1	Timer, electromechanical, 277VAC DPDT	Ea.	355.05	190.45	\$545.50
1	Surge arrester, 1Ph, 120/208VAC	Ea.	513.00	281.15	\$794.15
4	PVC conduit fittings incl. conduit-body, elbows, adaptors & fittings	C.L.F	18.52	44.60	\$83.12
9	Wire, copper, stranded, 800 volt, #10, type THWN-THHN, in raceway	C.L.F	421.19	219.15	\$640.34
2	Wire, copper, stranded, 800 volt, #12, type THWN-THHN, in raceway	C.L.F	70.56	43.50	\$114.06
1	Weatherproof box, metallic, 2G	Ea.	36.62	61.50	\$98.12
1	White-in-use cover, weatherproof box, 2G	Ea.	12.58	32.50	\$45.08
1	Switch, toggle, 2P, 20A	Ea.	18.18	25.75	\$43.93
100	Excavate trench to maximum depth of 36" in soft soil incl. backfill to grade	L.F	0.00	350.00	\$350.00
1	Directional drilling underground including CPR borepath	Ea.	2,683.80	0.00	\$2,683.80
<b>Totals</b>			<b>\$6,426.06</b>	<b>\$2,179.22</b>	<b>\$8,605.28</b>

**Total Bid \$9,976.28**



 WINDERMERE  
ELEMENTARY SCHOOL 

LED VIDED MESSAGE  
CENTER  
VIEWABLE AREA:  
37.8 H X 68L



72" L

54" H

94" H

  
**WINDERMERE**  
ELEMENTARY SCHOOL  
  
LED VIDEO MESSAGE  
CENTER  
VIEWABLE AREA:  
37.8 H X 68 L

To whom it may concern:

Hello, my name is CT Allen, and I am a past parent of Windermere Elementary School and a resident of the Town of Windermere.

I am advocating on behalf of the faculty and parents of Windermere Elementary for the school to receive a new LED informational sign.

8 years ago, a parent driven initiative to create a Tech Fund at the school was established, the Mustang Education Fund (MEF). Within these past years, the MEF has raised and put back into the school several hundreds of thousands of dollars to create a state-of-the-art curriculum and environment for the students to get a jump on 21<sup>st</sup> century learning, which we all know is technology driven.

Using no tax payer dollars, the parents have purchased over 300 iPad, laptops, Chromebooks, and iMacs; created a state-of-the-art Newsroom with production capabilities, refurbished the science room with state of the art lab desks, microscopes and stem kits, added 3-D printers, sent numerous teachers and faculty to training seminars to be able to embrace the new technology.

These are a sampling of some of the projects that have been accomplished. These were also the tangible items.

The non-tangible successes were the re-energized teachers with new teaching tools. Students' excitement at being able to use an iPad or a laptop for the first time. The amazement in 1<sup>st</sup> graders eyes watching something come to life in 3-D that they drew. Science being taught at a whole new level with exciting experiments and the whole class seeing through a microscope what the teacher is looking at. New clubs that were established because of this new excitement and technology, such as the Tech Club that now produces all the videos the school needs for special occasions and the News Crew producing a morning show. It is these non-tangibles that we as parents were aiming for.

The infrastructure goal is now complete.

Now we need the outside of the building to reflect what is on the inside, which is a state-of-the-art technological learning facility in our neighborhood and available for our children.

Late last year a \$20,000 landscaping project was completed by dollars from Windermere Wine & Dine.

The last piece of the puzzle is a new sign. A sign that will reflect the advancements made on the inside. This sign will be on OCPS property in the current location of the existing sign and fit into the iconic brick pillars visible to cars coming and leaving the school. The school will have the capability to dim and turn off the sign at programmable times. The sign was designed to enhance information getting to our parents, and to not have an impact on our surrounding neighbors. And...it will be completely paid for by the Mustang Education Fund, not taxpayer dollars.

Windermere Elementary School is a cornerstone of our Town and Community. It is where most of our children start their education and become excited about learning.

This sign request is coming from Administrators, Faculty, and Parents. We are hoping that you will also see its value.

CT Allen

Founder MEF, Parent, Resident, Chair/Founder Windermere Wine & Dine  
305 Palm Street, Windermere FL 34786  
407-832-3596



***Windermere Elementary will use the digital marquee to communicate with the school and local community***

- The digital marquee is equipped with light sensors that dim the sign to appropriate day and night settings, as well as safe modes to ensure that display never exceeds appropriate light output levels.
- The digital marquee will be on from 6 am - 10 pm.
- The digital marquee will be turned off nightly at 10 pm.
- The text on the marquee will be simple, clear, and unobtrusive.
- No animation will be used on the digital marquee.
- School approved images will be used but the images will not move.
- The marquee is run from software on the school campus. Any of the settings can be adjusted at any time to accommodate the local community.

**Cornelius, Brad**

---

**From:** Stephanie Desaulniers <sdesaul@cfl.rr.com>  
**Sent:** Tuesday, June 11, 2019 3:19 PM  
**To:** catherineallen250@gmail.com  
**Subject:** Proposed Signage8

Greetings CT,

Dixie Cream Cafe is in full support for a updated LED sign for Windermere Elementary School.

These signs not only provide much needed school information while allowing for easy viewing and can potentially be used to disperse of critical information I.e. school closings due to weather etc.....

Dixie Cream Cafe in no way will be impacted by this signage and based on other area schools that have them these LED signs seem to promote better traffic flow as they are far easier to read.

Our business is not interested in any sign changes for us should this be a concern.

We will not request any type of variance and would be accepting of any further needs deemed necessary in order to get the LED sign up and running before the new school year begins.

Kindly,

Stephanie Desaulniers  
Owner  
Dixie Cream Cafe  
434 Main Street  
Windermere Fl  
34786  
407-217-5047

Sent from my iPad

**Cornelius, Brad**

---

**From:** Hennen, Robert <RHennen@castlecooke.com>  
**Sent:** Wednesday, June 12, 2019 3:01 PM  
**To:** catherineallen250@gmail.com  
**Cc:** Chris Sapp  
**Subject:** School Sign

Dear CT:

Castle & Cooke Real Estate Services/Suzi Karr Realty/Keene's Pointe Realty is in full support of an updated LED sign for Windermere Elementary School.

Our businesses will not be impacted by this signage and we're sure these LED signs will promote better traffic flow as they are far easier to read.

We will not request any type of variance based on the approval and installation of the LED sign for Windermere Elementary School.

Regards,

**Bob Hennen**  
Vice President

The logo for Castle & Cooke Real Estate Services, featuring the company name in a stylized script font above the words "REAL ESTATE SERVICES" in a smaller, sans-serif font.

**Keene's Pointe Realty**  
[www.TheKeenesPointeRealty.com](http://www.TheKeenesPointeRealty.com)  
**Suzi Karr Realty**  
[www.SuziKarrRealty.com](http://www.SuziKarrRealty.com)

**Cornelius, Brad**

---

**From:** craig lopus <craig@timswine.com>  
**Sent:** Tuesday, June 11, 2019 1:26 PM  
**To:** 'CT Allen'  
**Subject:** LED Signage for Windermere Elementary

Hello CT,

I am fully supportive of the LED signage for Windermere Elementary. Given the number of activities going on at the school, a programmable LED sign is the best choice for the community. As a local business owner -- an LED sign at Windermere Elementary will not affect in any way my business. We will not be asking for a variance for an LED sign for our business based on the variance given to the school. Additionally, the school is located outside the downtown business district and will not conflict with any of the signage utilized currently by downtown merchants.

Thank you for your consideration

Craig and Kathy Lopus  
Owners, Tim's Wine Market

**Craig Lopus, CSW**  
Tim's Wine Market Windermere  
*Voted the #1 Wine Store in Southwest Orlando!*  
428 Main Street  
Windermere, Fl 34786  
craig@timswine.com  
407 876 WINE [9463]



RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_

Received  
JUN 11 2019  
Wade Trim

SIGNATURE: *Yumi Frankhouser* DATE: *6/4/19*  
FRANKHOUSER YUMI

RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_

Received  
JUN 11 2019  
Wade Trim

SIGNATURE: *Lynne M Ingalls* DATE: *6/4/19*  
INGALLS LYNNE M

RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_

Received  
JUN 11 2019  
Wade Trim

SIGNATURE: *Pireco Business LLC* DATE: *06/05/19*  
PIRECO BUSINESS LLC

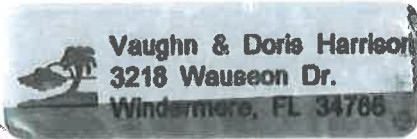
RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))

APPROVAL:  DISAPPROVAL

COMMENTS: *Very interested in new sign. Have a granddaughter enrolling at school in August, and another granddaughter in 2020.*

Received  
JUN 11 2019  
Wade Trim

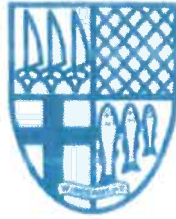
SIGNATURE: *Harrison Vaughn R* DATE: *6/3/19*  
HARRISON VAUGHN R



Received  
JUN 11 2019  
Wade Trim

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103



Mayor  
JIM O'BRIEN

Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

VAN ALPHEN HUBERT  
11200 CEDAR GROVE CT  
WINDERMERE, FL 34786

**RE: Public Notice of Variance Public Hearing for Windermere Elementary School (11125 PARK AVE)**

Orange County School District in regard to Windermere Elementary School, located at 11125 PARK AVE, submitted a request with their authorized agent CT Allen, for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for a larger sign area of 29.63 sq. ft., compared to the allowed 20 sq. ft. for a two-sided sign and to allow an illuminated LED marque sign. All other setbacks and height limitations are compliant with the code.

Enclosed is additional information regarding this request.

Pursuant to the Town of Windermere Code of Ordinances, you as a surrounding property owner are entitled to comment on this matter. If you wish to comment, this form must be received by the Town of Windermere either by hand delivery to the Town Clerk or by use of the enclosed stamped envelope to Wade Trim, Inc. by **June 14, 2019**.

This matter will be presented to the Development Review Board on **Tuesday, June 18, 2019 at 6:30 p.m.** in the Town Hall, located at 520 Main Street, Windermere. Their recommendation will be heard by the Town Council on **Tuesday, July 9, 2019 at 6:00 p.m.** in the Town Hall, located at 520 Main Street, Windermere. All meetings are open to the public and you are welcome to attend. Feel free to contact me if you have any questions.

Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
888-499-9624  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

---

**RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))**

APPROVAL: ✓ DISAPPROVAL \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Received

Wade Trim

SIGNATURE: Wade Trim DATE: 6/3/19

VAN ALPHEN HUBERT

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

WENTZELL ANTHONY T  
3208 WAUSEON DR  
WINDERMERE, FL 34786

**RE: Public Notice of Variance Public Hearing for Windermere Elementary School (11125 PARK AVE)**

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Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
888-499-9624  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

**RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))**

APPROVAL: ✓ DISAPPROVAL \_\_\_\_\_

COMMENTS: Looks Good!

WES Class of 1994!

SIGNATURE: [Signature] DATE: 6/3/19

WENTZELL ANTHONY T

Received

Wade Trim

Received

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Wade Trim



Mayor  
JIM O'BRIEN

Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

HINSHAW DARREN MARC  
2529 TRYON PL  
WINDERMERE, FL 34786

**RE: Public Notice of Variance Public Hearing for Windermere Elementary School (11125 PARK AVE)**

Orange County School District in regard to Windermere Elementary School, located at 11125 PARK AVE, submitted a request with their authorized agent CT Allen, for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for a larger sign area of 29.63 sq. ft., compared to the allowed 20 sq. ft. for a two-sided sign and to allow an illuminated LED marquee sign. All other setbacks and height limitations are compliant with the code.

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Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
888-499-9624  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

**RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))**

APPROVAL: yes DISAPPROVAL \_\_\_\_\_

COMMENTS: Well Done  
Keep approving WES

SIGNATURE: [Signature] DATE: 6/3/19

HINSHAW DARREN MARC

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

KELLEY RICHARD J JR  
11213 CEDAR GROVE CT  
WINDERMERE, FL 34786

**RE: Public Notice of Variance Public Hearing for Windermere Elementary School (11125 PARK AVE)**

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Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
888-499-9624  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

---

**RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))**

APPROVAL: Yes DISAPPROVAL \_\_\_\_\_

COMMENTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNATURE:  DATE: 6/5/19

KELLEY RICHARD J JR

Received  
JUN 10 2019  
Wade Trim

RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))

APPROVAL: YES DISAPPROVAL \_\_\_\_\_

COMMENTS: \_\_\_\_\_

SIGNATURE: Paul R. M. DATE: 6/9/19

MONTGOMERY PAUL R

Received

Wade Trim

RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))

APPROVAL: \_\_\_\_\_ DISAPPROVAL

COMMENTS: The proposed sign is large & distracting to traffic in this busy area. The configuration & aesthetics of the illuminated LED sign is not consistent with the historic community theme of Windermere. It could

SIGNATURE: JM DATE: 6-10-19

OSBORNE JANET M

Received

Wade Trim

degrade adjacent property values & set a signage precedent for other commercial & non profit use. LED signage is not new technology & doesn't represent our schools accomplishments.

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Received

Wade Trim



Mayor  
JIM O'BRIEN

Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

SIMS JOSEPH D  
11155 LAKE BUTLER BLVD  
WINDERMERE, FL 34786

**RE: Public Notice of Variance Public Hearing for Windermere Elementary School (11125 PARK AVE)**

Orange County School District in regard to Windermere Elementary School, located at 11125 PARK AVE, submitted a request with their authorized agent CT Allen, for approval of a variance, pursuant to Division 10.02.00 of the Town of Windermere Land Development Code. The purpose of the variance request is to allow for a larger sign area of 29.63 sq. ft., compared to the allowed 20 sq. ft. for a two-sided sign and to allow an illuminated LED marquee sign. All other setbacks and height limitations are compliant with the code.

Enclosed is additional information regarding this request.

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This matter will be presented to the Development Review Board on **Tuesday, June 18, 2019 at 6:30 p.m.** in the Town Hall, located at 520 Main Street, Windermere. Their recommendation will be heard by the Town Council on **Tuesday, July 9, 2019 at 6:00 p.m.** in the Town Hall, located at 520 Main Street, Windermere. All meetings are open to the public and you are welcome to attend. Feel free to contact me if you have any questions.

Sincerely,  
Brad Cornelius, AICP, Town Planner  
Wade Trim, Inc.  
888-499-9624  
[tow@wadetrim.com](mailto:tow@wadetrim.com)  
Encl.

**RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))**

APPROVAL: \_\_\_\_\_ DISAPPROVAL   X  

COMMENTS: NO ILLUMINATING  
SIGNS - Brightness is my concern at night.  
Sign size is fine - 29.63 sq ft with me

SIGNATURE: Joseph D. Sims DATE: 6-12-

SIMS JOSEPH D

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Received

JUN 18 2019

Wade Trim

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

OERTHER GREGORY R  
11020 BAYSHORE DR  
WINDERMERE, FL 34786

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888-499-9624  
[town@wadetrim.com](mailto:town@wadetrim.com)  
Encl.

---

**RECOMMEND – Z19-007 (Windermere Elementary School (11125 PARK AVE))**

APPROVAL: X DISAPPROVAL                     

COMMENTS: I like the look of the sign.  
Incorporating old stone columns with the  
new header board looks very nice

SIGNATURE: Gregory R Oerther DATE: 6/14/2019

OERTHER GREGORY R



RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))

APPROVAL:  DISAPPROVAL

COMMENTS: Very nice upgrade! Keeping our local school up-to-date and more modern looking will help it be more competitive & continue it's high ranking.

SIGNATURE: [Signature] DATE: 6/12/19

DRAKE JEREMY MARCUS

Received

Wade Trim

RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_

\_\_\_\_\_

SIGNATURE: [Signature] DATE: 06/11/2019

SITATUNGA II LLC  
11046 Bayshore drive  
WINDERMERE



# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103



Mayor  
JIM O'BRIEN

Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

LANGLEY ADAM W  
11231 CEDAR GROVE CT  
WINDERMERE, FL 34786

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888-499-9624  
[town@wadetrim.com](mailto:town@wadetrim.com)  
Encl.

**RECOMMEND – Z19-007 (Windermere Elementary School (11125 PARK AVE))**

APPROVAL:  DISAPPROVAL

COMMENTS: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: 14 June 2019

LANGLEY ADAM W

Received

Wade Trim

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103



Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

May 31, 2019

NUNNELLEY MICHELE A  
11137 LAKE BUTLER BLVD  
WINDERMERE, FL 34786

## RE: Public Notice of Variance Public Hearing for Windermere Elementary School (11125 PARK AVE)

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Encl.

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### RECOMMEND - Z19-007 (Windermere Elementary School (11125 PARK AVE))

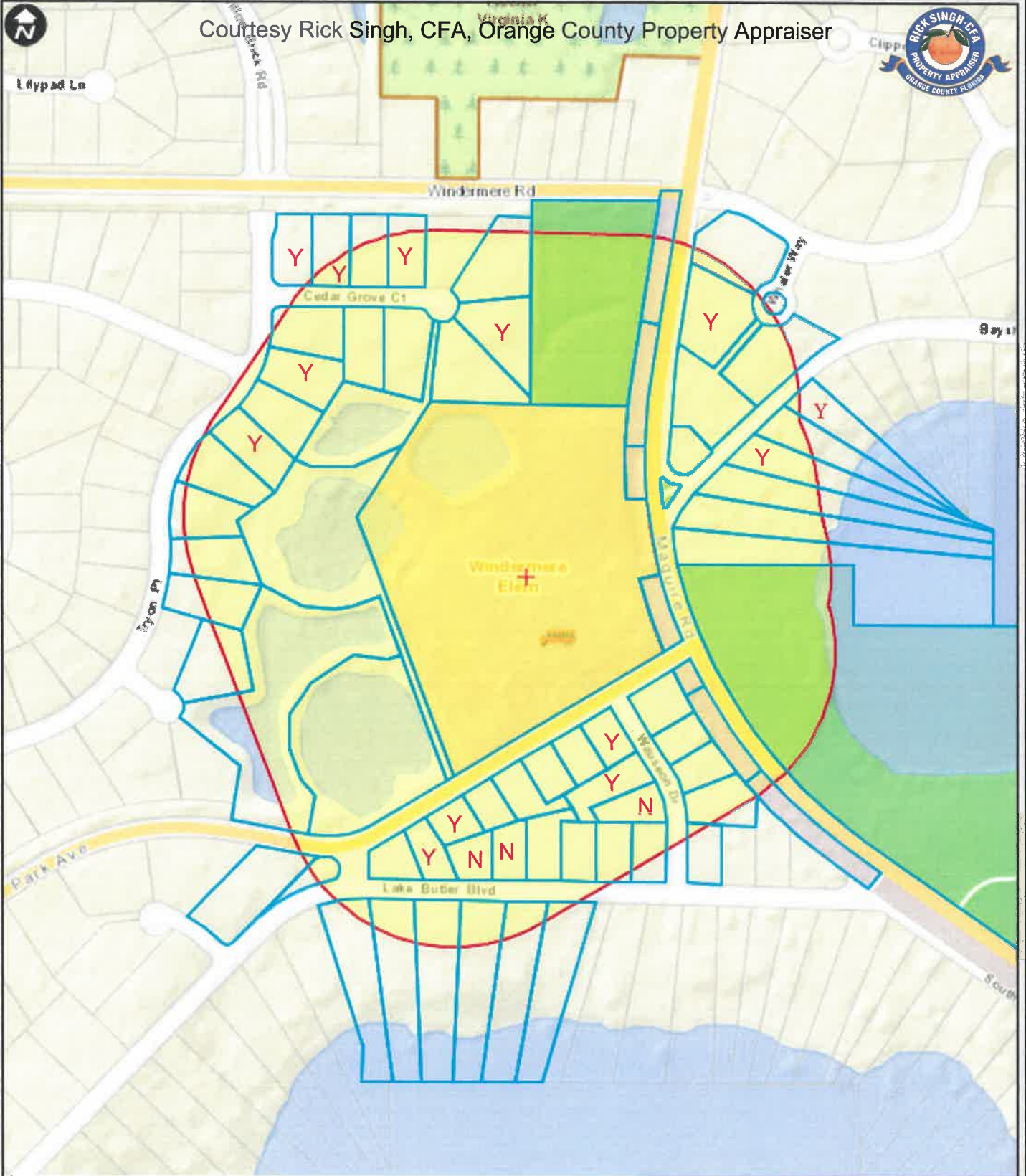
APPROVAL: \_\_\_\_\_ DISAPPROVAL X \_\_\_\_\_ (Flashing)

COMMENTS:  The town does not allow signs in downtown business area so we should not have in residential

SIGNATURE: Michele A Nunnelley DATE: 6/12/2019

NUNNELLEY MICHELE A

OCA Web Map			
Major Roads	Proposed Roe	Block Line	Commercial/ Institutional
Florida Turnpike	Brick Road	Lot Line	Hydro
Interstate 4	Gated Roads	Residential	Waste Land
Toll Road	Road Under Construction	Agriculture	County Boundary
	Proposed SunRail	Agricultural Curtilage	Parks
		Governmental/ Institutional/ Misc	Lakes and Rivers
		Commercial/ Industrial/ Vacant Land	Building
		Agricultural Curtilage	Hospital



Courtesy Rick Singh, CFA, Orange County Property Appraiser



TOWN OF WINDERMERE

Town Council Meeting Minutes

June 11, 2019

CALL TO ORDER:

Present were Mayor Jim O'Brien, Council Members Bill Martini, Bob McKinley, Andy Williams, Chris Sapp, and Liz Andert. Town Attorney Heather Ramos, Police Chief Dave Ogden, Public Works Director Scott Brown and Town Clerk Dorothy Burkhalter were also present. Town manager Robert Smith was absent.

Mayor O'Brien called the meeting to order at 6:00pm and stated all Council members were present.

1. OPEN FORUM/PUBLIC COMMENT:

Mr. Joe Foglia of 215 Butler Street introduced himself. He then stated that with the aid of Theresa Myers, he was able to contact Duke Energy regarding the neighbor's dead tree he spoke about at the May Town Council meeting. Mr. Foglia stated that Duke Energy removed the tree at no cost. He then stated that only the stump remains.

2. SPECIAL PRESENTATION/PROCLAMATIONS/AWARDS:

a. Detective John Allen 5 Year Service Award

Chief Ogden presented Detective John Allen with a 5-year service appreciation plaque.

b. Swearing in Reserve Officer Carollee Burrell

c. Swearing in Reserve Officer Kevin Tuck

Chief Ogden introduced two new Reserve Officers; Carollee Burrell and Kevin Tuck. He then performed the swearing in ceremony.

3. NEW BUSINESS:

a. MINUTES:

i. Town Council Meeting Minutes – May 14, 2019

ii. Town Council Workshop Meeting Minutes – May 22, 2019

Mayor O'Brien introduced the meeting minutes for approval. Member McKinley made a motion to approve the minutes as presented. Member Williams seconded the motion. Roll call vote was as follows: Martini – yes, McKinley – yes, Williams – yes, Sapp -yes, and Andert – yes. Motion carried 5-0.

b. APPOINTMENTS: COMMITTEES AND BOARDS:

i. Tree Board: Debra Neill

ii. Tree Board Leslie Brabec

Mayor O'Brien introduced this item. Member Sapp made a motion to approve the appointment of Debra Neill and Leslie Brabec to the Tree Board. Member Martini seconded the motion. Roll call vote was as follows: Andert – yes, Sapp – yes, Williams – yes, McKinley - yes, and Martini – yes. Motion carried 5-0.

c. CONTRACTS AND AGREEMENTS:

i. Sunset Bay Developers Agreement

Mayor O'Brien introduced this item. He then turned the floor over to Attorney Heather Ramos. Attorney Ramos explained that the Sunset Bay HOA has met with Manager Smith and Legal regarding the Sunset Bay Developers Agreement, which originated in 1988. She stated that there are a few items that the Association would like changed. First, is the Termination Date. Attorney Ramos stated that currently the agreement does not have a termination date. She stated that Manager Smith would not like

## TOWN OF WINDERMERE

### Town Council Meeting Minutes

June 11, 2019

this changed in the current agreements. Attorney Ramos explained the second request as they would like the Town to split the costs of resurfacing. She explained that the current agreement requires the homeowners to pay all of the costs for resurfacing, which they currently are doing for the next ten years. Third, is for the Town to be responsible for the costs of the lights within the Down Pointe subdivision. Attorney Ramos stated that Manager Smith would recommend approval for this, as this is outside the Sunset Bay area. Fourth, that the Town inspect the sidewalks along 6<sup>th</sup> Avenue to determine needed repairs, and that the Town bears the cost of the repairs. Attorney Ramos stated that the Town currently does this and will continue inspecting and repairing sidewalks as necessary. She then stated that the sidewalks within the Association will remain the Association's and homeowners' responsibility. Fifth, the Town is responsible for any future sign repair and replacement. Attorney Ramos stated that it is recommended that the Town Council approve this request. Sixth, the Association would like to install a six-foot-high wall along the length of the property bordering 6<sup>th</sup> Avenue. Attorney Ramos stated that a variance application could be submitted to request approval to the code that currently allows up to four feet. Mr. Brent Spain, Attorney/representative for the Sunset Bay HOA, introduced himself. He then stated that the Developers Agreement was written in 1988 and needed to be rewritten. Mr. Spain stated that an expiration date/termination clause is needed. He then commented on a Developers Agreement vs a Development Order. Mr. Spain stated that they are seeking a five-year term. He then stated that a maintenance agreement would go into effect at a 50/50 rate. Mr. Spain stated that lighting is not addressed in the original Developers Agreement. He then stated that they would like the Town to take over paying the street lights that are outside of Sunset Bay as well as tying into when the Developers Agreement expires, that to cost of lights within Sunset Bay will no longer be the responsibility of the HOA but the Town. Mr. Spain then commented on two discrepancies for the wall in the current agreement. He then commented on other walls along 6<sup>th</sup> Avenue. Mr. Spain stated that the HOA would like to have a wall. Member McKinley questioned item #5 – Signs. Mr. Spain stated that historically, the HOA has paid to restore the signs. Some discussion followed regarding signage, process of approving a new agreement, obligations of lighting public roads and resurfacing, and variance procedure for the wall. Member Martini stated that the subdivision entry sign would not be included as a responsibility for the Town. Mr. Spain requested that it be stated that the HOA would be allowed to apply for the variance due to the current Developers Agreement stating that a wall is not allowed. Member McKinley stated that he believes the revisions requested are being approved. Member McKinley then made a motion to the effect that we authorize Town Staff, following the responses that they have presented with the exception of item five which is signage that would be applied only to regulatory signage. Member Andert seconded the motion. Roll call vote was as follows: Martini – yes, McKinley – yes, Williams – yes, Sapp – yes, and Andert – yes. Motion carried 5-0.

Mayor O'Brien stated that the Liaison reports are now attached to the agenda packet and are posted online for anyone to review. He then stated that Attorney Ramos would be giving an update regarding FEMA. Mayor O'Brien questioned legal if they would like to move forward in the liaison reporting. Attorney Ramos stated she could give the report. Mayor O'Brien moved Staff Reports – Legal forward. Member McKinley questioned if this item needed to be placed on the agenda. Mayor O'Brien stated that this item has been discussed in the past and this is only a report. He then stated that should an action be needed; the item could then be placed on the agenda.

#### 5. STAFF REPORTS:

**b. TOWN ATTORNEY HEATHER RAMOS -** Attorney Ramos introduced Attorney Brock Magruder who is also with Gray Robinson. She stated that a memo has been included in the agenda packet. Attorney Ramos stated that many of the current Town Council members were not in office during the 2004/2005 Hurricanes. She further stated that Mr. Magruder was present to give an update, as he has been at the Tallahassee office where much discussions has taking place. Mayor O'Brien stated that he requested that the sequence of events be written out for everyone. Mr. Magruder introduce himself. He stated that the storms in question are Hurricane Jean and Hurricane Francis. Mr. Magruder explained that the appeal of the de-obligation by the Town to the State had been done in the timeframe allowed. He further explained that the State (DEM – Division of Emergency Management) did not notify FEMA of the Town's appeal, therefore, FEMA considered that the Town had been notified of the de-obligation. Mr. Magruder stated that the State accepted responsibility for missing the deadline. He then explained that the State admitted that the Town should not be held accountable for their failure. Mr. Magruder stated that the Town has been approved for approximately \$600,000.00 for reimbursements from Hurricane Irma, in which, the State stated it could recoup the de-obligated funds of

# TOWN OF WINDERMERE

## Town Council Meeting Minutes

June 11, 2019

an estimated \$500,000.00 from the Hurricane Irma payment. He then commented that the Town does have an option to sue the Federal government until 2024. Discussion followed. Member Williams questioned the remaining amount that could be de-obligated should the Town be hit with another storm? Mr. Magruder stated that there would not be any further funds owed. Further discussion followed. Mayor O'Brien questioned the Town's options moving forward. Mr. Magruder explained that suing the Federal Government is the only option at this point. Discussion regarding the cost to fight compared to what could be gained was made. Member Andert questioned if the de-obligated funds could be divided into repayments so that all the funds are not taken from Hurricane Irma. Mr. Magruder stated he was unaware of any policy to allow for that. He further stated that he would research the suggestion. Attorney Ramos stated that updates will be passed along to the Town Manager, Mayor and Town Council once Mr. Magruder has any further answers. Discussion followed. No action was taken.

### 4. MAYOR & COUNCIL LIAISON REPORTS

a. **MAYOR JIM O'BRIEN** – Mayor O'Brien thanked Council members Bill Martini and Liz Andert for attending the Horizon West Town Hall meeting. He then reported on The Willows new Home Owner's Association members, right-of-way opportunities, the multi-modal plan, and the upcoming visit from Senator Scott on June 17<sup>th</sup>.

Member Martini commented on the Horizon West meeting he attended. He stated that the project encompasses 4% of Orange County and is responsible for 46% of their permits.

### 5. STAFF REPORTS:

- a. **TOWN MANAGER ROBERT SMITH** – Absent – no report.
- b. **TOWN ATTORNEY HEATHER RAMOS** – Reported earlier in the meeting, FEMA.
- c. **CHIEF DAVE OGDEN** – Chief Ogden stated that the traffic report will be available for the next Council meeting. He then reported on training, qualifications, team building event, active shoot training, Officers graduating Crisis Intervention Training, host of "FINDER," staffing, water/lake issues and possible funding from Windermere Water Navigation Board and the Butler Chain of Lakes Advisory Board to pay for off-duty coverage at Lake Butler.
- d. **PUBLIC WORKS DIRECTOR SCOTT BROWN** – Mr. Brown reported that he attended the hurricane conference and the TSMO meeting. He then reported on projects (new and upcoming), the new water fountain in Town Hall, bid updates, and staff. Mayor O'Brien questioned if reflectors could be placed on the new 4<sup>th</sup> Avenue dock for safety. Director Brown stated he would look into it. Discussion was made regarding the renovated dock and plantings.

Member McKinley questioned the scanning project. Clerk Burkhalter stated that minutes have been scanned back to 1938. She then commented that scanning of the older minutes is time consuming as they are in bound books and handwritten. Clerk Burkhalter stated that the handwritten documents will not be OCR – Optical Character Recognition searchable. If a record is needed that far back, the Clerk's office would be able to search individual records should it be needed.

Member McKinley then stated that he has concerns with the agenda. He stated that if an item is going to be discussed, whether action is going to be taken or not, it should be on the agenda.

### 6. ADJOURN:

Mayor O'Brien adjourned the meeting at 7:19pm.

\_\_\_\_\_  
Dorothy Burkhalter, Town Clerk

\_\_\_\_\_  
Jim O'Brien, Mayor

# TOWN OF WINDERMERE

## Town Council Workshop Minutes

June 25, 2019

### CALL TO ORDER:

Present were Mayor Jim O'Brien, Council Members Bill Martini, Bob McKinley, Chris Sapp, and Liz Andert. Town Manager Robert Smith, Chief Dave Ogden, and Town Clerk Dorothy Burkhalter were also present. Town Council member Andy Williams and Public Works Director Scott Brown were absent.

Mayor O'Brien called the workshop to order at 6:00pm.

### 1. OPEN FORUM/PUBLIC COMMENT:

Public speakers deferred their comments until after the presentation.

### 2. SPECIAL PRESENTATION:

#### a. Cut-thru Traffic Update

Mayor O'Brien turned the floor over to Manager Smith. Manager Smith gave an update on past discussions regarding cut-thru traffic, the past Kimley Horn Associates Study, Orange County development and Operation Dusty Roads Part 2. Manager Smith then turned the floor over to Officer 2 Ryan Miller. Officer Miller gave a report regarding the Operation Dusty Road Part 2 Detail. After the report completed, Mayor O'Brien opened the floor to the Public. First to speak was Mrs. Brandi Haines of 835 Oakdale Street. She thanked the Police Department for their work with the detail. She then questioned what future plans would be. Mayor O'Brien stated that the Town Council would need to further discuss and review options. Next to speak was Mr. Steve Walker of 763 Magnolia Street. Mr. Walker questioned if the barriers would be placed. Mayor O'Brien stated that the barriers would be discussed later in the meeting. Mr. Walker stated that due to the detail, traffic has decreased. Mrs. Theresa Myers of 2713 Tryon Place introduced herself. She then commented on a very large oak on the north/west corner of the proposed roundabout area. Mrs. Myers stated that she is advocating for saving the oak tree and the impacts on the tree if the roundabout is built. Mayor O'Brien stated that he feels that Orange will assist with the project if it should happen. Some discussion followed. Mr. Byron Traynor of 11201 Willow Gardens Drive and member of The Willows Board of Directors introduced himself. He commented that he wanted facts regarding the roundabout. Mr. Traynor then commented on the OARS kids that walk across the road slowing up traffic. He then suggested a pedestrian walkover in that area. Mayor O'Brien stated that the current roundabouts work. He then commented that he would not know what traffic today would look like without them. Mr. John Fitzgibbon stated that protection of the tree was reviewed when the discussion of the roundabout was being made. He also stated that the roundabout would work effectively due to three thoroughfares entering instead of four. Mayor O'Brien opened the floor to the Town Council members for discussion. Member Martini questioned if making it easier to get thru Town would cause more traffic, Orange County's assistance, clarifying limitations within the Orange County Road 439 Agreement, and finding another Urban Planner for the study. Manager Smith stated for the record, "We can't pick and choose who we use. We would have to do an RFQ that's based on qualifications." He then further explained the RFQ process and timing. Mayor O'Brien stated for the record, "I think we could study this to death, and I think we know what the issue is." Member Martini commented on barriers. He stated that a trail with barricades should have been done. Discussion followed. Member McKinley commented on the effectiveness of the new roundabout at Windermere Road and Roberson Road. He stated that roundabouts work. Member McKinley then commented on barriers and issues that would be caused by using them. He then commented on stop signs and traffic impacts. Member Sapp commented that in discussions with the Long-Range Planning Committee, he agrees with the continuous right-hand turn onto Chase Road and the Roundabout at Windermere Road and Maguire Road. He also stated that the traffic needed to be moved thru town. Member Sapp questioned why studies are done if no action is going to be taken. He suggested that an Urban Planner look at the back roads and analyze them for such neighborhoods that they are. Member Andert stated that residents want something done. She also stated that she is not opposed to a trail on the back roads. Member Andert stated that the Town needed to be mindful of the County and surrounding areas when planning anything with the roads. She also stated she is in favor of the continuous right-hand turn at Chase Road as well as the roundabout at Windermere Road. Manager Smith stated he would reach out to Orange County regarding any relief/assistance with the Chase Road right-hand turn and the roundabout. Discussion followed. Mayor O'Brien stated that Community support is needed as well as a very thought out plan. Member McKinley stated that the easier it is for someone to get through town on



## TOWN OF WINDERMERE

### Town Council Workshop Minutes

June 25, 2019

the main roads, it will reduce the cut thru traffic on the back roads. He stated that there would not be a need to cut-thru if the traffic is moving. Discussion followed. Mayor O'Brien recapped the discussion as Kinley Horn IPO is not needed at the next Town Council meeting, looking at other municipalities that have had these similar issues, study internal data, being on the County's radar with school starting in August. Manager Smith stated that there is funding remaining in the budget to allow further policing of the areas. Chief Ogden stated that he will be short handed due to a few officers being out. Mayor O'Brien stated he has asked to have 5<sup>th</sup> Avenue Park on the next agenda as well. He also stated that for the Town Council agenda would be Internal – no study from Kinley Horn. Member McKinley stated that the one reason for the previous study was to assist with traffic issues in discussions with the County. Chief Ogden stated that a further breakdown can be done for a later date.

There being no further comments, Mayor O'Brien adjourned the workshop at 7:47pm.

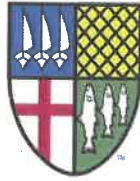
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Dorothy Burkhalter, MMC, FCRM  
Town Clerk

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Jim O'Brien, Mayor

THE TOWN OF  
**Windermere**



**EXECUTIVE SUMMARY**

**SUBJECT:** Resolution 2019-02

**REQUESTED ACTION:** Staff Recommends Approval

Work Session (Report Only)

Regular Meeting

**DATE OF MEETING:** 7/9/19

Special Meeting

**CONTRACT:**  N/A

Effective Date: \_\_\_\_\_

Managing Division / Dept: \_\_\_\_\_

Vendor/Entity: \_\_\_\_\_

Termination Date: \_\_\_\_\_

**BUDGET IMPACT:** \_\_\_\_\_

Annual

Capital

N/A

**FUNDING SOURCE:** \_\_\_\_\_

**EXPENDITURE ACCOUNT:** \_\_\_\_\_

---

**HISTORY/FACTS/ISSUES:**

Mayor & Council,

The Florida Legislature has changed the date of the Presidential Primary to March 17, 2020. The Orange County Supervisor of Elections has requested that all municipal elections be held on the same day as the presidential primary, as well as approve using the Orange County Canvassing Board in place of The Town of Windermere's canvassing board per Sec. 10.05 of the Charter for the 2020 election.

For the March 17, 2020 election, candidates qualifying pursuant to Section 10.02 of the Town's Charter must qualify with the Town Clerk no earlier than noon on November 22, 2019 nor later than noon on December 13, 2019

---

# RESOLUTION 2019-02

*of the*  
**Town Council**  
*for the*

**Town of Windermere, Florida**  
*changing*

## **The 2020 Municipal Election Date, Canvassing Board and Qualifying Date**

*Whereas*, the Town of Windermere's Code of Ordinances provides that the regular municipal election shall be held on the second Tuesday in March of each election year; however, in a year in which there is a Presidential Preference Primary, the Town Council may move the election date to be concurrent with the presidential preference primary and set the dates to qualify for election to the office of councilmember in that year.

*Whereas*, the second Tuesday in March of 2020 is March 10, 2020, and the Florida legislature has changed the date of the Presidential Preference Primary to March 17, 2020.

*Whereas*, the Orange County Supervisor of Elections has requested that all municipal elections be held on the same day as the presidential primary, as well as approve using the Orange County Canvassing Board in place of The Town of Windermere's canvassing board per Sec. 10.05 of the Charter for the 2020 election.

*Whereas*, Section 10-23 of the Town's Code of Ordinances provides that by resolution, the Town Council may move the election and qualifying dates.

***Now Therefore, Be It Resolved by the Town Council of the Town of Windermere, Florida:***

**Section 1.** The March 2020 municipal election shall be held on March 17, 2020.

**Section 2.** For the March 17, 2020 election, candidates qualifying pursuant to Section 10.02 of the Town's Charter must qualify with the Town Clerk no earlier than noon on November 22, 2019 nor later than noon on December 13, 2019. All other provisions relative to qualifying set forth in the Town's Charter and the Town's Code of Ordinances apply.

***Resolved this \_\_\_\_ day of \_\_\_\_\_, 2019***

**TOWN OF WINDERMERE, FLORIDA**

By: Town Council

By: \_\_\_\_\_  
Jim O'Brien, Mayor

Attest:

\_\_\_\_\_  
Dorothy Burkhalter, MMC, FCRM  
Town Clerk

THE TOWN OF  
**Windermere**



**EXECUTIVE SUMMARY**

**SUBJECT:** ORDINANCE NO. 2019-05

**REQUESTED ACTION:** 1<sup>st</sup> Reading-Board Option

Work Session (Report Only)    **DATE OF MEETING:** 7/9/19  
 Regular Meeting                       Special Meeting

**CONTRACT:**     N/A    Vendor/Entity: \_\_\_\_\_  
Effective Date: \_\_\_\_\_                                      Termination Date: \_\_\_\_\_  
Managing Division / Dept: \_\_\_\_\_

**BUDGET IMPACT:** \_\_\_\_\_  
 Annual                      **FUNDING SOURCE:** \_\_\_\_\_  
 Capital                      **EXPENDITURE ACCOUNT:** \_\_\_\_\_  
 N/A

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**HISTORY/FACTS/ISSUES:**

Mayor & Council,

Based on complaints from residents that live in relatively close proximity to both commercial and institutional areas that are not included in the Waste Pro agreement, staff has asked legal to amend the Town's code to limit non-emergency pick up times consistent with that agreement.

---

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**ORDINANCE NO. 2019-05**

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**AN ORDINANCE OF THE TOWN OF WINDERMERE, FLORIDA PERTAINING TO HEALTH, SAFETY AND WELFARE; AMENDING THE TOWN'S CODE OF ORDINANCES TO ADD A NEW SECTION 28-8 TO CHAPTER 28 OF THE TOWN'S CODE OF ORDINANCES TO BE TITLED "PERMISSIBLE HOURS FOR GARBAGE COLLECTION"; PROVIDING THAT RESIDENTIAL AND NON-RESIDENTIAL GARBAGE MAY BE COLLECTED ONLY DURING THE HOURS BETWEEN 7:00 A.M. AND 10:00 P.M., EACH DAY OF THE WEEK; PROVIDING FOR SEVERABILITY AND CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

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*Whereas*, there have been numerous complaints regarding garbage being picked up at early hours in the morning within the Town and the Town Council of the Town of Windermere, Florida (the "Town Council") desires to regulate the times during which garbage may be collected.

**BE IT ENACTED BY THE PEOPLE OF THE TOWN OF WINDERMERE:**

**Section 1. Recitals.** The recitals set forth above are true and correct and constitute the legislative findings of the Town Council.

**Section 2. Amendments to the Town of Windermere's Code of Ordinances.** A new Sec. 28-8 is hereby added to Chapter 28 of the Town of Windermere's Code of Ordinances as follows:

**Sec. 28-8. Permissible hours for garbage collection.**

Unless previously approved in writing by the Town Manager, hours for residential and non-residential garbage collection within the incorporated areas of the Town is between the hours of 7:00 a.m. and 10:00 p.m., each day of the week. Failure to comply with the provisions of this section shall constitute a code violation and shall subject the collection company to the code enforcement provisions and procedures set forth in the Town's Code of Ordinances.

**Section 3. Severability.** If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 4. Codification.** The provisions of this Ordinance shall become and be made a part of the Town's Code of Ordinances.

**Section 5. Effective Date.** This Ordinance takes effect immediately upon its enactment.

47           **ENACTED** this \_\_\_\_ day of \_\_\_\_\_, 2019, at a regular meeting of the Town Council of  
48 the Town of Windermere, Florida.

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Town of Windermere, Florida

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by: Town Council

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by: \_\_\_\_\_

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Jim O'Brien, Mayor

57 Attest:

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61 \_\_\_\_\_  
Dorothy Burkhalter, MMC, FCRM

62 Town Clerk

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64 First reading:

65 Second reading:

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THE TOWN OF  
**Windermere**



**EXECUTIVE SUMMARY**

**SUBJECT:** Ocoee Fire Service Agreement

**REQUESTED ACTION:** Staff Recommends Approval

Work Session (Report Only)

Regular Meeting

**DATE OF MEETING:** 7/9/19

Special Meeting

**CONTRACT:**  N/A

Effective Date: \_\_\_\_\_

Managing Division / Dept: \_\_\_\_\_

Vendor/Entity: \_\_\_\_\_

Termination Date: \_\_\_\_\_

**BUDGET IMPACT:** \$625,000

Annual

Capital

N/A

**FUNDING SOURCE:** \_\_\_\_\_

General

**EXPENDITURE ACCOUNT:** \_\_\_\_\_

Police

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**HISTORY/FACTS/ISSUES:**

Mayor & Council,

The existing agreement for Fire Service Protection between Ocoee and the Town of Windermere expires September 30, 2019. That agreement had a built-in extension clause which included a \$50,000 cost escalator per subsequent years of service. This new agreement provides a cost escalator of \$25,000 for FY 19/20 and 3% (less than \$20k) escalator for the balance of the contract.

Staff Recommends Approval.

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**INTERLOCAL AGREEMENT FOR  
PERMIT INSPECTION AND REVIEW  
AND FIRE SERVICES**

**THIS INTERLOCAL AGREEMENT** (this "Agreement"), is entered into and effective as of October 1, 2019, by and between the **CITY OF OCOEE, FLORIDA**, a municipal corporation created by and existing under the laws of the State of Florida, whose mailing address is c/o Ocoee Fire Department, 563 South Bluford Avenue, Ocoee, Florida 34761 ("Ocoee"), and the **TOWN OF WINDERMERE, FLORIDA**, a municipal corporation created by and existing under the laws of the State of Florida, whose mailing address is 614 Main Street, Windermere, Florida 34786 ("Windermere").

**WITNESSETH:**

**WHEREAS**, Section 163.01, Florida Statutes, known as the "Florida Interlocal Cooperation Act of 1969" authorizes local governments to make the most efficient use of their powers by allowing them to cooperate with other localities on a basis of mutual advantage and thereby provide services and facilities that will harmonize geographic, economic, population, and other factors influencing the needs and development of local communities; and

**WHEREAS**, Ocoee presently has the manpower, equipment, and ability to process, review, and provide inspection relating to fire permits and plans on behalf of Windermere, and to provide certain fire and emergency related services to Windermere; and

**WHEREAS**, Ocoee desires to process, review, and provide inspection relating to fire permits and plans in exchange for the direct payment of fees by applicants for fire permit review services and Windermere authorizes Ocoee to provide such services for its applicants and citizens; and

**WHEREAS**, Ocoee desires to provide certain fire and emergency related services to Windermere in exchange for the payment of annual fees by Windermere and Windermere desires to purchase such services from Ocoee; and

**WHEREAS**, the City Commission of Ocoee has authorized Ocoee to enter into this Agreement, and the Town Council of Windermere has authorized Windermere to enter into this Agreement.



**NOW, THEREFORE,** in consideration of the premises and the mutual promises, terms and conditions contained herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Windermere and Ocoee hereby agree as follows:

**1. FIRE INSPECTION AND PERMIT REVIEW SERVICES:**

**A. Provision of Services.** Ocoee hereby agrees to process, review, and provide inspection relating to fire permits (with such services being collectively referred to as "Fire Permit Review Services"), to the citizens and properties located within the corporate limits of Windermere along with its provision of such services to the citizens and properties located within the corporate limits of Ocoee. As a result of this Agreement, Windermere will not provide fire permit review services directly to its citizens or properties located within its corporate limits. When applying for a fire permit, this Agreement authorizes Ocoee to collect all necessary application information and fees directly from applicants residing in or doing business in Windermere, including its citizens, at the time of application for a permit. This Agreement authorizes Ocoee to enforce the provisions of said permits. This Agreement is a contract for the provision of services and shall not, in any manner whatsoever, constitute a transfer of municipal home rule powers. This Agreement is solely an interlocal agreement to provide services authorized by Chapter 163, Florida Statutes.

**B. Payment of Fees.** At the time of an application for Fire Permit Review Services, applicants shall remit directly to Ocoee the fees established in Resolution 2018-021, which is attached hereto as **Exhibit "A"**, and is incorporated herein by reference. These fees may be changed with 30 days written notice from Ocoee to Windermere.

**C. Scope of Services.** The parties hereto agree as follows:

- (1) Ocoee Fire Department shall be the primary department authorized to engage in Fire Permit Review Services per this Agreement. Fees for all services are described in **Exhibit "A"**, attached hereto.
- (2) Separate permits will be required for fire protection systems.
- (3) In addition to any fees paid by applicant to Ocoee at the time of application for a building permit, at the time of such application, the applicant shall also pay a nonrefundable plan review fee for review by the Ocoee Fire Department, as described in **Exhibit "A"**, attached hereto.

In the event that the Ocoee Fire Department, upon initial inspection, shall find work not in compliance with the Florida Fire Prevention Code, the person doing said work shall promptly do everything necessary to bring said work within the requirements of the Florida Fire Prevention Code. The Ocoee Fire Department shall then, upon notice from such person, reinspect said work after payment of the fees outlined in **Exhibit "A"**, attached hereto.

**D. Florida Fire Prevention Code.** Inspections and Fire Permit Review Services set forth in this Agreement shall be conducted in accordance with Chapter 633, Florida Statutes, and the provisions of the current edition of the Fire Protection Code, adopted pursuant to state law.

**E. Inspection.** Inspections required in the context of Fire Permit Review Services, as set forth in this section, are in addition to and shall not be construed to conflict with the annual fire inspections on commercial properties referenced in Section 2 of this Agreement. Inspections shall be conducted by and through Ocoee Fire Department and Fire Department officers and employees.

**F. Duties and Level of Service.** Ocoee shall provide substantially the same Fire Permit Review Services for residents of Windermere that are available and provided to the residents of Ocoee. The rendition of service, standards of performance, and other matters incident to performance of services and control of personnel will be controlled exclusively by Ocoee. Additionally, during the performance of Fire Permit Review Services for citizens and applicants of Windermere, all officers and employees of Ocoee shall perform only those functions that are within the scope of the duties and responsibilities of such officer or employee in the performance of such Fire Permit Review Services for Ocoee. This Agreement shall not be construed to impose any obligation, duty or responsibility whatsoever on Ocoee to provide any specific types, kinds, or numbers of personnel or equipment within the corporate limits of Windermere at any specific time.

## **2. FIRE SERVICES:**

**A. Provision of Services.** Ocoee hereby agrees to provide Fire Protection Services, Fire Suppression Services, Emergency Medical Services, Emergency Rescue Services, Fire Investigation Services and Public Service Incident Responses (with such services being defined herein and collectively referred to as the "Fire Services"), to the citizens and properties located within the corporate limits of Windermere along with its provision of such services to the citizens and properties located within the corporate limits of Ocoee. As a

result of this Agreement, Windermere does not intend to provide Fire Services directly to its citizens and properties located within its corporate limits. Windermere hereby agrees to pay certain fees, as hereinafter defined, to Ocoee for the provision of such Fire Services by Ocoee during the term of this Agreement. This Agreement is a contract for the provision of services and shall not, in any manner whatsoever, constitute a transfer of municipal home rule powers. This Agreement is solely an interlocal agreement to provide services authorized by Chapter 163, Florida Statutes.

**B. Definitions:**

i. **Emergency Medical Services.** - Timely response to an incident requiring medical aid by qualified personnel and properly equipped emergency vehicles in order to provide first aid, basic life support, advanced life support, , and other related services.

ii. **Emergency Rescue Services.** - Timely response of qualified personnel and equipment to mitigate a threat to life or property caused by unusual conditions or accidents, including, but not limited to, automobile accidents, industrial/agricultural accidents, and accidents involving building structural failure.

iii. **Fire Investigation Services.** - The investigation into the source, cause and circumstances of fire incidents.

iv. **Fire Protection Services.** - All public services which are provided to protect people and property from damage and harm caused by fire, smoke and heat, which include, but are not limited to, fire prevention activities, fire inspection, fire safety education, fire control or suppression, and responses to emergencies involving hazardous materials. Fire inspections shall be limited to annual fire inspections on commercial properties and shall not be deemed to include the inspection/testing of fire hydrants. (Refer to Section 1, above, for Permit Inspection and Review Services regarding initial plan and/or building permit reviews.) Fire safety education shall be limited to providing fire safety literature, bulletins and community outreach programs, upon request and subject to availability, to schools, churches and governmental buildings substantially consistent with and with similar frequency to those provided in Ocoee at schools, churches and governmental buildings. Responses to emergencies involving hazardous materials shall be limited to first

response clean-up only subject to capabilities based on the substance and shall not be deemed to include substantive site clean-up or product or soil removal.

v. **Fire Suppression Services.** - Immediate response by qualified personnel with properly equipped apparatus to a threat to life or property caused by the release of smoke, fire or heat, for the purpose of eliminating that hazard.

vi. **Public Service Incident Response.** - That service resulting from a request for non-emergency assistance by an individual which may include, but is not limited to, the following:

- a. provision of non-emergency assistance to an individual who is locked-in or locked-out from a vehicle or a structure;
- b. provision of assistance and supervision regarding the maintenance, installation, repair, or operation of a fire protection system in a residential or commercial building or structure; and
- c. provision of assistance to the general public regarding fire prevention and safety.

C, **Tanker.** The parties acknowledge that Windermere owns a tanker truck that is currently being housed at Ocoee's fire station on Maguire Road. Under this Agreement, Windermere shall continue to own the tanker truck and will insure the same, naming Ocoee as an additional insured. Ocoee shall have the right to use the tanker truck in its normal day-to-day activities in providing the Fire Services in Windermere and in Ocoee. During the term of this Agreement, Ocoee agrees to be responsible for the routine maintenance and repair of the tanker truck and shall continue to house the tanker truck at the fire station on Maguire Road or such other location as determined by Ocoee.

D. **Administrative Agent.** Ocoee hereby agrees to administer this Agreement by and through its Fire Department and Fire Department officers and employees.

E. **Duties and Level of Service.** Ocoee shall provide substantially the same Fire Services for residents of Windermere that are available and provided to the residents of Ocoee. The rendition of service,

standards of performance, discipline of officers and employees, and other matters incident to performance of services and control of personnel will be controlled exclusively by Ocoee. Additionally, during the performance of Fire Services for Windermere, all officers and employees of Ocoee shall perform only those functions that are within the scope of the duties and responsibilities of such officer or employee in the performance of such Fire Services for Ocoee. This Agreement shall not be construed to impose any obligation, duty or responsibility whatsoever on Ocoee to provide any specific types, kinds, or numbers of fire or emergency personnel, equipment or apparatus at any fire station or other facility in Ocoee or at any emergency scene within the corporate limits of Windermere at any specific time.

**F. Payment of Fees.** Windermere hereby agrees to pay to Ocoee an annual fee (collectively, the "Fees") for the provision of Fire Services pursuant to the terms and conditions of this Agreement. The annual Fees in the amount of \$625,000.00 for the first year of this Agreement shall be remitted in two (2) equal biannual payments and shall be due and payable to Ocoee on February 1 and May 1 for each year of this Agreement, with the first payment of \$312,500 being due and payable on February 1, 2020 and the second payment of \$312,500 being due and payable on May 1, 2020. The Fees shall increase by a three percent (3%) cost of living adjustment annually on the anniversary date of this Agreement in each year thereafter.

In the event this Agreement is extended beyond the Initial Term, the Fees for each year shall increase by three percent (3%) over the Fees for the prior year, unless the parties agree to different Fees amount as part of the extension of the term. In the event payment is not made on a timely basis, a late charge at the rate of twelve percent (12%) per annum shall be added to Windermere's Fees due and owing to Ocoee. Interest shall be compounded and computed daily, based on a 365-day year, commencing the first calendar day after the due date. If payment is more than thirty (30) days delinquent, Ocoee may terminate this Agreement as provided herein.

**G. Ancillary Fees/Charges.** The parties acknowledge and agree that Ocoee may invoice, collect, and retain fees from Windermere residents and businesses based on false alarm fees in accordance with the fee schedules adopted by Ocoee. Ocoee may also invoice, collect, and retain fees from residents or businesses within Windermere whose negligent or unlawful acts cause an incident resulting in an emergency response.

3. **Employee Status.** Persons employed by Ocoee in the performance of this Agreement shall remain employees of Ocoee for all purposes and shall not have any claims against Windermere for pension rights, workers' compensation, unemployment compensation, civil service rights, or other employees' rights or privileges granted by Federal, state or local law or by Windermere to its officers and employees. Further, Ocoee agrees that Windermere shall assume no liability for the payment of salary, wages, or other compensation or entitlement to officers, agents, or employees of Ocoee who perform Fire Permit Review Services or Fire Services to Windermere as provided in this Agreement.

4. **Agency Relationship.** For the purposes of this Agreement, Ocoee shall be an agent of Windermere entitled to exercise all municipal and corporate powers of Windermere in the same manner as if the Fire Permit Review Services or Fire Services and other related services set forth herein were being performed by employees of Windermere.

5. **Equal Employment.** Ocoee hereby acknowledges that it adheres to the policies and regulations of the Equal Employment Opportunity Commission as set forth in Chapter XIV of the Code of Federal Regulations which provide for the equality of opportunity, both before and during employment with any local department or agency, for all applicants and employees, regardless of race, color, sex, religion, national origin, marital status, or other similar factors that are not job related. Such policy applies to all levels of employment for Ocoee and to all job classifications. In addition, it is the responsibility of each division within Ocoee and each department head or supervisor to give the non-discrimination policy full support by leadership and by personal example. Further, it is the duty of each employee to help maintain the work environment which is conducive to and which effectuates Ocoee's commitment and philosophy to equal employment opportunity.

6. **Cooperation.** To facilitate performance of this Agreement, Ocoee hereby agrees to fully cooperate with Windermere with regard to the provision of Fire Permit Review Services and Fire Services, and Windermere hereby agrees to fully cooperate with Ocoee regarding the same.

7. **Term of Agreement.** This Agreement shall be effective for a period of three (3) years commencing on October 1, 2019 and expiring on September 30, 2022 (the "Initial Term"), unless otherwise terminated as provided below. Upon the expiration of the Initial Term or upon the expiration of each

subsequent one-year period thereafter, the term of this Agreement may be extended for an additional period of one (1) year upon the receipt by Ocoee of Windermere's written notice of intention to extend this Agreement. Such notice must be delivered to Ocoee on or before January 1, 2022 with respect to the Initial Term and on or before January 1st of each year thereafter with respect to any renewal terms in order to allow each City to adjust its respective budget by March 1st for the next fiscal year. Upon receipt of such notice of Windermere's intention to extend the then term of this Agreement, Ocoee may, at its sole option, elect to terminate this Agreement at the end of the current term or to extend this Agreement for an additional one-year term, all by written notice to Windermere delivered within forty-five (45) days of receipt of notice from Windermere of its intention to extend this Agreement. For purposes hereof, "term" shall mean the Initial Term and any subsequent one-year extension of this Agreement. Additionally, for the purposes hereof "year" shall mean each contract year of this Agreement which commences on October 1st and ends on the following September 30th and corresponds to the fiscal years of Ocoee and Windermere.

**8. Disputes.** If a dispute arises regarding the services rendered under this Agreement, then the City Managers of Ocoee and Windermere shall proceed in good faith to resolve any such dispute. In the event that the disputed matter is not resolved to the satisfaction of the parties, each party may avail itself to the remedies available at law or in equity. This Agreement shall be construed by and governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be held in Orange County, Florida.

**9. Annexation.**

A. Windermere shall keep Ocoee advised regarding annexations and the corporate limits of Windermere in order that Ocoee may provide Fire Permit Review Services and Fire Services to properties added to Windermere subsequent to the date hereof. Ocoee shall not be obligated to provide Fire Permit Review Services and Fire Services to properties annexed into the corporate limits of Windermere unless and until Ocoee receives from Windermere written notice of such annexations along with a street address for such properties.

B. The parties agree that the Fire Services fees, as provided in Section 2F of this Agreement, are based on Ocoee providing Fire Services in the corporate limits of Windermere as of the effective date of this

Agreement. In the event the corporate limits of Windermere are expanded significantly due to the annexation of multiple properties and/or subdivisions, the Fire Services fees provided in Section 2F shall be renegotiated and adjusted accordingly. Provision of services and the adjustment of Fire Services fees shall only become effective upon the execution of an amendment to this Agreement by both parties.

**10. Termination.**

(A) This Agreement shall expire at the end of the term unless one party shall notify the other party by one-year written notice of its intention to terminate this Agreement, in which event the term of this Agreement shall expire on the first September 30th following the end of the one-year notice period.

(B) Further, the term may be terminated by either party in the event that the other party shall violate or fail to perform any material obligation of such party under this Agreement, and such violation or failure shall continue for a period of sixty (60) days after notification of such breach by the other party. Such termination shall be effective not less than ninety (90) nor more than one hundred twenty (120) days after delivery of written notice of termination to the breaching party; provided, however, with regard to Fire Services, if Ocoee terminates this Agreement pursuant to this subsection, Windermere shall be obligated to pay to Ocoee on a pro-rata basis for the services rendered in any partial year and Ocoee agrees to continue providing the Fire Services until either Windermere has obtained replacement Fire Services or has had an adequate period of time to obtain such replacement Fire Services.

**11. Notices.** All notices required to be given under this Agreement shall be in writing, and deemed sufficient to each party when sent by Certified United States Mail, return receipt, to the City Manager of the other party.

**12. Amendment.** Except for changes in Fire Permit Review Services fees, as described in section 1.B. and 9.A. of this Agreement, this Agreement shall be modified, amended or altered only by an instrument in writing signed by both parties, and such execution by Windermere shall be valid and binding against Windermere only if expressly approved by its Town Council at a legally valid meeting thereof and such execution by Ocoee shall be valid and binding against Ocoee only if expressly approved by its City Commission at a legally valid meeting thereof, and provided the execution of such amendment conforms to all the federal, state and local laws, rules,



procedures and ordinances applicable to the execution of this Agreement.

**13. Entire Agreement.** The Agreement contains the entire agreement between Ocoee and Windermere with respect to the subject matters hereof and supersedes any prior agreements or understandings, written or oral, between the parties. The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial constraint, be construed more severely against one of the parties than the other. Neither party shall assign, delegate, or otherwise transfer its rights and obligations as set forth in this Agreement to any other entity without the prior written consent of the other.

**14. Filing.** This Agreement and subsequent amendments thereto shall be filed by the parties with the clerk of the Circuit Court of Orange County, Florida, in conformance with Section 163.01(11), Florida Statutes.

IN WITNESS WHEREOF, the parties hereto set their hands and seals, all on the day and year first above written.

**ATTEST:**

\_\_\_\_\_  
Melanie Sibbitt, City Clerk

(SEAL)

**FOR USE AND RELIANCE ONLY BY THE CITY OF OCOEE, FLORIDA APPROVED AS TO FORM AND LEGALITY THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019**

**SHUFFIELD, LOWMAN & WILSON, P.A.**

By: \_\_\_\_\_  
City Attorney

**APPROVED:**

**CITY OF OCOEE, FLORIDA**

\_\_\_\_\_  
Rusty Johnson, Mayor

**APPROVED BY THE OCOEE CITY COMMISSION AT A MEETING HELD ON \_\_\_\_\_, 2019, UNDER AGENDA ITEM NO. \_\_\_\_\_**

**ATTEST:**

\_\_\_\_\_  
Dorothy Burkhalter, Town Clerk

(SEAL)

**FOR USE AND RELIANCE ONLY BY THE TOWN OF WINDEREMERE, FLORIDA APPROVED AS TO FORM AND LEGALITY THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019**

\_\_\_\_\_  
By: \_\_\_\_\_  
Town Attorney

**APPROVED:**

**TOWN OF WINDERMERE, FLORIDA**

\_\_\_\_\_  
Jim O'Brien, Mayor

**APPROVED BY THE WINDERMERE TOWN COUNCIL AT A MEETING HELD ON \_\_\_\_\_, 2019, UNDER AGENDA ITEM NO. \_\_\_\_\_**

**EXHIBIT A**

Resolution 2018-021

**RESOLUTION NO. 2018-021**

**A RESOLUTION OF THE CITY OF OCOEE, FLORIDA, ADOPTING A SCHEDULE OF RATES, CHARGES, AND FEES FOR FIRE PREVENTION AND EMERGENCY GROUND MEDICAL TRANSPORT AND RELATED SERVICES PROVIDED BY THE CITY IN ACCORDANCE WITH CHAPTER 78 OF THE CITY OF OCOEE CODE OF ORDINANCES; PROVIDING FOR ANNUAL ADJUSTMENT IN ACCORDANCE WITH THE CPI; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, since 1957, the Ocoee Fire Department has continuously existed as a duly constituted and organized department of the City of Ocoee, and

**WHEREAS**, the City of Ocoee Charter recognizes the authority of the City to provide for police, fire, sanitary, and similar protection and services to its visitors and citizens; and

**WHEREAS**, on June 19, 2018, the City Commission of the City of Ocoee (“City Commission”) determined that it is in the interest of the public health, safety, and welfare of the visitors and citizens of the City to provide emergency ground medical transport and related services directly through the Ocoee Fire Department; and

**WHEREAS**, on December 4, 2018, the City Commission adopted an ordinance substantially amending Chapter 78, City of Ocoee Code of Ordinances, relating to fire prevention and emergency medical response; and

**WHEREAS**, Chapter 78, City of Ocoee Code of Ordinances, as amended, authorizes the City Commission to adopt a uniform schedule of rates, charges, and fees to be imposed and collected by the City for the provision of fire prevention services, as well as emergency ground medical transport and related services; and

WHEREAS, the City Commission wishes to establish uniform reasonable rates, charges, and fees to be imposed and collected for certain fire prevention services and emergency ground medical transport and related services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF OCOEE, FLORIDA, AS FOLLOWS:

**SECTION 1. Recitals.** The foregoing recitals are hereby affirmed and ratified.

**SECTION 2. Authority.** The City Commission has the authority to adopt this Resolution pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

**SECTION 3. Rates for Fire Prevention and Emergency Medical Transport Services.** The City Commission formally adopts the following fee schedule for fire prevention and emergency ground medical transport and related services, as follows:

**Plan Review and Permit Fees (Section 78-9):**

¼ of 1% of value of construction.

Permit Fee -- \$30.00 + \$4.50 per \$1,000 of valuation

Method of payment: Exact cash amount or check payable to the City of Ocoee

**Re-inspection Fee (as needed) (Section 78-10):**

First occurrence -- \$25.00

Second occurrence -- \$40.00

Third occurrence -- \$40.00

Fourth occurrence -- \$100.00

**Fireworks (Section 78-13):**

Temporary Retail Sales -- \$100.00

**Emergency Medical Response (EMS) (Section 78-14):**

EMS Transport (plus per mile charge listed below)

Basic Life Support (BLS) -- \$514.00

Advance Life Support I (ALS) -- \$863.00

Specialty Care Support I (SCS) -- \$863.00

Advance Life Support II (ALS II) -- \$808.00

Per Mile Charge -- \$13.00

Medically Indigent Fee (BLS, ALS, ALS II, SCS) \* -- Medicaid Rate Schedule

\*Medically indigent status is determined by the hospital, provided the responsible party submits a letter from the hospital indicating medical indigence/hardship.

**SECTION 4. Annual Adjustment.** Beginning in Fiscal Year 2019, fees shall be increased by an annual percentage increase in the consumer price index (CPI-I, as developed by the Bureau of Labor Statistics of the U. S. Department of Labor) as compared to the previous year.

**SECTION 5. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereto.

**SECTION 6. Effective Date.** This Resolution shall become effective immediately upon passage and adoption.

**[Signatures to follow]**

PASSED AND ADOPTED this 4<sup>th</sup> day of December, 2018.

ATTEST:

  
\_\_\_\_\_  
Melanie Sibbitt, City Clerk

(SEAL)

APPROVED:

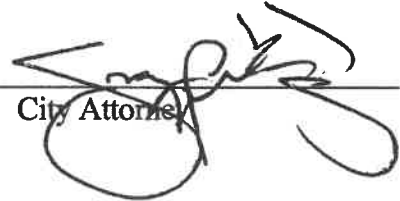
CITY OF OCOEE, FLORIDA

  
\_\_\_\_\_  
Rusty Johnson, Mayor

APPROVED BY THE OCOEE CITY  
COMMISSION ON THE ABOVE DATE  
UNDER AGENDA ITEM NO. 10(b)

FOR USE AND RELIANCE ONLY  
BY THE CITY OF OCOEE, FLORIDA;  
APPROVED AS TO FORM AND LEGALITY  
this 4<sup>th</sup> day of DEC, 2018.

SHUFFIELD, LOWMAN & WILSON, P.A.

By:   
\_\_\_\_\_  
City Attorney



**EXECUTIVE SUMMARY**

**SUBJECT:** Architect Design Group Contract New Facilities

**REQUESTED ACTION:** Staff Recommends Approval

Work Session (Report Only)    **DATE OF MEETING:** 7/9/19  
 Regular Meeting                       Special Meeting

**CONTRACT:**     N/A    Vendor/Entity: \_\_\_\_\_  
Effective Date: \_\_\_\_\_                                      Termination Date: \_\_\_\_\_  
Managing Division / Dept: \_\_\_\_\_

**BUDGET IMPACT:**                      \$561,530  
 Annual                      **FUNDING SOURCE:**                      Facilities Loan  
 Capital                      **EXPENDITURE ACCOUNT:** \_\_\_\_\_  
 N/A

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**HISTORY/FACTS/ISSUES:**

Mayor & Council,

The attached contract was negotiated by Staff, John Fitzgibbon and Stephen Withers. The agreement is based on industry standard percentages and all tasks/deliverables are within those established standards.

Staff Recommends Approval

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# AIA<sup>®</sup> Document B101<sup>™</sup> – 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the Twenty-eighth day of June in the year Two Thousand Nineteen

*(In words, indicate day, month and year.)*

**BETWEEN** the Architect's client identified as the Owner:

*(Name, legal status, address and other information)*

Town of Windermere  
614 Main Street  
Windermere FL 34786  
Telephone Number: (407) 876-2563

and the Architect:

*(Name, legal status, address and other information)*

Architects Design Group / ADG, Inc.  
PO Box 1210  
Winter Park, FL 32790  
Telephone Number: 407.647.1706  
Fax Number: 407.645.5525

for the following Project:

*(Name, location and detailed description)*

Windermere Town Administration and Police Facility  
Windermere, Florida

The project, and related Scope of Services, is generally described as the Design/Engineering of the new Town Administration and Police Facility, to include the following Town of Windermere entities:

- Town Administration Facility (2,808 SF)
- Police Department Facility (4,520 SF)
- Connector Entry and Community Room (1,175 SF)
- Public Works Facility (2,554 SF)
- Demolition of Existing Buildings for Construction of New Facilities

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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**ARTICLE 1 INITIAL INFORMATION**

**§ 1.1** This Agreement is based on the Initial Information set forth in this Section 1.1.  
*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

**§ 1.1.1** The Owner's program for the Project:  
*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

- Town Administration Facility (2,808 SF)
- Police Department Facility (4,520 SF)
- Connector Entry and Community Room (1,175 SF)
- Public Works Facility (2,554 SF)
- Demolition of Existing Buildings for Construction of New Facilities

**§ 1.1.2** The Project's physical characteristics:  
*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

**§ 1.1.3** The Owner's budget for the Cost of the Work, as defined in Section 6.1:  
*(Provide total and, if known, a line item breakdown.)*

5,126,495

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§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Please refer to Exhibit "F"

.2 Construction commencement date:

TBD based on Notice to Proceed

.3 Substantial Completion date or dates:

TBD based on Notice to Proceed

.4 Other milestone dates:

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

TBD

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

*(List name, address, and other contact information.)*

Robert Smith  
614 Main Street  
Windermere FL 34786  
Telephone Number: (407) 876-2563

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

*(List name, address, and other contact information.)*

§ 1.1.9 The Owner shall retain the following consultants and contractors:

*(List name, legal status, address, and other contact information.)*

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.1 Geotechnical Engineer:

*(Paragraph Deleted)*

.3 Other, if any:

*(List any other consultants and contractors retained by the Owner.)*

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
*(List name, address, and other contact information.)*

Rodney McManus, LEED AP  
PO Box 1210  
Winter Park, FL 32790  
Telephone Number: 407.647.1706

Email Address: [ianr@adgusa.org](mailto:ianr@adgusa.org)

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
*(List name, legal status, address, and other contact information.)*

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

BEC Structures LLC  
Bradford T. Bishop, PE  
891 Royalwood Lane  
Oviedo, FL 32765  
Telephone Number: 407-322-2477

.2 Civil Engineer:

AVCON, INC.  
Rick V. Baldocchi, P.E.  
55555 E. Michigan Street, Suite 200  
Telephone Number: (407)599-1122  
Fax Number: (407)599-1133

.3 MEP / FP Engineer: To Be Determined

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(Paragraph Deleted)

**4 Technology Consultant:**

TLC Engineering Solutions  
Taw North, RCDD  
255 S Orange Avenue, Suite 1600  
Orlando, FL 32800

**§ 1.1.11.2 Consultants retained under Supplemental Services:**

N/A

**§ 1.1.12 Other Initial Information on which the Agreement is based:**

N/A

**§ 1.2** The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

**§ 1.3** The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

**§ 1.3.1** Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

**§ 2.1** The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

**§ 2.2** The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

**§ 2.3** The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

**§ 2.4** Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

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§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than One Million Dollars and Zero Cents ( \$ 1000000.00 ) for each occurrence and Zero Dollars and Zero Cents ( \$ 0.00 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars and Zero Cents ( \$ 1000000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than One Million Dollars and Zero Cents ( \$ 1000000.00 ) each accident, One Million Dollars and Zero Cents ( \$ 1000000.00 ) each employee, and One Million Dollars and Zero Cents ( \$ 1000000.00 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars and Zero Cents ( \$ 2000000.00 ) per claim and Two Million Dollars and Zero Cents ( \$ 2000000.00 ) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of

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the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

### § 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and

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describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

#### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

#### § 3.5 Procurement Phase Services

##### § 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

##### § 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.



§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### § 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 Construction Phase Services

#### § 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

#### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the

Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 3.6.2.3** The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 3.6.2.4** Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

**§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.6.3.3** The Architect shall maintain a record of the Applications and Certificates for Payment.

**§ 3.6.4 Submittals**

**§ 3.6.4.1** The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

**§ 3.6.4.2** The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the

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Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

**§ 3.6.4.5** The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

### **§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

### **§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

**§ 3.6.6.2** The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

**§ 3.6.6.3** When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

**§ 3.6.6.4** The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

**§ 3.6.6.5** Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

## **ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

### **§ 4.1 Supplemental Services**

**§ 4.1.1** The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the

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Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect
§ 4.1.1.2 Multiple preliminary designs	N/A
§ 4.1.1.3 Measured drawings	N/A
§ 4.1.1.4 Existing facilities surveys	N/A
§ 4.1.1.5 Site evaluation and planning	Architect
§ 4.1.1.6 Building Information Model management responsibilities	Architect
§ 4.1.1.7 Development of Building Information Models for post construction use	N/A
§ 4.1.1.8 Civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect
§ 4.1.1.10 Architectural interior design	Architect
§ 4.1.1.11 Value analysis	N/A
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Architect
§ 4.1.1.13 On-site project representation	Architect
§ 4.1.1.14 Conformed documents for construction	Architect
§ 4.1.1.15 As-designed record drawings	Architect
§ 4.1.1.16 As-constructed record drawings	GC / CM
§ 4.1.1.17 Post-occupancy evaluation	Architect
§ 4.1.1.18 Facility support services	Owner
§ 4.1.1.19 Tenant-related services	Owner
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.21 Telecommunications/data design	Architect
§ 4.1.1.22 Security evaluation and planning	Architect
§ 4.1.1.23 Commissioning	N/A
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	N/A
§ 4.1.1.25 Fast-track design services	N/A
§ 4.1.1.26 Multiple bid packages	N/A
§ 4.1.1.27 Historic preservation	N/A
§ 4.1.1.28 Furniture, furnishings, and equipment design	Architect
§ 4.1.1.29 Other services provided by specialty Consultants	N/A
§ 4.1.1.30 Other Supplemental Services	N/A

**§ 4.1.2 Description of Supplemental Services**

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

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*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

Please refer to Exhibit "C"

**§ 4.1.2.2** A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

**§ 4.1.3** If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

#### **§ 4.2 Architect's Additional Services**

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

**§ 4.2.1** Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

**§ 4.2.2** To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;

Init.

- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Three ( 3 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Fourteen ( 14 ) visits to the site by the Architect during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within Fourteen ( 14 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation,

ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's

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budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established

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pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

**§ 7.3.1** In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

**§ 7.5** Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 General**

**§ 8.1.1** The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

**§ 8.1.2** To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

**§ 8.1.3** The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### **§ 8.2 Mediation**

**§ 8.2.1** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
(Check the appropriate box.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: (Specify)

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

### § 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

### § 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

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§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

#### ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:

N/A

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

N/A

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

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§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
(Insert amount)

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Please refer to Exhibit "D"

.2 Percentage Basis

*(Insert percentage value)*

( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other

*(Describe the method of compensation)*

Please refer to Exhibit "D"

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Please refer to Exhibit "D"

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

Please refer to Exhibit "D"

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent ( 10.00%), or as follows:

*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Twenty	percent (	20	%)
Design Development Phase	Thirty	percent (	30	%)
Construction Documents Phase	Twenty-five	percent (	25	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase	Thirty	percent (	30	%)
<b>Total Basic Compensation</b>	<b>one hundred</b>	<b>percent (</b>	<b>100</b>	<b>%)</b>

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

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(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Please refer to Exhibit "D"

Employee or Category	Rate (\$0.00)
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### § 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus percent ( NaN %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

### § 11.10 Payments to the Architect

#### § 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

#### § 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

Init.

*(Insert rate of monthly or annual interest agreed upon.)*

18 % monthly

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:

*(Include other terms and conditions applicable to this Agreement.)*

**ARTICLE 13 SCOPE OF THE AGREEMENT**

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect

*(Paragraph Deleted)*

*(Paragraphs Deleted)*

- .4 Other documents:

*(List other documents, if any, forming part of the Agreement.)*

Exhibit "A" - Scope of Services

Exhibit "B" - Information Requested

Exhibit "C" - Additional Services

Exhibit "D" - Fees and Hourly Rates

Exhibit "E" - Other Conditions and Services

Exhibit "F" - Schedule

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
OWNER (Signature)

Robert Smith, Town Manager

\_\_\_\_\_  
*(Printed name and title)*

  
\_\_\_\_\_  
ARCHITECT (Signature)

Rodney McManus, LEED AP, Vice President -  
Operations

\_\_\_\_\_  
*(Printed name, title, and license number, if required)*

Init.

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User Notes:

(3B9ADA62)



# **Additions and Deletions Report for AIA® Document B101™ – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 09:19:26 ET on 06/28/2019.

## **PAGE 1**

**AGREEMENT** made as of the Twenty-eighth day of June in the year Two Thousand Nineteen

...

Town of Windermere  
614 Main Street  
Windermere FL 34786  
Telephone Number: (407) 876-2563

...

Architects Design Group / ADG, Inc.  
PO Box 1210  
Winter Park, FL 32790  
Telephone Number: 407.647.1706  
Fax Number: 407.645.5525

...

Windermere Town Administration and Police Facility  
Windermere, Florida

The project, and related Scope of Services, is generally described as the Design/Engineering of the new Town Administration and Police Facility, to include the following Town of Windermere entities:

- Town Administration Facility (2,808 SF)
- Police Department Facility (4,520 SF)
- Connector Entry and Community Room (1,175 SF)
- Public Works Facility (2,554 SF)
- Demolition of Existing Buildings for Construction of New Facilities

## **PAGE 2**

- Town Administration Facility (2,808 SF)
- Police Department Facility (4,520 SF)
- Connector Entry and Community Room (1,175 SF)
- Public Works Facility (2,554 SF)
- Demolition of Existing Buildings for Construction of New Facilities

...

5,126,495

**PAGE 3**

Please refer to Exhibit "F"

...

TBD based on Notice to Proceed

...

TBD based on Notice to Proceed

...

TBD

...

N/A

...

Robert Smith  
614 Main Street  
Windermere FL 34786  
Telephone Number: (407) 876-2563

**PAGE 4**

2 – Civil Engineer:

...

Rodney McManus, LEED AP  
PO Box 1210  
Winter Park, FL 32790  
Telephone Number: 407.647.1706

Email Address: [ianr@adgusa.org](mailto:ianr@adgusa.org)

...

BEC Structures LLC

...

Bradford T. Bishop, PE

...

891 Royalwood Lane

...

Oviedo, FL 32765

...

Telephone Number: 407-322-2477

...

.2 Mechanical-Civil Engineer:

...

AVCON, INC.

...

Rick V. Baldocchi, P.E.

...

55555 E. Michigan Street, Suite 200

...

Telephone Number: (407)599-1122

...

Fax Number: (407)599-1133

...

.3 MEP / FP Engineer: To Be Determined

**PAGE 5**

.3 Electrical Engineer:

...

.4 Technology Consultant:

...

TLC Engineering Solutions

...

Taw North, RCDD

...

255 S Orange Avenue, Suite 1600

...

Orlando, FL 32800

...

N/A

...

N/A

**PAGE 6**

**§ 2.5.1 Commercial General Liability** with policy limits of not less than One Million Dollars and Zero Cents! (\$ 1000000.00 ) for each occurrence and Zero Dollars and Zero Cents (\$ 0.00 ) in the aggregate for bodily injury and property damage.

...

**§ 2.5.2 Automobile Liability** covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than One Million Dollars and Zero Cents (\$ 1000000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

...

**§ 2.5.5 Employers' Liability** with policy limits not less than One Million Dollars and Zero Cents (\$ 1000000.00 ) each accident, One Million Dollars and Zero Cents (\$ 1000000.00 ) each employee, and One Million Dollars and Zero Cents (\$ 1000000.00 ) policy limit.

...

**§ 2.5.6 Professional Liability** covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars and Zero Cents (\$ 2000000.00 ) per claim and Two Million Dollars and Zero Cents (\$ 2000000.00 ) in the aggregate.

**PAGE 12**

<b>§ 4.1.1.1</b> Programming	<u>Architect</u>
<b>§ 4.1.1.2</b> Multiple preliminary designs	<u>N/A</u>
<b>§ 4.1.1.3</b> Measured drawings	<u>N/A</u>
<b>§ 4.1.1.4</b> Existing facilities surveys	<u>N/A</u>
<b>§ 4.1.1.5</b> Site evaluation and planning	<u>Architect</u>
<b>§ 4.1.1.6</b> Building Information Model management responsibilities	<u>Architect</u>

§ 4.1.1.7 Development of Building Information Models for post construction use	<u>N/A</u>
§ 4.1.1.8 Civil engineering	<u>Architect</u>
§ 4.1.1.9 Landscape design	<u>Architect</u>
§ 4.1.1.10 Architectural interior design	<u>Architect</u>
§ 4.1.1.11 Value analysis	<u>N/A</u>
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	<u>Architect</u>
§ 4.1.1.13 On-site project representation	<u>Architect</u>
§ 4.1.1.14 Conformed documents for construction	<u>Architect</u>
§ 4.1.1.15 As-designed record drawings	<u>Architect</u>
§ 4.1.1.16 As-constructed record drawings	<u>GC / CM</u>
§ 4.1.1.17 Post-occupancy evaluation	<u>Architect</u>
§ 4.1.1.18 Facility support services	<u>Owner</u>
§ 4.1.1.19 Tenant-related services	<u>Owner</u>
§ 4.1.1.20 Architect's coordination of the Owner's consultants	<u>Architect</u>
§ 4.1.1.21 Telecommunications/data design	<u>Architect</u>
§ 4.1.1.22 Security evaluation and planning	<u>Architect</u>
§ 4.1.1.23 Commissioning	<u>N/A</u>
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	<u>N/A</u>
§ 4.1.1.25 Fast-track design services	<u>N/A</u>
§ 4.1.1.26 Multiple bid packages	<u>N/A</u>
§ 4.1.1.27 Historic preservation	<u>N/A</u>
§ 4.1.1.28 Furniture, furnishings, and equipment design	<u>Architect</u>
§ 4.1.1.29 Other services provided by specialty Consultants	<u>N/A</u>
§ 4.1.1.30 Other Supplemental Services	<u>N/A</u>

PAGE 13

Please refer to Exhibit "C"

PAGE 14

- .1 Three ( 3 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

...

- .2 Fourteen ( 14 ) visits to the site by the Architect during construction

...

- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

...

- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion.

...

§ 4.2.5 If the services covered by this Agreement have not been completed within Fourteen ( 14 ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 18

[ X ] Litigation in a court of competent jurisdiction

PAGE 19

N/A

...

N/A

PAGE 21

Please refer to Exhibit "D"

...

Please refer to Exhibit "D"

...

Please refer to Exhibit "D"

...

Please refer to Exhibit "D"

...

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent ( 10.00%), or as follows:

...

Schematic Design Phase	<u>Twenty</u>	percent (	<u>20</u>	%)
Design Development Phase	<u>Thirty</u>	percent (	<u>30</u>	%)
Construction Documents Phase	<u>Twenty-five</u>	percent (	<u>25</u>	%)
Procurement Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>Thirty</u>	percent (	<u>30</u>	%)

PAGE 22

Please refer to Exhibit "D"

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus percent ( NaN %) of the expenses incurred.

...

§ 11.10.1.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

PAGE 23

18 % monthly

...

~~2 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~

...

~~(Insert the date of the E203-2013 incorporated into this agreement.)~~

...

~~3 Exhibits:~~

...

~~(Check the appropriate box for any exhibits incorporated into this Agreement.)~~

...

~~[ ] AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:~~

...

~~(Insert the date of the E204-2017 incorporated into this agreement.)~~

...

~~[ ] Other Exhibits incorporated into this Agreement:~~

...

~~(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)~~

...

Exhibit "A" - Scope of Services

...

Exhibit "B" - Information Requested

Exhibit "C" - Additional Services

Exhibit "D" - Fees and Hourly Rates

Exhibit "E" - Other Conditions and Services

...

Exhibit "F" - Schedule

...

Robert Smith, Town Manager

Rodney McManus, LEED AP, Vice President -  
Operations



## Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Rodney McManus, LEED AP, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:19:26 ET on 06/28/2019 under Order No. 2658873554 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ - 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

  
\_\_\_\_\_  
(Signed)

Rodney McManus, LEED AP  
Vice President of Operations  
\_\_\_\_\_  
(Title)

06/28/19  
\_\_\_\_\_  
(Dated)

EXHIBIT "A"

**Scope of Services:**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

**General Description:**

The project, and related Scope of Services, is generally described as the Design/Engineering of the new Public Safety Facilities, to include the following Town of Windermere entities:

- **Town Administration Facility (2,808 SF)**
- **Police Department Facility (4,520 SF)**
- **Connector Entry and Community Room (1,175 SF)**
- **Public Works Facility (2,554 SF)**
- **Demolition of Existing Buildings for Construction of New Facilities**

The Phases of Services are herein identified as follows:

1. **Phase II: Basic Architectural and Engineering Services:**

- 1.1 The Consultant shall provide services for the standard phases, as defined in the Owner/Consultant agreement, for the proposed facilities. These shall include schematic design at 20% of the basic services fee, design development at 30%, construction documents at 25%, bidding coordination at 5%, and construction administration at 20%, respectively.
- 1.2 The Consultant and the Client recognize that the requested services are of significant magnitude, scheduling and complexity, which may include the facility being developed in terms of "survivability" as may be required by the City.

**EXHIBIT "B"**

**Information Requested**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

The information that Architects Design Group (ADG) would need from the Town of Windermere in order to complete this project include:

1. The City shall submit to the consultant, any existing documentation relative to the proposed site that has been previously identified and investigated; including, but not limited to:
  - 1.1. Aerial maps
  - 1.2. Floodplain maps
  - 1.3. Topographic maps
  - 1.4. Bench mark data
  - 1.5. Previous Site Geotechnical Studies (If available)
2. The City shall provide to the consultant any standard contract forms, and will be responsible for the printing of the plans and contract documents.
3. The City is to provide the Design Team with soil borings (at the appropriate time) if not previously accomplished and transmitted.
4. The City is to provide the Design Team any land development regulations that the Design Team will need to comply with.
5. The City is to provide the Design Team with a Tree Survey and any development regulations that the Design Team will need to comply with as it relates to existing and/or new trees.
6. The City is to provide the Design Team a list of the Permitting Agencies that will be involved in reviewing and/or permitting the project.

EXHIBIT "C"

**Additional Services**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

**1. Additional Services:**

The Architect, or his consultants, shall provide the following additional services if requested:

**1.1. Professional Liability Insurance:**

The Design Team shall maintain, during the term of this agreement, Professional Liability Insurance providing coverage for errors and omissions in the amount of \$1,000,000.00. The Architect shall provide the Client with a certificate showing such coverage and providing that the insurance will not lapse or be canceled except upon thirty (30) days written notice to the Client. As compensation for the cost of such insurance, the Client will pay the Architect a value equating to 4% of the total Architectural and Engineering fee, excluding fees for the Building Program Verification, Master Planning, Preliminary Site Analysis, and Reimbursable Expense Allowance. The Professional Compensation Fees for these services shall be as noted in Exhibit "D".

**1.2. Interior Design:**

1.2.1. Interior design services related to the programming, conceptual design, bidding and supervision of installation of furnishings. The Fee for this service is identified in Exhibit "D".

1.2.2. Services related to the inventory of existing furnishings and equipment shall be provided billable on an hourly basis, utilizing the rate schedule identified in Exhibit "D", or at an agreed upon fixed fee amount. Said services are to be provided only when specifically requested by the Client in writing.

**1.3. Off-Site Civil Engineering:**

Upon acceptance of the Conceptual Site Plan, if off-site services engineering are required, a scope of work shall be established. Work typically identified as the Scope of Services for Civil Engineering is construction falling outside the property lines or within on-site easements and/or the relocation of existing utilities. The Professional fee shall be agreed upon by the Client, the Architect and Civil Engineer based upon a defined Scope of Services.

**1.4. Landscape Architectural Services:**

Landscape Architectural Services shall be provided by a registered Landscape Architect, selected by the Architect, to provide the Scope of Services to be defined by the accepted Master Site Plan. The Professional Compensation Fees for these services shall be as noted in Exhibit "D".

**1.5. Permitting Coordination Services:**

The Architect shall provide permitting coordination services as follows:

1.5.1. Define all permits and/or review agency requirements and provide a graphic chronological assessment.

EXHIBIT "C"

**Additional Services**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

- 1.5.2. Prepare and/or coordinate the permitting applications and make the submittals in a timely manner and in accordance with the schedule to be submitted by the Architect upon execution of this agreement by the Client.
        - 1.5.3. Monitor the permitting process and provide written progress reports to the Client.
        - 1.5.4. The Professional Fee for permitting associated with site and facilities shall be as noted in Exhibit "D".
- 1.6. **Extended Construction Observation:**  
The Architect shall provide standard construction observation services during the construction phase. As also noted in this agreement, these services constitute twenty percent (20%) of the value of Basic Services. The Construction Documents will stipulate the period allowed the Construction Manager (CM) for construction, which is anticipated to be fourteen (14) months. The Architect shall be entitled to Additional Fees if the CM exceeds this stipulated period which shall be negotiated with the input of the City, said fees being a pro-rata monthly fee of the fee allocated for this phase. These fees shall be documented in the contract specifications as the responsibility of the Construction Manager and shall be payable to the City to reimburse the City for payments to the Architect.
- 1.7. **Post Occupancy/Warranty Inspection:**  
Eleven months after occupancy of the building the Architect and M/E/P Engineers shall conduct a warranty inspection of the building and shall document all systems and elements that are in need of corrective action on the part of the CM. The Architect shall subsequently re-inspect the facility(s) to establish that noted items have been satisfactorily resolved or if additional work is required on the part of the CM. The Professional Services Fee shall be as noted in Exhibit "D". Note that the fee for this service shall be due at the time such services are rendered.
- 1.8. **Computer Cable System Design Coordination:**  
The Architect shall meet with the City's Project Manager and the Office of Information Technology staff and establish the basic guide lines for a computer cable system for the facility and shall subsequently prepare a cable plan with appropriate distribution spaces in the facility. The professional fee shall be as noted in Exhibit "D".
- 1.9. **Security Consultant:**  
The Architect shall obtain the services of a qualified Security Consultant for services related to site and building security systems, including C.C.T.V., access/egress controls, locking devices, and site security systems. The professional fee shall be established based upon a defined Scope of Services as noted in Exhibit "D".
- 1.10. **Audio-Visual Consultant:**  
The Architect shall obtain the services of an individual/Firm with expertise in audio-visual systems and, based upon a defined Scope, shall provide the Client with a proposed professional fee, as noted in Exhibit "D".

EXHIBIT "C"

**Additional Services**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

1.11. **Communications Consultant:**

The Architect shall be responsible for all services related to the coordination of the communications system(s) for these facilities including, but not limited to, transfer of existing equipment, selection and bidding of new equipment, itemization of facility services required (such as electrical, mechanical equipment, etc.) and any other criteria relative to the communications systems of this facility. The professional fee for this service is as noted in Exhibit "D".

1.12. **Site Surveying:**

This service is to be provided by the Client; however, in the event that the Architect is requested to provide these services, the Architect shall work with the Civil Engineer to obtain the services of a Registered Land Surveyor, acceptable to the Client, for a site boundary and topographic survey for the subject property. This service is provided to the Client with the understanding and agreement that the Architect shall have no liability for said services. The professional fee shall be established based upon a defined Scope of Services.

1.13. **Geotechnical Engineering:**

This service is to be provided by the Client; however, in the event that the Architect is requested to provide these services, the Architect shall work with the Civil Engineer to obtain the services of a Professional Geotechnical Engineering firm for purposes of sub-surface soils investigation, percolation testing, and foundation recommendations. This service is provided to the Client with the understanding and agreement that the Architect shall have no liability for said services. The professional fee shall be established based upon a defined Scope of Services.

1.14. **Record/Conformance Drawings:**

This service is typically provided by the CM, but in the event that the Client desires the Architect to develop a record or "as-built" set of construction documents, provided at the conclusion of construction, then the Architect shall be entitled to a professional fee as noted in Exhibit "D".

1.15. **Site and Building Identification/Graphic Design:**

Provide graphic design services associated with the design and construction administration of building identification, graphics and signage. The Professional Services Fee shall be as noted in Exhibit "D".

1.16. **Facility or Site Model Computer Renderings:**

The Architect shall develop up to three (3) computer rendering(s) of the facilities or the overall Master Plan, illustrating site utilization, building massing, access and egress roadways, parking areas, pedestrian walkways and stormwater retention areas. The Professional Services Fee shall be as noted in Exhibit "D".

EXHIBIT "C"

**Additional Services**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

1.17. **Facility Energy Analysis:**

The Architect shall prepare Supplementary Design Documents prepare a detailed energy analysis, to be conducted by an appropriate entity with expertise in providing this service. The purpose of the analysis shall be to maximize energy efficient systems, including insulation, fenestration and similar passive energy applications, to the extent allowable by the project construction budget. This service will be required if the City elects to pursue LEED certification for the proposed project. Services Fee shall be as noted in Exhibit "D".

1.18. **Building Commissioning:**

The Architect and its Engineers, if so desired by the City, shall provide complete building commissioning services of the Mechanical, Electrical, and low-voltage systems facility wide including creating a commissioning plan, integrating the commission requirements into project specifications, creating functional test procedures, perform a test and balance verification, and create a training plan. The professional fee shall be as noted in Exhibit "D". This service is provided, upon the City's request, at the conclusion of the construction period.

1.19. **Sustainable Design Concept Implementation / LEED Design:**

In the event the City desires to pursue either LEED certification or Sustainable Design Concept Implementation of the project; the Design Team will be responsible for identifying, documenting, and implementing a variety of sustainable design components for the City that can be accomplished within the defined project budget. The City will need to contract with an independent Certifying Agent in the event that LEED certification is desired by the City. The professional fee shall be negotiated based upon the level of LEED certification, or the magnitude of the sustainable design concepts that are requested, and shall be as noted in Exhibit "D".

1.20. **Special Engineering:**

Special Structural Engineering services will be provided by the Architect/Engineer, when authorized by the Client, if unusual site soil or geographical conditions are found to exist. An additional fee in an amount to be determined shall be established based upon the conditions discovered and the complexity of services necessary to correct said conditions.

1.21. **Grants Identification:**

The Architect shall include, in his report (Phase I-A) information as to additional potential grants available for a project of this type. It shall identify funding sources, availability of funds and methodology (when appropriate) as to obtaining grant funding. The professional fee shall be as noted in Exhibit "D".

1.22. **Grants Application:**

The Architect, if so desired by the City, shall provide grant preparation services. The professional fee(s) shall be established after identification of a potential grant and/or grants, and is noted in Exhibit "D".

EXHIBIT "C"

**Additional Services**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

1.23. **Additional Construction Observation Services:**

The Client may elect to have the Architect provide additional on-site construction observation services beyond the bi-weekly standard services noted in this Agreement. Such representation, if desired, will be based upon the selection of an option, as provided for in Exhibit "D".

1.24. **Community Outreach Program:**

If desired, the Architect and its team shall participate in up to three (3) public presentations in a collective effort of engaging the local community at large. The Architect will assist with the development of the necessary presentation materials and format and will provide one copy, both digital and hard copy version, to the City for its records. A minimum of two (2) representatives of the Architect's team shall participate in each of the requested presentations. The professional fee is as noted in Exhibit "D".



EXHIBIT "D"  
**Professional Fee Allocation**  
**Windermere Town Administration and Police Facility**  
**Windermere, FL**  
 ADG Project No. 970-16  
 June 28, 2019

**Fee Allocation:**

The following is the professional fee allocation for the various services defined in Exhibits "A" and "C".

1. **Summary:**

1.1	Phase II: Basic A/E Services: .....	\$ 343,524.00
1.2	Phase II: Required Services: .....	\$ 44,541.00
1.3	Phase II: Optional Additional Services:.....	\$ 159,465.00
1.4	<b>Phase II Subtotal:.....</b>	<b>\$ 547,530.00</b>
1.5	Phase II: Reimbursable Expenses: .....	\$ 14,000.00
1.6	<b>Total Phase II: .....</b>	<b>\$ 561,530.00</b>

2. **Phase II-A: Basic Architectural and Engineering Services:**

The Architectural and Engineering services for the referenced project are based upon a stated total project budget of \$5,126,495, and an estimated construction budget of \$4,484,645. This value will be established during the previous phases submitted to the City for approval and the standard A/E services will be modified accordingly:

2.1	Basis of Fee:	
	\$4,484,645 @ 7.66% .....	\$ 343,524.00
2.2	Reimbursable Expenses Allowance .....	\$ 14,000.00
2.3	<b>Subtotal .....</b>	<b>\$ 357,524.00</b>

3. **Phase II-B: Additional Services:**

Additional Services, consisting of a variety of tasks, are itemized and described in Exhibit "C" of this Agreement. The following is a summary of these services and their related professional fee allocation. Please note that service line items that are listed as required additional services are needed to complete the project but fall outside of the "standard A/E services" above.

<u>TASK</u>	<u>TOTAL FEE:</u>
<b><u>Required Service:</u></b>	
3.1. Professional Liability Insurance:	
\$343,524.00 @ 4% .....	\$ 13,741.00
3.2. On-Site Civil Engineering Allowance .....	\$ 30,800.00
3.3. <b>Subtotal .....</b>	<b>\$ 44,541.00</b>

**Optional Additional Services**

3.4. Interior Design Services (FF&E Coordination):	
• 9,882 SF @ \$30/SF = \$ 296,460.00 @ 6.5%.....	\$ 19,270.00

EXHIBIT “D”

**Professional Fee Allocation**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

Page 2

3.5.	Off-Site Civil Engineering.....	TBD
3.6.	Landscape Architectural Services.....\$	9,200.00
3.7.	Permitting Coordination Services.....\$	12,800.00
3.8.	Extended Construction Observation (if needed).....	TBD
3.9.	Estimates of Probable Development Costs:	
3.10.1	Schematic Design Phase .....	\$ 7,520.00
3.10.2	Design Development Phase .....	\$ 8,360.00
3.10.3	75% Construction Documents Completion .....	\$ 5,990.00
3.10.	Computer Cabling System Design Coordination .....	\$ 9,050.00
3.11.	Security Systems Consultant.....\$	20,850.00
3.12.	Audio-Visual Systems Consultant .....	\$ 18,550.00
3.13.	Site Surveying (through the Civil Engineer) .....	\$ 3,220.00
3.14.	Geotechnical Engineering (through the Civil Engineer) .....	\$ 8,625.00
3.15.	Record/Conformance As-Designed Drawings.....\$	8,860.00
3.16.	As-Built Construction Documents.....\$	By the GC
3.17.	Site and Building Identifications .....	\$ 4,750.00
3.18.	Facility or Site Renderings (Up to 3).....\$	8,000.00
3.19.	Facility Energy Analysis.....\$	14,420.00
3.20.	Building Commissioning .....	\$ N/A
3.21.	LEED Registration Allowance .....	\$ N/A
3.22.	LEED / Wellness Design .....	\$ N/A
3.23.	LEED Commissioning Agent .....	\$ N/A
3.24.	Special Engineering .....	\$ TBD
3.25.	Grants Application Assistance Allowance.....\$	TBD
3.26.	Additional Construction Observation Services.....\$	TBD
3.27.	<b>Subtotal</b> .....\$	<b>159,465.00</b>
3.28.	Post Occupancy/Warranty Inspection (separate contract) .....	\$ 12,840.00
•	Reimbursable Expenses .....	\$ 575.00
3.29	<b>Subtotal for Post Warranty Inspection</b> .....\$	<b>13,415.00</b>

4. **Additional Construction Observation Services:**

As noted in Exhibit “F” if the City has the option of requesting construction observation services that are in addition to those provided under terms of the “standard services”, which consist of on-site meetings twice per month, the following are options for consideration by the City:

4.1 **Option A: Weekly On-Site Construction Observation Services:**

4.1.1 17.5 hrs @ \$87.50/hr per month .....\$ 1,531.25\*<sup>1</sup>

<sup>\*1</sup> These are hours in addition to those included under “Basic Services”.

EXHIBIT "D"  
**Professional Fee Allocation**  
**Windermere Town Administration and Police Facility**  
**Windermere, FL**  
 ADG Project No. 970-16  
 June 28, 2019  
 Page 3

4.1.2	Reimbursable Expenses .....	\$	685.00	
4.1.3	Subtotal .....	\$	2,216.25	
4.1.4	Subtotal: \$2,216.25 @ TBD months.....	\$		TBD

**ARCHITECTS DESIGN GROUP, INC.**  
**ADDITIONAL SERVICES HOURLY RATES**  
**Effective 05/01/2019 through 04/30/2020**

Per hour rates of the Architects, Interior Designers and other personnel are established as follows:

Principals.....	205.00/hr.
Studio Department Principals/Project Architects .....	182.00/hr.
Associates .....	152.00/hr.
Project Managers .....	145.00/hr.
Designers.....	87.00/hr.
Computer Draftsperson I.....	65.00/hr.
Computer Draftsperson II .....	65.00/hr.
Computer Supervisor .....	95.00/hr.
Threshold Inspector (Certified).....	83.00/hr.
Construction Administrators.....	102.00/hr.
Specification Writer .....	98.00/hr.
Senior Draftsperson .....	87.00/hr.
Draftsperson I.....	73.00/hr.
Draftsperson II .....	65.00/hr.
Accounting Services .....	83.00/hr.
Staff (Word Processor I).....	50.00/hr.
Graphic Designer .....	72.00/hr.
Interior Design Principal.....	105.00/hr.
Interior Design Designer.....	77.00/hr.
Interior Design Specification Writer.....	76.00/hr.
Interior Design Draftsperson I .....	66.00/hr.

Note: Any changes in the above noted hourly rates, after May 1, 2020 shall be provided to the Owner thirty (30) days prior to said date.

EXHIBIT "E"

**Other Conditions or Services**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

**1. Additional Services:**

The owner reserves the right to authorize additional work on the part of the Architect, or consultants, through the Architects. Said work shall be related to facilities for the City including, but not limited to: feasibility studies, design of new facilities, additions or renovations to existing facilities, master planning and grant applications. These services are to be provided only when authorized in writing by the appropriate authority.

**2. Public Presentations:**

The Architect, if authorized by the owner, shall participate in a public presentation of the proposed study and shall prepare a presentation for the purposes of assisting the City in the public awareness process.

2.1 The Architect shall provide the Owner with one set of documents, of said presentation, at no additional cost to the Owner.

2.2 The Architect shall make presentations to the general public at the fixed fee to be established on a per meeting basis, as indicated in Exhibit "D". Said presentations shall be attended by up to two (2) members of the Architectural Team.

**3. Phasing of Architects Services:**

The initial phase shall consist of the Spatial Needs, Site Analysis, Master Planning, and Conceptual Design. Phase II shall consist of the design, bidding, and construction administration of the Police Department.

**4. Dispute Resolution:**

In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust any alternative dispute resolution procedures reasonably imposed by the City prior to filing suit or otherwise pursuing legal remedies.

The Consultant agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration to the City in alternative dispute resolution procedures or which the Consultant had knowledge and failed to present during the City procedures.

In the event that City procedures are exhausted and a suit is filed for legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

EXHIBIT "E"

**Other Conditions or Services**

**Windermere Town Administration and Police Facility**

**Windermere, FL**

ADG Project No. 970-16

June 28, 2019

Page 2

**5. Invoicing Procedures:**

Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	Twenty percent ( 20 %)
Design Development Phase	Thirty percent ( 30 %)
Construction Documents Phase	Twenty-five percent ( 25 %)
Bidding or Negotiation Phase	Five percent ( 5 %)
Construction Phase	Twenty percent ( 20 %)
<hr/> Total Basic Compensation	<hr/> percent ( 100 %)

When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

**6. Delivery of Contract Documents:**

At the conclusion of the project, the Architect shall deliver all contract documents to the City as Adobe PDF file(s) and/or live Revit file(s).

EXHIBIT "F"  
**Project Schedule**  
**Windermere Town Administration and Police Facility**  
**Windermere, FL**  
ADG Project No. 970-16  
June 28, 2019

**Estimated Schedule:**

1. Standard Architectural and Engineering .....12 months
  - a. Schematic Design
    - Owner Review & Comment..... 12 weeks
  - b. Design Development
    - Owner Review & Comment..... 20 weeks
  - c. 90% Construction Documents
    - Owner Review & Comment..... 16 weeks
  - d. Final 100% Construction Documents ..... 4 weeks
2. Contract Award and Permitting Services ..... 2 Months
3. Construction Services ..... 12 – 14 Months
4. **Total** ..... **26 – 28 Months**



## EXECUTIVE SUMMARY

**SUBJECT:** Withers-LLC Design Review Schedule and Fees

**REQUESTED ACTION:** Staff Recommends Approval

Work Session (Report Only)

**DATE OF MEETING:** 7/9/19

Regular Meeting

Special Meeting

**CONTRACT:**  N/A

Vendor/Entity: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Termination Date: \_\_\_\_\_

Managing Division / Dept: \_\_\_\_\_

**BUDGET IMPACT:** \$15,000 FY 18/19 & FY 19/20

Annual

**FUNDING SOURCE:**

General Fund

Capital

**EXPENDITURE ACCOUNT:**

Public Works

N/A

---

### HISTORY/FACTS/ISSUES:

Mayor & Council,

Stephen Withers sits on the Development Review Board and has been on that Board for quite some time. Recently he has been assisting the Town with the design for the new Town Facilities (pro bono). Now we are looking to utilize his services to assist us in the programming and design of the new facility due to his local expertise as well as his professional experience. We have agreed to terms on the attached proposal but since he sits on a Board and is now going to be paid by the Town for unrelated services the Town Council would need to make the following exception since this service was not procured via the Town's purchasing policies.

Mr. Withers does not have to resign from DRB. Mr. Withers is a "public officer" (sec. 112.313(1)), and the dollar amount of the work is above the permissible amount (\$500 a fiscal year), so he cannot do business with the Town (secs. 112.313(3) & 112.313(7)) unless one of the following exceptions for an appointed advisory board member are met:

- The Town Council waives the prohibitions and finds that the advisory board member can do business with the Town and can hold a contract with the Town by a two-thirds vote (sec. 112.313(12))

Staff would recommend a motion allowing for this exception and for the proposal to be approved.

---

April 30, 2019

RE: WITHERS-LLC Design review schedule and related fees.

Attention: Robert Smith, Town Manager, Town of Windermere

Robert,

Attached are my estimated services and cost for the remainder of this Town fiscal year ending September 30, 2019 and for the next ending in September 30, 2020.

Per my estimate the Schematic Design probably will not start until July 2019 or later due to the process of getting all of the consultants on board, reviewing their credentials and approving the Architects contract. Schematic Design is scheduled for 3 months at 25% of the design time.

ADG are estimating the kick off meeting to be at the beginning of June and would therefore be complete at the end of August.

At the discretion of the Town the bulk of my time should be design peer reviews at the end of each design Phase. Depending on the ADG schedule this could happen before the end of your fiscal year. For conservative cost expenditures allocations, I am including that review to happen before Sept, 2019. I can, at your request, always slide my fees into the period after September 2019.

**April 30 – September 2019 Estimated fees for WITHERS-LLC**

*May 2019*

Contract Review	16 hours
Design Kick off Meeting	8 hours
Sub Consultant References check	16 hours

*Sept 2109*

Schematic Design Peer review	40 hours
Contingency	3.3 hours

Total hours for period ending Sept 2019 83.3 hours at \$60 / hour = \$5000



**September 2019 – September 2020**

*Jan 2020*

Design Development Peer reviews      40 hours

*April 2020*

Design Development Peer reviews      40 hours

*Sept 2020*

90% CD Peer review      40 hours

100 % Design peer review      20 hours

Contingency Meetings      26.6 hours

**Total hours for period from Sept 19 to Sept 20      167 Hours at \$60 / hour = \$10,000**

THE TOWN OF  
**Windermere**



**EXECUTIVE SUMMARY**

**SUBJECT:** Purchase of Railroad ROW across from 3348 S Lake Butler Blvd; Sorenson

**REQUESTED ACTION:** Staff Recommends Approval

Work Session (Report Only)

**DATE OF MEETING:** 7/9/19

Regular Meeting

Special Meeting

**CONTRACT:**  N/A

Vendor/Entity: \_\_\_\_\_

Effective Date: \_\_\_\_\_

Termination Date: \_\_\_\_\_

Managing Division / Dept: \_\_\_\_\_

**BUDGET IMPACT:** \$6,158-\$10,000

Annual

**FUNDING SOURCE:**

General Fund

Capital

**EXPENDITURE ACCOUNT:**

N/A

---

**HISTORY/FACTS/ISSUES:**

Mayor & Council,

The Town Staff negotiated the attached agreement and purchase of the last remaining privately owned railroad right of way parcel north of the canal. This last piece would allow the Town to proceed with phase 1 of the multi modal path project. The conditions of the agreement are as follows

- Purchase of RR ROW: \$6,158 (same cost per acre as Ward agreement)
- Town would pay all Legal Fees as well as survey fees and coordinating with Orange County Property Appraiser; Town would additionally reimburse owner \$1K for their own legal review of final documents.
- Town shall pay all closing costs and be responsible for clearing any title issues it identifies, included but not limited to, obtaining any mortgage release.
- Town would maintain the property (mowing, insurance, etc..)
- Town would install a bench along trail honoring a member of the Sorenson family
- Town will work with Sorenson's on the design of the trail, stormwater and landscaping so they know what would be developed. Town will incorporate any reasonable requests.
- Town agrees that its project shall handle any additional stormwater created by the project and have adequate capacity for the Project.
- Town will not divert or increase the water/sheet flow on their property.

Staff Recommends Approval

---

Courtesy Rick Singh, CFA, Orange County Property Appraiser



# Vacant Land Contract

1\* 1. **Sale and Purchase:** Robert E. Sorenson and Jody M. Sorenson ("Seller")  
 2\* and Town of Windermere, Florida ("Buyer")  
 3 (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")  
 4 described as:

5\* Address: See Addendum "A" for a description of the land subject to this Contract.  
 6\* ~~Legal Description:~~  
 7  
 8  
 9  
 10  
 11\* SEC \_\_\_/TWP \_\_\_/RNG \_\_\_ of \_\_\_ County, Florida. Real Property ID No.: \_\_\_\_\_  
 12\* including all improvements existing on the Property and the following additional property: \_\_\_\_\_  
 13

14\* 2. **Purchase Price:** (U.S. currency).....\$ 6,158.00  
 15 All deposits will be made payable to "Escrow Agent" named below and held in escrow by:  
 16\* Escrow Agent's Name: \_\_\_\_\_  
 17\* Escrow Agent's Contact Person: \_\_\_\_\_  
 18\* Escrow Agent's Address: \_\_\_\_\_  
 19\* Escrow Agent's Phone: \_\_\_\_\_  
 20\* Escrow Agent's Email: \_\_\_\_\_

21 ~~(a) Initial deposit (\$0 if left blank) (Check if applicable)~~  
 22\*  accompanies offer  
 23\*  will be delivered to Escrow Agent within \_\_\_\_\_ days (3 days if left blank)  
 24\* after Effective Date .....\$ \_\_\_\_\_  
 25 (b) Additional deposit will be delivered to Escrow Agent (Check if applicable)  
 26\*  within \_\_\_\_\_ days (10 days if left blank) after Effective Date  
 27\*  within \_\_\_\_\_ days (3 days if left blank) after expiration of Feasibility Study Period .....\$ \_\_\_\_\_  
 28\* (c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage).....\$ \_\_\_\_\_  
 29\* (d) Other: .....\$ \_\_\_\_\_  
 30 (e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)  
 31\* to be paid at closing by wire transfer or other Collected funds .....\$ \_\_\_\_\_  
 32\* (f)  (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The  
 33\* unit used to determine the purchase price is  lot  acre  square foot  other (specify): \_\_\_\_\_  
 34\* prorating areas of less than a full unit. The purchase price will be \$ \_\_\_\_\_ per unit based on a  
 35 calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in  
 36 accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the  
 37\* calculation: \_\_\_\_\_

38 3. **Time for Acceptance; Effective Date:** Unless this offer is signed by Seller and Buyer and an executed copy  
 39\* delivered to all parties on or before July 31, 2019, this offer will be withdrawn and Buyer's deposit, if  
 40 any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is  
 41 delivered. **The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer**  
 42 **has signed or initialed and delivered this offer or the final counter offer.**

43\* 4. **Closing Date:** This transaction will close on or before December 31, 2019 ("Closing Date"), unless specifically  
 44 extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,  
 45 but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,  
 46 Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business  
 47 day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property  
 48 insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If  
 49 this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and  
 50 other items.

- 51 **5. Financing: (Check as applicable)**
- 52\* (a)  **Buyer** will pay cash for the Property with no financing contingency.
- 53\* ~~(b)  This contract is contingent on Buyer qualifying for and obtaining the commitment(s) or approval(s)~~
- 54\* specified below ("Financing") within \_\_\_\_\_ days after Effective Date (Closing Date or 30 days after Effective
- 55\* Date, whichever occurs first, if left blank) ("Financing Period"). **Buyer** will apply for Financing within \_\_\_\_\_
- 56\* days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial,
- 57\* and other information required by the lender. If **Buyer**, after using diligence and good faith, cannot obtain the
- 58\* Financing within the Financing Period, either party may terminate this contract and **Buyer's** deposit(s) will be
- 59\* returned.
- 60\* (1)  **New Financing:** **Buyer** will secure a commitment for new third party financing for \$ \_\_\_\_\_
- 61\* or \_\_\_\_\_% of the purchase price at (**Check one**)  a fixed rate not exceeding \_\_\_\_\_%  an
- 62\* adjustable interest rate not exceeding \_\_\_\_\_% at origination (a fixed rate at the prevailing interest rate
- 63\* based on **Buyer's** creditworthiness if neither choice is selected). **Buyer** will keep **Seller** and Broker fully
- 64\* informed of the loan application status and progress and authorizes the lender or mortgage broker to
- 65\* disclose all such information to **Seller** and Broker.
- 66\* (2)  **Seller Financing:** **Buyer** will execute a  first  second purchase money note and mortgage to
- 67\* **Seller** in the amount of \$ \_\_\_\_\_, bearing annual interest at \_\_\_\_\_% and payable as
- 68\* follows: \_\_\_\_\_
- 69\* The mortgage, note, and any security agreement will be in a form acceptable to **Seller** and will follow
- 70\* forms generally accepted in the county where the Property is located; will provide for a late payment fee
- 71\* and acceleration at the mortgagee's option if **Buyer** defaults; will give **Buyer** the right to prepay without
- 72\* penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on
- 73\* conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require **Buyer** to
- 74\* keep liability insurance on the Property with **Seller** as additional named insured. **Buyer** authorizes **Seller**
- 75\* to obtain credit, employment, and other necessary information to determine creditworthiness for the
- 76\* financing. **Seller** will, within 10 days after Effective Date, give **Buyer** written notice of whether or not
- 77\* **Seller** will make the loan.
- 78\* (3)  **Mortgage Assumption:** **Buyer** will take title subject to and assume and pay existing first mortgage to
- 79\* \_\_\_\_\_
- 80\* LN# \_\_\_\_\_ in the approximate amount of \$ \_\_\_\_\_ currently payable at
- 81\* \$ \_\_\_\_\_ per month, including principal, interest,  taxes and insurance, and having a
- 82\*  fixed  other (describe) \_\_\_\_\_
- 83\* interest rate of \_\_\_\_\_% which  will  will not escalate upon assumption. Any variance in the
- 84\* mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. **Buyer** will
- 85\* purchase **Seller's** escrow account dollar for dollar. If the interest rate upon transfer exceeds \_\_\_\_\_% or
- 86\* the assumption/transfer fee exceeds \$ \_\_\_\_\_, either party may elect to pay the excess,
- 87\* failing which this contract will terminate; and **Buyer's** deposit(s) will be returned. If the lender disapproves
- 88\* ~~**Buyer**, this contract will terminate; and **Buyer's** deposit(s) will be returned.~~
- 89\* **6. Assignability: (Check one) Buyer**  may assign and thereby be released from any further liability under this
- 90\* contract,  may assign but not be released from liability under this contract, or  may not assign this contract.
- 91\* **7. Title: Seller** has the legal capacity to and will convey marketable title to the Property by  statutory warranty
- 92\* deed  special warranty deed  other (specify) \_\_\_\_\_, free of liens, easements,
- 93\* and encumbrances of record or known to **Seller**, but subject to property taxes for the year of closing; covenants,
- 94\* restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any
- 95\* other matters to which title will be subject) \_\_\_\_\_,
- 96\* provided there exists at closing no violation of the foregoing.
- 97\* (a) **Title Evidence:** The party who pays for the owner's title insurance policy will select the closing agent and
- 98\* pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent.
- 99\* **Seller** will deliver to **Buyer**, at
- 100\* (**Check one**)  **Seller's**  **Buyer's** expense and
- 101\* (**Check one**)  within \_\_\_\_\_ days after Effective Date  at least 5 days before Closing Date,
- 102\* (**Check one**)
- 103\* (1)  a title insurance commitment by a Florida licensed title insurer setting forth those matters to be
- 104\* discharged by **Seller** at or before closing and, upon **Buyer** recording the deed, an owner's policy in the
- 105\* amount of the purchase price for fee simple title subject only to the exceptions stated above. If **Buyer** is
- 106\* paying for the owner's title insurance policy and **Seller** has an owner's policy, **Seller** will deliver a copy to
- 107\* **Buyer** within 15 days after Effective Date.

Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is 2 of 7 pages.

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108\* (2)  an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an  
109 existing firm. However, if such an abstract is not available to **Seller**, then a prior owner's title policy  
110 acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy  
111 will include copies of all policy exceptions and an update in a format acceptable to **Buyer** from the policy  
112 effective date and certified to **Buyer** or **Buyer's** closing agent together with copies of all documents  
113 recited in the prior policy and in the update. If such an abstract or prior policy is not available to **Seller**,  
114 then (1) above will be the title evidence.

115\* (b) **Title Examination:** After receipt of the title evidence, **Buyer** will, within \_\_\_\_\_ days (10 days if left blank)  
116 but no later than Closing Date, deliver written notice to **Seller** of title defects. Title will be deemed acceptable  
117 to **Buyer** if (i) **Buyer** fails to deliver proper notice of defects or (ii) **Buyer** delivers proper written notice and  
118\* **Seller** cures the defects within \_\_\_\_\_ days (30 days if left blank) ("Cure Period") after receipt of the notice. If  
119 the defects are cured within the Cure Period, closing will occur within 10 days after receipt by **Buyer** of notice  
120 of such cure. **Seller** may elect not to cure defects if **Seller** reasonably believes any defect cannot be cured  
121 within the Cure Period. If the defects are not cured within the Cure Period, **Buyer** will have 10 days after  
122 receipt of notice of **Seller's** inability to cure the defects to elect whether to terminate this contract or accept  
123 title subject to existing defects and close the transaction without reduction in purchase price.

124 (c) **Survey:** **Buyer** may, at **Buyer's** expense, have the Property surveyed and must deliver written notice to  
125 **Seller**, within 5 days after receiving survey but not later than 5 days before Closing Date, of any  
126 encroachments on the Property, encroachments by the Property's improvements on other lands, or deed  
127 restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a  
128 title defect and **Seller's** and **Buyer's** obligations will be determined in accordance with Paragraph 7(b).  
129

(d) **Ingress and Egress:** **Seller** warrants that the Property presently has ingress and egress.

130 8. **Property Condition:** **Seller** will deliver the Property to **Buyer** at closing in its present "as is" condition, with  
131 conditions resulting from **Buyer's** Inspections and casualty damage, if any, excepted. **Seller** will not engage in or  
132 permit any activity that would materially alter the Property's condition without the **Buyer's** prior written consent.

(a) **Inspections: (Check (1) or (2))**

134\* ~~(1)  **Feasibility Study:** **Buyer** will, at **Buyer's** expense and within \_\_\_\_\_ days (30 days if left blank)  
135 ("Feasibility Study Period") after Effective Date and in **Buyer's** sole and absolute discretion, determine  
136 whether the Property is suitable for **Buyer's** intended use. During the Feasibility Study Period, **Buyer**  
137 may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and  
138 investigations ("Inspections") that **Buyer** deems necessary to determine to **Buyer's** satisfaction the  
139 Property's engineering, architectural, and environmental properties; zoning and zoning restrictions;  
140 subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities;  
141 consistency with local, state, and regional growth management plans; availability of permits, government  
142 approvals, and licenses; and other inspections that **Buyer** deems appropriate. If the Property must be  
143 rezoned, **Buyer** will obtain the rezoning from the appropriate government agencies. **Seller** will sign all  
144 documents **Buyer** is required to file in connection with development or rezoning approvals. **Seller** gives  
145 **Buyer**, its agents, contractors, and assigns, the right to enter the Property at any time during the  
146 Feasibility Study Period for the purpose of conducting Inspections, provided, however, that **Buyer**, its  
147 agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. **Buyer** will  
148 indemnify and hold **Seller** harmless from losses, damages, costs, claims, and expenses of any nature,  
149 including attorneys' fees, expenses, and liability incurred in application for rezoning or related  
150 proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any  
151 work authorized by **Buyer**. **Buyer** will not engage in any activity that could result in a construction lien  
152 being filed against the Property without **Seller's** prior written consent. If this transaction does not close,  
153 **Buyer** will, at **Buyer's** expense, (i) repair all damages to the Property resulting from the Inspections and  
154 return the Property to the condition it was in before conducting the Inspections and (ii) release to **Seller**  
155 all reports and other work generated as a result of the Inspections.~~

156 Before expiration of the Feasibility Study Period, **Buyer** must deliver written notice to **Seller** of **Buyer's**  
157 determination of whether or not the Property is acceptable. **Buyer's** failure to comply with this notice  
158 requirement will constitute acceptance of the Property as suitable for **Buyer's** intended use in its "as is"  
159 condition. If the Property is unacceptable to **Buyer** and written notice of this fact is timely delivered to  
160 **Seller**, this contract will be deemed terminated, and **Buyer's** deposit(s) will be returned.

161\* (2)  **No Feasibility Study:** **Buyer** is satisfied that the Property is suitable for **Buyer's** purposes, including  
162 being satisfied that either public sewerage and water are available to the Property or the Property will be  
163 approved for the installation of a well and/or private sewerage disposal system and that existing zoning

- 164 and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency,  
165 growth management, and environmental conditions, are acceptable to **Buyer**. This contract is not  
166 contingent on **Buyer** conducting any further investigations.
- 167 **(b) Government Regulations:** Changes in government regulations and levels of service which affect **Buyer's**  
168 intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has  
169 expired or if Paragraph 8(a)(2) is selected.
- 170 **(c) Flood Zone:** **Buyer** is advised to verify by survey, with the lender, and with appropriate government  
171 agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply  
172 to improving the Property and rebuilding in the event of casualty.
- 173 **(d) Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as  
174 defined in Section 161.053, Florida Statutes, **Seller** will provide **Buyer** with an affidavit or survey as required  
175 by law delineating the line's location on the Property, unless **Buyer** waives this requirement in writing. The  
176 Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that  
177 govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach  
178 nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida  
179 Department of Environmental Protection, including whether there are significant erosion conditions associated  
180 with the shore line of the Property being purchased.  
181\*  **Buyer** waives the right to receive a CCCL affidavit or survey.

182 **9. Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be  
183 conducted by mail or electronic means. If title insurance insures **Buyer** for title defects arising between the title  
184 binder effective date and recording of **Buyer's** deed, closing agent will disburse at closing the net sale proceeds  
185 to **Seller** (in local cashier's check if **Seller** requests in writing at least 5 days before closing) and brokerage fees to  
186 Broker as per Paragraph 19. In addition to other expenses provided in this contract, **Seller** and **Buyer** will pay the  
187 costs indicated below.

188 **(a) Seller Costs:**

- 189 Taxes on deed  
190 Recording fees for documents needed to cure title  
191 Title evidence (if applicable under Paragraph 7)  
192\* Other: \_\_\_\_\_

193 **(b) Buyer Costs:**

- 194 Taxes and recording fees on notes and mortgages  
195 Recording fees on the deed and financing statements  
196 Loan expenses  
197 Title evidence (if applicable under Paragraph 7)  
198 Lender's title policy at the simultaneous issue rate  
199 Inspections  
200 Survey  
201 Insurance  
202\* Other: \_\_\_\_\_

203 **(c) Prorations:** The following items will be made current and prorated as of the day before Closing Date: real  
204 estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases,  
205 and other Property expenses and revenues. If taxes and assessments for the current year cannot be  
206 determined, the previous year's rates will be used with adjustment for any exemptions.

207 **(d) Special Assessment by Public Body:** Regarding special assessments imposed by a public body, **Seller**  
208 will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount  
209 of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but  
210 has not resulted in a lien before closing; and **Buyer** will pay all other amounts. If special assessments may be  
211\* paid in installments,  **Seller**  **Buyer** (**Buyer** if left blank) will pay installments due after closing. If **Seller** is  
212 checked, **Seller** will pay the assessment in full before or at the time of closing. Public body does not include a  
213 Homeowners' or Condominium Association.

214 **(e) PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT**  
215 **PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO**  
216 **PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY**  
217 **IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN**  
218 **HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT**  
219 **THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.**

Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is 4 of 7 pages.

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- 220 (f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If **Seller** is a "foreign person" as defined by  
221 FIRPTA, **Seller** and **Buyer** will comply with FIRPTA, which may require **Seller** to provide additional cash at  
222 closing.
- 223 (g) **1031 Exchange:** If either **Seller** or **Buyer** wish to enter into a like-kind exchange (either simultaneously with  
224 closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will  
225 cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided,  
226 however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing  
227 will not be contingent upon, extended, or delayed by the Exchange.
- 228 **10. Computation of Time:** Calendar days will be used when computing time periods, except time periods of 5 days  
229 or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal  
230 holidays specified in 5 U.S.C. 6103(a). Any time period ending on a Saturday, Sunday, or national legal holiday  
231 will extend until 5:00 p.m. (where the Property is located) of the next business day. **Time is of the essence in**  
232 **this contract.**
- 233 **11. Risk of Loss; Eminent Domain:** If any portion of the Property is materially damaged by casualty before closing  
234 or **Seller** negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain  
235 proceedings or an eminent domain proceeding is initiated, **Seller** will promptly inform **Buyer**. Either party may  
236 terminate this contract by written notice to the other within 10 days after **Buyer's** receipt of **Seller's** notification,  
237 and **Buyer's** deposit(s) will be returned, failing which **Buyer** will close in accordance with this contract and  
238 receive all payments made by the governmental authority or insurance company, if any.
- 239 **12. Force Majeure:** **Seller** or **Buyer** will not be required to perform any obligation under this contract or be liable to  
240 each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or  
241 prevented by an act of God or force majeure. An "act of God or "force majeure" is defined as hurricanes,  
242 earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably  
243 within the control of **Seller** or **Buyer** and which by the exercise of due diligence the non-performing party is  
244 unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for  
245 the period that the act of God or force majeure is in place. However, in the event that such act of God or force  
246 majeure event continues beyond 30 days, either party may terminate this contract by delivering written notice to  
247 the other; and **Buyer's** deposit(s) will be returned.
- 248 **13. Notices:** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or  
249 electronic means. **Buyer's failure to timely deliver written notice to Seller, when such notice is required by**  
250 **this contract, regarding any contingency will render that contingency null and void, and this contract will**  
251 **be construed as if the contingency did not exist. Any notice, document, or item delivered to or received**  
252 **by an attorney or licensee (including a transactions broker) representing a party will be as effective as if**  
253 **delivered to or received by that party.**
- 254 **14. Complete Agreement; Persons Bound:** This contract is the entire agreement between **Seller** and **Buyer**.  
255 **Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker**  
256 **unless incorporated into this contract.** Modifications of this contract will not be binding unless in writing, signed  
257 or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This  
258 contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications  
259 communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be  
260 binding. Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If  
261 any provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be  
262 fully effective. **Seller** and **Buyer** will use diligence and good faith in performing all obligations under this contract.  
263 This contract will not be recorded in any public record. The terms "**Seller**," "**Buyer**," and "**Broker**" may be singular  
264 or plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if  
265 permitted, of **Seller**, **Buyer**, and Broker.
- 266 **15. Default and Dispute Resolution:** This contract will be construed under Florida law. This Paragraph will survive  
267 closing or termination of this contract.
- 268 (a) **Seller Default:** If **Seller** fails, neglects, or refuses to perform **Seller's** obligations under this contract, **Buyer**  
269 may elect to receive a return of **Buyer's** deposit(s) without thereby waiving any action for damages resulting  
270 from **Seller's** breach and may seek to recover such damages or seek specific performance. **Seller** will also  
271 be liable for the full amount of the brokerage fee.

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272 (b) **Buyer Default:** If **Buyer** fails, neglects, or refuses to perform **Buyer's** obligations under this contract,  
273 including payment of deposit(s), within the time(s) specified, **Seller** may elect to recover and retain the  
274 deposit(s), paid and agreed to be paid, for the account of **Seller** as agreed upon liquidated damages,  
275 consideration for execution of this contract, and in full settlement of any claims, whereupon **Seller** and **Buyer**  
276 will be relieved from all further obligations under this contract; or **Seller**, at **Seller's** option, may proceed in  
277 equity to enforce **Seller's** rights under this contract.

278 **16. Attorney's Fees; Costs:** In any litigation permitted by this Contract, the prevailing party shall be entitled to  
279 recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting  
280 the litigation. This Paragraph 16 shall survive Closing or termination of this Contract.

281 **17. Escrow Agent; Closing Agent:** **Seller** and **Buyer** authorize Escrow Agent and closing agent (collectively  
282 "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them  
283 upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing  
284 brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and  
285 finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any  
286 person for misdelivery of escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful  
287 breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay  
288 the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the  
289 escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

290 **18. Professional Advice; Broker Liability:** Broker advises **Seller** and **Buyer** to verify all facts and representations  
291 that are important to them and to consult an appropriate professional for legal advice (for example, interpreting  
292 this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor  
293 reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax,  
294 property condition, environmental, and other specialized advice. **Buyer** acknowledges that Broker does not reside  
295 in the Property and that all representations (oral, written, or otherwise) by Broker are based on **Seller**  
296 representations or public records. **Buyer agrees to rely solely on Seller, professional inspectors, and**  
297 **government agencies for verification of the Property condition and facts that materially affect Property**  
298 **value.** **Seller** and **Buyer** respectively will pay all costs and expenses, including reasonable attorneys' fees at all  
299 levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising  
300 from **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations. **Seller** and **Buyer** hold  
301 harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or  
302 damage based on (i) **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations; (ii) the use or  
303 display of listing data by third parties, including, but not limited to, photographs, images, graphics, video  
304 recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's  
305 performance, at **Seller's** or **Buyer's** request, of any task beyond the scope of services regulated by Chapter 475,  
306 Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv)  
307 products or services provided by any vendor; and (v) expenses incurred by any vendor. **Seller** and **Buyer** each  
308 assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve  
309 Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract.  
310 This Paragraph will survive closing.

311 **19. Commercial Real Estate Sales Commission Lien Act:** If the Property is commercial real estate as defined by  
312 Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales  
313 Commission Lien Act provides that when a broker has earned a commission by performing licensed services  
314 under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the  
315 broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

316 **20. Brokers:** The brokers named below are collectively referred to as "Broker." **Instruction to closing agent:**  
317 **Seller** and **Buyer** direct closing agent to disburse at closing the full amount of the brokerage fees as specified in  
318 separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the  
319 extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any  
320 MLS or other offer of compensation made by **Seller** or **Seller's** Broker to **Buyer's** Broker.

321\* (a) N/A (Seller's Broker)  
322\* will be compensated by  **Seller**  **Buyer**  both parties pursuant to  a listing agreement  other  
323\* (specify): \_\_\_\_\_

324\* (b) N/A (Buyer's Broker)  
325\* will be compensated by  **Seller**  **Buyer**  both parties  **Seller's** Broker pursuant to  a MLS offer of  
326\* compensation  other (specify): \_\_\_\_\_

327\* **21. Additional Terms:** \_\_\_\_\_  
 328 Buyer shall reimburse Seller for up to \$1,000.00 legal fees associated with this transaction.  
 329 Buyer shall pay all closing costs and shall be responsible for clearing any title issues it identifies.  
 330 After closing, Buyer shall be responsible for the maintenance and upkeep of the land subject to this Contract.  
 331 After closing, if and/or when a trail system or linear park ("Park") is constructed on the land subject to this  
 332 Contract, Buyer will install a bench in the Park honoring a person of Seller's choice.  
 333 Buyer shall reasonably coordinate with Seller on the design of the Park, including stormwater and landscaping  
 334 issues. Buyer agrees the Park shall have adequate capacity to handle any additional stormwater created by the  
 335 Park. Buyer will not divert or increase the water/sheet flow from the Park onto the remainder of Seller's  
 336 property.  
 337 This Section 21 shall govern in the event of any conflict between the contents hereof and any other section of  
 338 this Contract.  
 339 See Addendum "B" for an additional list of representations and warranties made by Seller to Buyer.  
 340 \_\_\_\_\_  
 341 \_\_\_\_\_  
 342 \_\_\_\_\_

343 **COUNTER-OFFER/REJECTION**

344\*  Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and  
 345 deliver a copy of the acceptance to Seller).  
 346\*  Seller rejects Buyer's offer

347 **This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before**  
 348 **signing.**

349\* **Buyer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

350\* **Print name:** \_\_\_\_\_

351\* **Buyer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

352\* **Print name:** \_\_\_\_\_

353 **Buyer's address for purpose of notice:**

354\* **Address:** \_\_\_\_\_

355\* **Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

356\* **Seller:** \_\_\_\_\_ **Date:** \_\_\_\_\_

357\* **Print name:** \_\_\_\_\_

358\* **Seller:** \_\_\_\_\_ **Date:** \_\_\_\_\_

359\* **Print name:** \_\_\_\_\_

360 **Seller's address for purpose of notice:**

361\* **Address:** \_\_\_\_\_

362\* **Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

363\* **Effective Date:** \_\_\_\_\_ **(The date on which the last party signed or initialed and delivered the**  
 364 **final offer or counter offer.)**

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## ADDENDUM "A"

This Contract concerns the sale of a limited portion of a certain parcel of land owned by Seller. Specifically, Seller is conveying to Buyer a limited portion of Seller's parcel of land (identified below), which was once part of the Seaboard System Railroad. The legal description of the Seaboard System Railroad, of which Buyer currently owns a substantial portion, extends beyond the parcel owned by Seller, is as follows:

Two strips or parcels of Seaboard System Railroad, Inc.'s 40-foot wide surplus property situated in Sections 8 and 17, Township 23 South, Range 28 East, Orange County, Florida, more particularly described as follows:

Begin at the point of intersection of the south line of the SW 1/4 of the NE 1/4 of said Section 17 and the center line of the former Florida Midland main track; thence northerly along the center line of said property, the width of 20 feet on each side thereof, a distance of 2,830 feet, more or less (as measured along said center line), to the intersection of the north line of Lot P-21, as shown on plat of Windermere, Florida, extended easterly, LESS that surplus property adjacent to Lots 19, 123, and a strip or parcel of vacated 40-foot wide right of way, lying 20 feet each side of the center line of the former Florida Midland main track, more particularly described as follows: Begin at the intersection of the extended south line of Lot 68 and Florida Midland main track right of way; thence northerly 165 feet to the extended north line of the now vacated 10th Avenue, said plat of Windermere, Florida; also

Begin at the point of intersection of the north line of Lot 334, as shown on plat of Windermere, Florida, extended easterly (said lot line also being the south right of way line of 3rd Avenue) and the center line of said surplus property; thence northerly along the center line of said property, the width of 20 feet on each side thereof, a distance of 2,110 feet, more or less (as measured along said center line) to the intersection of the center line of a canal connecting Lake Butler and Lake Down at a point situated 40 feet south of Seaboard System Railroad, Inc.'s Milepost AVB-827.

A strip or parcel of Grantor's 60-foot wide surplus property situated in Sections 6, 7 and 8, Township 23 South, Range 28 East, Orange County, Florida, more particularly described as follows:

Begin at a point in the center line of said surplus property and the center line of a canal connecting Lake Butler and Lake Down, said point located 40 feet, more or less, south of Grantor's Milepost AVB-827; thence northerly along the center line of said property, the width of 30 feet on each side thereof, a distance of 3,720 feet, more or less (as measured along said center line), to a point in the north line of the SE 1/4 of the SE 1/4 of said Section 6, LESS AND EXCEPT that surplus property adjacent

to Lot 179, Metcalf Park, Florida, as recorded in Plat Book H, Page 60, Public Records of said Orange County; containing 4.99 acres, more or less; the foregoing being all or part of the same premises acquired by deed dated August 27, 1887, recorded July 3, 1900, in Deed Book 108, Pages 208 and 209, State of Florida Grant, Section 24, Act of 1874, Public Records of Orange County, Florida.

Less and except that part of the above-described property lying northerly of Park Avenue.

The above description of the land formerly belonging to the Seaboard System Railroad impacts the following property owned by Seller and only that portion of the below identified parcel falling within the above description of the former Seaboard System Railroad above shall be conveyed to Buyer pursuant to this Contract:

RR Property – 3348 S. Lake Butler Boulevard Parcel ID: 07-23-28-5616-01-790	ORANGE	Robert E. Sorenson Jody M. Sorenson
--	--------	--

Property Description:

REPLAT OF METCALF PARK Q/18 & H/59 THAT PART SHOWN ON PLAT H/59 & 60 AS LOT 179 & 60 FT STRIP OF VAC RR LYING NELY THEREOF



## ADDENDUM "B"

### Additional Seller Representations and Warranties

Seller hereby makes the following representations and warranties to Buyer, each of which is a material inducement to Buyer proceeding with the transaction and which are conditions of Buyer's obligation to close and shall survive closing for a period of one year:

1.1 Status of Seller. Seller has full power, right, and authority, and is duly authorized to enter into this Contract, to perform each and all obligations provided hereunder. This Contract does not, nor does the observance or performance by Seller of its obligations hereunder, contravene any provisions of law, trust, indenture, or agreement binding upon Seller, and when executed, the instruments required hereunder shall constitute valid and binding obligations of Seller in accordance with their terms.

1.2 Title and Possession. There is no tenant or any other occupant of the Property (or any improvements thereon) having any right or claim to possession or use of the property to be sold to Buyer pursuant to this Contract. Possession of the property to be sold to Buyer pursuant to this Contract shall be delivered to Buyer by Seller free of all rights or claims of any tenants, occupants or parties in possession.

1.3 Mortgages. Seller is not in default under the provisions of any mortgage or other encumbrances, liens, or restrictions that affect the property to be sold to Buyer hereunder, and Seller shall pay all amounts when due thereunder until Closing.

1.4 Condition of Property.

- (a) Seller owns, and will own at time of Closing, good and marketable fee simple title to the subject property, free of liens, encumbrances, judgments, tenancies, and all other matters affecting the title hereto.
- (b) Between the Effective Date and the Closing date, Seller shall not commit or suffer any waste of or to the subject property, and Seller shall continue to operate the Property and the improvements thereon in the normal course of business or use.
- (c) While this Contract is in effect, Seller shall not sell, transfer, convey, encumber, or cause to be sold, transferred, conveyed, or encumbered, or enter into any agreement to sell, transfer, convey, or encumber its interest in the subject property or any part thereof, or otherwise perform or permit any act or event that shall diminish, encumber, or affect Seller's rights in and to the subject property or prevent it from performing fully its obligations hereunder.
- (d) To the best of Seller's knowledge, Seller has disclosed to Buyer in writing all information, conditions and other matters related to the subject property

that might have a material adverse effect on the Property.

- (e) To the best of Seller's knowledge, the subject property is free from muck, sinkholes, cavities or any other subsurface materials that would have a material adverse effect on the subject property or the improvements thereon.

#### 1.5 Litigation, Disputes and Liens

- (a) There are no current actions, suits or proceedings pending, or, to the knowledge of Seller, threatened, before or by any judicial or administrative body, any arbitrator or any governmental authority, against or affecting Seller or the subject property (or any portion thereof).
- (b) Seller has received no notice of any condemnation or eminent domain proceeding pending or threatened against the subject property or any part thereof.
- (c) Seller has not received notice of, and to the best of Seller's knowledge, there are no current, ongoing violations of any laws, municipal or county ordinances, or other legal requirements, with respect to the subject property.
- (d) There are no attachments, judgments, executions, or voluntary or involuntary proceedings in bankruptcy pending against Seller or, to the best of Seller's knowledge, contemplated or threatened against Seller.
- (e) At Closing, there will be no unpaid bills or claims for labor performed, services rendered or materials furnished or contracted to be performed or furnished upon the subject property and there will be no unpaid taxes of any kind that might become a lien upon the subject property, except ad valorem real estate and personal property taxes which are not yet due and payable.

#### 1.6 Governmental Compliance

- (a) To the best of Seller's knowledge, the subject property and all improvements thereon comply with all applicable building, zoning, fire, health and other codes, ordinances, laws or regulations of all governmental authorities having jurisdiction over the Property. All governmental permits currently required for the operation of the improvements on the subject property have been obtained from the required governmental authorities and such permits are in full force and effect and shall be in full force and effect at Closing. Seller has not received any notices from any city, county, state, or other governmental authority of any building, zoning, fire, health or other code violations in respect to the Property.

- (b) To the best of Seller's knowledge, no petition or application has been filed or proceeding otherwise begun with any governmental authority to change or impose or challenge any zoning or other land-use restriction affecting the subject property nor to the best knowledge of Seller has any such petition, application or proceeding been threatened.
- (c) Seller has not, nor to the best of Seller's knowledge has any prior owner of the subject property, executed or caused to be executed any document with or for the benefit of any governmental authority restricting or governing the use or occupancy of the subject property.
- (d) There are no public special improvement district liens against the subject property for any improvements on or benefiting the subject property, nor any work pending or authorized but not yet commenced as of the date hereof which could result in the creation of any lien for such improvements, including but not limited to, water, sewer, paving, drainage, electrical, or other public or community improvement which may give rise to any such lien.
- (e) With respect to the subject property, to the best of Seller's knowledge, Seller is, and to the best of Seller's knowledge, the prior owners of the subject property were, each in compliance in all material respects with all provisions of the Environmental Laws, and with any rules, regulations and administrative orders of any governmental agency, and with any judgment, decrees or orders of any court of competent jurisdiction with respect thereto. Seller has not received any notice of violation, warning notice, assessment, notice of liability or notice of financial responsibility (or notice of any action, claim or proceeding to determine such liability or responsibility or the amount thereof), or to impose civil penalties with respect to the subject property, nor has Seller received any notification that any Hazardous Substances have been found on the subject property. To the best of Seller's knowledge, no part of the subject property and no part of any structure or facility located thereon or improvement thereto contains any Hazardous Substances and no Hazardous Substances were used in the construction of, or any renovation to, the subject property or any structure, facility or improvement thereon. To the best of Seller's knowledge, no part of the subject property and no part of any improvement thereto is or has been used for the handling, processing, storage or disposal of Hazardous Substances; or contains or contained above-ground or underground storage tanks or other storage facilities for Hazardous Substances.

For purposes of this Agreement, "Environmental Laws" shall mean all federal, state, regional, county or local laws, statutes, rules, regulations or ordinances concerning public health, safety, the environment, or regulating or in any way pertaining to Hazardous Substances. The term "Hazardous Substances" shall mean any hazardous or toxic

materials, pollutants, contaminants, constituents or wastes and any other chemical, material or substance, the generating, handling, storage, release, transportation, or disposal of which is prohibited, limited or regulated by any federal, state, county, regional or local authority or which, even if not so regulated, is known to pose a hazard to the health and safety of the occupants of the Property including, without limitation, (i) asbestos, (ii) petroleum and petroleum by-products, (iii) urea formaldehyde foam insulation, (iv) polychlorinated biphenyls, (v) all substances designated as "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes" or "pollutants" pursuant to Environmental Laws.

The representations made by each Seller and set forth in this Addendum shall be true at Closing, and Buyer may require Seller to execute at Closing an affidavit affirming any of the representations made herein. Any material misrepresentation by any Seller as to any matter herein covered which has a material adverse effect on the subject property shall survive Closing, and not merge with the deed, for a period of one year following closing.



THE TOWN OF  
**Windermere**



**EXECUTIVE SUMMARY**

**SUBJECT:** Railroad ROW Purchase/Donation; Rubio

**REQUESTED ACTION:** Staff Recommends Approval

Work Session (Report Only)

Regular Meeting

**DATE OF MEETING:** 7/9/19

Special Meeting

**CONTRACT:**  N/A

Effective Date: \_\_\_\_\_

Managing Division / Dept: \_\_\_\_\_

Vendor/Entity: \_\_\_\_\_

Termination Date: \_\_\_\_\_

**BUDGET IMPACT:** \$10

Annual

Capital

N/A

**FUNDING SOURCE:** \_\_\_\_\_

**EXPENDITURE ACCOUNT:** \_\_\_\_\_

---

**HISTORY/FACTS/ISSUES:**

Mayor & Council,

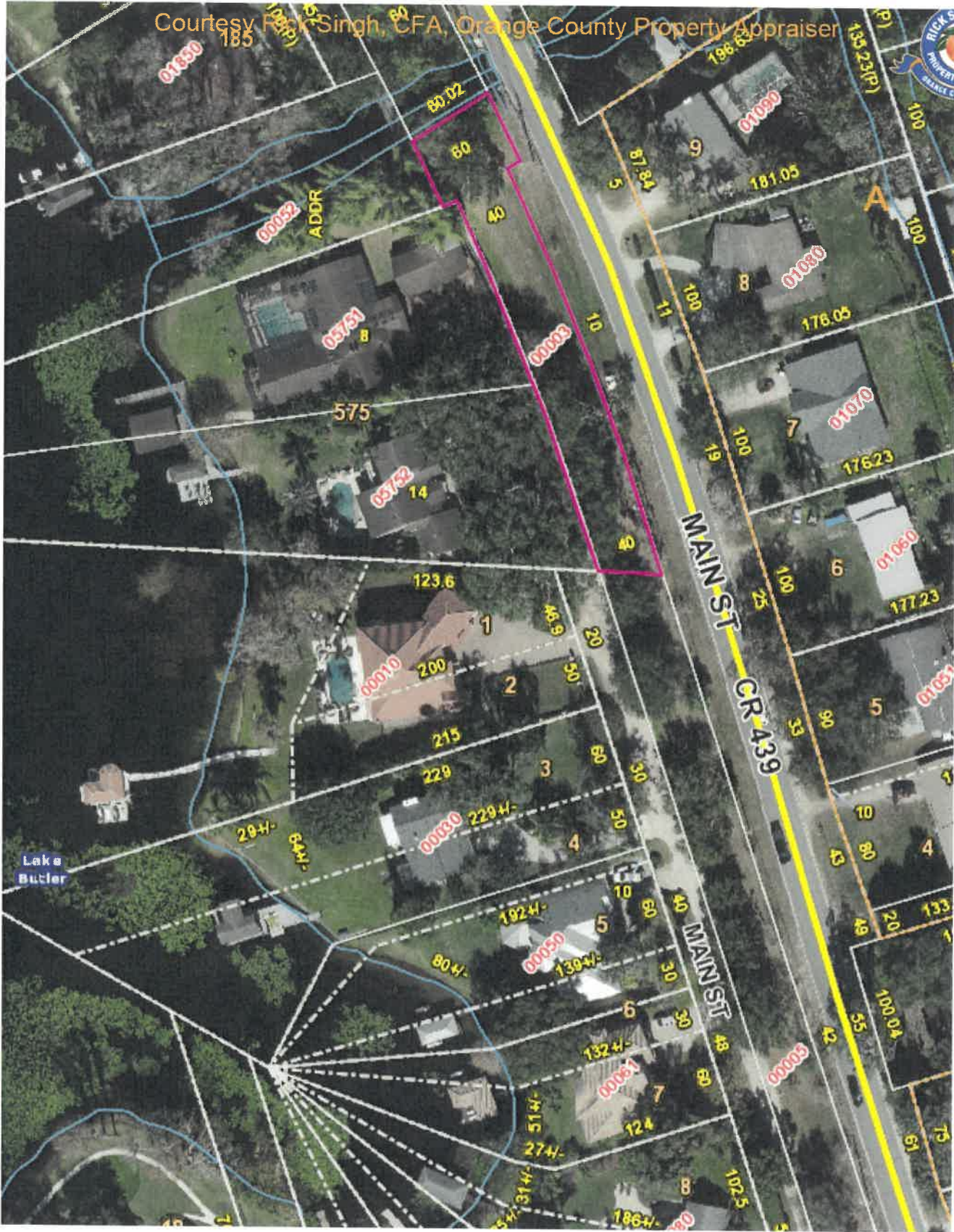
Mrs. Rubio is willing to donate to the Town the RR R/W that she owns under the following conditions:

- Once the multi-model is constructed, that a favorable plaque be install in the area dedicating that portion in honor of her late husband;
- Pave Dirt Main Street, in a timely manner (5 years or less) from North Dr to her property.

Staff is agreeable to these conditions. The paving of the roadway in that limited area would assist in the stormwater maintenance due to the discharge in drains that are consistently clogged as well as a diversion to possible holding areas in the right of way that is obtained.

---

Courtesy Frank Singh, CFA, Orange County Property Appraiser



Staff Recommends Approval

# Vacant Land Contract

1\* **1. Sale and Purchase:** Linda C. Rubio ("Seller")  
 2\* and Town of Windermere, Florida ("Buyer")

3 (the "parties") agree to sell and buy on the terms and conditions specified below the property ("Property")  
 4 described as:

5\* Address: 10 Main Street, Windermere, FL 34786

6\* Legal Description: \_\_\_\_\_

7 A STRIP OF S SR/R/W VAC 40 FT WIDE LYING E OF LOT 575 OF NORTH ADD TO WINDERMERE P/10 FROM  
 8 S LINE OF SAID LOT 575 TO CENTER OF CANAL ON N IN SEC 08-23-28 SEE 3863/2727

11\* SEC \_\_\_/TWP \_\_\_/\_\_\_/ RNG \_\_\_ of Orange County, Florida. Real Property ID No.: 08-23-28-0000-00-003  
 12\* including all improvements existing on the Property and the following additional property: \_\_\_\_\_

14\* **2. Purchase Price:** (U.S. currency).....\$ 10.00

15 All deposits will be made payable to "Escrow Agent" named below and held in escrow by:

16\* Escrow Agent's Name: \_\_\_\_\_

17\* Escrow Agent's Contact Person: \_\_\_\_\_

18\* Escrow Agent's Address: \_\_\_\_\_

19\* Escrow Agent's Phone: \_\_\_\_\_

20\* Escrow Agent's Email: \_\_\_\_\_

21 ~~(a) Initial deposit (\$0 if left blank) (Check if applicable)~~

22\*  accompanies offer

23\*  will be delivered to Escrow Agent within \_\_\_\_\_ days (3 days if left blank)

24\* after Effective Date .....\$ \_\_\_\_\_

25 ~~(b) Additional deposit will be delivered to Escrow Agent (Check if applicable)~~

26\*  within \_\_\_\_\_ days (10 days if left blank) after Effective Date

27\*  within \_\_\_\_\_ days (3 days if left blank) after expiration of Feasibility Study Period .....\$ \_\_\_\_\_

28\* ~~(c) Total Financing (see Paragraph 5) (express as a dollar amount or percentage).....\$ \_\_\_\_\_~~

29\* ~~(d) Other: .....\$ \_\_\_\_\_~~

30 ~~(e) Balance to close (not including Buyer's closing costs, prepaid items, and prorations)~~

31\* ~~to be paid at closing by wire transfer or other Collected funds .....\$ \_\_\_\_\_~~

32\* ~~(f)  (Complete only if purchase price will be determined based on a per unit cost instead of a fixed price.) The~~

33\* ~~unit used to determine the purchase price is  lot  acre  square foot  other (specify): \_\_\_\_\_~~

34\* ~~prorating areas of less than a full unit. The purchase price will be \$ \_\_\_\_\_ per unit based on a~~

35 ~~calculation of total area of the Property as certified to Seller and Buyer by a Florida licensed surveyor in~~

36 ~~accordance with Paragraph 7(c). The following rights of way and other areas will be excluded from the~~

37\* ~~calculation: \_\_\_\_\_~~

38 **3. Time for Acceptance; Effective Date:** Unless this offer is signed by Seller and Buyer and an executed copy

39\* delivered to all parties on or before July 31, 2019, this offer will be withdrawn and Buyer's deposit, if

40 any, will be returned. The time for acceptance of any counter offer will be 3 days after the date the counter offer is

41 delivered. **The "Effective Date" of this contract is the date on which the last one of the Seller and Buyer**

42 **has signed or initialed and delivered this offer or the final counter offer.**

43\* **4. Closing Date:** This transaction will close on or before December 31, 2019 ("Closing Date"), unless specifically

44 extended by other provisions of this contract. The Closing Date will prevail over all other time periods including,

45 but not limited to, Financing and Feasibility Study periods. However, if the Closing Date occurs on a Saturday,

46 Sunday, or national legal holiday, it will extend to 5:00 p.m. (where the Property is located) of the next business

47 day. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property

48 insurance, Buyer may postpone closing for up to 5 days after the insurance underwriting suspension is lifted. If

49 this transaction does not close for any reason, Buyer will immediately return all Seller provided documents and

50 other items.

51 **5. Financing: (Check as applicable)**

52\* **(a)**  **Buyer** will pay cash for the Property with no financing contingency.

53\* ~~**(b)**  This contract is contingent on **Buyer** qualifying for and obtaining the commitment(s) or approval(s)~~  
54\* ~~specified below ("Financing") within \_\_\_\_\_ days after Effective Date (Closing Date or 30 days after Effective~~  
55\* ~~Date, whichever occurs first, if left blank) ("Financing Period"). **Buyer** will apply for Financing within \_\_\_\_\_~~  
56\* ~~days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial,~~  
57\* ~~and other information required by the lender. If **Buyer**, after using diligence and good faith, cannot obtain the~~  
58\* ~~Financing within the Financing Period, either party may terminate this contract and **Buyer's** deposit(s) will be~~  
59\* ~~returned.~~

60\* **(1)**  **New Financing:** **Buyer** will secure a commitment for new third party financing for \$ \_\_\_\_\_  
61\* or \_\_\_\_\_% of the purchase price at **(Check one)**  a fixed rate not exceeding \_\_\_\_\_%  an  
62\* adjustable interest rate not exceeding \_\_\_\_\_% at origination (a fixed rate at the prevailing interest rate  
63\* based on **Buyer's** creditworthiness if neither choice is selected). **Buyer** will keep **Seller** and Broker fully  
64\* informed of the loan application status and progress and authorizes the lender or mortgage broker to  
65\* disclose all such information to **Seller** and Broker.

66\* **(2)**  **Seller Financing:** **Buyer** will execute a  first  second purchase money note and mortgage to  
67\* **Seller** in the amount of \$ \_\_\_\_\_, bearing annual interest at \_\_\_\_\_% and payable as  
68\* follows: \_\_\_\_\_

69\* The mortgage, note, and any security agreement will be in a form acceptable to **Seller** and will follow  
70\* forms generally accepted in the county where the Property is located; will provide for a late payment fee  
71\* and acceleration at the mortgagee's option if **Buyer** defaults; will give **Buyer** the right to prepay without  
72\* penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on  
73\* conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require **Buyer** to  
74\* keep liability insurance on the Property with **Seller** as additional named insured. **Buyer** authorizes **Seller**  
75\* to obtain credit, employment, and other necessary information to determine creditworthiness for the  
76\* financing. **Seller** will, within 10 days after Effective Date, give **Buyer** written notice of whether or not  
77\* **Seller** will make the loan.

78\* **(3)**  **Mortgage Assumption.** **Buyer** will take title subject to and assume and pay existing first mortgage to

79\* \_\_\_\_\_  
80\* LN# \_\_\_\_\_ in the approximate amount of \$ \_\_\_\_\_ currently payable at  
81\* \$ \_\_\_\_\_ per month, including principal, interest,  taxes and insurance, and having a  
82\*  fixed  other (describe) \_\_\_\_\_  
83\* interest rate of \_\_\_\_\_% which  will  will not escalate upon assumption. Any variance in the  
84\* mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. **Buyer** will  
85\* purchase **Seller's** escrow account dollar for dollar. If the interest rate upon transfer exceeds \_\_\_\_\_% or  
86\* the assumption/transfer fee exceeds \$ \_\_\_\_\_, either party may elect to pay the excess,  
87\* failing which this contract will terminate; and **Buyer's** deposit(s) will be returned. If the lender disapproves  
88\* ~~**Buyer**, this contract will terminate; and **Buyer's** deposit(s) will be returned.~~

89\* **6. Assignability: (Check one)** **Buyer**  may assign and thereby be released from any further liability under this  
90\* contract,  may assign but not be released from liability under this contract, or  may not assign this contract.

91\* **7. Title: Seller** has the legal capacity to and will convey marketable title to the Property by  statutory warranty  
92\* deed  special warranty deed  other (specify) \_\_\_\_\_, free of liens, easements,  
93\* and encumbrances of record or known to **Seller**, but subject to property taxes for the year of closing; covenants,  
94\* restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any  
95\* other matters to which title will be subject) \_\_\_\_\_,  
96\* provided there exists at closing no violation of the foregoing.

97\* **(a) Title Evidence:** The party who pays for the owner's title insurance policy will select the closing agent and  
98\* pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent.  
99\* **Seller** will deliver to **Buyer**, at

100\* **(Check one)**  **Seller's**  **Buyer's** expense and  
101\* **(Check one)**  within \_\_\_\_\_ days after Effective Date  at least 5 days before Closing Date,  
102\* **(Check one)**

103\* **(1)**  a title insurance commitment by a Florida licensed title insurer setting forth those matters to be  
104\* discharged by **Seller** at or before closing and, upon **Buyer** recording the deed, an owner's policy in the  
105\* amount of the purchase price for fee simple title subject only to the exceptions stated above. If **Buyer** is  
106\* paying for the owner's title insurance policy and **Seller** has an owner's policy, **Seller** will deliver a copy to  
107\* **Buyer** within 15 days after Effective Date.

Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is 2 of 7 pages.

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108\* (2)  an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an  
109 existing firm. However, if such an abstract is not available to **Seller**, then a prior owner's title policy  
110 acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy  
111 will include copies of all policy exceptions and an update in a format acceptable to **Buyer** from the policy  
112 effective date and certified to **Buyer** or **Buyer's** closing agent together with copies of all documents  
113 recited in the prior policy and in the update. If such an abstract or prior policy is not available to **Seller**,  
114 then (1) above will be the title evidence.

115\* (b) **Title Examination:** After receipt of the title evidence, **Buyer** will, within \_\_\_\_\_ days (10 days if left blank)  
116 but no later than Closing Date, deliver written notice to **Seller** of title defects. Title will be deemed acceptable  
117 to **Buyer** if (i) **Buyer** fails to deliver proper notice of defects or (ii) **Buyer** delivers proper written notice and  
118\* **Seller** cures the defects within \_\_\_\_\_ days (30 days if left blank) ("Cure Period") after receipt of the notice. If  
119 the defects are cured within the Cure Period, closing will occur within 10 days after receipt by **Buyer** of notice  
120 of such cure. **Seller** may elect not to cure defects if **Seller** reasonably believes any defect cannot be cured  
121 within the Cure Period. If the defects are not cured within the Cure Period, **Buyer** will have 10 days after  
122 receipt of notice of **Seller's** inability to cure the defects to elect whether to terminate this contract or accept  
123 title subject to existing defects and close the transaction without reduction in purchase price.

124 (c) **Survey:** **Buyer** may, at **Buyer's** expense, have the Property surveyed and must deliver written notice to  
125 **Seller**, within 5 days after receiving survey but not later than 5 days before Closing Date, of any  
126 encroachments on the Property, encroachments by the Property's improvements on other lands, or deed  
127 restriction or zoning violations. Any such encroachment or violation will be treated in the same manner as a  
128 title defect and **Seller's** and **Buyer's** obligations will be determined in accordance with Paragraph 7(b).

129 (d) **Ingress and Egress:** **Seller** warrants that the Property presently has ingress and egress.

130 8. **Property Condition:** **Seller** will deliver the Property to **Buyer** at closing in its present "as is" condition, with  
131 conditions resulting from **Buyer's** Inspections and casualty damage, if any, excepted. **Seller** will not engage in or  
132 permit any activity that would materially alter the Property's condition without the **Buyer's** prior written consent.

133 (a) **Inspections: (Check (1) or (2))**

134\* ~~(1)  **Feasibility Study:** **Buyer** will, at **Buyer's** expense and within \_\_\_\_\_ days (90 days if left blank)  
135 ("Feasibility Study Period") after Effective Date and in **Buyer's** sole and absolute discretion, determine  
136 whether the Property is suitable for **Buyer's** intended use. During the Feasibility Study Period, **Buyer**  
137 may conduct a Phase 1 environmental assessment and any other tests, analyses, surveys, and  
138 investigations ("Inspections") that **Buyer** deems necessary to determine to **Buyer's** satisfaction the  
139 Property's engineering, architectural, and environmental properties; zoning and zoning restrictions;  
140 subdivision statutes; soil and grade; availability of access to public roads, water, and other utilities;  
141 consistency with local, state, and regional growth management plans; availability of permits, government  
142 approvals, and licenses; and other inspections that **Buyer** deems appropriate. If the Property must be  
143 rezoned, **Buyer** will obtain the rezoning from the appropriate government agencies. **Seller** will sign all  
144 documents **Buyer** is required to file in connection with development or rezoning approvals. **Seller** gives  
145 **Buyer**, its agents, contractors, and assigns, the right to enter the Property at any time during the  
146 Feasibility Study Period for the purpose of conducting Inspections, provided, however, that **Buyer**, its  
147 agents, contractors, and assigns enter the Property and conduct Inspections at their own risk. **Buyer** will  
148 indemnify and hold **Seller** harmless from losses, damages, costs, claims, and expenses of any nature,  
149 including attorneys' fees, expenses, and liability incurred in application for rezoning or related  
150 proceedings, and from liability to any person, arising from the conduct of any and all Inspections or any  
151 work authorized by **Buyer**. **Buyer** will not engage in any activity that could result in a construction lien  
152 being filed against the Property without **Seller's** prior written consent. If this transaction does not close,  
153 **Buyer** will, at **Buyer's** expense, (i) repair all damages to the Property resulting from the Inspections and  
154 return the Property to the condition it was in before conducting the Inspections and (ii) release to **Seller**  
155 all reports and other work generated as a result of the Inspections.~~

156 Before expiration of the Feasibility Study Period, **Buyer** must deliver written notice to **Seller** of **Buyer's**  
157 determination of whether or not the Property is acceptable. **Buyer's** failure to comply with this notice  
158 requirement will constitute acceptance of the Property as suitable for **Buyer's** intended use in its "as is"  
159 condition. If the Property is unacceptable to **Buyer** and written notice of this fact is timely delivered to  
160 **Seller**, this contract will be deemed terminated, and **Buyer's** deposit(s) will be returned.

161\* (2)  **No Feasibility Study:** **Buyer** is satisfied that the Property is suitable for **Buyer's** purposes, including  
162 being satisfied that either public sewerage and water are available to the Property or the Property will be  
163 approved for the installation of a well and/or private sewerage disposal system and that existing zoning

Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page, which is 3 of 7 pages.

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164 and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency,  
 165 growth management, and environmental conditions, are acceptable to **Buyer**. This contract is not  
 166 contingent on **Buyer** conducting any further investigations.

167 **(b) Government Regulations:** Changes in government regulations and levels of service which affect **Buyer's**  
 168 intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has  
 169 expired or if Paragraph 8(a)(2) is selected.

170 **(c) Flood Zone:** **Buyer** is advised to verify by survey, with the lender, and with appropriate government  
 171 agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply  
 172 to improving the Property and rebuilding in the event of casualty.

173 **(d) Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as  
 174 defined in Section 161.053, Florida Statutes, **Seller** will provide **Buyer** with an affidavit or survey as required  
 175 by law delineating the line's location on the Property, unless **Buyer** waives this requirement in writing. The  
 176 Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that  
 177 govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach  
 178 nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida  
 179 Department of Environmental Protection, including whether there are significant erosion conditions associated  
 180 with the shore line of the Property being purchased.

181\*  **Buyer** waives the right to receive a CCCL affidavit or survey.

182 **9. Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be  
 183 conducted by mail or electronic means. If title insurance insures **Buyer** for title defects arising between the title  
 184 binder effective date and recording of **Buyer's** deed, closing agent will disburse at closing the net sale proceeds  
 185 to **Seller** (in local cashier's check if **Seller** requests in writing at least 5 days before closing) and brokerage fees to  
 186 Broker as per Paragraph 19. In addition to other expenses provided in this contract, **Seller** and **Buyer** will pay the  
 187 costs indicated below.

188 **(a) Seller Costs:**  
 189 Taxes on deed  
 190 Recording fees for documents needed to cure title  
 191 Title evidence (if applicable under Paragraph 7)  
 192\* Other: \_\_\_\_\_

193 **(b) Buyer Costs:**  
 194 Taxes and recording fees on notes and mortgages  
 195 Recording fees on the deed and financing statements  
 196 Loan expenses  
 197 Title evidence (if applicable under Paragraph 7)  
 198 Lender's title policy at the simultaneous issue rate  
 199 Inspections  
 200 Survey  
 201 Insurance  
 202\* Other: \_\_\_\_\_

203 **(c) Prorations:** The following items will be made current and prorated as of the day before Closing Date: real  
 204 estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases,  
 205 and other Property expenses and revenues. If taxes and assessments for the current year cannot be  
 206 determined, the previous year's rates will be used with adjustment for any exemptions.

207 **(d) Special Assessment by Public Body:** Regarding special assessments imposed by a public body, **Seller**  
 208 will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount  
 209 of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but  
 210 has not resulted in a lien before closing; and **Buyer** will pay all other amounts. If special assessments may be  
 211\* paid in installments,  **Seller**  **Buyer** (**Buyer** if left blank) will pay installments due after closing. If **Seller** is  
 212 checked, **Seller** will pay the assessment in full before or at the time of closing. Public body does not include a  
 213 Homeowners' or Condominium Association.

214 **(e) PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT**  
 215 **PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO**  
 216 **PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY**  
 217 **IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN**  
 218 **HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT**  
 219 **THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.**

- 220 (f) **Foreign Investment in Real Property Tax Act ("FIRPTA"):** If **Seller** is a "foreign person" as defined by  
221 FIRPTA, **Seller** and **Buyer** will comply with FIRPTA, which may require **Seller** to provide additional cash at  
222 closing.  
223 (g) **1031 Exchange:** If either **Seller** or **Buyer** wish to enter into a like-kind exchange (either simultaneously with  
224 closing or after) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party will  
225 cooperate in all reasonable respects to effectuate the Exchange including executing documents, provided,  
226 however, that the cooperating party will incur no liability or cost related to the Exchange and that the closing  
227 will not be contingent upon, extended, or delayed by the Exchange.

228 **10. Computation of Time:** Calendar days will be used when computing time periods, except time periods of 5 days  
229 or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal  
230 holidays specified in 5 U.S.C. 6103(a). Any time period ending on a Saturday, Sunday, or national legal holiday  
231 will extend until 5:00 p.m. (where the Property is located) of the next business day. **Time is of the essence in**  
232 **this contract.**

233 **11. Risk of Loss; Eminent Domain:** If any portion of the Property is materially damaged by casualty before closing  
234 or **Seller** negotiates with a governmental authority to transfer all or part of the Property in lieu of eminent domain  
235 proceedings or an eminent domain proceeding is initiated, **Seller** will promptly inform **Buyer**. Either party may  
236 terminate this contract by written notice to the other within 10 days after **Buyer's** receipt of **Seller's** notification,  
237 and **Buyer's** deposit(s) will be returned, failing which **Buyer** will close in accordance with this contract and  
238 receive all payments made by the governmental authority or insurance company, if any.

239 **12. Force Majeure:** **Seller** or **Buyer** will not be required to perform any obligation under this contract or be liable to  
240 each other for damages so long as the performance or non-performance of the obligation is delayed, caused, or  
241 prevented by an act of God or force majeure. An "act of God or "force majeure" is defined as hurricanes,  
242 earthquakes, floods, fire, unusual transportation delays, wars, insurrections, and any other cause not reasonably  
243 within the control of **Seller** or **Buyer** and which by the exercise of due diligence the non-performing party is  
244 unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended for  
245 the period that the act of God or force majeure is in place. However, in the event that such act of God or force  
246 majeure event continues beyond 30 days, either party may terminate this contract by delivering written notice to  
247 the other; and **Buyer's** deposit(s) will be returned.

248 **13. Notices:** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or  
249 electronic means. **Buyer's failure to timely deliver written notice to Seller, when such notice is required by**  
250 **this contract, regarding any contingency will render that contingency null and void, and this contract will**  
251 **be construed as if the contingency did not exist. Any notice, document, or item delivered to or received**  
252 **by an attorney or licensee (including a transactions broker) representing a party will be as effective as if**  
253 **delivered to or received by that party.**

254 **14. Complete Agreement; Persons Bound:** This contract is the entire agreement between **Seller** and **Buyer**.  
255 **Except for brokerage agreements, no prior or present agreements will bind Seller, Buyer, or Broker**  
256 **unless incorporated into this contract.** Modifications of this contract will not be binding unless in writing, signed  
257 or initialed, and delivered by the party to be bound. Electronic signatures will be acceptable and binding. This  
258 contract, signatures, initials, documents referenced in this contract, counterparts, and written modifications  
259 communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be  
260 binding. Handwritten or typewritten terms inserted in or attached to this contract prevail over preprinted terms. If  
261 any provision of this contract is or becomes invalid or unenforceable, all remaining provisions will continue to be  
262 fully effective. **Seller** and **Buyer** will use diligence and good faith in performing all obligations under this contract.  
263 This contract will not be recorded in any public record. The terms "**Seller**," "**Buyer**," and "**Broker**" may be singular  
264 or plural. This contract is binding on the heirs, administrators, executors, personal representatives, and assigns, if  
265 permitted, of **Seller**, **Buyer**, and Broker.

266 **15. Default and Dispute Resolution:** This contract will be construed under Florida law. This Paragraph will survive  
267 closing or termination of this contract.  
268 (a) **Seller Default:** If **Seller** fails, neglects, or refuses to perform **Seller's** obligations under this contract, **Buyer**  
269 may elect to receive a return of **Buyer's** deposit(s) without thereby waiving any action for damages resulting  
270 from **Seller's** breach and may seek to recover such damages or seek specific performance. **Seller** will also  
271 be liable for the full amount of the brokerage fee.

Buyer ( ) ( ) and Seller ( ) ( ) acknowledge receipt of a copy of this page, which is 5 of 7 pages.

VAC-11 Rev 6/17

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272 (b) **Buyer Default:** If **Buyer** fails, neglects, or refuses to perform **Buyer's** obligations under this contract,  
273 including payment of deposit(s), within the time(s) specified, **Seller** may elect to recover and retain the  
274 deposit(s), paid and agreed to be paid, for the account of **Seller** as agreed upon liquidated damages,  
275 consideration for execution of this contract, and in full settlement of any claims, whereupon **Seller** and **Buyer**  
276 will be relieved from all further obligations under this contract; or **Seller**, at **Seller's** option, may proceed in  
277 equity to enforce **Seller's** rights under this contract.

278 **16. Attorney's Fees; Costs:** In any litigation permitted by this Contract, the prevailing party shall be entitled to  
279 recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting  
280 the litigation. This Paragraph 16 shall survive Closing or termination of this Contract.

281 **17. Escrow Agent; Closing Agent:** **Seller** and **Buyer** authorize Escrow Agent and closing agent (collectively  
282 "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them  
283 upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing  
284 brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and  
285 finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any  
286 person for misdelivery of escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful  
287 breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay  
288 the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the  
289 escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

290 **18. Professional Advice; Broker Liability:** Broker advises **Seller** and **Buyer** to verify all facts and representations  
291 that are important to them and to consult an appropriate professional for legal advice (for example, interpreting  
292 this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor  
293 reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax,  
294 property condition, environmental, and other specialized advice. **Buyer** acknowledges that Broker does not reside  
295 in the Property and that all representations (oral, written, or otherwise) by Broker are based on **Seller**  
296 representations or public records. **Buyer agrees to rely solely on Seller, professional inspectors, and**  
297 **government agencies for verification of the Property condition and facts that materially affect Property**  
298 **value.** **Seller** and **Buyer** respectively will pay all costs and expenses, including reasonable attorneys' fees at all  
299 levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising  
300 from **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations. **Seller** and **Buyer** hold  
301 harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or  
302 damage based on (i) **Seller's** or **Buyer's** misstatement or failure to perform contractual obligations; (ii) the use or  
303 display of listing data by third parties, including, but not limited to, photographs, images, graphics, video  
304 recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's  
305 performance, at **Seller's** or **Buyer's** request, of any task beyond the scope of services regulated by Chapter 475,  
306 Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv)  
307 products or services provided by any vendor; and (v) expenses incurred by any vendor. **Seller** and **Buyer** each  
308 assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve  
309 Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract.  
310 This Paragraph will survive closing.

311 **19. Commercial Real Estate Sales Commission Lien Act:** If the Property is commercial real estate as defined by  
312 Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales  
313 Commission Lien Act provides that when a broker has earned a commission by performing licensed services  
314 under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the  
315 broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

316 **20. Brokers:** The brokers named below are collectively referred to as "Broker." **Instruction to closing agent:**  
317 **Seller** and **Buyer** direct closing agent to disburse at closing the full amount of the brokerage fees as specified in  
318 separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the  
319 extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any  
320 MLS or other offer of compensation made by **Seller** or **Seller's** Broker to **Buyer's** Broker.

321\* (a) N/A (Seller's Broker)  
322\* will be compensated by  **Seller**  **Buyer**  both parties pursuant to  a listing agreement  other  
323\* (specify): \_\_\_\_\_

324\* (b) N/A (Buyer's Broker)  
325\* will be compensated by  **Seller**  **Buyer**  both parties  **Seller's** Broker pursuant to  a MLS offer of  
326\* compensation  other (specify): \_\_\_\_\_



327\* **21. Additional Terms:** \_\_\_\_\_  
 328 Buyer shall pay all closing costs and shall be responsible for clearing any title issues it identifies.  
 329 In consideration for this transaction, if and/or when a trail system or linear park ("Park") is constructed on the  
 330 Property, Buyer will install a bench or plaque on the Property in the Park honoring the late husband of Seller  
 331 As further consideration for this transaction, Buyer agrees to and shall pave that currently unpaved portion of  
 332 Main Street in the Town of Windermere, Florida from North Drive to the Seller's property located at 8 Main  
 333 Street, Windermere, FL 34786 within five (5) years from the date of closing on this Contract.  
 334 This Section 21 shall govern in the event of any conflict between the contents hereof and any other section of  
 335 this Contract.  
 336 See Addendum "A" for an additional list of representations and warranties made by Seller to Buyer.  
 337 \_\_\_\_\_  
 338 \_\_\_\_\_  
 339 \_\_\_\_\_  
 340 \_\_\_\_\_  
 341 \_\_\_\_\_  
 342 \_\_\_\_\_

343 **COUNTER-OFFER/REJECTION**

344\*  Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and  
 345 deliver a copy of the acceptance to Seller).  
 346\*  Seller rejects Buyer's offer

347 **This is intended to be a legally binding contract. If not fully understood, seek the advice of an attorney before**  
 348 **signing.**

349\* **Buyer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

350\* **Print name:** \_\_\_\_\_

351\* **Buyer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

352\* **Print name:** \_\_\_\_\_

353 **Buyer's address for purpose of notice:**

354\* **Address:** \_\_\_\_\_

355\* **Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

356\* **Seller:** \_\_\_\_\_ **Date:** \_\_\_\_\_

357\* **Print name:** \_\_\_\_\_

358\* **Seller:** \_\_\_\_\_ **Date:** \_\_\_\_\_

359\* **Print name:** \_\_\_\_\_

360 **Seller's address for purpose of notice:**

361\* **Address:** \_\_\_\_\_

362\* **Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

363\* **Effective Date:** \_\_\_\_\_ **(The date on which the last party signed or initialed and delivered the**  
 364 **final offer or counter offer.)**

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## ADDENDUM "A"

### Additional Seller Representations and Warranties

Seller hereby makes the following representations and warranties to Buyer, each of which is a material inducement to Buyer proceeding with the transaction and which are conditions of Buyer's obligation to close and shall survive closing for a period of one year:

1.1 Status of Seller. Seller has full power, right, and authority, and is duly authorized to enter into this Contract, to perform each and all obligations provided hereunder. This Contract does not, nor does the observance or performance by Seller of its obligations hereunder, contravene any provisions of law, trust, indenture, or agreement binding upon Seller, and when executed, the instruments required hereunder shall constitute valid and binding obligations of Seller in accordance with their terms.

1.2 Title and Possession. There is no tenant or any other occupant of the Property (or any improvements thereon) having any right or claim to possession or use of the property to be sold to Buyer pursuant to this Contract. Possession of the property to be sold to Buyer pursuant to this Contract shall be delivered to Buyer by Seller free of all rights or claims of any tenants, occupants or parties in possession.

1.3 Mortgages. Seller is not in default under the provisions of any mortgage or other encumbrances, liens, or restrictions that affect the property to be sold to Buyer hereunder, and Seller shall pay all amounts when due thereunder until Closing.

1.4 Condition of Property.

- (a) Seller owns, and will own at time of Closing, good and marketable fee simple title to the subject property, free of liens, encumbrances, judgments, tenancies, and all other matters affecting the title hereto.
- (b) Between the Effective Date and the Closing date, Seller shall not commit or suffer any waste of or to the subject property, and Seller shall continue to operate the Property and the improvements thereon in the normal course of business or use.
- (c) While this Contract is in effect, Seller shall not sell, transfer, convey, encumber, or cause to be sold, transferred, conveyed, or encumbered, or enter into any agreement to sell, transfer, convey, or encumber its interest in the subject property or any part thereof, or otherwise perform or permit any act or event that shall diminish, encumber, or affect Seller's rights in and to the subject property or prevent it from performing fully its obligations hereunder.
- (d) To the best of Seller's knowledge, Seller has disclosed to Buyer in writing all information, conditions and other matters related to the subject property that

might have a material adverse effect on the Property.

- (e) To the best of Seller's knowledge, the subject property is free from muck, sinkholes, cavities or any other subsurface materials that would have a material adverse effect on the subject property or the improvements thereon.

#### 1.5 Litigation, Disputes and Liens

- (a) There are no current actions, suits or proceedings pending, or, to the knowledge of Seller, threatened, before or by any judicial or administrative body, any arbitrator or any governmental authority, against or affecting Seller or the subject property (or any portion thereof).
- (b) Seller has received no notice of any condemnation or eminent domain proceeding pending or threatened against the subject property or any part thereof.
- (c) Seller has not received notice of, and to the best of Seller's knowledge, there are no current, ongoing violations of any laws, municipal or county ordinances, or other legal requirements, with respect to the subject property.
- (d) There are no attachments, judgments, executions, or voluntary or involuntary proceedings in bankruptcy pending against Seller or, to the best of Seller's knowledge, contemplated or threatened against Seller.
- (e) At Closing, there will be no unpaid bills or claims for labor performed, services rendered or materials furnished or contracted to be performed or furnished upon the subject property and there will be no unpaid taxes of any kind that might become a lien upon the subject property, except ad valorem real estate and personal property taxes which are not yet due and payable.

#### 1.6 Governmental Compliance

- (a) To the best of Seller's knowledge, the subject property and all improvements thereon comply with all applicable building, zoning, fire, health and other codes, ordinances, laws or regulations of all governmental authorities having jurisdiction over the Property. All governmental permits currently required for the operation of the improvements on the subject property have been obtained from the required governmental authorities and such permits are in full force and effect and shall be in full force and effect at Closing. Seller has not received any notices from any city, county, state, or other governmental authority of any building, zoning, fire, health or other code violations in respect to the Property.
- (b) To the best of Seller's knowledge, no petition or application has been filed or proceeding otherwise begun with any governmental authority to change

or impose or challenge any zoning or other land-use restriction affecting the subject property nor to the best knowledge of Seller has any such petition, application or proceeding been threatened.

- (c) Seller has not, nor to the best of Seller's knowledge has any prior owner of the subject property, executed or caused to be executed any document with or for the benefit of any governmental authority restricting or governing the use or occupancy of the subject property.
- (d) There are no public special improvement district liens against the subject property for any improvements on or benefiting the subject property, nor any work pending or authorized but not yet commenced as of the date hereof which could result in the creation of any lien for such improvements, including but not limited to, water, sewer, paving, drainage, electrical, or other public or community improvement which may give rise to any such lien.
- (e) With respect to the subject property, to the best of Seller's knowledge, Seller is, and to the best of Seller's knowledge, the prior owners of the subject property were, each in compliance in all material respects with all provisions of the Environmental Laws, and with any rules, regulations and administrative orders of any governmental agency, and with any judgment, decrees or orders of any court of competent jurisdiction with respect thereto. Seller has not received any notice of violation, warning notice, assessment, notice of liability or notice of financial responsibility (or notice of any action, claim or proceeding to determine such liability or responsibility or the amount thereof), or to impose civil penalties with respect to the subject property, nor has Seller received any notification that any Hazardous Substances have been found on the subject property. To the best of Seller's knowledge, no part of the subject property and no part of any structure or facility located thereon or improvement thereto contains any Hazardous Substances and no Hazardous Substances were used in the construction of, or any renovation to, the subject property or any structure, facility or improvement thereon. To the best of Seller's knowledge, no part of the subject property and no part of any improvement thereto is or has been used for the handling, processing, storage or disposal of Hazardous Substances; or contains or contained above-ground or underground storage tanks or other storage facilities for Hazardous Substances.

For purposes of this Agreement, "Environmental Laws" shall mean all federal, state, regional, county or local laws, statutes, rules, regulations or ordinances concerning public health, safety, the environment, or regulating or in any way pertaining to Hazardous Substances. The term "Hazardous Substances" shall mean any hazardous or toxic materials, pollutants, contaminants, constituents or wastes and any other chemical, material or substance, the generating, handling, storage, release, transportation, or disposal of which is prohibited, limited or regulated by any federal, state, county, regional or local authority or which, even if not so regulated, is known to pose a hazard to the health

and safety of the occupants of the Property including, without limitation, (i) asbestos, (ii) petroleum and petroleum by-products, (iii) urea formaldehyde foam insulation, (iv) polychlorinated biphenyls, (v) all substances designated as "hazardous substances," "hazardous materials," "toxic substances," "hazardous wastes" or "pollutants" pursuant to Environmental Laws.

The representations made by each Seller and set forth in this Addendum shall be true at Closing, and Buyer may require Seller to execute at Closing an affidavit affirming any of the representations made herein. Any material misrepresentation by any Seller as to any matter herein covered which has a material adverse effect on the subject property shall survive Closing, and not merge with the deed, for a period of one year following closing.

THE TOWN OF  
**Windermere**



**EXECUTIVE SUMMARY**

**SUBJECT:** Kellogg Boat Dock Request: 416 E 5th

**REQUESTED ACTION:** Board Option

Work Session (Report Only)

Regular Meeting

**DATE OF MEETING:** 7/9/19

Special Meeting

**CONTRACT:**  N/A

Effective Date: \_\_\_\_\_

Managing Division / Dept: \_\_\_\_\_

Vendor/Entity: \_\_\_\_\_

Termination Date: \_\_\_\_\_

**BUDGET IMPACT:** \_\_\_\_\_

Annual

Capital

N/A

**FUNDING SOURCE:** \_\_\_\_\_

**EXPENDITURE ACCOUNT:** \_\_\_\_\_

---

**HISTORY/FACTS/ISSUES:**

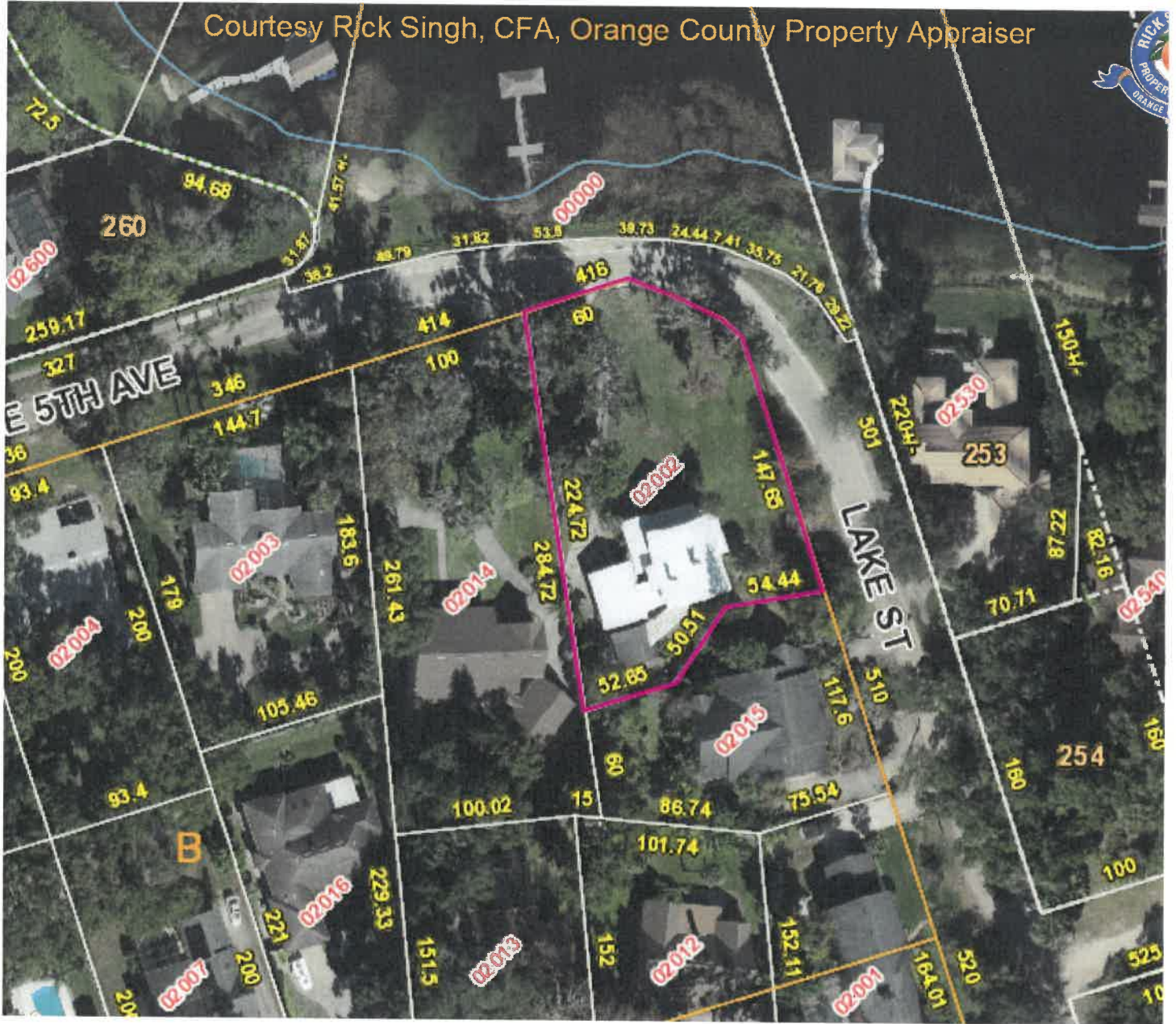
Mayor & Council,

I spoke to Mr. Kellogg, who lives at 416 E 5th Ave, in early June. He would like to know if he would be able to replace the dock that he once had (see 2004 aerial) across from his residence. Mr. Kellogg was not part of the Lake Down Lawsuits but would like to build a new dock to the East of the Town dock (see rendering)

If the Town Council is in agreement, Staff would suggest that the Town impose the same or similar requirements (insurance, limitations on use, permitting requirements, that are in the Consent Final Judgments for Lake Down and Lake Bessie. Should the Town allow the dock, then the permitting would be the same as any other dock (i.e. FDEP permit, OCEPD permit, Town permit).

---

Courtesy Rick Singh, CFA, Orange County Property Appraiser



## MEMORANDUM

**TO:** Robert Smith, Town Manager

**FROM:** GrayRobinson, P.A.

**DATE:** July 1, 2019

**SUBJECT:** 416 E 5th Avenue Request to Construct Dock on Town Right-of-Way

---

**Request:** Theodore Kellogg, owner of property located at 416 E 5th Avenue, has made a request to construct a dock across the street from his house on Lake Down on Town right-of-way. Mr. Kellogg told you that he previously had a dock on Town right-of-way in 2002.

**Lake Bessie and Lake Down Lawsuits:** In 2004 there were two lawsuits against the Town of Windermere regarding Town right-of-way along the shores of Lake Down (Case No. 04-CA-9065) and Lake Bessie (Case No. 04-CA-10519). In 2006 the Town of Windermere entered into Consent Final Judgments with the plaintiff property owners allowing the plaintiff property owners to construct private docks on the shoreline of portions of Lake Down and Lake Bessie on Town-owned property. Mr. Kellogg was not part of the Lake Down lawsuit.

**The Lake Down Consent Final Judgment:** If the Town allows Mr. Kellogg to construct a private dock on Town right-of-way, we recommend that the Town require Mr. Kellogg to sign an agreement requiring, at a minimum, the same restrictions and conditions as applied to the plaintiff property owners in the Lake Down Consent Final Judgment. In sum, the Consent Final Judgment requires the plaintiff property owners to:

- Maintain insurance which covers personal injury or property damage attributable or related to the dock in an amount not less than one million per occurrence, and provide a certificate of insurance to the Town.
- Construct and maintain the dock in a safe condition at all times.
- Post a sign on the dock no larger than 6x6 inches which reads "Private Dock".
- Indemnify, defend, and hold the Town harmless from all claims attributable to the private docks.
- Reimburse the Town for a portion of attorney's fees and costs incurred by the Town.



July 1, 2019  
Page 2

The Consent Final Judgment provides for placement and design requirements for the docks:

- All docks should be approximately the same shape, size and configuration.
- No docks may include a boat house, but they may include a cover or roof.
- No dock shall unreasonably extend in to the public right-of-way area.

ONE SQUARE  
Approx. 1/2

200'



CITY  
DOCK

NEW DOCK  
2-5x24



IRWIN'S  
DOCK



IRWIN'S RES

WATER LINE

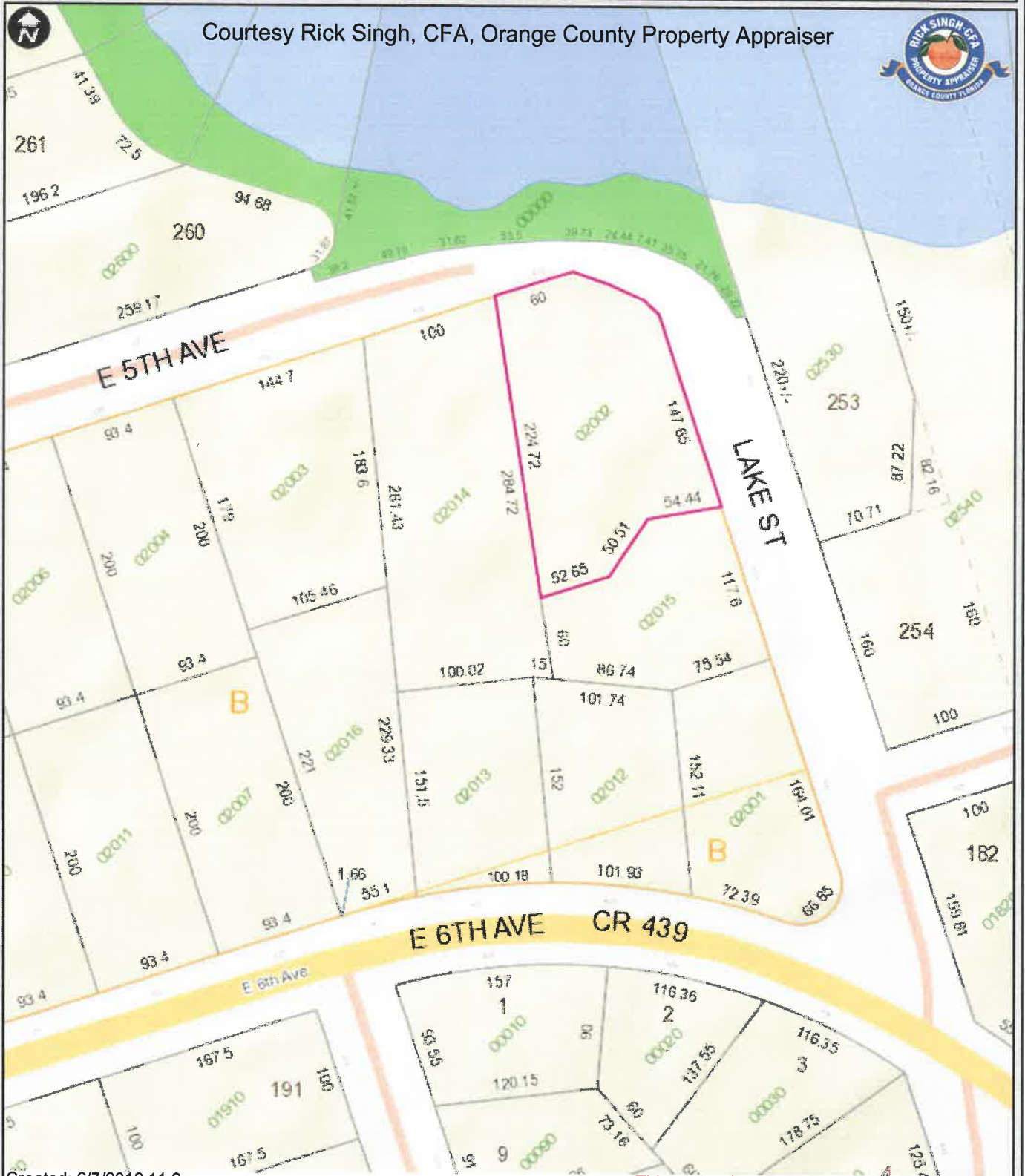
LAKE ST

DRIVEWAY

ESTIMATED

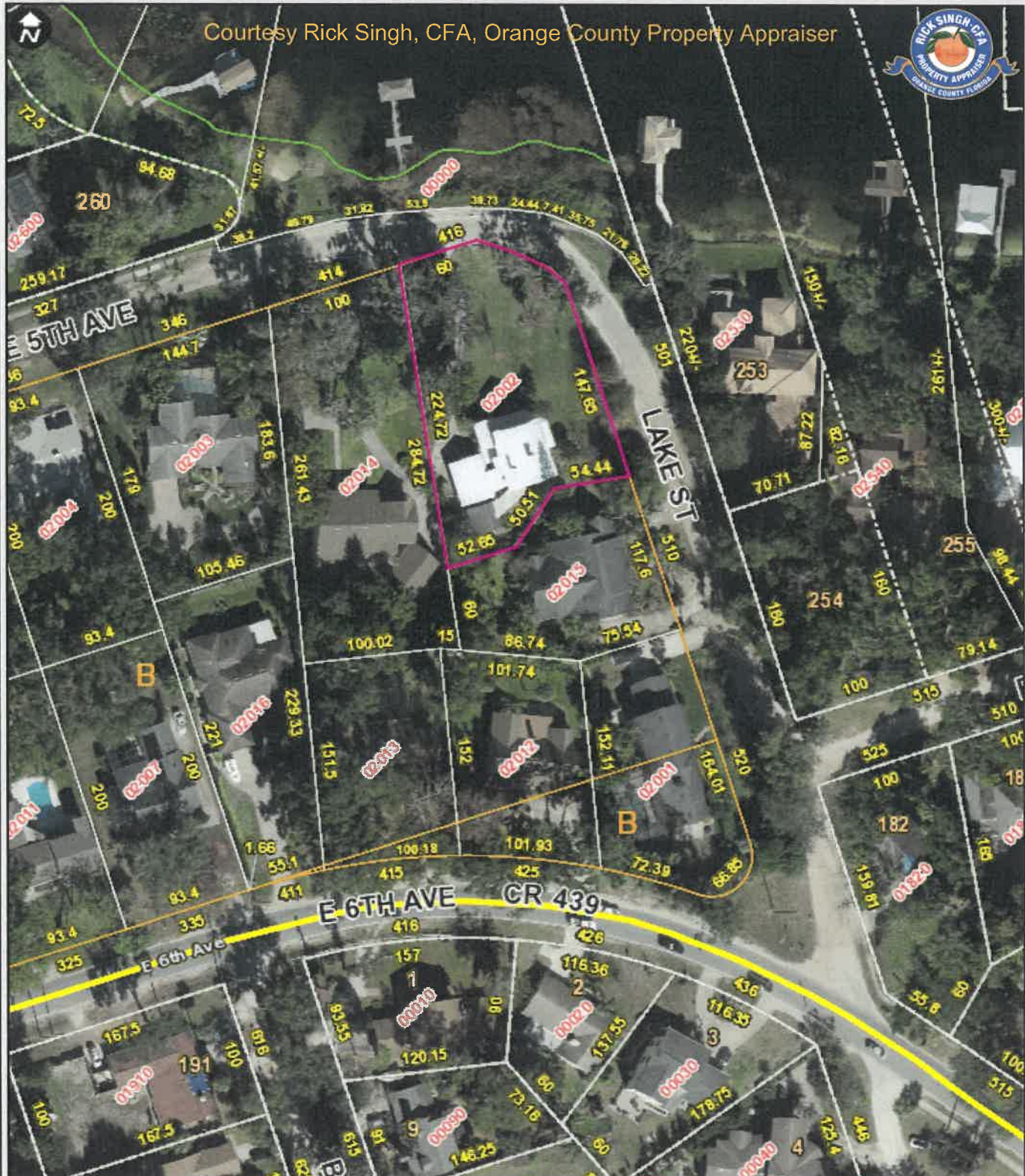
<b>OCPA Web Map</b>	Major Roads	Proposed Rise	Residential	Commercial/Industrial Vacant Land	Parks	<b>6</b> Lot Number
Florida Turnpike	Public Roads	Brick Road	Agriculture	Agricultural Curtilage	Lakes and Rivers	<b>06060</b> Parcel Number
Interstate 4	Gated Roads	Block Line	Commercial/Institutional	Hydro	Building	<b>3106</b> Parcel Address
Toll Road	Road Under Construction	Lot Line	Governmental/Institutional/Misc	Waste Land	<b>E</b> Block Number	<b>111.9</b> Parcel Dimensions

Courtesy Rick Singh, CFA, Orange County Property Appraiser



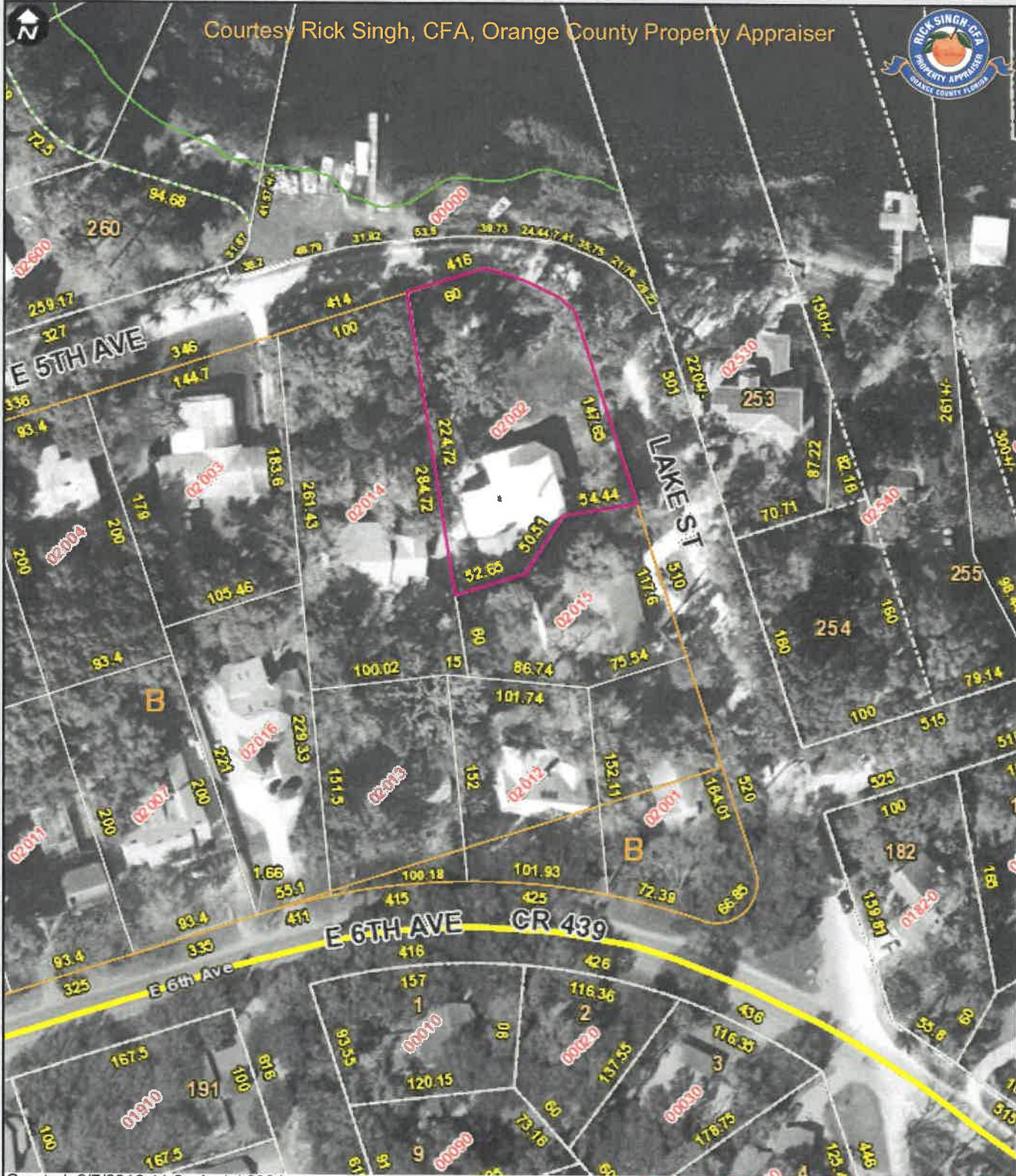
<b>OCPA Web Map</b>	Major Roads	Proposed Road	Residential	Commercial/Industrial	Parks	<b>6</b> Lot Number
Florida Turnpike	Public Roads	Brick Road	Agriculture	Vacant Land	Lakes and Rivers	<b>06060</b> Parcel Number
Interstate 4	Gated Roads	Block Line	Commercial/Institutional	Agricultural Curbside	Building	<b>3106</b> Parcel Address
Toll Road	Road Under Construction	Lot Line	Governmental/Institutional/Misc	Hydro	<b>E</b> Block Number	<b>111.9</b> Parcel Dimension
				Waste Land		

Courtesy Rick Singh, CFA, Orange County Property Appraiser



<b>OCPA Web Map</b>	Major Roads	Proposed Road	Residential	Commercial/Industrial/Vacant Land	Parks	<b>6</b> Lot Number
Florida Turnpike	Public Roads	Brick Road	Agriculture	Agricultural Curtilage	Lakes and Rivers	<b>06060</b> Parcel Number
Interstate 4	Gated Roads	Block Line	Commercial/Institutional	Hydro	Building	<b>3106</b> Parcel Address
Toll Road	Road Under Construction	Lot Line	Governmental/Institutional/Misc	Waste Land	<b>E</b> Block Number	<b>111.9</b> Parcel Dimension

Courtesy Rick Singh, CFA, Orange County Property Appraiser



Created: 6/7/2019 11:9 Aerial 2004

This map is for reference only and is not a survey

APR 03 2006

CH

IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT  
IN AND FOR ORANGE COUNTY, FLORIDA

FAITH FAIRBROTHER, SIMON  
FAIRBROTHER, JOHN E. HILSMAN,  
GUY H. HILSMAN, SARAH F. TYNDALL,  
KEENA RENE LEE, ARTHUR R.  
HURLEY, SUE S. HURLEY, JOHN ROOT  
and CAROL ROOT;

Plaintiffs,

vs.

TOWN OF WINDERMERE,

Defendant.



INSTR 20060225626  
OR BK 08573 PG 1393 PGS=38  
MARTHA D. HAYNIE, COMPTROLLER  
ORANGE COUNTY, FL  
04/07/2006 09:28:00 AM  
REC FEE 0.00

CASE NO: 04 CA 9065  
DIVISION: 39

CH

CONSENT FINAL JUDGMENT

THIS CAUSE comes before the Court on the Joint Stipulation and Motion for Entry of Consent Final Judgment filed by the Defendant, TOWN OF WINDERMERE, (hereinafter "TOWN"), and the Plaintiffs, FAITH FAIRBROTHER, SIMON FAIRBROTHER, JOHN E. HILSMAN, GUY H. HILSMAN, SARAH F. TYNDALL, KEENA RENE LEE, ARTHUR R. HURLEY, SUE S. HURLEY, JOHN ROOT and CAROL ROOT, (collectively, "PLAINTIFFS").

Having reviewed the Joint Stipulation and Motion for Entry of Consent Final Judgment and being fully advised in the premises, the parties' motion is hereby **GRANTED**. Accordingly, it is hereby **ORDERED AND ADJUDGED** as follows:

1. Pursuant to Count One of PLAINTIFFS' Second Amended Complaint for Declaratory Relief and the TOWN's Counterclaim for Declaratory Relief, the Court hereby **DECLARES** that:

- A. In 1921, The Windermere Improvement Company recorded a Re-Plat of the TOWN OF WINDERMERE labeled "PLAT OF WINDERMERE" in Plat Book G36-39 of the Public Records of Orange County, Florida, (hereafter "1921 Town Plat"), a true and correct copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.
- B. The face of the 1921 Town Plat shows a network of public right-of-ways and numbered interior, lakeview and lakefront lots with demarcated boundary lines.
- C. The 1921 Town Plat did not reserve any right, title, interest or reversionary rights in The Windermere Improvement Company (or its successors or assigns) in the land in the public right-of-ways shown on the face of the 1921 Town Plat.
- D. Upon recordation of the 1921 Town Plat in the public records of Orange County, Florida, the dedicator, The Windermere Improvement Company, divested itself of all right, title and interest in the land in the public right-of-ways shown on the Town's 1921 Plat.
- E. The recording of the 1921 Town Plat in the public records constituted an offer to dedicate to the public a right-of-way easement over all the land in all the right-of-ways shown in the 1921 Town Plat.
- F. The 1921 Town Plat dedicated to the public a right-of-way easement which runs along the shore of Lake Down from Fifth to Third Avenues, (hereafter "subject Public Right-of-Way"). PLAINTIFFS own lots located along the western border of the subject Public Right-of-Way between Third and Fifth Avenues.
- G. The face of the 1921 Town Plat marks the western borderline of subject Public Right-of-Way with a single line and precise radius measurements at the edges of PLAINTIFFS' lots, and marks the eastern borderline of the subject Public Right-of-Way at the shore of Lake Down with parallel, wavy lines.
- H. Under Florida law, by marking the eastern border of the subject Public Right-of-Way with parallel, wavy lines at the shoreline of Lake Down, the 1921 Town Plat dedicated to the public the riparian rights incident to the land under the subject Public Right-of-Way.
- I. The TOWN and public repeatedly accepted all offers of dedication under the 1921 Town Plat by formal acts and through actual use, including acceptance of the subject Public Right-of-Way and riparian rights incident thereto.

- J. The TOWN holds both a public right-of-way easement over all land in the subject Public Right-of-Way and the riparian rights on and in connection with the land in the subject Public Right-of-Way in trust for the use and enjoyment of all TOWN residents and members of the general public, subject to lawful regulation by the appropriate public bodies with jurisdiction to the extent permitted by this Final Judgment.
- K. The TOWN holds the exclusive riparian rights on the land in the subject Public Right-of-Way which abuts the ends of Third, Fourth and Fifth Avenues as shown on the Town's 1921 Plat to the full width of the rights-of-way over Third, Fourth and Fifth Avenues, (hereafter "Town's exclusive riparian rights"). The TOWN holds non-exclusive riparian rights on the land in the subject Public Right-of-Way located between the easterly edges of PLAINTIFFS' respective lots and Lake Down, (hereafter "Town's non-exclusive riparian rights").
- L. The Town's right-of-way easement rights over all land in the subject Public Right-of-Way, subject to lawful regulation by the appropriate public bodies with jurisdiction, are limited to the rights of:
- i. ingress and egress, including without limitation walking and jogging;
  - ii. maintenance;
  - iii. installation, operation, maintenance, of
    1. trails with surfaces of grass, organic ground cover or a "grass paving system" that provides sufficient load bearing and stability characteristics for travel by pedestrians and bikes (general examples of which are attached hereto as Exhibit "B");
    2. streets;
    3. utilities; and
    4. culverts, drains, sluices, ditches, water storage areas, berms, embankments, slopes and retaining walls.
- M. In addition to the Town's right-of-way easement rights set forth in paragraph 1(L), *supra*, the Town's exclusive riparian rights on the land in the subject Public Right-of-Way which abuts the ends of Third, Fourth and Fifth Avenues include, subject to lawful regulation by the appropriate public bodies with jurisdiction, the rights of:
- i. general use;
  - ii. maintenance;
  - iii. access to the waters of Lake Down;
  - iv. wharfing and docking;
  - v. boating;
  - vi. swimming;
  - vii. fishing;
  - viii. installation, operation, maintenance, use and enjoyment of all facilities and fixtures common to or useful for recreation, such as:



1. public docks (which may include covers or roofs), boat ramps and wharfing areas;
  2. swimming areas;
  3. benches;
  4. picnic tables;
  5. trash cans;
  6. swings;
  7. signage;
  8. vegetation; and
- ix. all other riparian rights defined by law.

N. Plaintiffs' hereby agree and acknowledge that the Town's exclusive riparian rights under this Final Judgment include all improvements to and uses of the land in Lake Down Park located at the intersection of Fifth Avenue and Lake Street. PLAINTIFFS hereby agree and acknowledge that the Town has a sufficient interest to maintain Lake Down Park at its current location. No park improvements shall be located on any of the Plaintiffs' platted lots. The Town may extend the dock at Lake Down Park up to an additional forty (40) feet into the water and may install a cover or roof on the dock.

O. In addition to the Town's right-of-way easement rights set forth in paragraph 1(L), *supra*, the Town's non-exclusive riparian rights on the land in the subject Public Right-of-Way located between the easterly edges of PLAINTIFFS' respective lots and Lake Down, subject to lawful regulation by the appropriate public bodies with jurisdiction, are limited to the rights of:

- i. swimming;
- ii. fishing; and
- iii. maintenance.

P. The Town's rights in the land in the subject Public Right-of-Way located between the easterly edges of PLAINTIFFS' respective lots and Lake Down and the Town's non-exclusive riparian rights do not include the rights to install benches, picnic tables, trash cans, swings, boat docks or boat launching facilities.

Q. In order to help maintain the peace and avoid trespasses on PLAINTIFFS' lots, PLAINTIFFS and the TOWN agree to work together in good faith to select and locate markers to be installed along the edges of the subject Public Right-of-Way abutting PLAINTIFFS' lots in order to provide reasonable notice to all persons using the land in the subject Public Right-of-Way of the location of PLAINTIFFS' property lines. The markers shall be of reasonable size and cost. Accordingly, PLAINTIFFS and the TOWN shall reach agreement on the form and location of the subject markers and the TOWN shall thereafter install the markers as soon as practicable, but

in no event later than sixty (60) days of the parties' agreement thereon. The Town hereby agrees and acknowledges that a PLAINTIFF'S payment for and installation of a one (1) to two (2) foot fence will satisfy the requirements of this paragraph.

- R. PLAINTIFFS hold deeds to lakeview lots contained in the 1921 "PLAT OF WINDERMERE," recorded in Plat Book G36-39 of the public records of Orange County, Florida. Specifically, PLAINTIFFS' hold deeds to lots contained in the Town's 1921 Plat with the following legal descriptions:
- i. "Lot 260, PLAT OF WINDERMERE, according to the Plat recorded in Plat Book G, pages 36 through 39, as recorded in the Public Records of Orange County, Florida; said land situate, lying and being in Orange County, Florida."
  - ii. "Lots 261 and 262 of Town of Windermere, according to the plat thereof as recorded in Plat Book "G", Page 36 of the Public Records of Orange County, Florida."
  - iii. "Lot 265, WINDERMERE, as per Plat thereof recorded in Plat Book G, Pages 36 through 39, Public Records of Orange County, Florida."
  - iv. "Lot 357, PLAT OF WINDERMERE, according to the plat thereof as recorded in Plat Book G, Page 36, of the Public Records of Orange County, Florida."
  - v. "Lot 358 of WINDERMERE as per plat thereof, according to Plat Book G, Page 36, Public Records of Orange County, Florida."; and
  - vi. "Lot 359, PLAT OF WINDERMERE, according to the plat thereof, recorded in Plat Book G, Pages 36 through 39, of the Public Records of Orange County, Florida."
- S. True and correct copies of PLAINTIFFS' deeds are attached hereto as Composite Exhibit "C" and incorporated herein by reference.
- T. PLAINTIFFS do not hold deeds that expressly convey to them any right, title or interest in the land in the subject Public Right-of-Way abutting their respective lots or the riparian rights incident to this land; however, based upon the unique facts and circumstances of this case, PLAINTIFFS hold the underlying fee simple interest in the discrete sections of land under the subject Public Right-of-Way located between the easterly edges of PLAINTIFFS' respective lots and Lake Down, plus non-exclusive riparian rights incident to this land, subject to the TOWN's rights therein, (PLAINTIFFS' non-exclusive riparian rights).
- U. PLAINTIFFS' non-exclusive riparian rights on the land in the subject Public Right-of-Way located between the easterly edges of PLAINTIFFS' respective lots and Lake Down, subject to lawful regulation by the appropriate public bodies with jurisdiction, are limited to the rights of:

- i. maintenance;
- ii. ingress and egress;
- iii. access to the waters of Lake Down;
- iv. docking;
- v. wharfing;
- vi. boating;
- vii. swimming;
- viii. fishing; and
- ix. the installation, maintenance, use and enjoyment of a single private dock (one dock per lot) on the shoreline of the discrete sections of land in the subject Public Right-of-Way abutting their respective lots, subject to the mandatory condition precedent that PLAINTIFFS properly apply for and receive all required permits for such docks, (hereafter "private docks"); and provided that:
  - 1. no part of any such private dock shall be located closer than twenty-five (25) feet from the edge of the rights-of-way over Third, Fourth and Fifth Avenues, including the parts of the dock located on the shoreline and the parts located in the water, which shall be determined by extending the edges of the rights-of-way into the waters of Lake Down by a straight line, then measuring the length of a perpendicular line from the right-of-way line to the closest point on the dock;
  - 2. the private dock currently located on the portion of the subject Public Right-of-Way abutting PLAINTIFF FAIRBROTHERS' lot (Lot 359) shall remain in its current location and shall not be moved any closer to the edge of the right-of-way over Third Avenue; if this dock is ever torn down and replaced, then the replacement dock shall fully comply with the terms of this Final Judgment;
  - 3. all private docks shall be approximately the same shape, size and configuration as the dock currently located on the portion of the subject Public Right-of-Way abutting PLAINTIFF FAIRBROTHERS' lot (Lot 359), plus handrails as reasonably required for handicap access. Attached hereto as Exhibit "D" are true and correct drawings detailing the dimensions of the Fairbrothers' dock. As for the length of the private docks, if necessary and properly permitted, the docks may be extended in length to reach the water depth reasonably necessary for boat use;
  - 4. no private dock shall include a boat house, but the docks may include a cover or roof that does not unreasonably block the public's view of the water;
  - 5. no private dock shall unreasonably extend into the subject Public Right of Way, and in no event shall a private dock extend more than four (4) feet into the land in the subject Public Right of Way measured from the current high-water

mark on the shore of Lake Down. In addition, no part of any private dock shall be located closer than four (4) feet to the easterly property line of PLAINTIFFS' subject lots; and

6. the owner of the private dock shall at all times comply with the requirements of paragraph 1(W), *infra*.
- V. In reviewing all dock applications submitted by any PLAINTIFF (or their successors in interest), the TOWN shall apply the same standards used by the TOWN in evaluating, approving with conditions, or denying dock applications by other TOWN residents. All dock applications submitted by PLAINTIFFS (or their successors in interest) shall comply with all applicable terms of this Final Judgment.
- W. In the event that a PLAINTIFF properly applies for and receives all required permits for the installation of a private dock, then that PLAINTIFF and their successors in interest shall:
- i. Obtain and maintain in force at all times a liability insurance contract that:
    1. provides insurance coverage for all occurrences in any way related to the dock, including without limitation all claims arising out of any personal injury (including death) or any damage to or loss of property which is in any manner based upon, occasioned by, attributable to or related to the dock;
    2. expressly names the TOWN as an additional insured;
    3. provides insurance coverage in an amount not less than \$1,000,000.00 per occurrence, which amount shall be subject to annual review and increase at the Town's sole discretion at the first regularly scheduled Town Council Meeting each year, subject to a maximum increase of 5% each calendar year hereafter;
  - ii. Deliver to the Town Clerk a true and correct copy of the Declaration Page for the insurance contract referenced in paragraph, 1(W)(i), *supra*, prior to the start of construction of the dock and within thirty (30) days after all subsequent renewals of the insurance contract; If owner fails to provide proof of insurance, Town shall provide a written thirty (30) day notice to owner to comply.
  - iii. Construct and maintain the dock in a reasonable and safe condition at all times; and
  - iv. Post a sign on the dock no larger than 6 inches by 6 inches which reads "Private Dock."
- X. In the event that a PLAINTIFF (and their successors in interest) properly applies for and receives all required permits for the installation of a private dock, then that PLAINTIFF (and their successors in interest) shall indemnify and defend the Town from and against all losses, liabilities, claims or demands of whatever nature (including without limitation all

costs, expenses and attorneys' fees), arising out of any personal injury (including death) or any damage to or loss of property which is in any manner based upon, occasioned by, attributable to or related to their private dock.

- Y. PLAINTIFFS shall not use or exercise their non-exclusive riparian rights in any manner that unreasonably impedes, interferes with, or burdens the Town or the public in their use and enjoyment of their right-of-way easement rights and exclusive and non-exclusive riparian rights incident thereto.
- Z. In the event the TOWN, by motion and vote of its Town Council, ever legally and affirmatively vacates the dedication of the subject Public Right-of-Way and riparian rights in compliance with Florida law, PLAINTIFFS (or their successors in interest) shall become vested with fee simple title to the portion of the subject Public Right-of Way abutting their respective lots, from thereon unburdened by the TOWN's paramount easement, unless and to the extent the TOWN at that time qualifies or conditions its vacation of the dedication by reserving and retaining portions of its rights and interest in the subject Public Right-of Way or riparian rights.
  - AA. This Final Judgment shall be recorded in the public records of Orange County, Florida. All terms of this Final Judgment shall run with title to PLAINTIFFS' lots (more particularly described in Section 1(R), *supra*), and are thus fully binding on PLAINTIFFS, their successors in interest, assigns, and all other parties or persons claiming by, through, or under any of them. PLAINTIFFS and their successors in interest shall provide a copy of this Final Judgment to their successors in interest prior to transferring any ownership interest in their respective lots and this Final Judgment shall be expressly incorporated into all future deeds of conveyance of any interest in PLAINTIFFS' respective lots.
  - BB. Within thirty (30) days of the Court's entry of this Consent Final Judgment, PLAINTIFFS shall deliver to the Town Clerk a total payment in the amount of \$25,000.00 made payable to "The Town of Windermere, Florida," to reimburse the Town for a portion of its attorneys' fees and costs in this matter.
  - CC. The covenants and restrictions created or granted herein shall be enforceable by the intended beneficiary by injunction, by specific performance, or as otherwise permitted at law or equity. The prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party.

DD. This Final Judgment shall only apply to the land in the subject Public Right-of-Way and have no precedential value in any other cases involving any other rights-of-way located in the Town.

- 2) The Court hereby DISMISSES WITH PREJUDICE all remaining claims in PLAINTIFFS' Second Amended Complaint;
- 3) The Court hereby DISMISSES WITH PREJUDICE all remaining claims in the Defendant TOWN's Counterclaim;
- 4) The parties shall go hence without day;
- 5) The Court reserves jurisdiction to enforce the terms of this Final Judgment; and
- 6) The Clerk of Court shall close the case.

DONE AND ORDERED in Orlando, Florida, this <sup>23</sup> day of March, 2006.

  
Cynthia Z. MacKinnon  
Circuit Judge

Copies to all Counsel of Record



THE MARSH SUB 12.4 AC. 6.38  
 Div. 2/1/1923  
 21: LANE DUFUR BARN  
 22: 2/22/1927 7  
 23: WINDERMERE REPLAT 54  
 24: 1/29/1935 9  
 25: 10/27/1913 EMBREY, MISSISS.

# PLAT OF WINDERMERE

Elizabeth Marsh Trustee  
 A.W. Bumbly  
 W.W. Jones  
 E.C. Palmer  
 M.L. Williams  
 M.E. Daly  
 Kate Palmer  
 Agnes Geier  
 May C. Hill  
 Frank A. Rigby  
 Thos. Woodhill  
 A.H. Stafford

THE WINDERMERE IMPROVEMENT COMPANY A CORPORATION  
 By E.M. JOHNSON PRESIDENT  
 EMBE WINDERMERE CLUB COMPANY A CORPORATION  
 By G.S. HILL PRESIDENT

THE WINDERMERE IMPROVEMENT COMPANY A CORPORATION  
 By E.M. JOHNSON PRESIDENT  
 EMBE WINDERMERE CLUB COMPANY A CORPORATION  
 By G.S. HILL PRESIDENT

- |                         |             |                |                   |                 |                |                 |                  |                  |
|-------------------------|-------------|----------------|-------------------|-----------------|----------------|-----------------|------------------|------------------|
| Elizabeth Marsh Trustee | W.W. Jones  | Kate Palmer    | John L. Ries      | G.C. Daniels    | L.M. Chambers  | John Selt Jr    | W.F. Manslow     | Miss A. Thompson |
| A.W. Bumbly             | E.C. Palmer | Agnes Geier    | W.M. Wallace      | James A. Carron | Joseph King    | W. Terryberry   | Miss E. Brownson | Julia Reed       |
| M.L. Williams           | M.E. Daly   | Frank A. Rigby | Franklin A. Rigby | E.L. Wallace    | W.A. Kennedy   | Robert L. White | Robert L. White  | J.P. Rathburn    |
| M.E. Daly               | Kate Palmer | Agnes Geier    | May C. Hill       | Frank A. Rigby  | Thos. Woodhill | A.H. Stafford   | C.F. Steiner     | Louise Campbell  |
|                         |             |                |                   |                 |                |                 | P.H. Sawyer      | Miss A. Thompson |

The foregoing plat was filed in my office on this 11th day of Jan. 10, 1928. My commission expires March 8, 1928.

State of Ohio  
 County of Cuyahoga  
 Survey made by me upon the ground and that the said survey and this map are correct

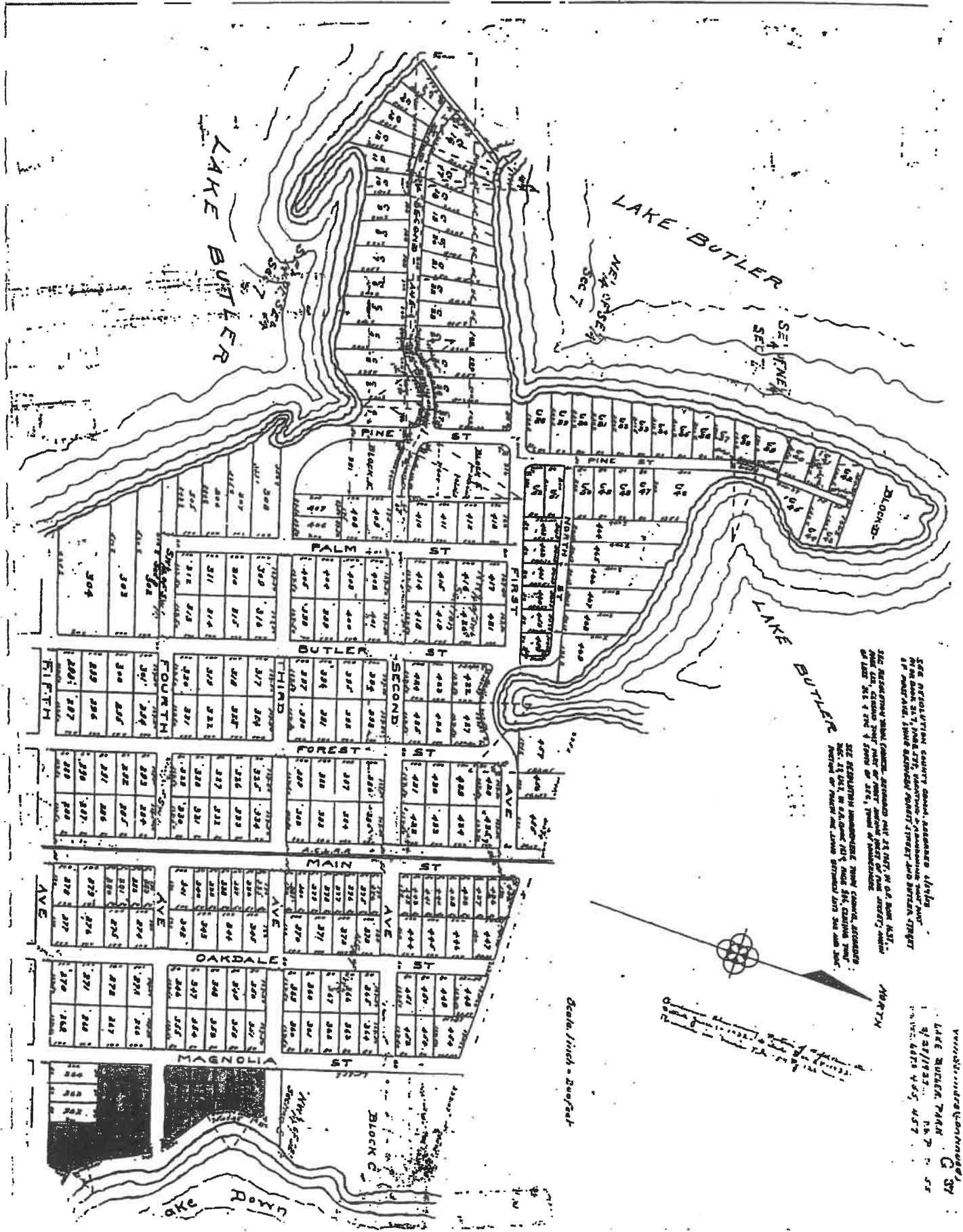
The foregoing certificate was made and signed in my presence and is attested by me this 30th day of September 1920  
 My commission Expires Nov 28, 1921

Notarial Seal  
 M. R. Thomas  
 Notary Public

Filed in office and recorded this 18th day of January 1928  
 JAMES H. ...  
 ...







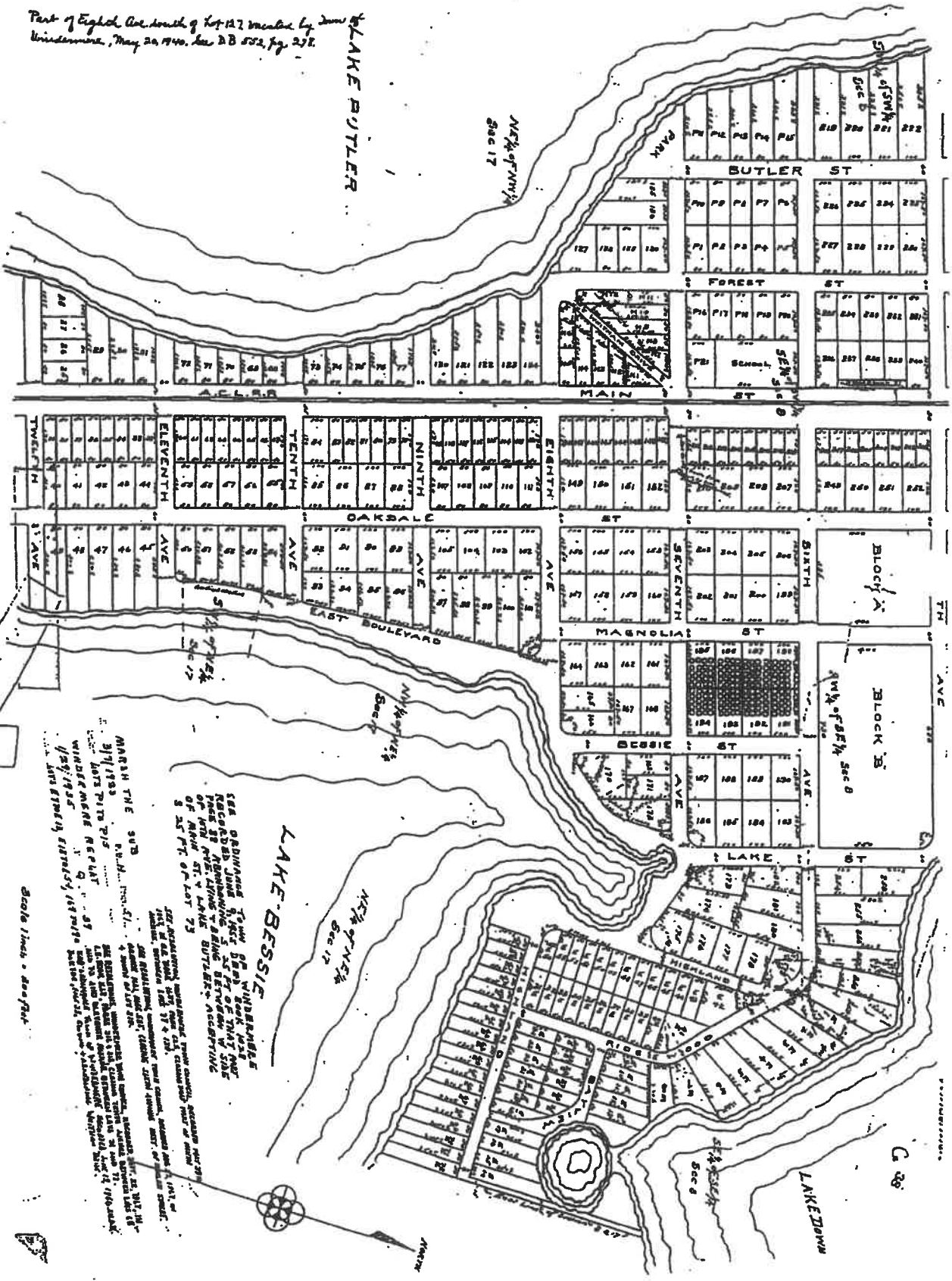
SEE RESOLUTION COUNTY BOARD RESOLUTION 14814  
 IN ORDER TO 17, 1984, THE COUNTY BOARD HAS APPROVED THE  
 OF THE LOTS, 1984 RESOLUTION BOARD ORDER AND BUTLER TRACT  
 SEE RESOLUTION COUNTY BOARD RESOLUTION 14814, IN ORDER TO 17, 1984,  
 OF THE LOTS, 1984 RESOLUTION BOARD ORDER AND BUTLER TRACT  
 SEE RESOLUTION COUNTY BOARD RESOLUTION 14814, IN ORDER TO 17, 1984,  
 OF THE LOTS, 1984 RESOLUTION BOARD ORDER AND BUTLER TRACT

WINDYBROOK (Lennor) ST  
 LAKE BUTLER TRACT, C 57  
 4/11/83, P. 55  
 11/11/83, P. 57

Part of Eighth Ave. South of Lot 127 created by  
 Windermere, May 20, 1940, see DB 552, pg. 232.

BLAKE BUTLER

NE 1/4 of NW 1/4  
 Sec 17



SEE ORDINANCE TOWN OF WINDERMERE  
 RECORDS DIVISION FILED IN THE  
 RECORDS DIVISION, AND THAT THE  
 PART OF EIGHTH AVENUE SOUTH OF  
 LOT 127, AND LOT 128, AND LOT 129,  
 OF RANGE 17, T. 12 N., R. 10 W.,  
 OF RANGE 17, T. 12 N., R. 10 W.,  
 IS 25 FT. OF LOT 75

WINDERMERE TOWN OF WINDERMERE  
 RECORDS DIVISION FILED IN THE  
 RECORDS DIVISION, AND THAT THE  
 PART OF EIGHTH AVENUE SOUTH OF  
 LOT 127, AND LOT 128, AND LOT 129,  
 OF RANGE 17, T. 12 N., R. 10 W.,  
 IS 25 FT. OF LOT 75

Scale: 1 inch = 400 feet



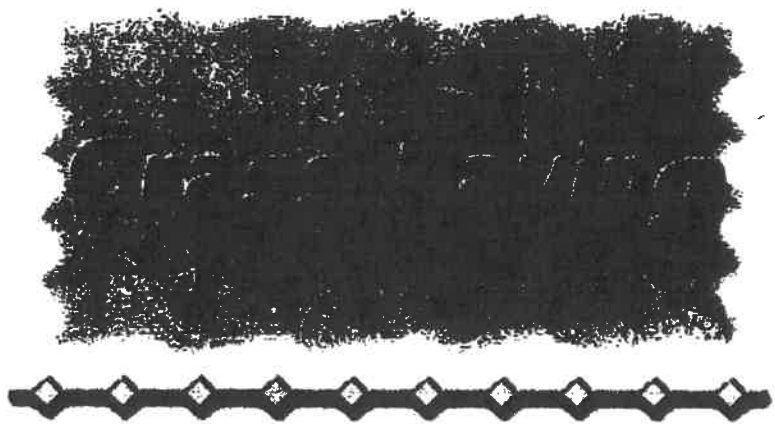
search  
Go!

# Reinforced Grass Paving

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- [Hopsack Paving](#)
- [Spaced Paving](#)
- [Cellular Paving](#)
- [Reinforced Turf](#)
- [Mesh Protected](#)
- [Seed Mixes](#)



**Related Pages**

- [Cellular Paving](#)
- [Bark](#)
- [Deco Garden Paths](#)
- [Gravel/Hoggin](#)
- [Geo-sheets](#)
- [Membranes](#)
- [Links to Suppliers](#)

## Introduction

There are a number of fairly common techniques available that allow grass to be incorporated into a pavement to provide 'the best of both worlds', ie, the appearance of grass but the load bearing capability of a well-constructed pavement or driveway. They can be utilised in those areas where the hard permanence of a typical pavement might be undesirable, such as in conservation areas, roadside verges, emergency services access, canal towpaths, farm tracks or rural settings, and they are also used for erosion control in some situations, although the specification and type of system(s) used can be completely different to that outlined below.

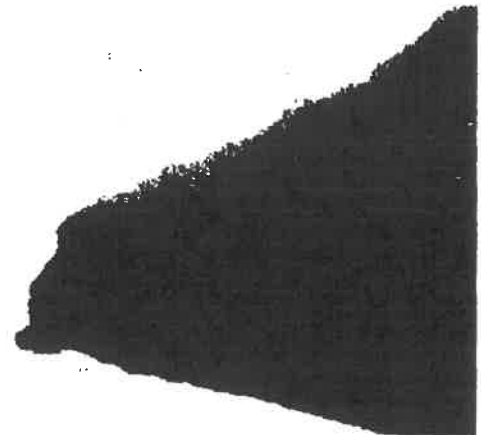
Different proprietary systems provide varying ratios of hard-pavement to grass, and the best system for any given project will need to take into account these differences. Some systems can only be installed by specialists contractors, while others can be installed by competent workmen or even diy-ers. It should also be noted that special grasses ought to be selected for planting the various systems, as most ordinary seed mixtures are unlikely to be sufficiently hard-wearing to withstand being trafficked. A few suggested seed mixtures are given further down the page.

The 5 techniques considered on this page are:-

- i. [Hopsack Paving](#)
- ii. [Spaced Paving](#)
- iii. [Cellular Paving](#)
- iv. [Reinforced Turf](#)
- v. [Mesh Protected Turf](#)

whether it will ever be developed and promoted to the sports industry or the general public remains to be seen. This system ensures 100% grass coverage, and the usual maintenance, such as feeding and mowing, will need to be undertaken on a regular basis. The life-time of this system is an unknown quantity at the time of writing, but should be good for 10 years.

There are also reinforced turfs developed specifically for erosion control, rather than trafficking, and are beyond the remit of this site. However, Some of the manufacturers listed on the [links](#) page also supply these 'erosion control mats', and their technical departments will be more than happy to help you with your queries.

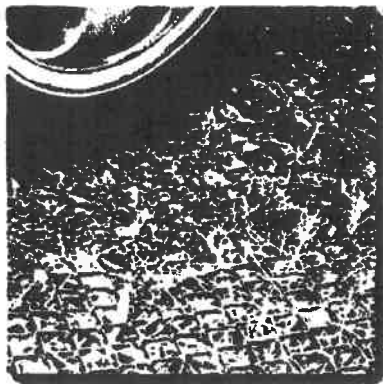


Tensar Mat® by Tensar International



## Mesh Protected Turf

This system is becoming quite popular with those responsible for overspill car-parking and pedestrian usage at occasional events, with groundsmen looking after areas of lawn, and with caravan/leisure parks, where the natural appearance of grass with the load-carrying ability of a pavement, all at a minimal cost and with little or no construction work required, is very appealing.



Turf Protection Mesh  
by Tenax Ltd.

The basic premise is that a tough polypropylene or HDPE mesh is laid over an area of turf or grass, and this allows foot-traffic, low-speed cars and vans to use the area without completely ruining the grass. The mesh may need to be anchored to the ground at regular intervals by means of ground pegs, to prevent slippage and to help disperse the loads. The mesh works to protect the grass roots from being damage, to minimise 'pumping' of wet ground, and to avoid rutting of soft spots.

The soil type, the type of grass/turf cover and the level of protection required will determine the best mesh to choose for each application, and the better manufacturers have dedicated technical teams to help in identifying the best solution.

For lawned areas, the mesh is simply rolled out over the close-cropped turf, with adjacent rolls overlapping by 150-300mm, and anchored with ground pegs. Any dips, hollows, soft-spots etc, should be levelled out with grit sand or top soil before placing the mesh. Once laid, they can be left in-situ for the season, or even permanently, as most commercial mowers will ride over the

» Presto GeoRunner



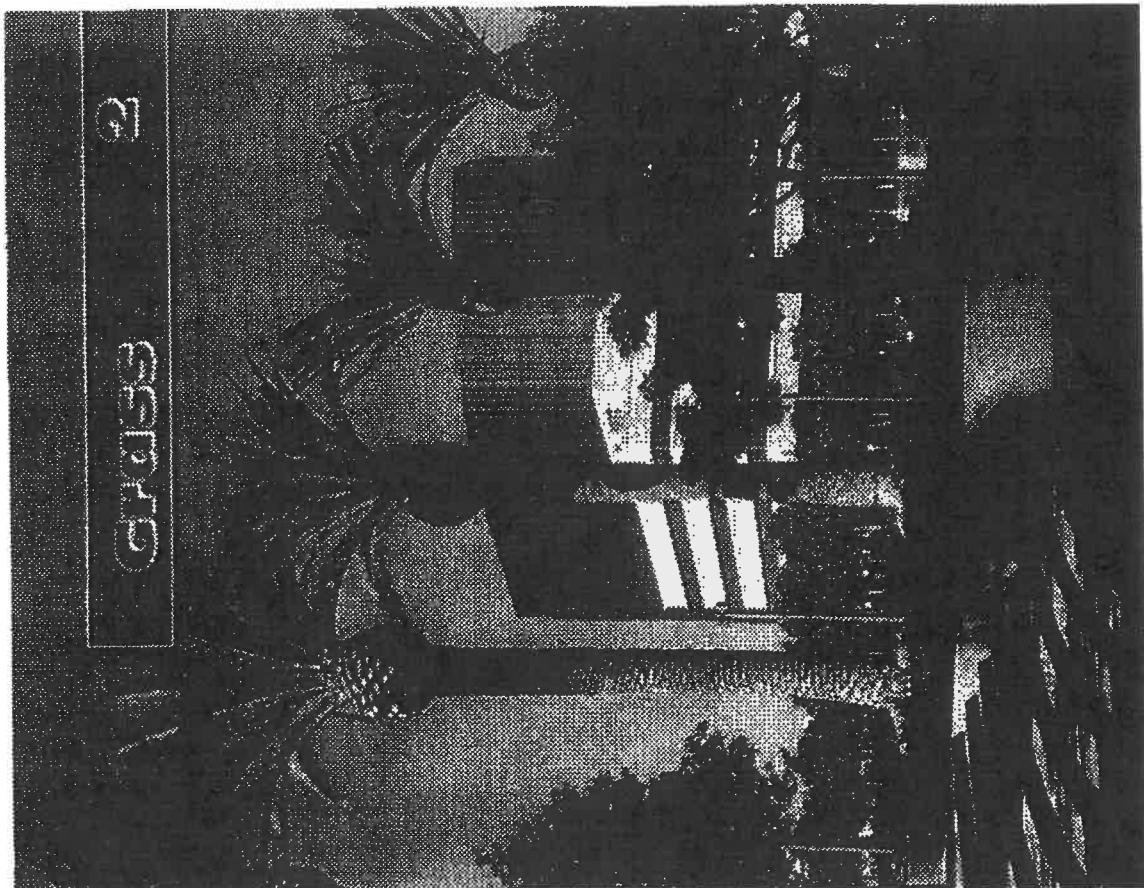
A plastic open-mesh flexible access system for pedestrian or wheelchair access. The plastic units weigh 8 lbs. and are approx. 2 ft x 4 ft. x ½ in.  
**Approx. Price:** \$1.75 per sq. ft.

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» Vendor Information

Presto Products Company  
670 North Perkins Street  
Appleton, WI, 54912-2399  
Toll Free: (800) 548-3424  
Fax: (920) 738-1118  
<http://www.prestogeo.com>

[Back to Top](#)



### New Headquarters

Just immediately south of the new Denver International Airport before you reach Interstate 70 you'll find our Irrevocable Structures, Inc. corporate headquarters and manufacturing facility off Tower Road in the Majestic Commerce Center.

When you enter in Colorado, plan to stop and visit with us, visit our facility and enjoy the panoramic views of the spectacular Rocky Mountains. We'll make sure you have the latest information on any of our growing line of products, including Grasspave<sup>2</sup> for grass paving, Grasspave<sup>2</sup> for porous gravel paving, Shapavene<sup>2</sup> for self substitution on slopes, Drainsons<sup>2</sup> for subsurface water collection and movement, and Rainwater<sup>2</sup> for underground water storage. Prearranged tours are available to designers and contractors who use our products and give us job information.

### Work With Professionals

Since one of our company's founders is a licensed Landscape Architect, we immediately saw the value of being able to "talk shop" with designers. For our entire corporate history (since 1982) we have focused on hiring sales staff with professional design and contracting experience. You will get straight answers

and current technology solutions to your specific design problems from design professionals with construction experience.

### Fast Friendly Service

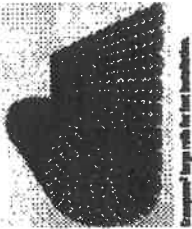
We realize that you are tight for time in designing a project or in constructing one. We provide instant response with fast-track information, product quotes, installation cost estimates, best shipping routes, access to the internet, high-quality brochures, and our CD-ROM with AutoCAD construction details and graphics.

### Grasspave<sup>2</sup> Early Years

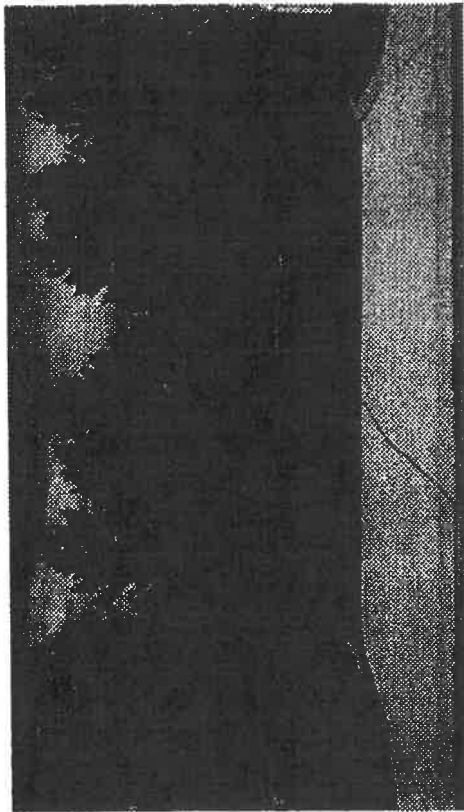
In 1982 our first grass paving system was called Rutschup and was composed of 3" PVC white rings glued into bedding and laid in 4' x 20' mats. It was the start of a business-to-business approach. In 1988 we began marketing 3" black recycled HDPE plastic rings and still glued them onto bedding. This roll format made installation very easy for contractors and still is the single most distinguishing feature setting us apart from all modular pavers.

### Major Influence

In 1991 Grasspave<sup>2</sup> (Grasspave<sup>2</sup>) was introduced as a half-meter by half-meter square of rigid 2" black recycled HDPE plastic

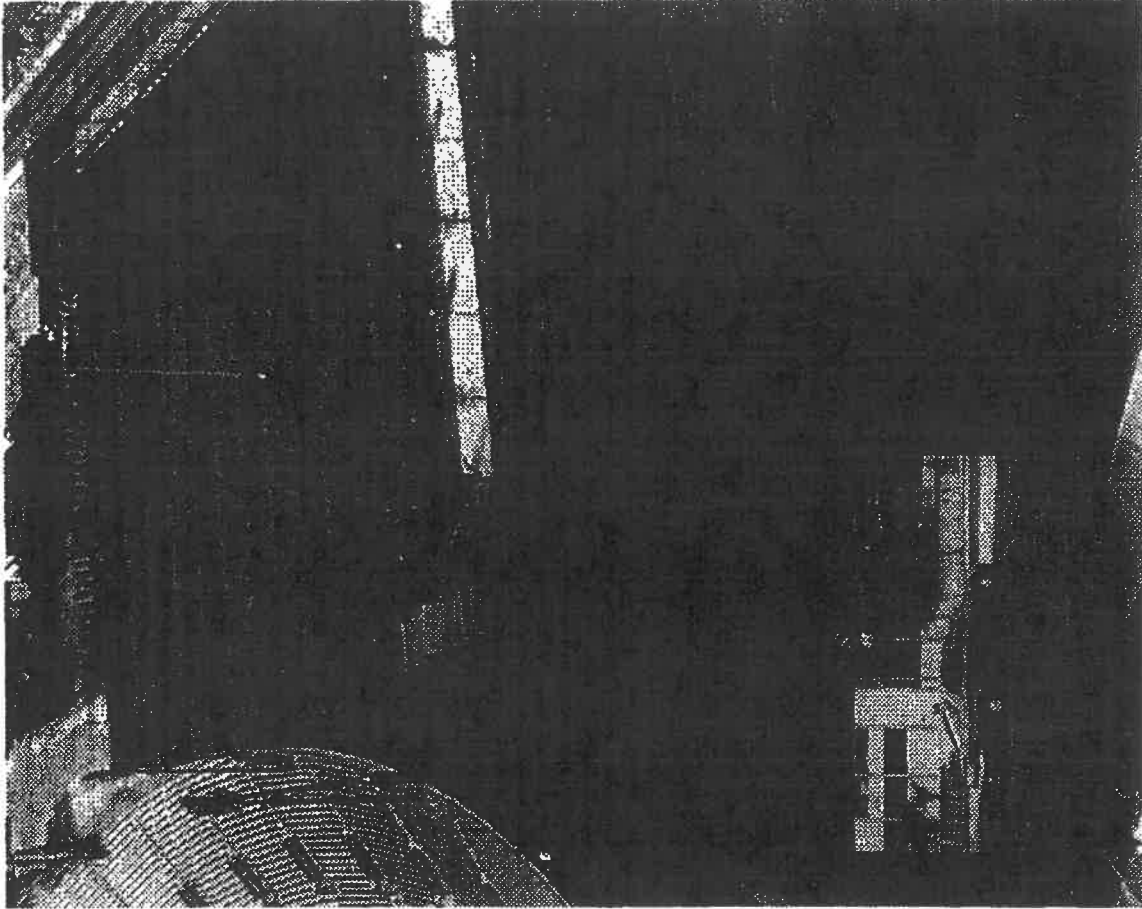


Grasspave<sup>2</sup> large with fast installation.



Coltshead, Denver, CO — Yield paving in the bed of a safety canal.

Casey photo: Bill Conner, Irvine, CA — Florida



**Fast Installation Time**  
 Our rolls can be placed and rolled out in minimal time — approximately 300 square meters (3,000 sq ft) per person-hour on larger size jobs, and 150-250 sq m (1,500-2,500 sq ft) per person-hour on smaller jobs. The overall installation of base, Hydrogrow, Grasspave® rolls, sand fill, and seed or sod is 100 sq m (1,000 sq ft) in one hour by two workers.

**Cutting Rolls**  
 Cutting is done with pruning shears. Shapes around all site provisions including apron-like beds, curbing, borders, and adjacent hard paving. Many designs are still using 4-foot increments of 4 feet which is right between our one meter (3.3') and our 1.5 meter (4.9'). To solve this, simply cut our 2.5 meter piece down the middle to achieve a 1.25' width. Don't throw away pieces because they can be used for small areas. Very little product is wasted!

**Free Hydrogrow Mix with Grasspave?**  
 Our turf reinforcement system is unique in that we provide free of charge, a soil amendment called Hydrogrow, which is designed to help grass grow in sand based root zones. We custom blend Hydrogrow, which is a mixture of zeolite, humate, polymer, and porous ceramic. The results are amazing and our Grasspave® areas often look healthier than surrounding turf. By using this special mixture in the sand, porosity will be maintained, turf will be attractive, and aeration will not be necessary.

**Large Roll Sizes**  
 In 1988 a site foreman from Valley Creek Landscaping contacted us on how he preferred our 1' x 20' rolls to the meter squares. He claimed that the rolls out down the installation time remarkably and were easier to handle. We took his advice and started pre-assembling the meter squares into several roll sizes which have been extremely popular with both contractors and homeowners.

The rolls interlock with peg/hole connections. Once fastened together, they will act as one continuous piece. Other pavement reinforcement systems are glued together and react in a stiff or rigid manner leading to cracking, warping or heaving at the surface. We use model numbers that coincide with metric measurements. A chart of roll sizes can be found in the centerfold. Model 1010 is one meter wide (3.3') by 10 meters long (32.8'). Model 1020 is 20 meters long. Model 1520 is 1.5 meters wide (4.9'). Model 2020 is two meters wide. Model 2520 is 2.5 meters wide (8.2') by 20 meters long (65.6'). Our largest roll, Model 2550, is available for parking lot projects on adverse slopes. Each roll covers 125 square meters (1,346 sq ft).

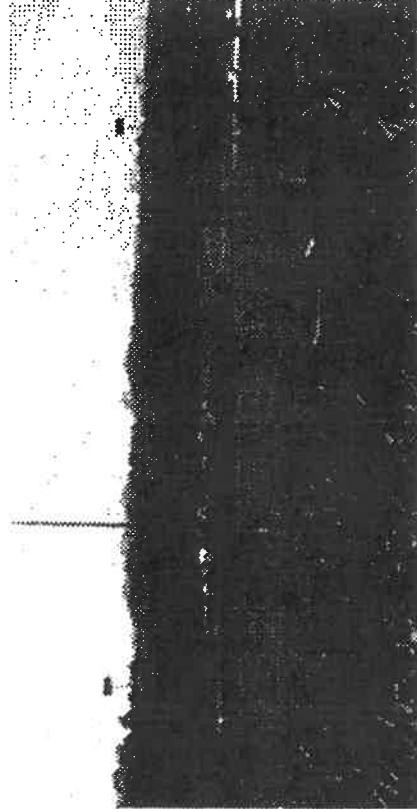
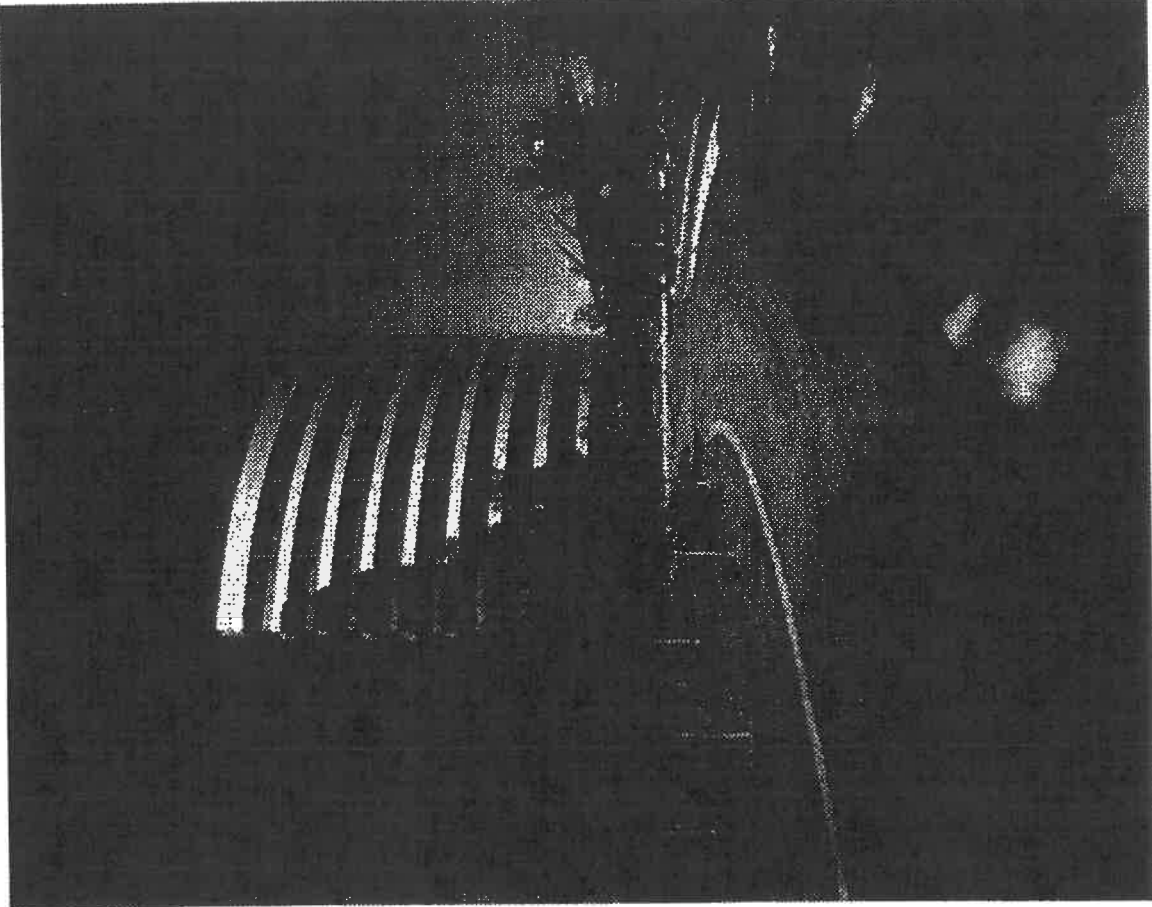


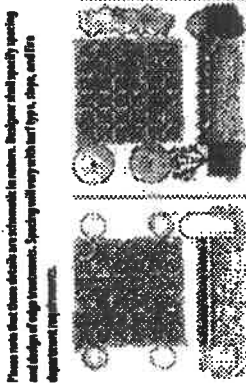
Photo from Mark, West Hartford, CT — Shaping a new parking lot for a new office on a steep slope and along a highway. The area is planned to be a lot.



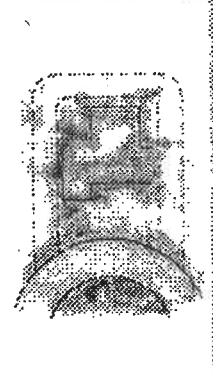


Visit our web site for updated news on this application of Grasspave<sup>®</sup>. You will also find our CD-ROM disk helpful when designing firehouses. Electronic specifications are included as well as CAD drawings similar to the ones shown here. Strength is required in the base course design to hold up these heavy vehicles. Primarily what would be used under asphalt paving is similar to that required under Grasspave<sup>®</sup>. Design vertical containers in accordance with long arch spacing. Submit your plans to your applicable fire department to obtain approval. We can assist with

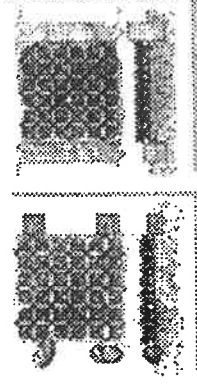
5. **Firehouses**  
 Our long and well established history of providing safe, well constructed firehouses began in 1962 with our first job in Snowmass, Colorado, near Aspen Ski Resort. Since then we have firmly established our expertise in this area with work having been done by several fire departments, beginning right here in Aurora, Colorado. See the Lab Construction Test Results on Page 7. An Irving, CA, Fire Department test can be seen on Page 11.



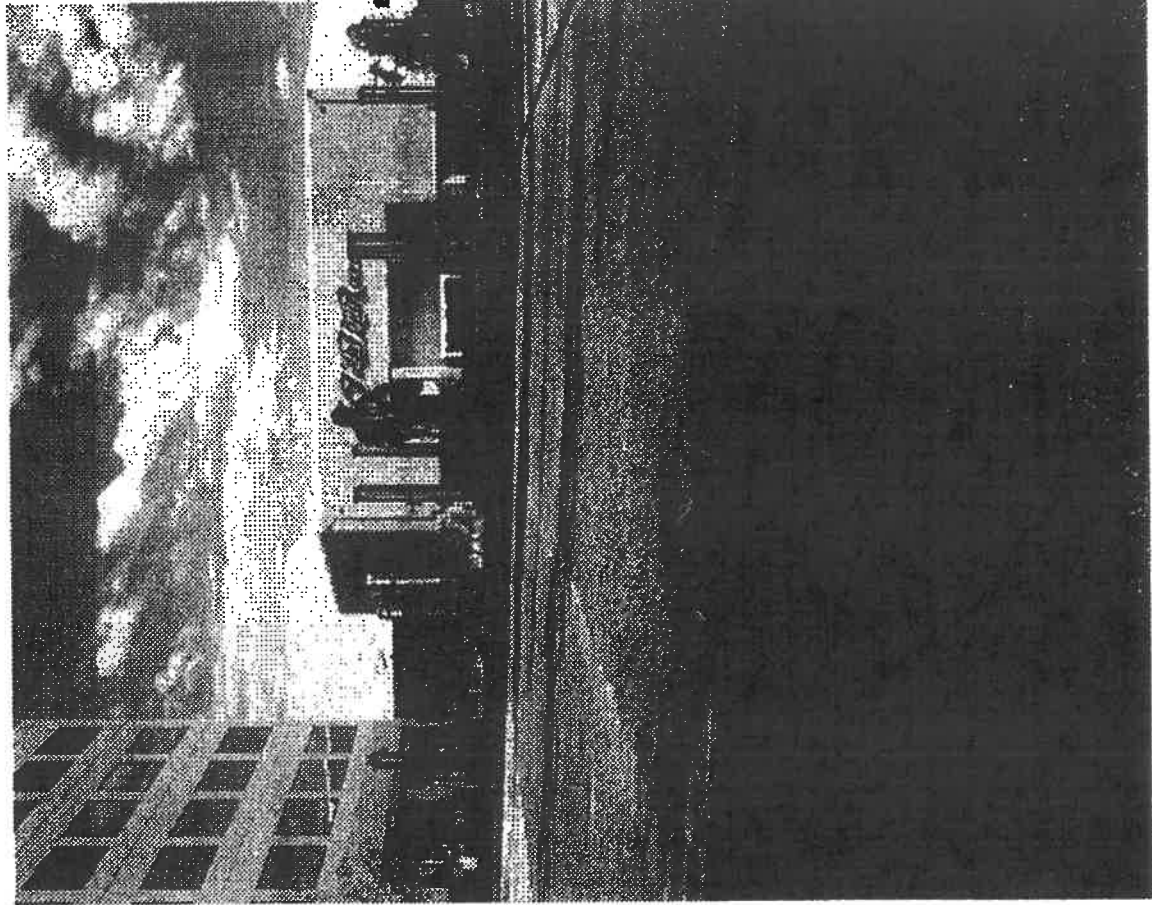
See how essential drainage might be. Slope runs on left and ground rises on right. Note the compacted carry gravel road base under Grasspave<sup>®</sup>.



Firehouse exterior buildings is all treated with any of these eight treatments.



Flashed concrete curb shows on left and 6"-8" finished curbs on left and present concrete curb on right.



**Strength When Installed**  
 5,700 pounds per square inch (psi) can be cured in non-filled rings without deflection or compromise to safety, when resting upon a base course (thick enough and compacted to 85% Proctor). The ring fits in the strongest shape for grass parking in that it has no weak corners. Supporting heavy loads with the rings allows us to use less joints in the product, hence a 92% void area for most applications, combined with unbelievable strength! Less joints means lower cost to you.

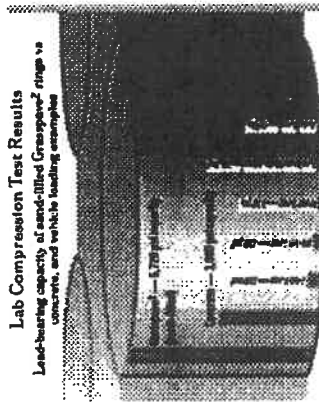
**120 psi Maximum on Public Highways!**  
 Even empty, Grasspave® will support 2,100 psi (14,470 kPa) — well over the 120 psi highway truck tire pressure allowed on public highways. This is a safety factor increase from 17x in 47s. The heavier a vehicle, the more solid and true it needs to support the load being carried. Grasspave® will meet and exceed all loading criteria.

**Water Runoff Concerns**  
 Park on grass! It will be affordable as compared to asphalt and will provide the porosity necessary for storm water collection, which is a major concern in many communities. Deposition basins, manholes, and underground piping will not be necessary in most situations. Also many existing trees can be saved, and new trees planted to further assist in reducing runoff. Please refer to our runoff chart for coefficients on various soil types. You'll see that Grasspave® with sand fill can totally absorb up to 5" of rainfall in a 24-hour period and filtration accumulation up to 12" in a 24-hour period. The runoff for asphalt is 85% for any amount.

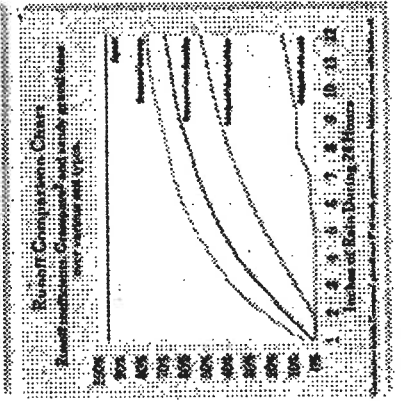
**Base Strength is Critical**  
 All grass parking underdrain structures are designed for two primary functions — transfer loads through the walls of the product to prevent compaction, and provide small cellular confinement areas for optimal growth, stability, and protection of the grass root zone. A rigid base below all grass parking products is required to receive and spread loads that are transferred through the structure. Some load spreading exists on the bottom of our products, but should not be factored into design calculations. The upper layer of pavement cross-sections, whether asphalt or grass, is appropriately called the "bearing stratum" and functions to transfer loads to the base course.

**Water Runoff Concerns**  
 Park on grass! It will be affordable as compared to asphalt and will provide the porosity necessary for storm water collection, which is a major concern in many communities. Deposition basins, manholes, and underground piping will not be necessary in most situations. Also many existing trees can be saved, and new trees planted to further assist in reducing runoff. Please refer to our runoff chart for coefficients on various soil types. You'll see that Grasspave® with sand fill can totally absorb up to 5" of rainfall in a 24-hour period and filtration accumulation up to 12" in a 24-hour period. The runoff for asphalt is 85% for any amount.

**Drainage of Base**  
 Be careful not to create a bath tub effect. If subsides are necessary, install Drainpave® underground drainage mats to move water away. Having a sandy gravel base directly beneath Grasspave®



**Lab Compression Test Results**  
 Load-bearing capacity of sand-filled Grasspave® rings vs concrete, and vehicle loading examples

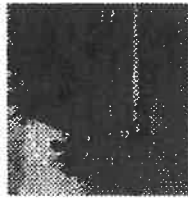


**Vehicle Loading Examples:**  
 Auto tires: 40 psi  
 Truck tires: 110 psi  
 DC-10 tires: 250 psi  
 F-16 tires: 350 psi  
 Flat truck with outriggers: 81 psi (70,000 lb. truck distributed on four outrigger pads = 17,500 lbs. each with 12' x 18' surface contact with Grasspave®).  
 All these vehicles are well within our 5,700 psi loading capability. Be sure your base course design is sturdy enough, and our rings will easily do the job under all conditions. Also plan to strengthen concrete sidewalks and curbing that will be maintained by the trucks.

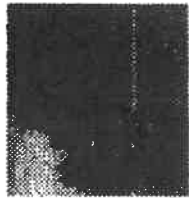
(continued on page 11)

# Grasspave? Installation — Mats can be rolled out in minutes!

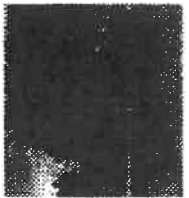
600 m<sup>2</sup> (6,000 sq ft) per two-person hour! For steps shown below — 100 m<sup>2</sup> (1,000 sq ft) per two-person hour!



Excavate the base surface as determined by site and loading requirements. Place and compact sandy gravel under stone and a solution of clean sharp sand and gravel varying in size but not exceeding 75% to about parity, one at least to six feet under them into the base and drain away. Add subdrainage drainage as necessary to help it.



Apply fertilizer or nutrient (water-soluble) five to ten years early. Hydroponics is a combination of polymer and fertilizer designed especially for our Grasspave system.



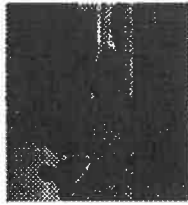
Roll out Grasspave<sup>®</sup>, aligning the side hole markers over the side pipe. The markers at the corners raise the plants in the top flow. Cut the gill between the side pipe and the plant. Unlike small plants in the same space.



Fill gaps with clean sharp coarse sand using large rubber rollers to fill the top of the gaps where water flows.



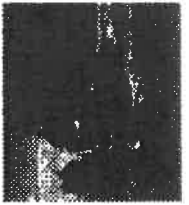
By far over the top. On warm days, use the sand flow to lower sand temperature and provide moisture for grass roots. Seeding and hydroponics is one of the stages of the process. If seeding of topsoil may be beneficial in the case of seeding and hydroponics.



Roll out with heavy roller to eliminate air pockets and finish each row on its contact with the next row. Water down immediately for efficient requirements.



Whether the area has been treated or not, roll out the mats on grass well off the top marking, a film which will catch the roots of grass and lock the mat down to place. In an emergency such as the worst cases, grass may be 6 ft from immediately after installation.



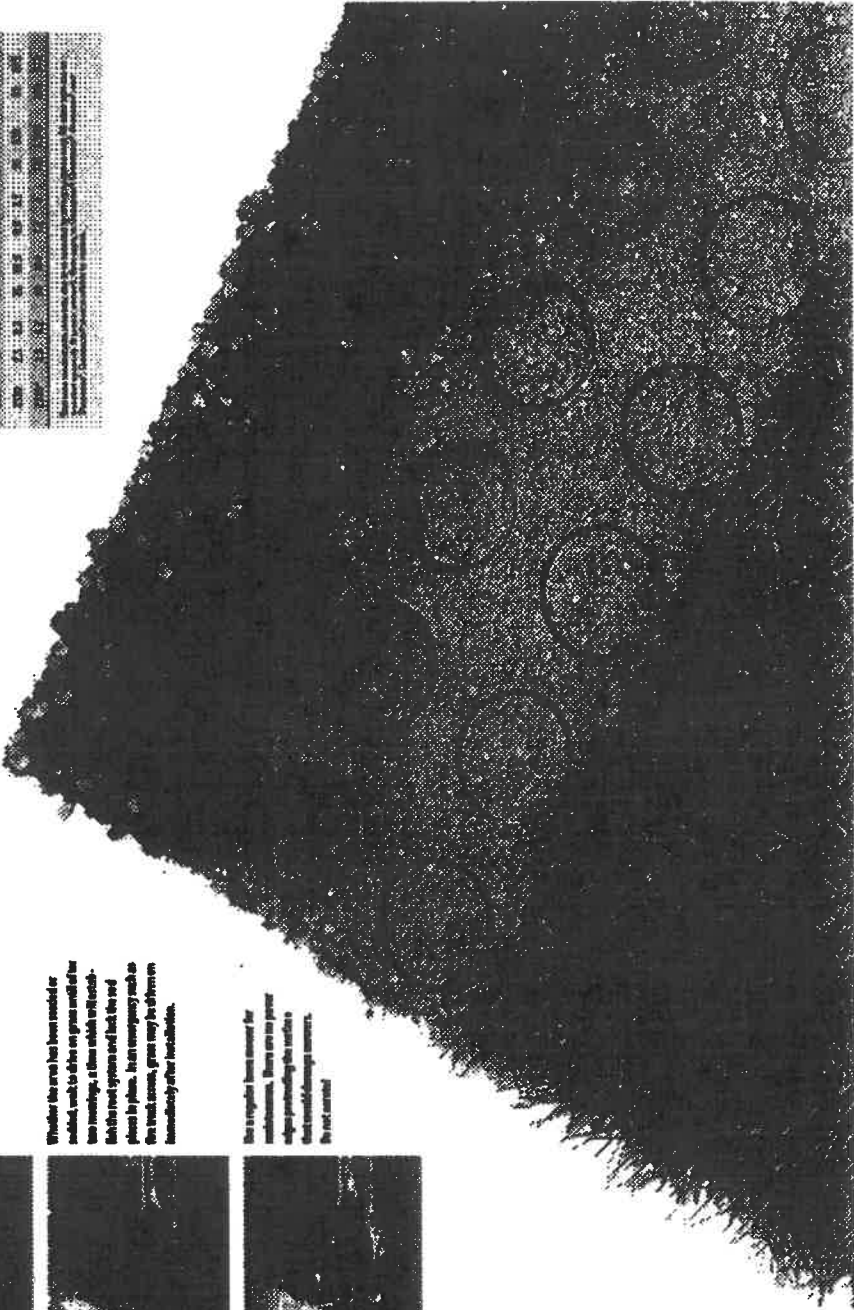
The top layer has been covered for maintenance. There are no grass edges protruding the surface in that it would damage owners. The mat is not.



Large mats can be rolled out in minutes! Mats are 10 ft wide and 10 ft long. Mats are 10 ft wide and 10 ft long. Mats are 10 ft wide and 10 ft long.

Hydroponic Structures — Specifications — Hydroponic Mats

Mat Size	Mat Weight	Mat Area	Mat Volume	Mat Thickness	Mat Density	Mat Strength	Mat Durability	Mat Flexibility	Mat Portability	Mat Reusability	Mat Recyclability
10' x 10'	100 lbs	100 sq ft	100 cu ft	1" thick	100 lbs/cu ft	100 lbs	100 years	100%	100%	100%	100%
10' x 20'	200 lbs	200 sq ft	200 cu ft	1" thick	100 lbs/cu ft	200 lbs	100 years	100%	100%	100%	100%
10' x 30'	300 lbs	300 sq ft	300 cu ft	1" thick	100 lbs/cu ft	300 lbs	100 years	100%	100%	100%	100%
10' x 40'	400 lbs	400 sq ft	400 cu ft	1" thick	100 lbs/cu ft	400 lbs	100 years	100%	100%	100%	100%
10' x 50'	500 lbs	500 sq ft	500 cu ft	1" thick	100 lbs/cu ft	500 lbs	100 years	100%	100%	100%	100%
10' x 60'	600 lbs	600 sq ft	600 cu ft	1" thick	100 lbs/cu ft	600 lbs	100 years	100%	100%	100%	100%
10' x 70'	700 lbs	700 sq ft	700 cu ft	1" thick	100 lbs/cu ft	700 lbs	100 years	100%	100%	100%	100%
10' x 80'	800 lbs	800 sq ft	800 cu ft	1" thick	100 lbs/cu ft	800 lbs	100 years	100%	100%	100%	100%
10' x 90'	900 lbs	900 sq ft	900 cu ft	1" thick	100 lbs/cu ft	900 lbs	100 years	100%	100%	100%	100%
10' x 100'	1000 lbs	1000 sq ft	1000 cu ft	1" thick	100 lbs/cu ft	1000 lbs	100 years	100%	100%	100%	100%



11

ensures that the root system is well established. Seeding allows... provides for good drainage at the surface and makes the finished or parking area not only safer but more durable. Do a satisfaction check when the base is installed to insure that drainage is accurate and drainage effective.

Base Course Design

- Calculating the depth and composition of materials for the base course incorporates some design criteria as follows:
• load bearing capacity of native (or fill) subsoil
• plasticity or impact of moisture on strength and integrity
• frost heave potential
• traffic load, frequency and/or duration.

Sample Base Course Depths

Please consult with a soils engineer for site-specific base requirements. Generally, the depth that is used under asphalt will be the requirement under Grasspave-2. Cut curbs and pedestrian traffic may require seating over or under gravel with, and just 2" in 4" (6-10 cm) over very weak soils. Cuts usually need 4" to 8" (10-20 cm). Bases, trucks, and fire trucks can easily require 8" to 12" (20-30 cm) or more. The use of geotextiles, though not required, below the base will prevent integration with subsoils and is strongly advised in areas of clay or silt soils and frost heave.

Filling Grasspave-2 with Topsoil is Unwise

Remember that we are building a roadway with grass as the surface. Maintaining porosity for air and water movement is very important. When organic, clay or silt particles are in the rings, compaction can take place within the small cells, decreasing the structure, and restricting access by air and water to roots. Growing grass in sand over a sandy gravel road base is more difficult to get established, but functionally and structurally it works! If roots should appear in a finished installation, topsoil has been used either under the rings or within the rings, contrary to installation instructions. Seeding Grasspave-2 is Popular In California and other temperate climate zones many of our installations are needed. Waiting for a period of two months will

ensures that the root system is well established. Seeding allows... provides for good drainage at the surface and makes the finished or parking area not only safer but more durable. Do a satisfaction check when the base is installed to insure that drainage is accurate and drainage effective.

92% Root Area and 100% Grass Coverage

Our installations are hard to find because they are invisible. With a little plastic near the crown of the grass, the blades of grass are not shaded by product. Root development is not interrupted from sprouting laterally. The rings are strong and rigid, keeping grass root systems protected from harm. The roots grow directly downward and deeply into the sandy gravel base. Grasspave-2 is, by far, the best possible "living" parking surface designed by a landscape architect.

Grasspave-2 Uniqueness

- Large rolls for fast installation - 10 to 125 sq ft
• 92% root area for fast grass growth.
• Strong rigid rings that conform to undulating terrain with flexible grid between rings
• 100% recycled post-consumer plastic amendment provided free
• Rolls can be cut and shaped with pruning shears

CSI 62761 forms being - Recognition by CSI has helped establish legitimacy in the porous (grass and gravel) paving industry. Now we can all agree on 02761As designers expand their use and acceptance of porous paving, the industry will grow.

Creativity With Hard Surface Pavements

Ideas include: Combine Grasspave-2 with flush paths, pattern markings of concrete in a feature for pedestrian traffic, design elements or delineation, use brick pathways through the grass; III. Thoroughly with other plant materials such as sodas and ground covers; lay strips of concrete to define parking areas, especially handicapped parking; checkboards of grass and pavers or other patterns in the parking; front-of-house effect; design of company logos in the parking lots or in-lanes with polymer-bonded aggregate; narrow residential areas with guest parking on grass shoulders.

Handicapped Parking and Ramps

Because our system creates firm support in the grass, it is very acceptable as a wheelchair access surface. Pulling a suitcase with wheels across marble floors is much easier than pulling it across a Grasspave-2 grass surface by about the same amount. Cuts should be taken to adhere to our specific method or semi-berm and to attain a smoother profile. Less severe grass mowers will also increase the smoothness, as will maintaining a short blade cut.

Porous Paving vs. Asphalt

Currently asphalt is restricted for Grasspave-2 when the construction budget is cut. If engineers are made product when projects are large and the initial engineering of the site is begun with porous grass paving as the first choice, eliminating storm water collection systems, detention basin areas, modifying grading requirements, and saving on maintenance resurfacing.

Avoid Thin-Wall Web Systems

Several companies market an accordion-shaped cellular confinement system for use as a porous pavement alternative. These structures were developed for the military to stabilize unreinforced masonry to allow for short term access by flexible walls to confine soils or aggregates, but are not able to effectively transfer loads vertically. The product price is attractive, but the cuts are too large to prevent compaction forces, and disturbance of the upper root zone is inevitable, wasting tons of turf.

Environmental Pressures

The pendulum has swung away from heightened concern over the environment, but it will soon swing back. In our immediate future there will be further willingness to improve water quality and clean air - both of which are benefits offered by Grasspave-2. The installed system biodegrades engine oils, filters silt and other

suspended particles, traps air-borne dust, produces oxygen, and allows for trees to park long while cooling the ambient air temperature. Our "constructive" world needs to be more agreeable to the human body.

"Urban parking lots are polluting hot spots," says U.S. Forest Service plant-study director Gregory McPherson in a recent article in National Wildlife. "Rising from the cars is an invisible cloud of evaporating gasoline, which releases polluting hydrocarbons into the atmosphere. The hotter the cars, the faster the fuel evaporation."

Three USFS scientists report that peak summer air temperatures can be 4-8 degrees cooler in lots that are well-shaded compared to those with no shade. They are also doing a pilot study of the effects of shade on gasoline evaporation from cars parked on asphalt. Of the total hydrocarbon emitted into the atmosphere due to human activity, motor vehicles contribute about 30%, and parked cars supply almost 20% of the hydrocarbons that come from vehicles. Grasspave-2 allows more trees to park areas - double cooling with grass and trees.)

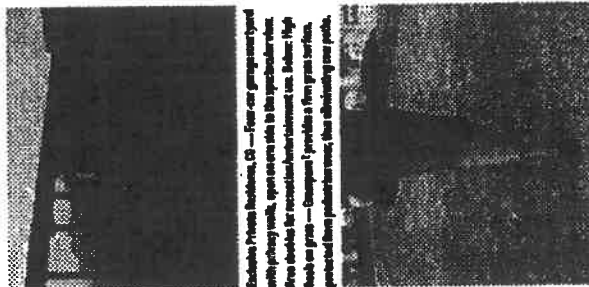
Environmental Benefits

- Grasspave-2 offers the following environmental benefits per 100 sq ft (1,000 sq ft coverage):
• 410 lbs of recycled plastic consumed and kept out of landfills
• 6,710 gallons of rain water kept on site for every 10" of rainfall

- 22 adults supplied with oxygen for one year from turf (carbon dioxide gas consumed)
• 1.7 tons of air conditioning effect annually from turf.

Maintenance

Irrigation is required in dry climates for wearing grass. Any pop-up system can be used. Simply cut out rings to reveal the irrigation head. The use of Hydrogrow and polymer quickly pass the Grasspave-2 installation on the same irrigation cycle as surrounding turf. Be careful not to over water as this will encourage shallow root development.



Excludes Private Installations, CA - Four car grasspaved lot with primary walk, open areas and to the perimeter. High area looks for possible maintenance use. Below: High look as grass - Grasspave-2 provides a firm grass surface, protection maintenance, the following are goals.

**Fertilize** once a year with an NPK slow release fertilizer that contains trace elements. There are many brands on the market. Do not over-fertilize. You'll end up with product damage. When installed using sand in the rings, there will not be a compaction problem. Be careful not to use clay based soils in production or residential traffic areas — use sandy soil and, or need and much. There seems to be no problem with seed selection for fire lanes. Seeding a site will allow driving that same day if necessary.

**Snow Removal**

Our clients have asked this by attaching skids to their plows. Fire departments require snow removal usually with extreme dropping over 3'. Consult with your local fire department for their guidelines.

**Shipping**

We use three methods: UPS, Common Carrier, and Truck/Rail. Your quote will list the designated carrier that is best for your site order. Model 1010 rolls go UPS in quantities less than 1,200 sq. Common Carrier is used for Models 1020, 1520, 2020, 2520 and larger. For orders of 3,000 sq ft (82,280 sq ft) or more we utilize Truck/Rail transportation — Model 2520 (2.5 meters high to max-train inside trailer dimensions).

**Order Terms**

Since your schedule is tight, we usually stock inventory so that we can ship product to your site on the same day as financial arrangements are made. Discounts are given for pre-payment of your order — Mastercard, Visa, American Express, wire transfer, Federal Express a check — are all available. We also offer 30 day terms to those clients with approved credit. In case insurance, terms beyond 30 days are available.

Quantities larger than 200 sq ft (2,000 sq ft) should be reserved in advance through purchase orders. The more advance notice we have, the better we can meet your schedule.

**Installation Difficulties**

Should you perceive a problem with a Graspway<sup>®</sup> installation, please call us immediately so that we can consult with you to resolve the issues and give you professional guidance.

**Thank You Customers**

Through your creativity and loyal support we continue to enjoy our relationships with you. We appreciate your faith and commitment to us, and look forward to a long and lasting friendship. Good luck with your wonderful projects. Let's hear from you more often.

Victor and Bill Bobbitt and the families of Invisible Structures



David Brown, Bill, Bill, Bill — from left, production, haul, and (right) — transport roads use the same every year for the work, long-term. Vehicles will get stuck in the mud.

**TECHNICAL SPECIFICATION**

**SECTION 0735 — PAVING**

**PART 1 — GENERAL**

**1.01 General Provisions**

A. The Division of the Contract and all Sections of Division 1

shall apply unless a part of the Section

1.02 Details, Sections, and Division

1.03 Work Includes

1. Provide and install single gravel

subgrade for Concrete/Engineered

grade/Asphalt/Gravel/Gravel/Gravel

project areas. See 2.02 Materials

1. Provide and install gravel

subgrade for Concrete/Engineered

grade/Asphalt/Gravel/Gravel/Gravel

project areas. See 2.02 Materials

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subgrade for Concrete/Engineered

grade/Asphalt/Gravel/Gravel/Gravel

project areas. See 2.02 Materials

**1.01 Subgrade**

A. Subgrade substructure is provided, clean, and undisturbed

subgrade

B. Subgrade 10% to 15% of Graspway<sup>®</sup> material is required

for sand and compacted subgrade will be returned to the contractor

C. Subgrade is required to be compacted to meet design and stated PS

values

1.02 Details, Sections, and Division

A. Project Graspway<sup>®</sup> shall be provided

for the entire length of the project area

where there is no change in subgrade

subgrade level. See 2.02 Materials

B. Project Graspway<sup>®</sup> shall be provided

for the entire length of the project area

where there is a change in subgrade

subgrade level. See 2.02 Materials

C. Project Graspway<sup>®</sup> shall be provided

for the entire length of the project area

where there is a change in subgrade

subgrade level. See 2.02 Materials

D. Project Graspway<sup>®</sup> shall be provided

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where there is a change in subgrade

subgrade level. See 2.02 Materials

E. Project Graspway<sup>®</sup> shall be provided

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where there is a change in subgrade

subgrade level. See 2.02 Materials

F. Project Graspway<sup>®</sup> shall be provided

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where there is a change in subgrade

subgrade level. See 2.02 Materials

G. Project Graspway<sup>®</sup> shall be provided

for the entire length of the project area

where there is a change in subgrade

subgrade level. See 2.02 Materials

H. Project Graspway<sup>®</sup> shall be provided

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where there is a change in subgrade

subgrade level. See 2.02 Materials

I. Project Graspway<sup>®</sup> shall be provided

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where there is a change in subgrade

subgrade level. See 2.02 Materials

J. Project Graspway<sup>®</sup> shall be provided

for the entire length of the project area

where there is a change in subgrade

subgrade level. See 2.02 Materials

K. Project Graspway<sup>®</sup> shall be provided

for the entire length of the project area

where there is a change in subgrade

subgrade level. See 2.02 Materials

L. Project Graspway<sup>®</sup> shall be provided

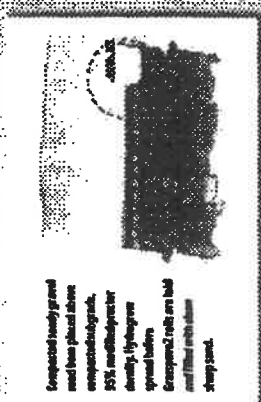
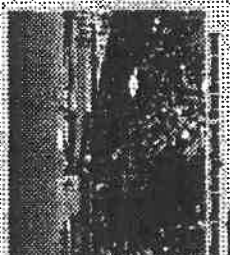
for the entire length of the project area

where there is a change in subgrade

subgrade level. See 2.02 Materials

M. Project Graspway<sup>®</sup> shall be provided

for the entire length of the project area



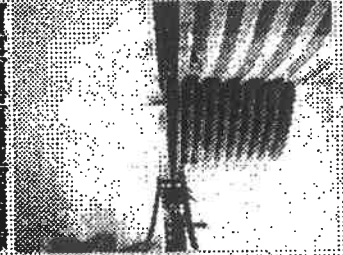
Available in 4' x 8' sheets.  
 Density 140 lbs/cu yd  
 Color — Black  
 Strength — 4000 PSI  
 6' x 12' sheets available

Expected heavy grade  
 and fine gravel above  
 subgrade.  
 5% methacrylate  
 density hydrogen  
 spread before  
 Graspway<sup>®</sup> will be laid  
 and filled with fine  
 sharp sand.

...and ...  
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**PART 2 - INCIDENTS**

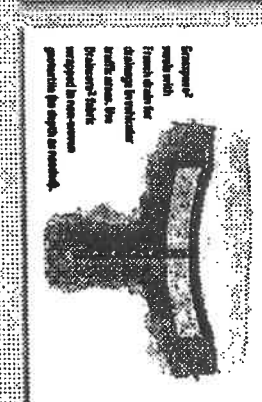
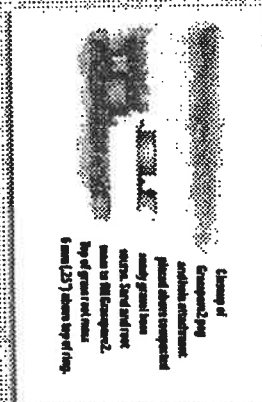
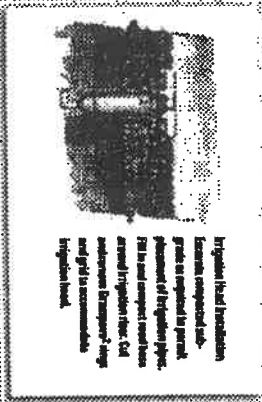
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5	1	EA	
6	1	EA	
7	1	EA	
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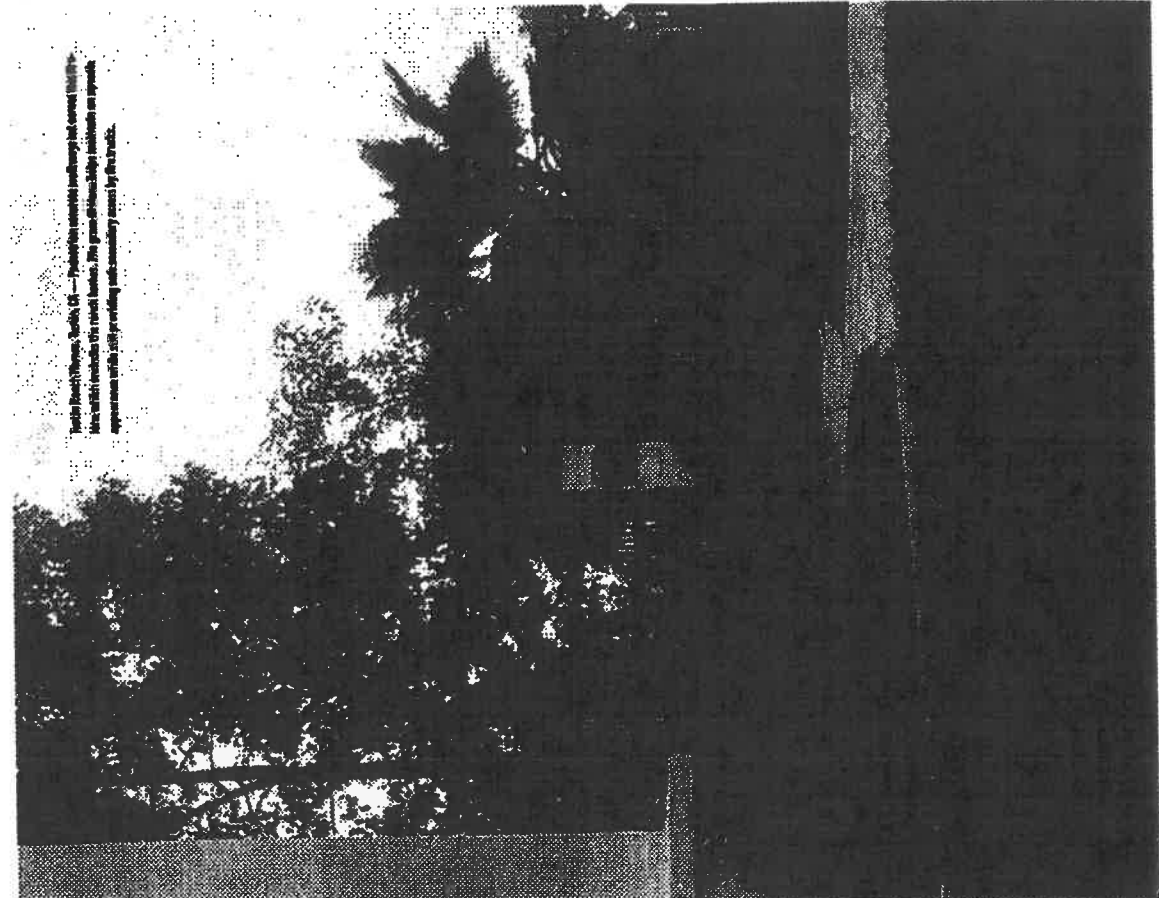


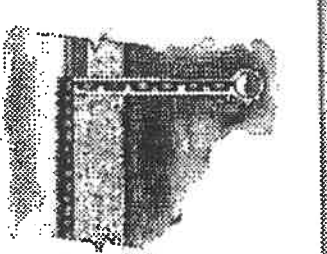
Photo: Thomas, North, 2011. Photo of a windbreak (hedge) that serves as a windbreak for a road. The grass and shrub edge includes an asphalt edge with a 100' planting and secondary access by the road.

different from trees, shrubs, and other vegetation. Features of windbreaks include the following: from any angle, within the same planting area, the planting is 1) of a single species or species group; 2) of a single height; and 3) of a single color.

**3.05 Planting**  
 A. Species and species groups of windbreaks shall be chosen to provide a high level of privacy, security, and screening. B. Planting shall be done in a way that provides a high level of privacy, security, and screening. C. Planting shall be done in a way that provides a high level of privacy, security, and screening. D. Planting shall be done in a way that provides a high level of privacy, security, and screening.

**3.06 Planting**  
 A. Species and species groups of windbreaks shall be chosen to provide a high level of privacy, security, and screening. B. Planting shall be done in a way that provides a high level of privacy, security, and screening. C. Planting shall be done in a way that provides a high level of privacy, security, and screening. D. Planting shall be done in a way that provides a high level of privacy, security, and screening.

**3.07 Planting**  
 A. Species and species groups of windbreaks shall be chosen to provide a high level of privacy, security, and screening. B. Planting shall be done in a way that provides a high level of privacy, security, and screening. C. Planting shall be done in a way that provides a high level of privacy, security, and screening. D. Planting shall be done in a way that provides a high level of privacy, security, and screening.



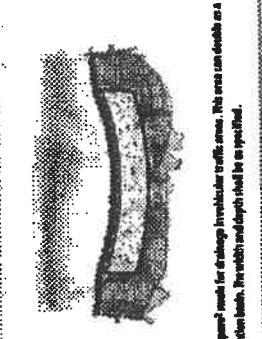
Example of asphalt edge with retaining curb and gravel base. The gravel base is 12 inches deep and 12 inches wide. The planting area is 12 inches wide and 12 inches deep. The asphalt edge is 12 inches wide and 12 inches deep.

the following: from any angle, within the same planting area, the planting is 1) of a single species or species group; 2) of a single height; and 3) of a single color.

**3.05 Planting**  
 A. Species and species groups of windbreaks shall be chosen to provide a high level of privacy, security, and screening. B. Planting shall be done in a way that provides a high level of privacy, security, and screening. C. Planting shall be done in a way that provides a high level of privacy, security, and screening. D. Planting shall be done in a way that provides a high level of privacy, security, and screening.

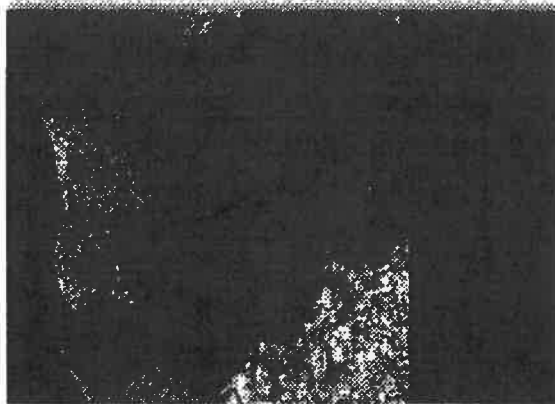
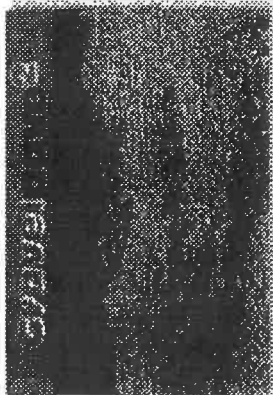
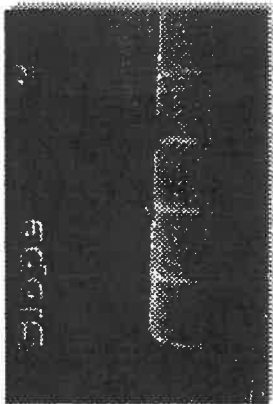
**3.06 Planting**  
 A. Species and species groups of windbreaks shall be chosen to provide a high level of privacy, security, and screening. B. Planting shall be done in a way that provides a high level of privacy, security, and screening. C. Planting shall be done in a way that provides a high level of privacy, security, and screening. D. Planting shall be done in a way that provides a high level of privacy, security, and screening.

**3.07 Planting**  
 A. Species and species groups of windbreaks shall be chosen to provide a high level of privacy, security, and screening. B. Planting shall be done in a way that provides a high level of privacy, security, and screening. C. Planting shall be done in a way that provides a high level of privacy, security, and screening. D. Planting shall be done in a way that provides a high level of privacy, security, and screening.



Example of curb for drainage level for traffic area. The curb is 12 inches high and 12 inches wide. The planting area is 12 inches wide and 12 inches deep.

Invisible Structures, Inc. family of other products for site improvement.



20100 E. 35th Drive Aurora, CO 80011-8160  
800-233-1510 • Fax 800-233-1522  
Overseas and locally: 303-373-1234 • Fax 303-373-1223  
www.invisiblestructures.com  
Patent number 3,225,910. Copyright © 1998 Invisible Structures, Inc.







RETURN TO:  
★ THE CLOSING AGENT  
11 N. SUMMERLIN AVE.  
ORLANDO, FL 32801  
407-422-0880



This document prepared by Kenneth P. Howard  
The Closing Agent, Inc.  
33 N. Summerlin Ave.  
Orlando, FL 32801

INSTR 20030130634  
OR BK 06314 PG 3734  
MARTHA O. HAYNIE, COMPTROLLER  
ORANGE COUNTY, FL  
05/06/2003 11:09:16 AM  
DEED DOC TAX 4,200.00  
REC FEE 6.00  
LAST PAGE

Parcel ID Number: 17-23-28-9336-03-590  
Grantor #1 TIN:  
Grantor #2 TIN:

### Warranty Deed

This indenture, Made this 28th day of February, 2003 A.D. Between  
R. Warren Shelor, a single man

of the County of Duval State of Florida, grantor, and  
Simon Fairbrother and Faith Fairbrother, husband and wife

whose address is: 402 Walker Street, Oakland, FL 34760

of the County of Orange State of Florida, grantees.

Witnesseth that the GRANTOR, for and in consideration of the sum of  
Six Hundred Thousand and no/100----- DOLLARS,  
and other good and valuable considerations to GRANTOR is here by acknowledged, has  
granted, bargained and sold to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate,  
lying and being in the County of Orange State of Florida to wit:  
Lot 159, PLAT OF WINDERMERE, according to the plat thereof, recorded  
in Plat Book G, Pages 36 through 39, of the Public Records of Orange  
County, Florida.

Subject to restrictions, reservations and easements of record, if  
any, and taxes subsequent to 2002.

2003

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Kevin P. Dickey  
Printed Name: Kevin P. Dickey  
Witness

R. Warren Shelor (Seal)  
Printed Name: R. Warren Shelor  
P.O. Address: 3408 S. 3rd Street, Unit 302B  
Jacksonville Beach, FL 32250

Rebecca Lewis  
Printed Name: Rebecca Lewis  
Witness

STATE OF Florida  
COUNTY OF Orange

The foregoing instrument was acknowledged before me this 28th day of February, 2003 by  
R. Warren Shelor, a single man

he is personally known to me or he has produced his Florida driver's license to my vision.

Barry L. Miller  
Notary Public  
My Commission Expires: 09/17/06  
My Commission Expires: 09/17/06

CS-01-06

Parcel Identification No.: 17-23-28-9336-02-650

THIS DOCUMENT PREPARED BY:  
SunTrust Bank, Central Florida, N.A.  
200 S. Orange Avenue- 10th Floor  
Orlando, Florida 32801

*Belkis Ortiz*

Orange Co FL 2000-0474348  
11082000 08:36:50am  
OR Bk 6125 Pg 3695  
Rec 10.50 DSC .70

AFTER RECORDING, RETURN TO:

SunTrust Bank  
Trust Real Estate Department  
Post Office Box 3838  
Orlando, Florida 32802

TRUSTEE'S DEED

THIS INDENTURE, made this 11<sup>th</sup> day of October, 2000, between SunTrust Bank, (f/k/a SunTrust Bank, Central Florida, N.A., and Sun Bank, National Association) as Trustee of the DORIS MANESS HILSMAN REVOCABLE TRUST created by Agreement dated July 17, 1990, whose address is Post Office Box 3838, Orlando, Florida 32802 (the "Grantor") to JOHN EDWARD HILSMAN, as to an undivided one-half (1/2) interest and GUY HAMILTON HILSMAN as to an undivided one-half (1/2) interest, as tenants in common without right of survivorship, whose address is 324 E. 4<sup>th</sup> Avenue, Windermere, Florida 34786. (the "Grantee").

(Whenever used herein, the terms "Grantor" and "Grantee" shall include singular and plural, heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

WITNESSETH:

That the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration to the Grantor in hand paid by the Grantee, the receipt whereof is hereby acknowledged, has released, remised and quitclaimed and by these presents does hereby release, remise and forever quitclaim unto the Grantee, his heirs and assigns forever, all right, title, interest, claim and demand which Grantor has in and to the land situated in Orange County, Florida, described herein below (the "Property"):

Lot 265, WINDERMERE, as per Plat thereof recorded in Plat Book G, Pages 36 to 39, Public Records of Orange County, Florida

TO HAVE AND TO HOLD the same, together with all the tenements, hereditament and appurtenances thereto belonging or in anywise appertaining.

AND the Grantor covenants to and with the Grantee that the Grantor is the duly appointed, qualified and acting Trustee, and in all things preliminary to and in and about the sale and conveyance of the property described above, the terms, conditions and provisions of the Trust Agreement and the

laws of the State of Florida have been followed and complied with in all respects, and that the Grantor has full power and authority to execute this deed for the uses and purposes herein expressed; and that said land is free of all encumbrances made by the Grantor.


OR Bk 6125 Pg 3695  
Orange Co FL 2000-0474348  
Recorded - Martha O. Haynie


IT SHALL BE expressly understood that any representations, warranties, covenants, undertakings and agreements hereinafter made on the part of the Grantor, while in form purporting to be the representations, warranties, covenants, undertakings and agreements of the Grantor, are nevertheless made and intended not as personal representations, warranties, covenants, undertakings and agreements by the Grantor, or for the purpose or with the intention of binding the Grantor personally, but are made and intended for the purpose of binding the Property specifically described herein; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against the Grantor individually on account of this instrument, all such personal liability, if any, being expressly waived and released, and all persons and corporations whomsoever and whatsoever shall be charged with notice of this condition from the date of the filing for record of this Deed.

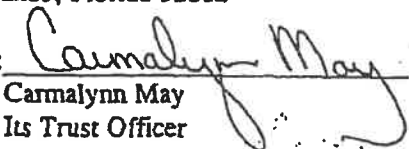
IN WITNESS WHEREOF the Grantor has caused these presents to be executed in its name, and its banking seal to be hereunto affixed, the day and year first above written.

Signed, sealed and delivered  
in the presence of:

SunTrust Bank,  
as Trustee of the Doris Maness Hillsman  
Revocable Trust  
Post Office Box 3838  
Orlando, Florida 32802

  
Printed Name: JOHN P. ROSELLE

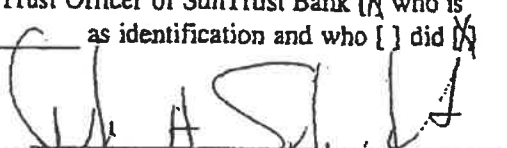
  
Printed Name: Debra A Schmidt

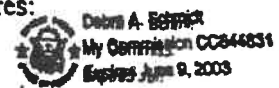
By:   
Carmalynn May  
Its Trust Officer



STATE OF FLORIDA                             )  
  ) SS:  
COUNTY OF ORANGE                        )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of October, 2000, by Carmalynn May, as Trust Officer of SunTrust Bank  who is personally known to me or  who provided \_\_\_\_\_ as identification and who  did  did not take an oath.

  
Notary Public - State of Florida  
Printed Name: Debra Schmidt  
My Commission Expires:



INSTR 20030705822  
OR BK 07223 PG 2988  
NATHAN G. HAYNIE, COMPTROLLER  
ORANGE COUNTY, FL  
12/09/2003 10:51:25 AM  
DEED SOC FAX 7,358.08  
REC FEE 6.00  
LAST PAGE

Property Appraiser's Parcel No:  
17-23-28-9336-03-570  
Grantee(s) Social Security No.

THIS WARRANTY DEED made on December 5, 2003  
Victor V Laxson, Sr. and Hazel J Laxson, husband and wife

hereinafter called Grantor, to  
Keena Rene Lee, a single woman

hereinafter called Grantee, and whose post office address is:  
325 Magnolia Street, Wintermere, FL 34786

WITNESSETH: That the Grantor, for and in consideration of the sum of \$10.00  
and other valuable considerations, receipt whereof is hereby acknowledged, hereby  
bargains, sells, aliens, conveys, releases, conveys and confirms unto the Grantee  
all that certain land situate in Orange County, Florida, viz:

Lot 357, Plat Of Windermere, according to the plat thereof as recorded in  
Plat Book G, Page 36, of the Public Records of Orange County, Florida.

TOGETHER with all the tenements, hereditaments and appurtenances thereto  
belonging or in any wise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND the Grantor hereby covenants with said Grantee that the Grantor is  
lawfully seized of said land in fee simple; that the Grantor has good right and  
lawful authority to sell and convey said land and hereby warrants the title to  
said land and will defend the same against the lawful claims of all persons whomso-  
ever, and that the land is free of all encumbrances, except taxes for the current  
year and subsequent years, restrictions, limitations, covenants, and easements of  
record, if any.

Witnessed by:

*Carmen L. Villalona*  
Carmen L. Villalona

Printed/typed name of above witness

*Richardine Maffett*  
Richardine Maffett

Printed/typed name of above witness

State of Florida  
County of Orange

*Victor V Laxson, Sr.* (LS)  
Victor V Laxson, Sr  
Address: 5619 Bayside Dr, Orlando  
FL 32819

*Hazel J. Laxson* (LS)  
Hazel J. Laxson  
Address: 5619 Bayside Dr.  
Orlando FL 32819

me on December 5, 2003 by Victor V Laxson, Sr. and Hazel J Laxson,  
husband and wife

who is/are personally known to me or who has/have produced valid photo identification  
as identification.

(SEAL)

870-0312693

*Carmen L. Villalona*  
Notary Public Carmen L. Villalona  
Type/print name of Notary:  
My commission expires:

This instrument prepared by: *Carmen L. Villalona*, an Employee of  
LANDAMERICA GULFATLANTIC TIT 7682 Dr. Phillips Blvd., Suite C  
Orlando, Florida 32819

[twvd]



# 00193069 Univers Land Title, Inc.

This Instrument Prepared by:  
**CINDY BOYLE**  
726 Sand Lake Road, Suite 206  
Orlando, FL 32819  
(407) 345-0774 Fax (407) 354-1266

WARRANTY DEED  
INDIVIDUAL TO INDIVIDUAL  
Orange Co FL 2000-0367841  
08302000 11:00:28am  
DR BK 6077 Pg 2296  
Rec 6.00 DEC 2, 800.00  
Recorded - Martha G. Haysie

Property Appraisal Parcel ID, (PDA) Number(s):  
17-23-28-9336-02600  
Grantor(s) E.S.#(s):

SPACE ABOVE THIS LINE FOR PROCESSING DATA SPACE ABOVE THIS LINE FOR RECORDING DATA

**This Warranty Deed** Made the 17TH day of AUGUST A.D. 2000 by  
**DANIEL J. CAVALLO AND ALICE P. CAVALLO, HIS WIFE**

hereinafter called the grantor, is **JOHN ROOT AND CAROL ROOT, HUSBAND AND WIFE**

whose postoffice address is **327 5TH AVE. EAST**

hereinafter called the grantee: **WINDERMERE, FL 34786**

(Whoever uses herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

**WITNESSETH:** That the grantor, for and in consideration of the sum of \$ **10.00** and other valuable considerations, recites what is hereby acknowledged, hereby grants, bargains, sells, alien, releases, conveys and confirms unto the grantee, all that certain land situate in **Orange County, Florida, viz:**

**Lot 260, FLAT OF WINDERMERE, according to the Plat recorded in Plat Book G, pages 38 through 39, as recorded in the Public Records of Orange County, Florida; said land situate, lying and being in Orange County, Florida.**

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple, that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whatsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31, 1999, restrictions, reservations, covenants and easements of record, if any.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Signature  
**CINDY J. BOYLE**

Witness Signature  
**AMANDA ROBERTS**

Printed Signature

Witness Signature

Printed Signature

Witness Signature

Printed Signature

**Daniel J. Cavallo**  
DANIEL J. CAVALLO  
326 Palm St.  
Post Office Address  
Windermere FL 34786

**Alice P. Cavallo**  
ALICE P. CAVALLO  
Same  
Post Office Address

STATE OF FLORIDA  
COUNTY OF ORANGE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments, personally appeared **DANIEL J. CAVALLO AND ALICE P. CAVALLO, HIS WIFE** who is/are personally known to me or who has produced as identification and who did not take an oath.

WITNESS my hand and official seal in the County and State aforesaid this 17TH day of AUGUST A.D. 2000



**Cindy Boyle**  
Cindy Boyle

Printed Name of Notary Signature Title or Rank  
My Commission Expires Social Number, if any:

5866641111

FEB 9 4 40 PM 1966

C.R. 1517 PG 121

Printed for Lawyers' Title Guaranty Fund, Orlando, Florida

WINDERBERG, HAINES & WARD  
Attorneys at Law  
P. O. Box 250  
WINTER PARK, FLORIDA

# Warranty Deed

(STATUTORY FORM - SECTION 689.02 F.S.)

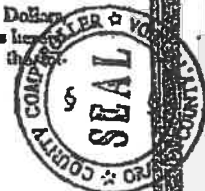
This Indenture, Made this ninth day of February, 1966, Between  
J. L. SHAW and MAMIE O. SHAW, his wife,  
of the County of Orange, State of Florida, grantor, and  
ARTHUR WARREN HURLEY, JR. and SUS S. HURLEY, his wife,  
whose post office address is Magnolia Street, Winderberg,  
of the County of Orange, State of Florida, grantees,

Witnesseth, That said grantor, for and in consideration of the sum of  
TEN AND 00/100 Dollars  
and other good and valuable considerations to said grantee, the receipt whereof is hereby  
acknowledged, has granted, bargained and sold to the said grantees, and grantees' heirs and assigns forever, the fol-  
lowing described land, situate, lying and being in Orange County, Florida, to-wit:

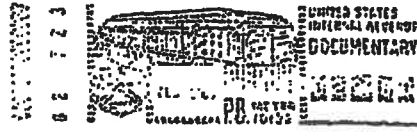
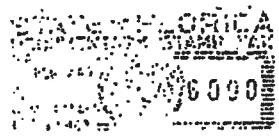
60.00  
22.00

Lot 358 of WINDERBERG as per plat thereof,  
according to Plat Book G, Page 36, Public  
Records of Orange County, Florida.

Subject to taxes for the year 1966 and  
subsequent years.



PLEASE REFER TO  
WINDERBERG, HAINES & WARD  
P. O. BOX 250  
WINTER PARK, FLORIDA



STATE OF FLORIDA  
COUNTY OF ORANGE  
ARTHUR WARREN HURLEY, JR.  
MAMIE O. SHAW  
By: *Arthur Warren Hurley, Jr.*  
Notary Public

and said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful  
of all persons whomsoever.

\*"Grantor" and "grantees" are used for singular or plural, as context requires.

In Witness Whereof, Grantor has hereunto set grantor's hand and seal the day and year first above  
Signed, sealed and delivered in my presence

*J. L. Shaw*  
*Mamie O. Shaw*

*J. L. Shaw* (Seal)  
*Mamie O. Shaw* (Seal)  
\_\_\_\_\_  
(Seal)  
\_\_\_\_\_  
(Seal)

STATE OF FLORIDA  
COUNTY OF ORANGE  
I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally  
appeared J. L. SHAW and MAMIE O. SHAW, his wife,

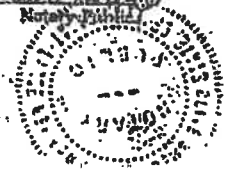
to me known to be the persons described in and who executed the foregoing instrument and acknowledged before  
me that they executed the same.  
WITNESS my hand and official seal in the County and State last aforesaid this 9th day of February  
1966

My commission expires

*Arthur Warren Hurley, Jr.*  
Notary Public

NOTARY PUBLIC STATE OF FLORIDA IN LARGE  
BY COMMISSION EXPIRES FEB. 2, 1967

RECORDED & RETURNED  
Clerk of



579159 MAR 20 4 50 PM 1963 D.R. 1180 PAGE 251

WARRANTY DEED  
GRANTOR'S FORM NO. 1

Manufactured and for sale by the H. & W. S. Deas Company  
Jacksonville, Florida

This Warranty Deed Made the 26th day of March A. D. 1963 by

EMMA E. TYNDALL, a widow

hereinafter called the grantor, to GEORGE B. TYNDALL, and SARAH FRANCES TYNDALL,  
his wife

whose postoffice address is 1120 East Highway 50, Winter Garden, Florida  
hereinafter called the grantees:

Witnesses and the grantor, grantees and witnesses include all the parties to this instrument and the legal representatives and assigns of each of them and the grantees and assigns of each of them.

Witnesseth: That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargain, sells, alien, releases, conveys and confirms unto the grantees, all that certain land situate in Orange County, Florida, viz:

Lots 261 and 262 of Town of Windermere, according to the plat thereof as recorded in Plat Book "G", Page 36 of the Public Records of Orange County, Florida.

The said grantor hereby specifically reserves unto herself the right to occupy said described premises during her lifetime; and likewise reserves unto herself all profits of any nature whatsoever derived from said described property during her lifetime.

Subject to that certain mortgage executed by Emma E. Tyndall, a widow, in favor of the First Federal Savings & Loan Association of Orlando, in the original principal sum of \$12,000.00, dated March 3, 1960 and filed in Official Records Book 701, Page 112, Public Records of Orange County, Florida, which the Grantees herein assume and agree to pay.

Subject to restrictions and easements of record if any.

Together with all the covenants, limitations and appurtenances thereto in any way appertaining

To Have and to Hold, the same in fee simple forever

And the grantor hereby covenants with said grantor that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes in arrearage subsequent to December 31, 1962.

RECORDED & RECORD VERIFIED

*John R. ...* Clerk of  
Circuit Court, Orange Co., Fla.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

*William M. ...*  
Witnes M. Mate

Emma E. Tyndall



STATE OF FLORIDA  
COUNTY OF ORANGE

I HEREBY CERTIFY that on this day, before me, an official duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared

EMMA E. TYNDALL, a widow,

SPACE BELOW FOR RECORDING USE



to me known, the person described to and who executed the foregoing instrument and she acknowledged before me that she executed the same.

Witness my hand and official seal in the County and State here aforesaid this 26th day of March A. D. 1963.

ORANGE COUNTY

STATE OF FLORIDA  
DOCUMENTARY STAMP TAX  
2220  
P.D. 12808



STATE OF FLORIDA  
I HEREBY CERTIFY that this is a copy of the document as recorded by me.  
MARTHA G. BAYNE, CLERK  
By *M. G. Bayne* 4/17/63



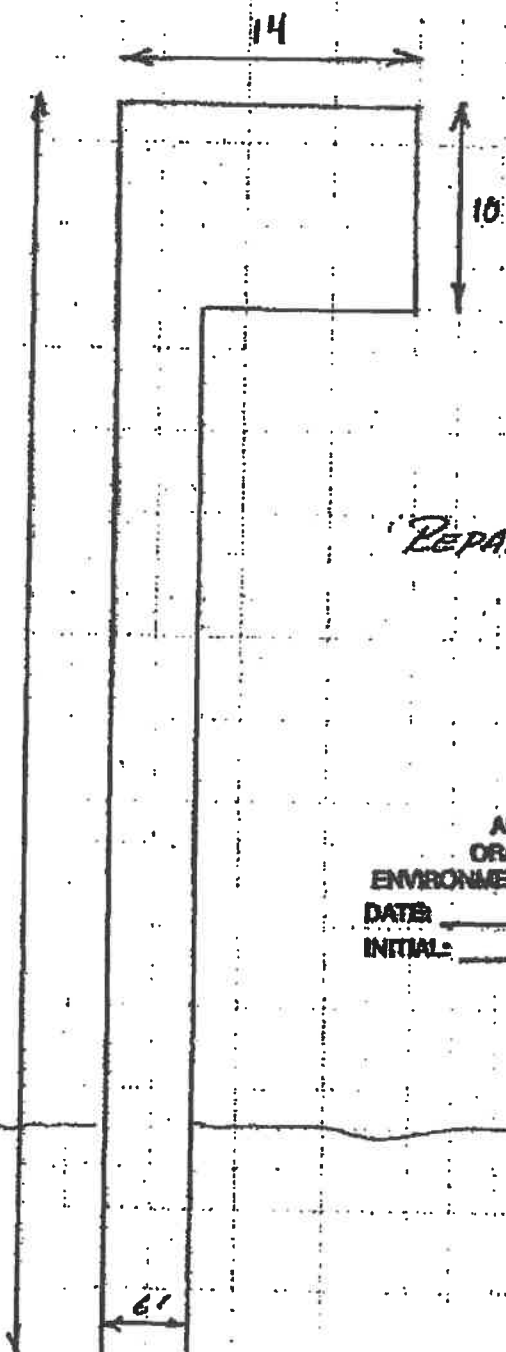




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JOB WARREN JHELON  
 SHEET NO. 305 MAGNOLIA ST  
 CALCULATED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 CHECKED BY \_\_\_\_\_ DATE \_\_\_\_\_  
 SCALE \_\_\_\_\_



JOB COPY  
 Approved Plans  
 Orange County  
 Building Division

Bush  
 Approved By  
6/23/99  
 Date  
R99009370

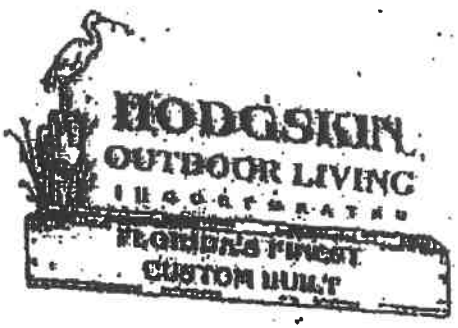
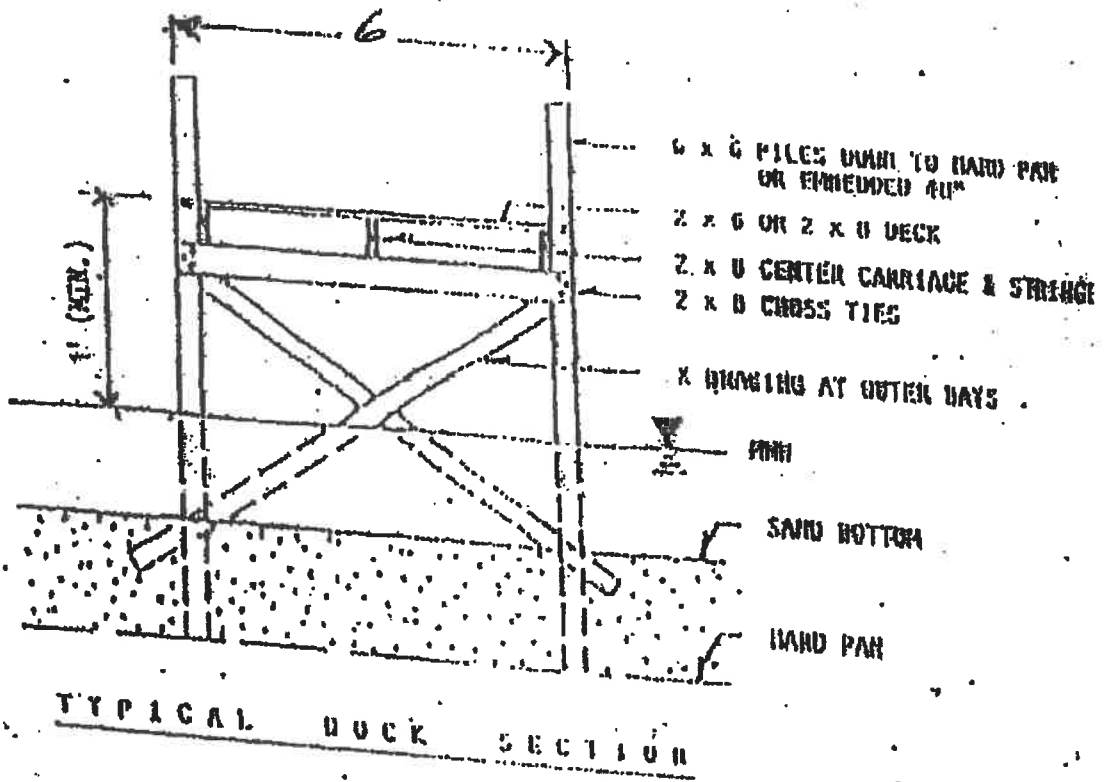
This Approval does not grant permission to violate any applicable code. Encroachment of any part of this improvement can result in a cloud on the title of this property. Keep this plan on the job site at all times.

*REPAIRS EXISTING.*

APPROVED BY  
 ORANGE COUNTY  
 ENVIRONMENTAL PROTECTION DIV.  
 DATE: 6-18-99  
 INITIAL: [Signature]

99.5

PLA 0723



APPROVED BY  
ORANGE COUNTY  
ENVIRONMENTAL PROTECTION DIV  
DATE: 6-18-77  
INITIAL: [Signature]

*Sheldon*  
*305 MANOLIA*

PLA 0722

# Town of Windermere

614 Main Street Windermere, FL 34786  
Office: (407) 876-2563 Fax: (407) 876-0103

Mayor  
JIM O'BRIEN



Town Manager  
ROBERT SMITH

Clerk  
DOROTHY BURKHALTER

To: Mayor and Councilmembers  
From: Brad Cornelius, AICP, Contracted Town Planner  
Date: June 25, 2019

Re: Development Review Board Sign Code Recommendation

At the June 18, 2019, Development Review Board (DRB) meeting, the DRB recommended that the Town Council consider amending the Town's sign code (Article VIII of the Land Development Code) to allow LED or electronic signs only for public schools.

The Town's current sign code in Section 8.02.02 specifically prohibits LED and other electronic signs. In response to the DRB's recommendation of approval of the variance request for the proposed LED sign at the Windermere Elementary School, the DRB recommended that the Town Council consider amending the sign code to specifically state that only public schools may utilize LED or electronic signs.

The DRB vote on the recommendation to Town Council was 4-1.

A few comments, which were also provided to the DRB:

1. The addition of the language allowing LED or electronic signs would not specifically exclude other businesses from requesting a variance. However, as with any variance, there is no obligation or guarantee that a variance would be approved. All variances are considered by the DRB and Town Council based on the specific issues related to a specific property. The issuance of a variance does not set a precedent for future

variances.

2. Businesses in the Town are located within the Town's Town Center Design Overlay District, which includes more specific sign regulations in addition to Article XIII of the Land Development Code. Given the additional oversight for signage within the Town Center, it would be very difficult to justify a variance under the Town's sign code as it currently exists.
3. Amending the Town sign code to allow LED or electronic signs only at public schools would make it easier for the Windermere Elementary School to incorporate LED or electronic signage. However, the signage would still be subject to the maximum sign area and locational criteria.

THE TOWN OF  
**Windermere**



**TOWN OF WINDERMERE  
CUT THRU TRAFFIC UPDATE  
JUNE 25, 2019**

## DISCUSSION ITEMS

- Background
- KHA Study Revisit
- Orange County Development
- Operation Dusty Roads Part 2
- Questions/Comments

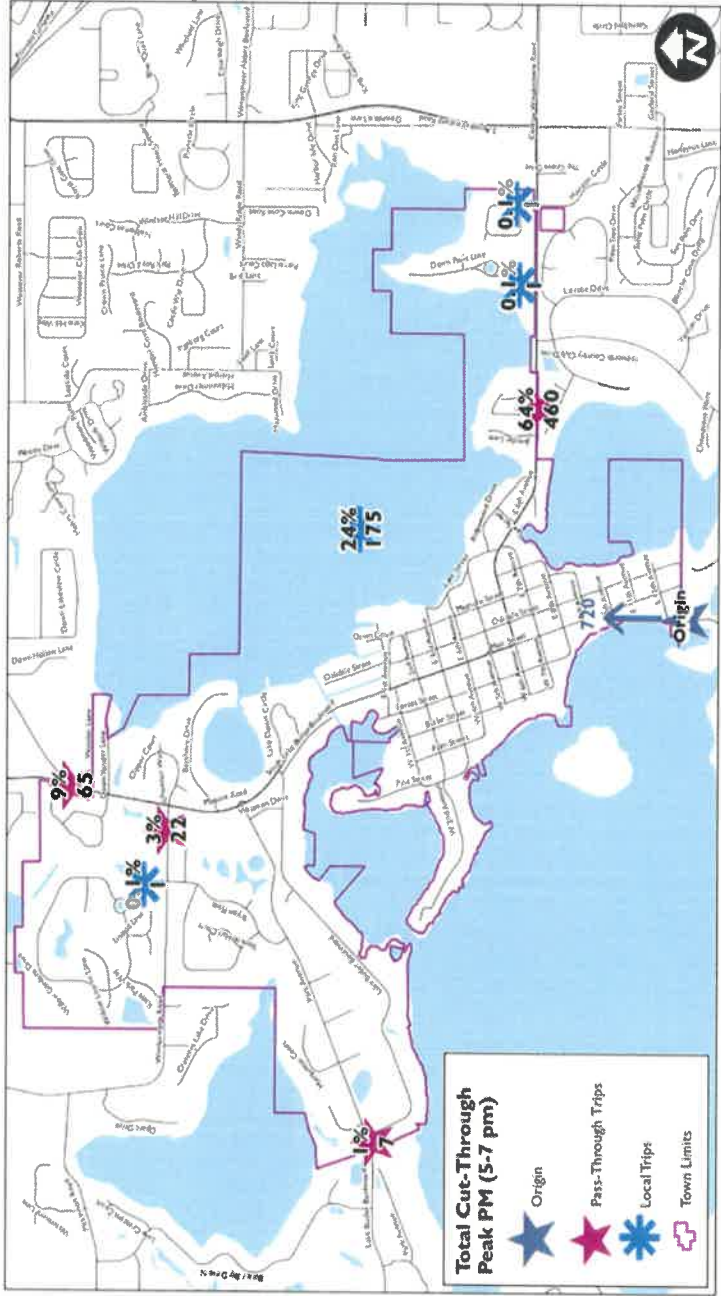
## KHA FINDINGS

The cut thru data was collecting data from industry standard methods. KHA utilized GPS data (2016) from vehicles which is the only reasonable way to determine origin/destination. The outcome of the 2018 Study solidified what residents already knew, most traffic was coming from outside of the Town's jurisdiction.

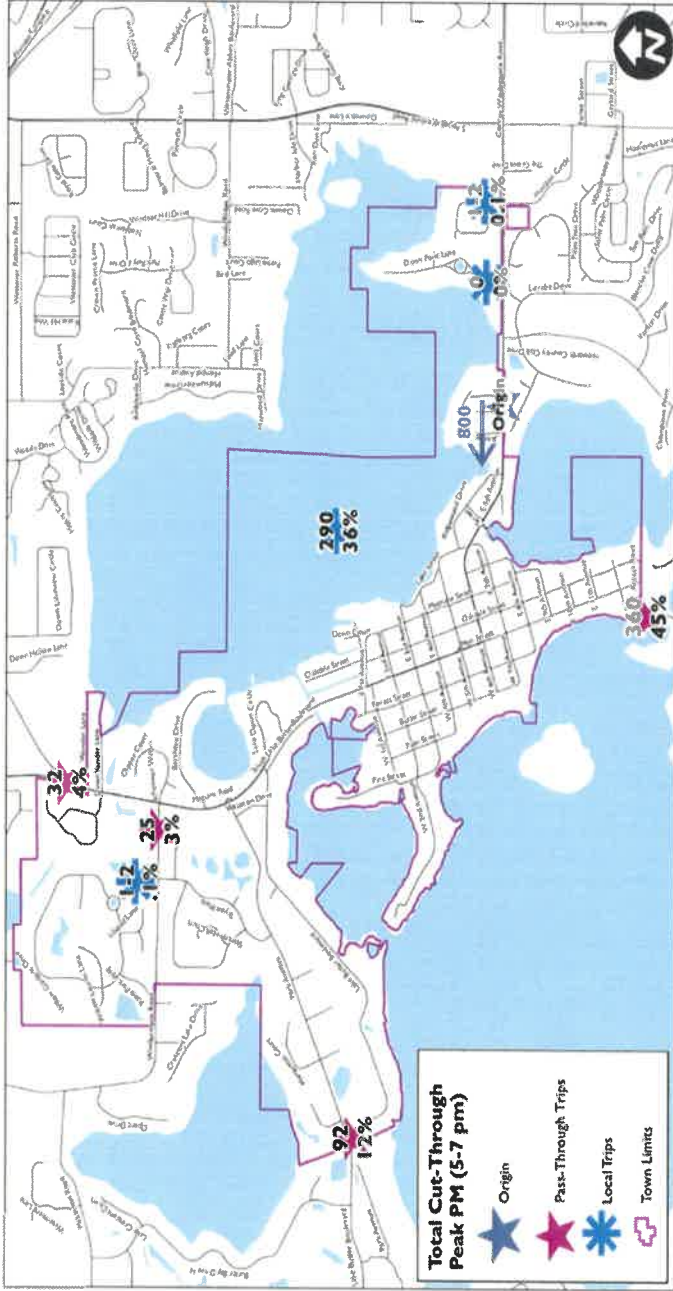
- Chase Rd – 76% cut-through
- 6<sup>th</sup> Ave - 64% cut-through
- Park Ave – 76% cut-through
- Maguire Road – 55% cut-through



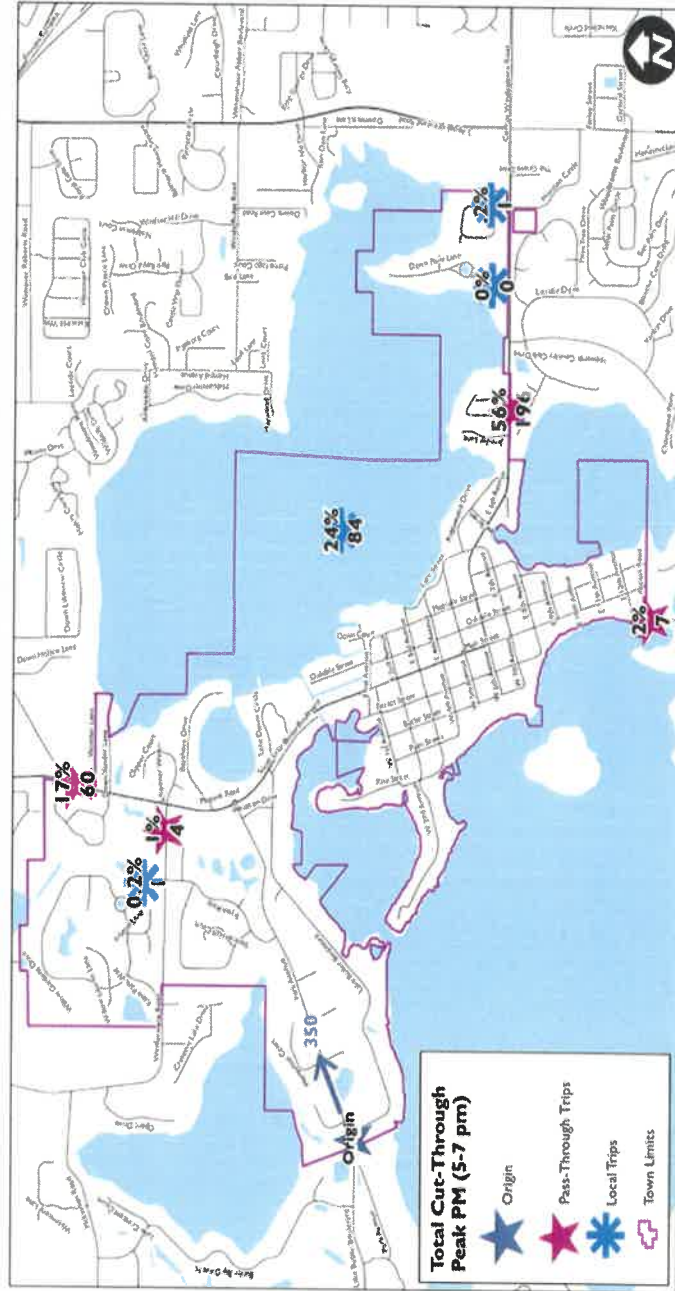
# KHA FINDINGS



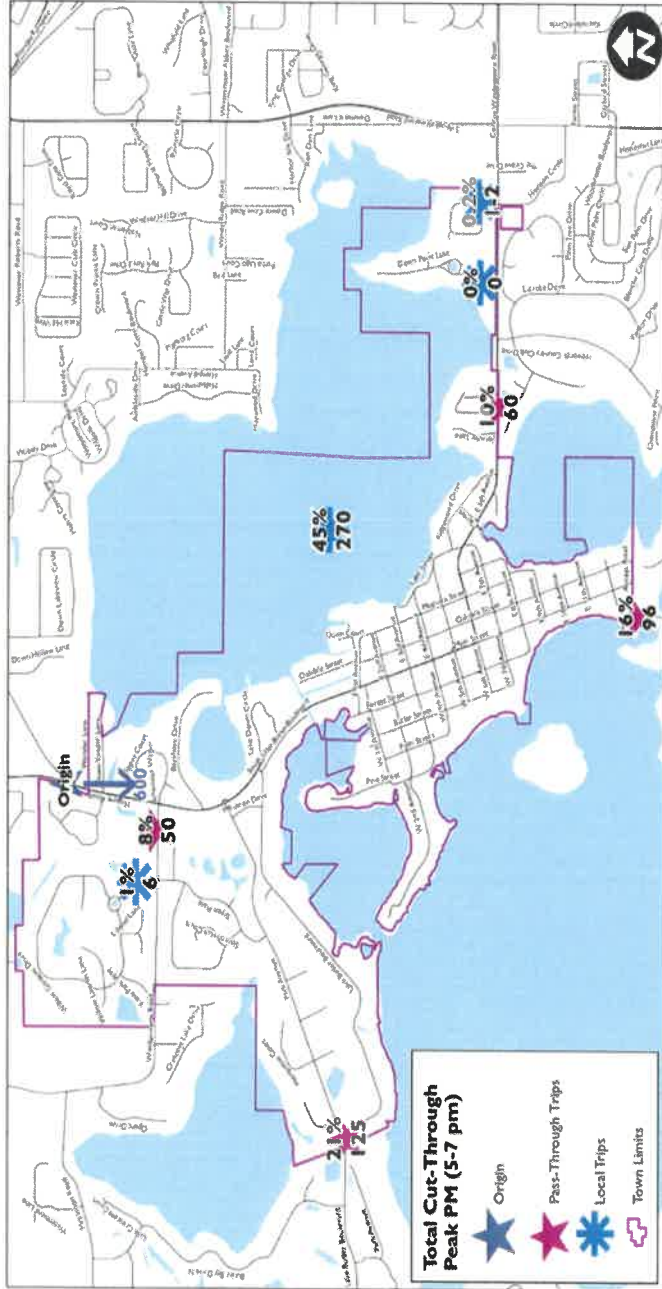
# KHA FINDINGS



# KHA FINDINGS



# KHA FINDINGS



# SIDE STREET CUT THRU

## How to Reduce Cut-Through

- Barriers
- Signs

## Alternatives

Use Barriers to Reduce Cut-Through

Improve Efficiency on Main Roads

**INDIVIDUAL PROJECT ORDER NUMBER 13**  
**June 7, 2019**

Describing a specific agreement between Kimley-Horn and Associates, Inc. (Kimley-Horn), and The Town of Windermere (the Client or the Town) in accordance with the terms of the Master Agreement for Consulting Professional Services, dated August 26, 2013, which is incorporated herein by reference.

**Identification of Project:**

Project: Urban Placemaking and Cut-Through  
 Client: Town of Windermere

**Project Understanding:**

An Urban Planning exercise is desired to address the perception of cut-through traffic and speeding in Downtown Windermere. The intention of this project is to build consensus on potential recommendations and/or improvements. The study area consists of the residential neighborhoods surrounding Downtown Windermere.

Base mapping will utilize available GIS data and other information provided by Town.

The deliverables for this project consist of project workshops, a placemaking matrix, and a report documenting recommendations and best practices.

**Specific Scope of Basic Services:**

**Task 1. – Best Practices**  
 Kimley-Horn will develop an initial list of potential treatments and best practices for creating and maintaining a vibrant residential community located near a downtown area. Data and analysis previously conducted by Kimley-Horn and data previously collected by Town will be used in this task.

Kimley-Horn will document the actual and anticipated number of daily trips on Town roads based on the number of homes. Actual trips will be based on data collected previously.

Kimley-Horn will summarize speed data provided by Town.

**Task 2. – Workshops and Meetings**  
 Kimley-Horn will facilitate a workshop meeting with Town representatives (to be determined by Town) to better understand and document the project objectives and constraints. This meeting will be conducted near the beginning of the project.

Kimley-Horn will facilitate a second workshop after draft project recommendations have been made, to discuss the recommendations with Town representatives.

Kimley-Horn will present the project and recommendations to Council upon conclusion of the project.

Meeting notifications and invitations will be sent by Town staff.

**Task 3. – Video Imaging and Photo Simulations**  
 Existing Conditions

The existing conditions will be videoed from street level and aerial/ bird's eye level using drone and/or

hand-held video based on the presence of (or lack thereof) trees canopy. The video imaging will be taken from 2 roadway segments that demonstrate a general representative cross-section. Prior to taking the video, temporary survey stakes will be placed at various locations within the corridor to represent public right-of-way limits in an effort to graphically depict encroachments and how improvements may coincide with or impact the right-of-way and roadway improvements. Locations for each video will be coordinated and vetted with the Town prior to taking the images.

**Proposed Conditions**

Using the video capture, KH will edit the video to illustrate the proposed roadway conditions within each of the two areas. Before and After still images will also be provided. One round of comments will be addressed and final outputs delivered to the Town in both hard copy and digital formats for presentations to staff and Council.

**Deliverables**

The existing and proposed condition videos will be emailed to the Client in .mp4 format. 11"x17" color prints and PDF formats will be provided for before and after static images. All deliverables will be provided in digital format on a thumb drive for future use.

**Task 4. – Placemaking Matrix**

Kimley-Horn will develop a matrix of potential changes that evaluates their effects. The matrix will include quantitative and qualitative performance measures. The criteria will address various placemaking concepts and Town values, as determined in Tasks 1 and 2.

**Task 5. – Documentation**

Kimley-Horn will provide a technical report documenting the analysis. Three-dimensional graphics of the top three types of recommendations will be developed. Plan sheets showing recommended changes and specific locations of recommended changes will be developed.

**Project Deliverables:**

- Meeting summaries (from meetings described in Task 2)
- Report

**Additional Services if required:**

The following services are not included in this IPO, but may be performed if authorized by the Town. Payment for these additional services will be agreed upon prior to their performance.

- Design of recommendations
- Additional meetings
- Collection of additional / new traffic data

**Information Provided By Client:**

The Town will provide the following information, upon which Kimley-Horn can rely:

- List of representatives invited to meetings/workshops

**Schedule:**

Tasks 1-5 are anticipated to be completed within 90 calendar days of receiving a notice to proceed.

**Method of Compensation:**

Kimley-Horn will perform the services in Tasks 1-5 for a lump sum fee of \$47,000 inclusive of expenses. A breakdown of the by task is provided in the table below.

Task	Fee
Task 1: Best Practices	\$5,000
Task 2: Workshops	\$45,000
Task 3: Video Imaging	\$7,000
Task 4: Placemaking Matrix	\$4,000
Task 5: Documentation	\$16,000

Lump sum and hourly fees will be invoiced monthly based upon the overall percentage of services performed. Payment will be due within 21 days of your receipt of the invoice.

**ACCEPTED:**

THE TOWN OF WINDERMERE, FLORIDA

KIMLEY-HORN AND ASSOCIATES, INC.

**BY:**

Hao T. Chang

**TITLE:**

TITLE: Assistant

**DATE:**

DATE: \_\_\_\_\_

## INTERNAL IMPROVEMENTS



- Roundabout out at Windermere Rd/Maguire
- Increase flow and reduce metering
- Allows for more internal crossing/turns
- Continues control access from Windermere Rd and Schooner Way
- Town may be able work within established ROW
- Philosophy that traffic is already coming in, move them in and out at a smoother pace which will reduce internal cut thru on side streets.
- Would not reduce traffic amounts and would still need regional parallel relievers.
- Cost would exceed \$1 million. We would need assistance from Orange County to construct.

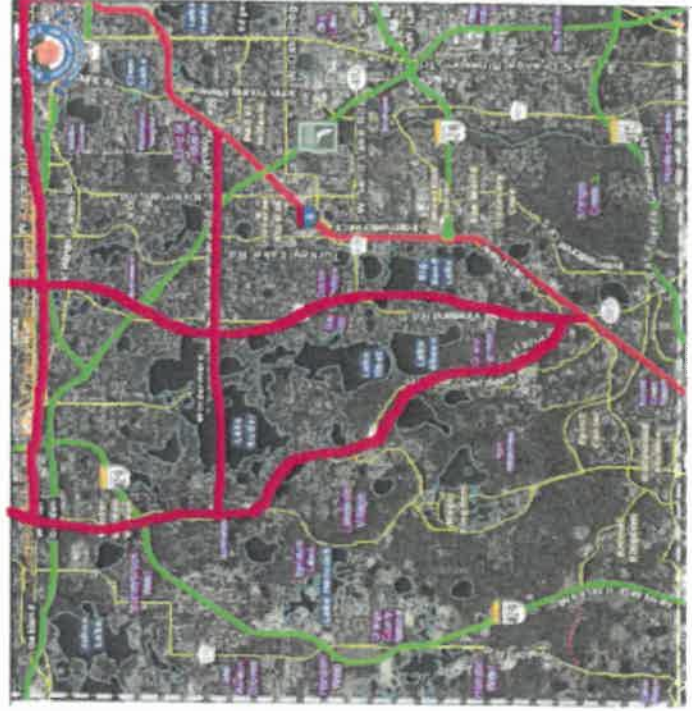
## INTERNAL IMPROVEMENTS



- Establish continuous right turn on southern approach to Chase from Main (Mirror Keene's Point)
- Increase flow to the south
- Congestion would still back up from Chase
- Metering would continue on northbound Main
- Town will be able to work within existing ROW
- Philosophy that traffic is already coming in, move them in and out at a smoother pace which will reduce internal cut thru on side streets.
- Would not reduce traffic amounts and would still need regional parallel relievers.
- Cost would exceed \$300k. We would need assistance from Orange County to construct.

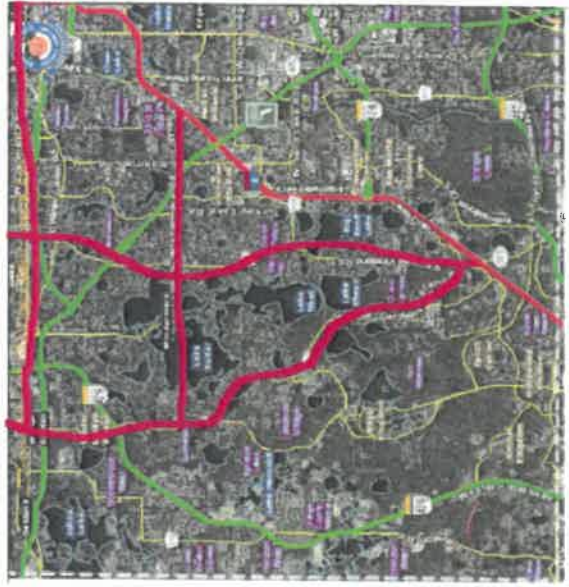


## REGIONAL RELIEVERS

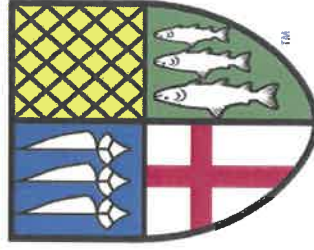


- West/East Connectors are needed to relieve the pressure
- Existing Development and Water Bodies create additional problems
- Currently the amount of time it would take in additional travel time to existing parallel relievers exceeds 7.5 minutes (no traffic)
- Since most cut thru traffic originates from Horizons West, a southern reliever roadway should take priority.

# REGIONAL RELIEVERS



THE TOWN OF  
**Wauwatosa**

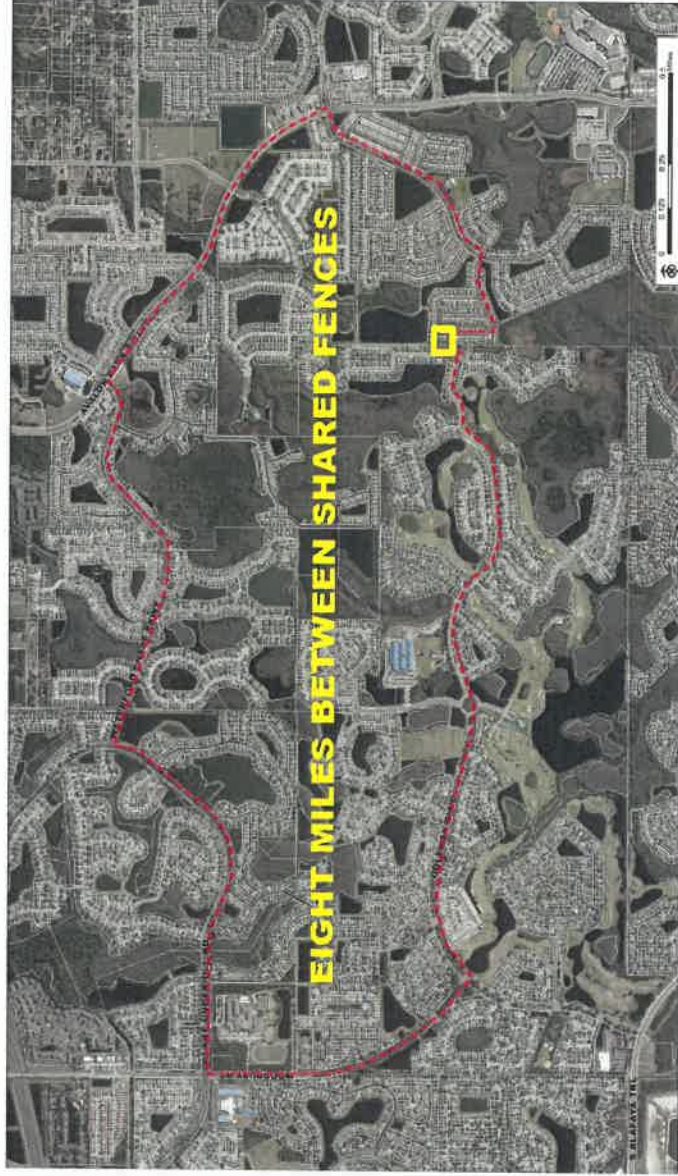


## REGIONAL RELIEVERS



- Orange County currently has plans to extend Fenton St to Palm Parkway which connects to Apopka Vineland/Reedy Creek Drive.
- We would request Orange County look at a possible extension to 535 which would hopefully create a southern reliever.
- Impacts on wetlands. Currently no support from DI Commissioner due to wetland impacts.
- Extension would be about 1.13 miles

# ORANGE COUNTY DEVELOPMENT



- Horizons West Internal Transportation Planning in the beginning
- Two Neighbors connected by a fence would have to drive 8 miles to visit each other
- Now corrected with new development policies but represents planning issues in the beginning.

# ORANGE COUNTY DEVELOPMENT



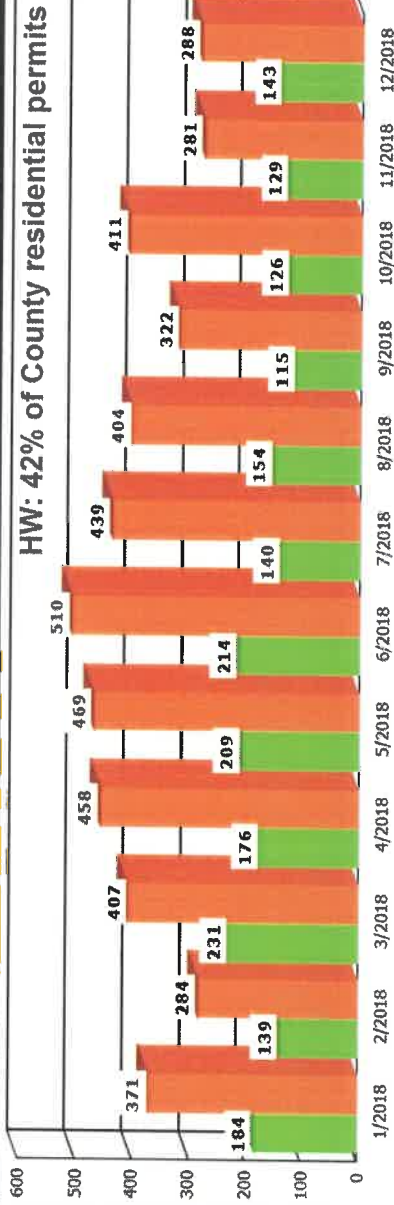
Horizons West Sector Plan encompasses 4% of the total area of Orange County but accounts for more than 40% of all development

# ORANGE COUNTY DEVELOPMENT

## 2018 Growth

### Total Residential Permits

Total Permits: 4,644 County  
1,960 HW



■ Horizon West ■ Total Orange County

	Jan 2018	Feb 2018	Mar 2018	Apr 2018	May 2018	Jun 2018	Jul 2018	Aug 2018	Sep 2018	Oct 2018	Nov 2018	Dec 2018
Horizon West Permits	184	139	231	176	209	214	140	154	115	126	129	143
Horizon West % Permits	50%	49%	57%	38%	45%	42%	32%	38%	35%	31%	46%	50%
<b>Total Permits</b>	<b>371</b>	<b>284</b>	<b>407</b>	<b>458</b>	<b>469</b>	<b>510</b>	<b>439</b>	<b>404</b>	<b>322</b>	<b>411</b>	<b>281</b>	<b>288</b>

# ORANGE COUNTY DEVELOPMENT

## *Summary*

### *Takeaway Points*

- Almost half of County's residential growth is occurring in Horizon West
- Significant amount of commercial development has followed residential
- Growth moving south and west
- Future will be affected by regional market and development in the area

# ORANGE COUNTY DEVELOPMENT



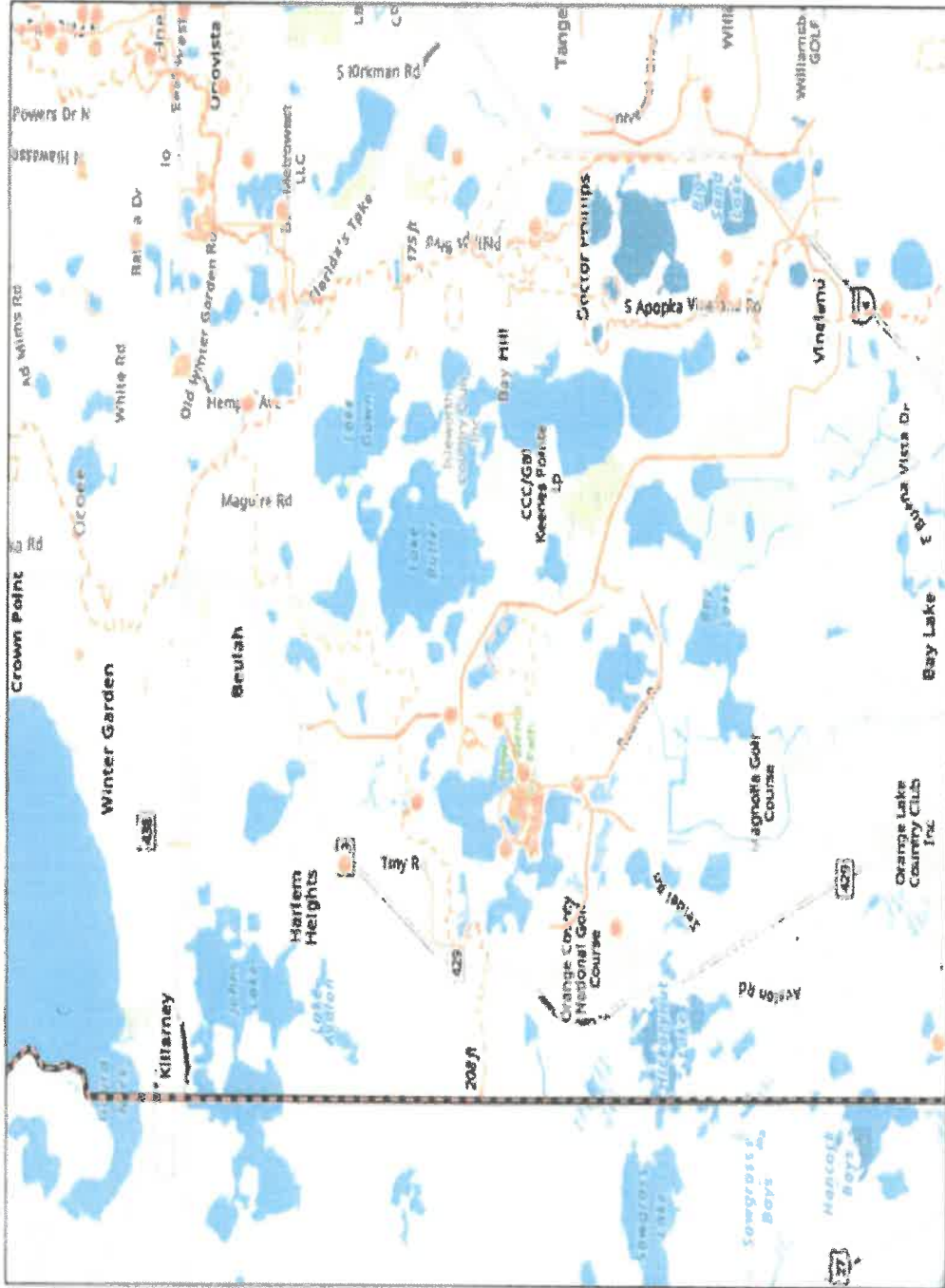
## Future Projects

- CR 545: Schofield Road through the Horizon West Town Center
- CR 545: Town Center to Tilden Road (City of Winter Garden)
- CR 545: Tilden Road to FL Turnpike (City of Winter Garden Agreement)
- Hartzog Road: CR 545 to Flamingo Crossings Boulevard
- Porter Road: Lake County Line to CR 545
- New Independence Parkway: Lake County Line to CR 545
- Summerlake Park Boulevard: Porter Road to Reams Road (2nd 2-Lanes)
- Valencia Parkway: Old YMCA Road to New Independence Parkway

The road projects within the OC CIP are more internal to this particular sector plan (mostly north/south) with major relievers being proposed from the 429 west to 27 in Lake County. This would relieve traffic on 50 to the north but nothing was presented to show how the traffic flow would be relieved from the 429 east to I-4.



# ProjectTrak - Current Projects



4/26/2010 8:37:10 AM

1-1728 440

## WORKING ON SOLUTIONS TOGETHER

- The traffic study demonstrates that 76% of the traffic is not originating in the Town of Windermere. The large developments that were approved to our west (Horizons West), north and south by Orange County and other jurisdictions were approved with complete disregard to how the traffic would impact smaller communities such as ours. We are experiencing this traffic because we are the only option those outside of Windermere currently have to get to their jobs, schools, entertainment etc.. Unless Orange County assists the Town on constructing internal road improvements or establishes parallel relievers to Conroy Windermere we will continue to experience significant traffic. This negatively impacts the quality of life and essential services provided to our collective residents/constituents (Fire/EMS/ Police/Solid Waste/etc.)

## WORKING ON SOLUTIONS TOGETHER

- What has previously been represented as a Town of Windermere issue cannot be viewed in such a manner. Town of Windermere residents are still Orange County Tax Payers and with the amount and speed of development to our west, those not within the Town limits have and will continue to be subject to the same congestion we have been experiencing for several years. The Town would like to partner with Orange County on seeking ways to relieve the traffic both on an internal and regional perspective.
- Our hope is not to make this an adversarial issue but one where we can combine resources and hopefully if not fully resolve at least release some of the pressure on these limited capacity roadways we all travel on a daily basis.

THE TOWN OF  
Windermere



**LIAISON REPORT**

---

**LIAISON:** Liz Andert

**LIAISON ASSIGNMENT:** Butler Chain of Lakes Advisory Board

- HPB       DBC       TREE BOARD       ELDERS       LRP
- DRB       HOLIDAY SOCIAL       ADMIN       BUDGET
- STREET & ROADS       POLICE       P&R       FTFMSC
- BUTLER CHAIN       CHAMBER       METRO PLAN
- 

**DATE:** 07/09/2019

**UPDATE:**

- Board met on June 17, with Council member Andert absent due to unforeseen events
- Prior to 6/17 board meeting, communicated with Lt. Hudson of the Orange County Marine Patrol via David Hansen, OC-EPD Lake Management Division re: Chief Ogden's offer to provide additional lakes patrol support under a resource funding agreement. Lt. Hudson and Mr. Hansen discussed this option at the 6/17 meeting and replied that they feel currently planned resource levels are adequate with no need for further assistance
- On Tuesday, July 2, Mr. Hansen and Melissa Lavigne, a supervisor from the EPD Lakes and Rivers Division, provided six Windermere Elementary School children and four parents a tour of the Lake Down Alum Treatment Facility. Councilman Williams and Council member Andert participated.
- July is Lakes Appreciation Month. Learn more: <https://www.nalms.org/lakes-appreciation-month/>.



## LIAISON REPORT

---

**LIAISON:** Liz Andert

**LIAISON ASSIGNMENT:** Holiday Social

- HPB       DBC       TREE BOARD       ELDERS       LRP
- DRB       HOLIDAY SOCIAL       ADMIN       BUDGET
- STREET & ROADS       POLICE       P&R       FTFMSC
- BUTLER CHAIN       CHAMBER       METRO PLAN
- 

**DATE:** 07/09/2019

**UPDATE:**

- Committee co-chair Bonny Elder has communicated with the Holiday Hoopla Committee as well as the Windermere Garden Club to set up a kickoff meeting near the end of July—date TBD
- Awaiting budget figures, which will support event scope and offerings
- Open issue: communicating to all Town residents; the committee is seeking help to reach beyond our Town mailing list, which is not complete/current

Town of Windermere

# Downtown Speed Limit Recommendations



Kimley»Horn

June 2019

# ***DOWNTOWN SPEED LIMIT RECOMMENDATIONS***

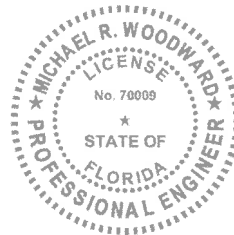
**Town of Windermere, FL**

Prepared for:

Town of Windermere, FL

Prepared by:

Kimley-Horn and Associates, Inc.



This item has been electronically signed and sealed by Michael R. Woodward, P.E. using a Digital Signature.

Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

Digitally signed by Michael R Woodward  
DN: cn=Michael R Woodward, c=US,  
o=KIMLEY-HORN AND ASSOCIATES INC,  
ou=A01427E0000016779867E1100002612,  
email=mike.woodward@kimley-horn.com  
Date: 2019.06.14 09:11:05 -04'00'

**June 2019**

**Mike Woodward, P.E.**

**PE #70009**

©Kimley-Horn and Associates, Inc. 2019

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**5.0 ROADSIDE FEATURES ..... 8**

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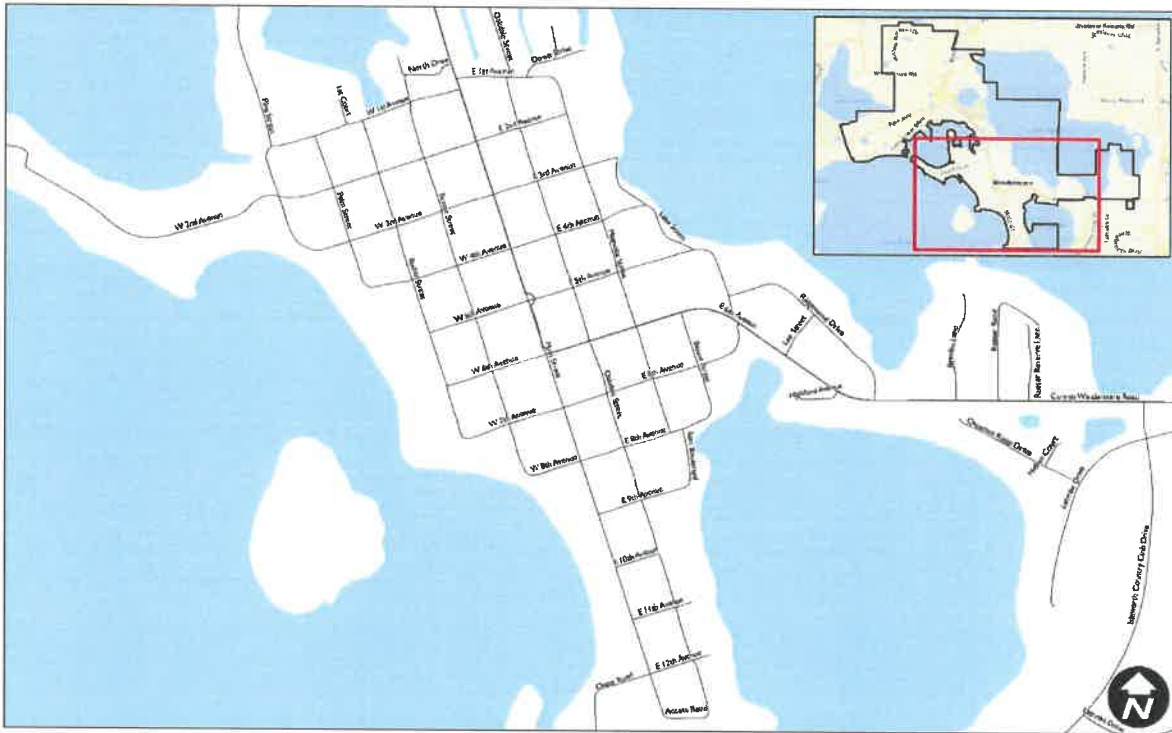
**Table 1:** Operating Speeds..... 6

List of Appendices

- Appendix A:** Speed Data
- Appendix B:** Speed Zoning Manual - Excerpt

## 1.0 INTRODUCTION

This report documents the results of an engineering study to establish speed limits for roadways in downtown Windermere. **Figure 1** highlights the project study area. The two primary roadway facilities in the area, Main Street and 6<sup>th</sup> Avenue, are not included in this study as they have significantly different characteristics. This analysis is for the dirt road residential grid network.



**Figure 1** Study Area

## 2.0 DATA COLLECTION

Speed data were collected by Town police over several years. While speed data were not collected for every road, the data collection points are a representative sample for the entire downtown grid network. Speed data collection locations are shown in **Figure 2**.

A site visit was performed on June 12, 2019, to observe conditions, including visibility, use of roadways, availability of other facilities, travel lane widths, and condition of the dirt roads.

The roads have a residential character with varying pavement conditions – some roads are as narrow as 10.5' wide. Many of the roads are too narrow to feel comfortable when an oncoming vehicle is passing by. Some work trucks, delivery trucks, and mail trucks were observed. Pavement conditions in many locations are bad enough that 10 mph is a more comfortable traveling speed. The varying widths along roads like Oakdale Street are sudden and don't seem to be based on changes in travel patterns. Sight distance varies at intersections due to horizontal curves, vertical curves, and vegetation/landscaping.

Pedestrians were observed walking in the road. No bicyclists were observed during the site visit. Several residents have golf carts that appear to be used for travel through Town.

While it is a paved facility, 2<sup>nd</sup> Avenue is still relatively narrow, has limited sight distances, and has speed humps.



**Figure 2** Locations with Speed Data Collection

### 3.0 EXISTING TRAVEL SPEEDS

The 50<sup>th</sup> and 85<sup>th</sup> percentile speeds are shown in **Table 1**. More detailed data for each location is provided in **Appendix A**. As shown in the table, most of the 85<sup>th</sup> percentile speeds are under 20 miles per hour (mph), and most of the 50<sup>th</sup> percentile speeds are less than 15 mph. A weighted average of the speeds was calculated based on the number of vehicles measured at each location; for the 2,832 measured vehicles, the weighed 50<sup>th</sup> percentile speed is 15 mph, and the weighted 85<sup>th</sup> percentile speed is 19 mph.

**Table 1: Operating Speeds**

Location	Speeds			Data Collection Dates
	Posted	50th	85th	
<b>1st Ave</b>				
Butler St	15	15	19	11/30/2016 - 12/15/2016
Main St	15	16	20	12/25/2016 - 1/2/2017
<b>2nd Ave</b>				
Pine St	15	19	22	02/16/16 - 2/19/16
Forest St	15	15	19	2/8/17 - 2/12/17
<b>5th Ave</b>				
Butler St	15	16	19	12/16/15 - 12/19/15
<b>Ridgewood Dr</b>				
Lee St	15	15	20	3/1/17 - 3/5/17
Lee St	15	13	20	10/30/17 - 11/3/17
Lee St	15	13	18	2/25/19 - 3/6/19
Lee St	15	11	16	4/26/19 - 5/6/19
<b>Butler St</b>				
5th Ave	15	13	19	1/5/16 - 1/9/16
<b>Oakdale St</b>				
8th Ave	15	14	19	5/23/16 - 5/28/16
10th Ave	15	13	18	5/3/16 - 5/9/16
8th Ave	15	14	19	10/10/17 - 10/14/17
8th Ave	15	16	20	4/4/18 - 4/10/18
8th Ave	15	20	20	2/15/19 - 2/25/19
8th Ave	15	13	18	3/26/19 - 4/3/19
<b>Magnolia St</b>				
3rd Ave	15	13	19	3/16/15 - 3/24/15
3rd Ave	15	14	19	3/7/19 - 3/15/19
<b>Forest St</b>				
3rd Ave	15	10	16	11/16/16 - 11/20/16

## 4.0 SPEED LIMIT CRITERIA

As stated in the Florida Department of Transportation's Speed Zoning Manual, a posted speed limit of 4 to 8 mph less than the 85<sup>th</sup> percentile speed shall be authorized if supported by a supplemental investigation, which identifies the following:

1. There are road or roadside features not readily obvious to the normally prudent driver, such as length of section, alignment, roadway width, surface conditions, sight distance, traffic volume, crash experience, maximum comfortable speed in curves, side friction (roadside development), signal progression, etc.;
2. Other standard signs and marking shave been tried but found ineffective; or
3. To support a context classification target speed as defined in Section 9.4 of the Speed Zoning Manual, which states that: Target speed is the highest speed at which vehicles should operate on a thoroughfare in a specific context, consistent with the level of multi-modal activity generated by adjacent land uses, to provide both mobility for motor vehicles and a safe environment for pedestrians, bicyclists, and public transit users.

The relevant pages of the Speed Zoning Manual are provided in **Appendix B**. The subsequent sections of this report address the first and third criteria. The second criteria are not applicable since other signs and markings have not been tried.

## 5.0 ROADSIDE FEATURES

Block size in downtown Windermere is small, resulting in short roadway segments that are generally 300-500 feet long. The roadways are narrow, with pavement widths ranging from 12' on 4<sup>th</sup> Avenue to 20' wide on Oakdale Street near 9<sup>th</sup> Avenue. Most sections of most roads are generally 14' to 18' wide, and many of the roads widen and narrow within mid-block sections. For example, the section of Oakdale Street that is 20' wide is located between portions that are 16' wide and 15' wide, all within a 2-block distance.

Surface condition of the roads vary considerably since they are dirt roads. Heavy rain events typically cause significant deterioration of conditions, with roads washing out and erosion. Though the Town is constantly re-grading roads, this is a continuous issue that will persist as long as the roads are dirt (rather than paved).

The narrow width and varying condition of the road result in a lower safe operating speed than what would work on a wider, well-paved facility.

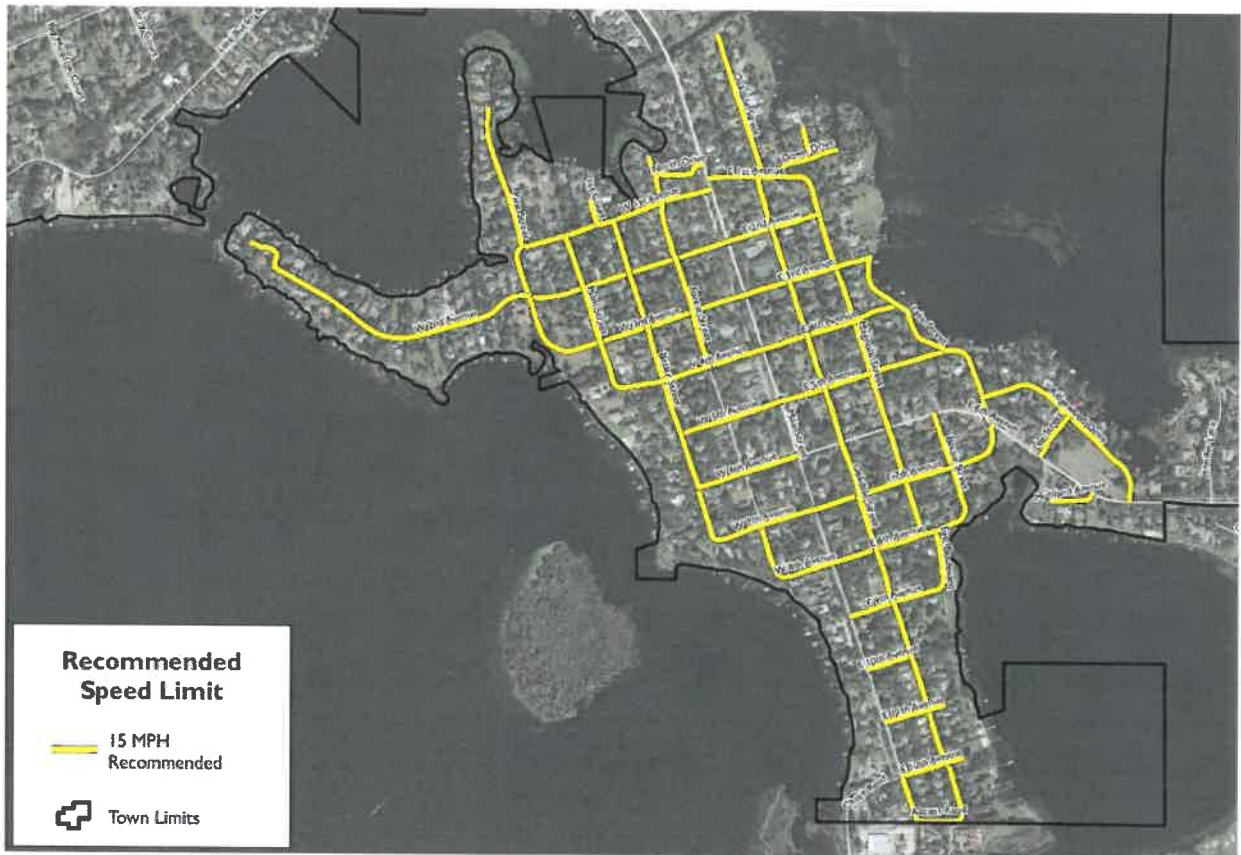
## 6.0 TARGET SPEED

Target speed is the highest speed that vehicles should operate on a thoroughfare in a specific context. The context of the roads in downtown Windermere is a residential grid network of dirt roads that do not have sidewalks or bike lanes. The dirt roads have also been designated by the Town as "Golf Cart Friendly". The roads are used in ways that are consistent for residential neighborhoods, with vehicular, delivery, and service access to homes, people walking for recreation, kids and adults riding bicycles. Due to the lack of sidewalk facilities, the speed limit should be lower than what would otherwise be provided given otherwise similar conditions.

## 7.0 RECOMMENDED SPEED LIMIT

Given the narrow widths, the varying surface conditions, the lack of bicycle facilities, and the lack of sidewalk, the **recommended posted speed limit for study area roadways is 15 mph.**

A map showing the roadways with a recommended 15 mph limit is provided in **Figure 3.**



**Figure 3** Recommended Speed Limits



## **APPENDIX A**

### **Speed Data**

Date: 4/6/2017 12:25:24 pm

Start Date: 11/30/2016 06:00 pm

End Date: 12/15/2016 05:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 15 mph

Highest Speed: 45 mph

50th Percentile: 15 mph

85th Percentile: 19 mph

Number Above Speed Limit: 1279

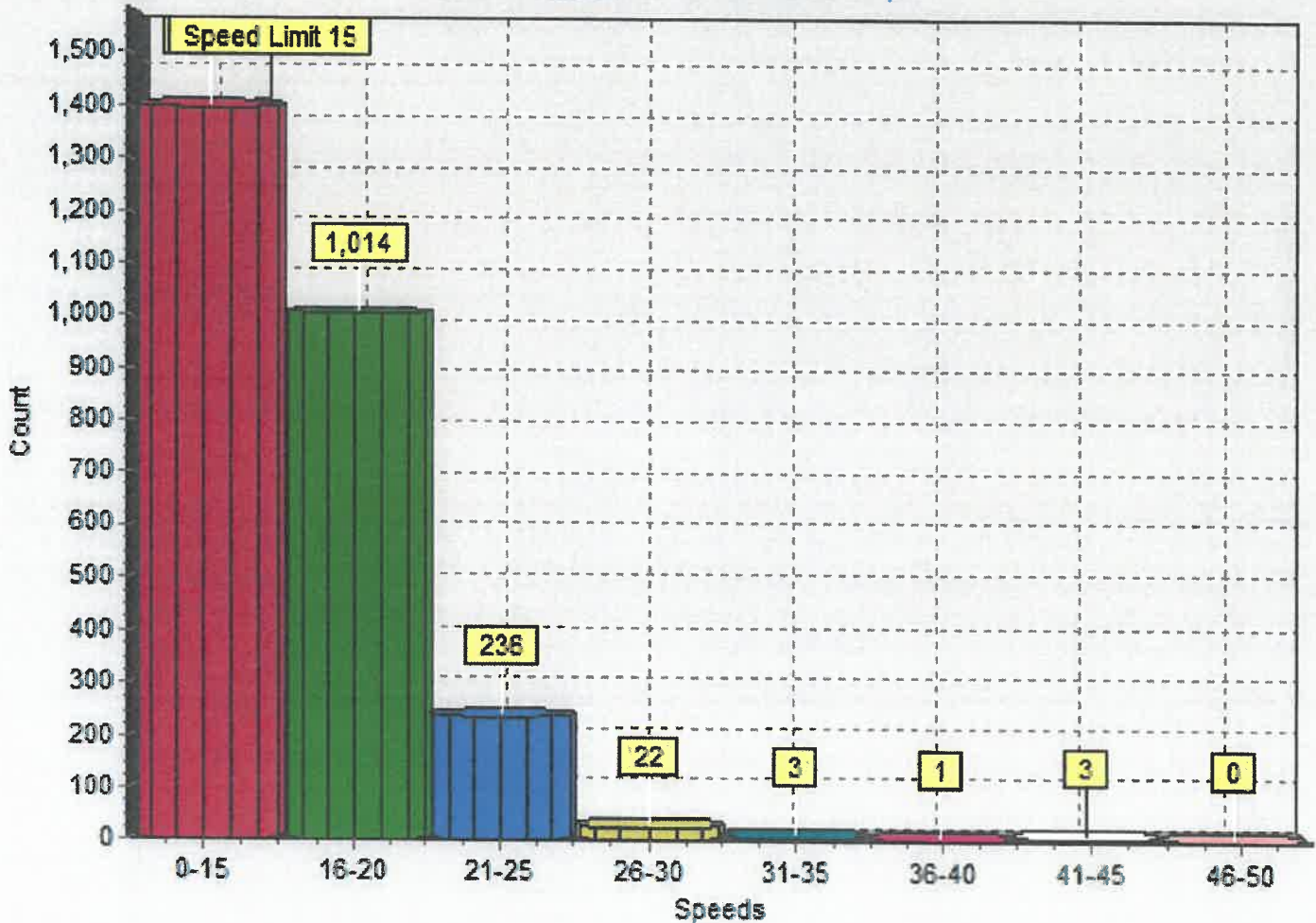
Total Number of Vehicles: 2691

Comments:

1st Ave / Butler St (W/B)

### Count vs. Speed

11/30/2016 06:00 pm - 12/15/2016 05:00 pm



Date: 4/6/2017 12:24:10 pm

Start Date: 12/25/2016 02:00 pm

End Date: 1/2/2017 10:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 16 mph

Highest Speed: 47 mph

50th Percentile: 16 mph

85th Percentile: 20 mph

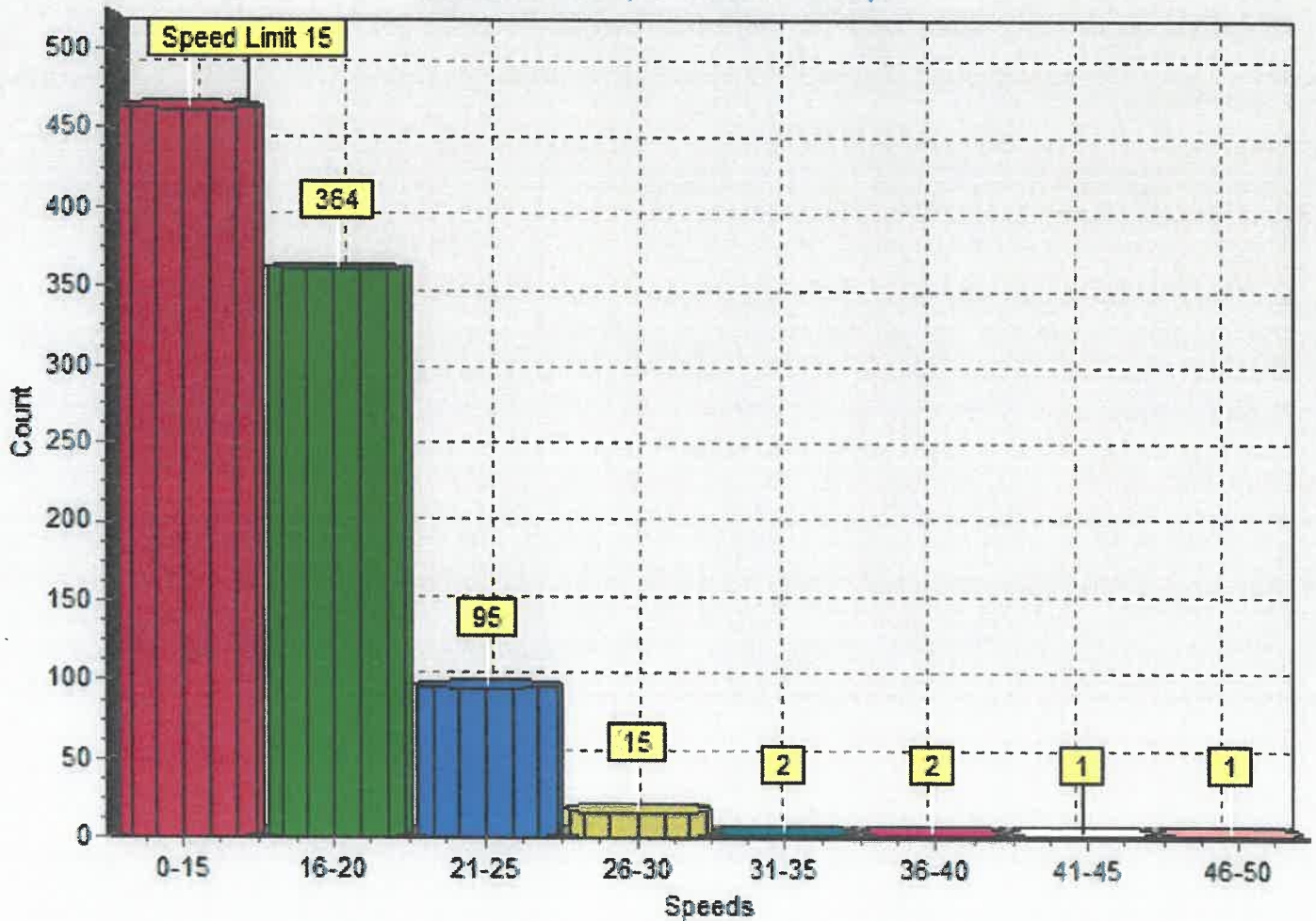
Number Above Speed Limit: 480

Total Number of Vehicles: 947

Comments:

1st Ave / Main St (E/B)

Count vs. Speed  
12/25/2016 02:00 pm - 1/2/2017 10:00 pm



Date: 4/6/2017 12:34:40 pm

Start Date: 2/16/2016 06:00 pm

End Date: 2/19/2016 07:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 19 mph

Highest Speed: 44 mph

50th Percentile: 19 mph

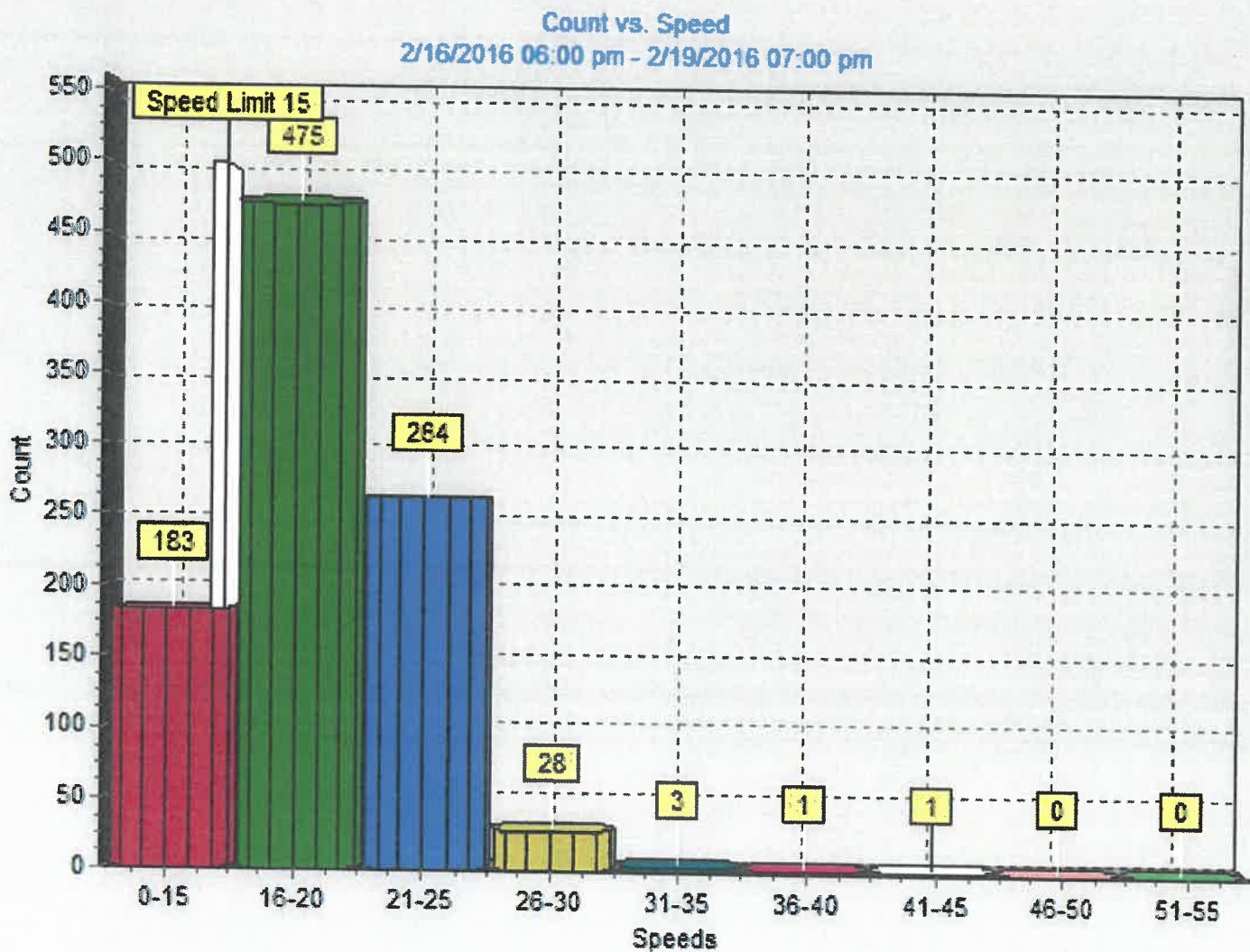
85th Percentile: 22 mph

Number Above Speed Limit: 772

Total Number of Vehicles: 955

Comments:

2nd Ave / Pine Street (W/B)



Date: 4/6/2017 12:22:32 pm

Start Date: 2/8/2017 03:00 pm

End Date: 2/12/2017 01:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 15 mph

Highest Speed: 42 mph

50th Percentile: 15 mph

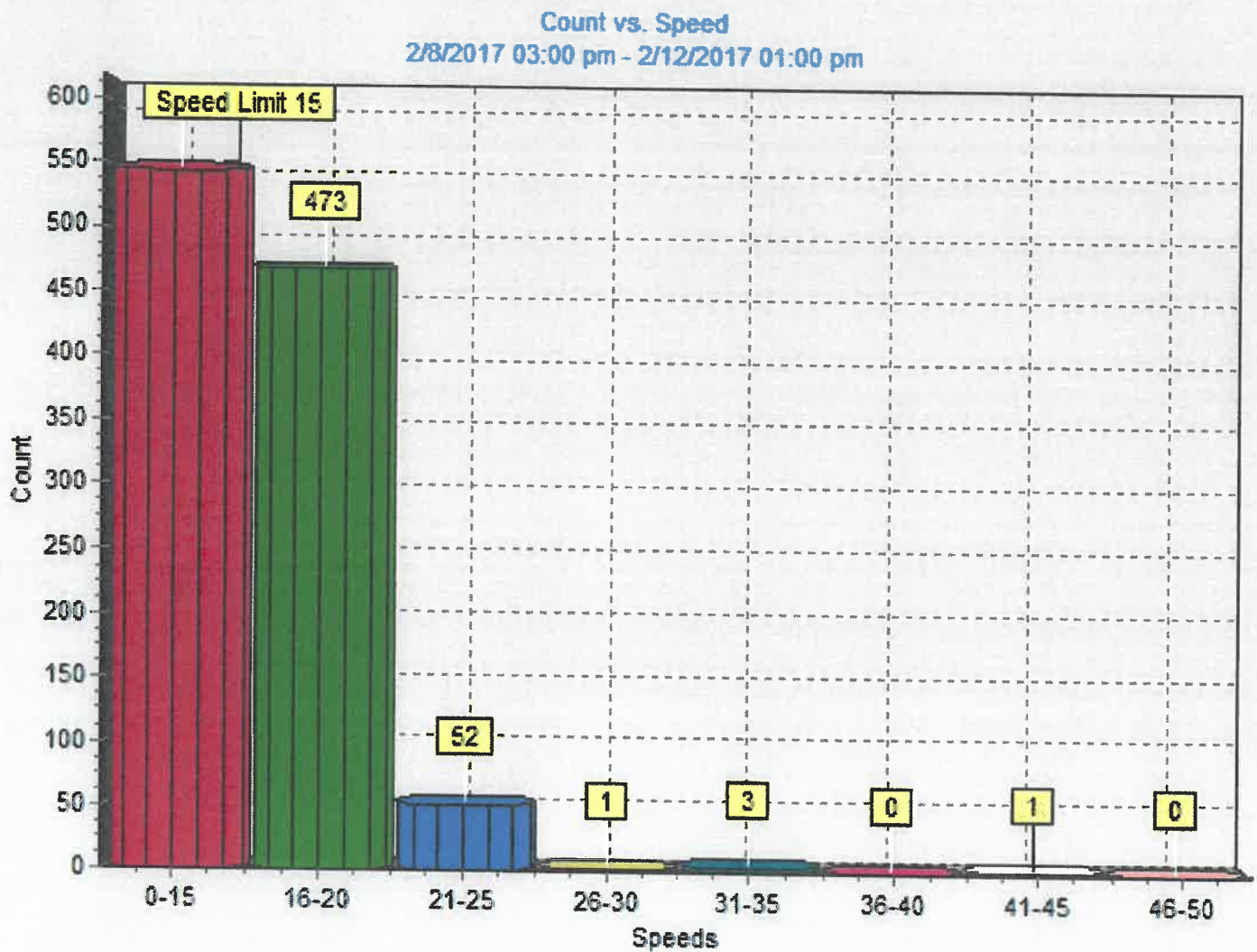
85th Percentile: 19 mph

Number Above Speed Limit: 530

Total Number of Vehicles: 1080

Comments:

2nd Ave / Forest St (E/B)



Date: 4/6/2017 12:37:52 pm

Start Date: 12/16/2015 05:00 pm

End Date: 12/19/2015 01:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 15 mph

Highest Speed: 37 mph

50th Percentile: 16 mph

85th Percentile: 19 mph

Number Above Speed Limit: 124

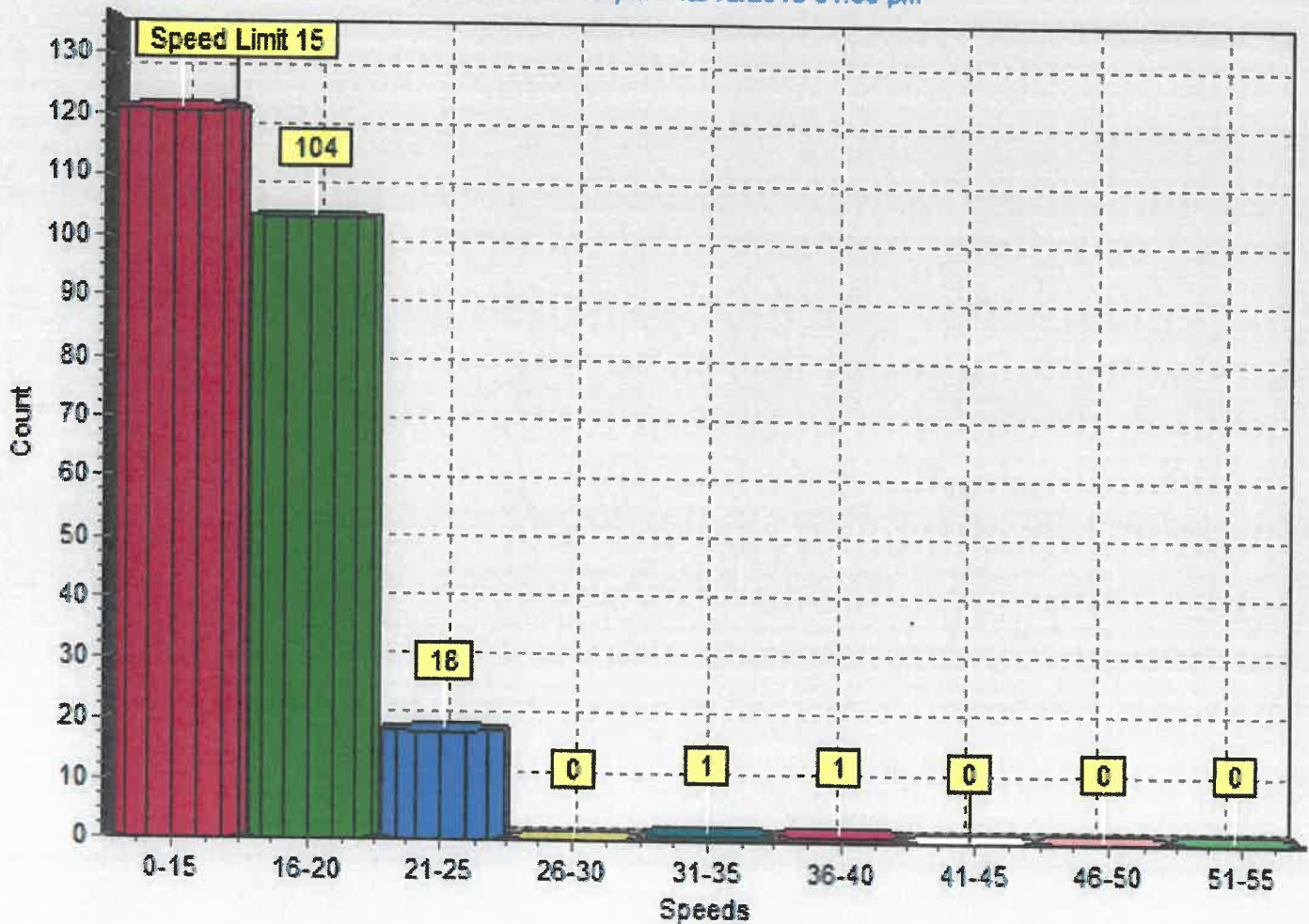
Total Number of Vehicles: 246

Comments:

5th Ave / Butler Street (w/b)

### Count vs. Speed

12/16/2015 05:00 pm - 12/19/2015 01:00 pm



Date: 5/24/2019 11:56:59 am

Start Date: 5/6/2019 04:00 pm

End Date: 5/12/2019 10:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 30 mph

Average Speed: 37 mph

Highest Speed: 81 mph

50th Percentile: 37 mph

85th Percentile: 43 mph

Number Above Speed Limit: 9566

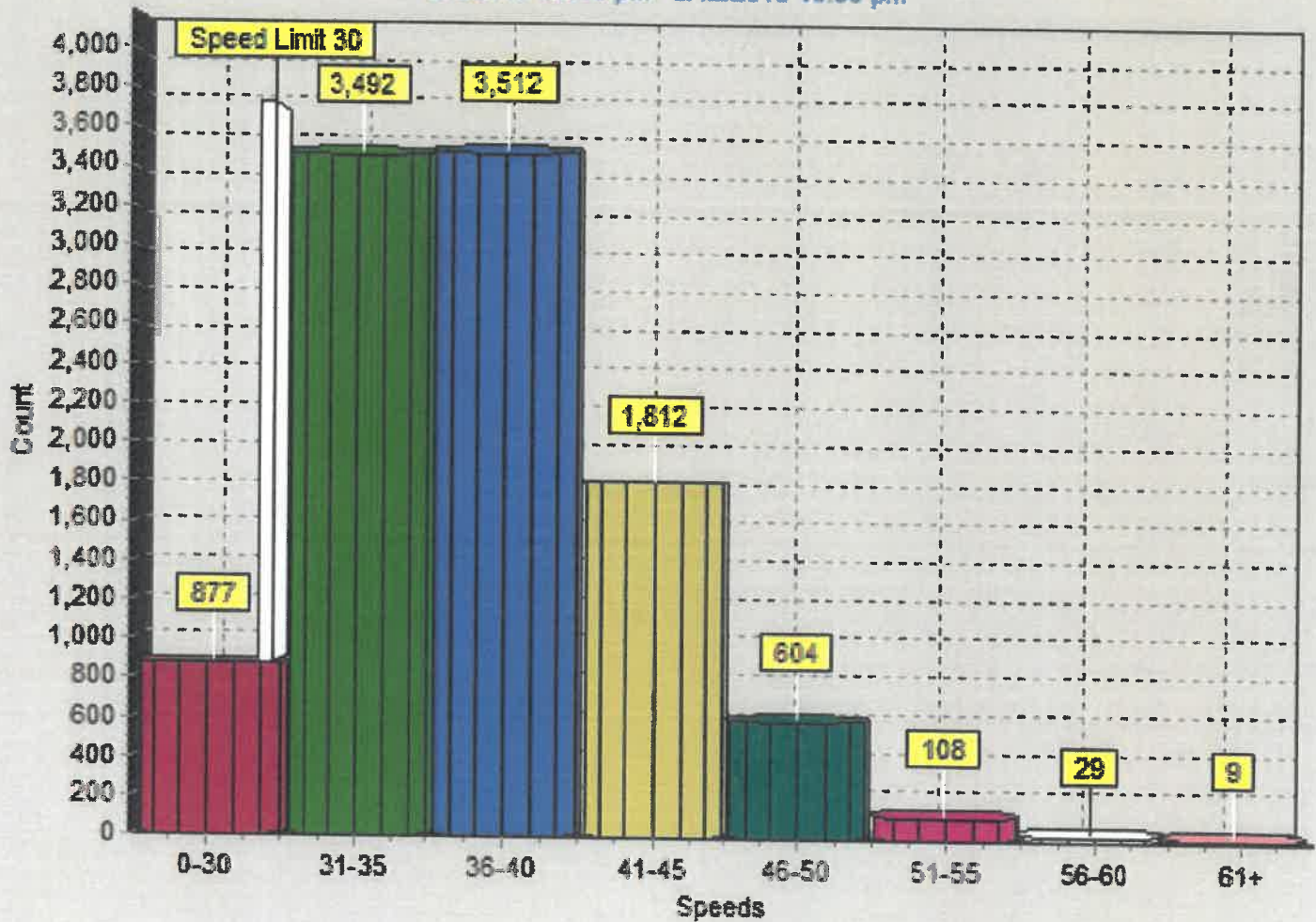
Total Number of Vehicles: 10443

Comments:

Park Ave / Wild Myrtle Ct

Count vs. Speed

5/6/2019 04:00 pm - 5/12/2019 10:00 pm



Date: 5/24/2019 11:26:58 am

Start Date: 4/4/2018 04:00 pm

End Date: 4/10/2018 06:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 16 mph

Highest Speed: 40 mph

50th Percentile: 16 mph

85th Percentile: 20 mph

Number Above Speed Limit: 434

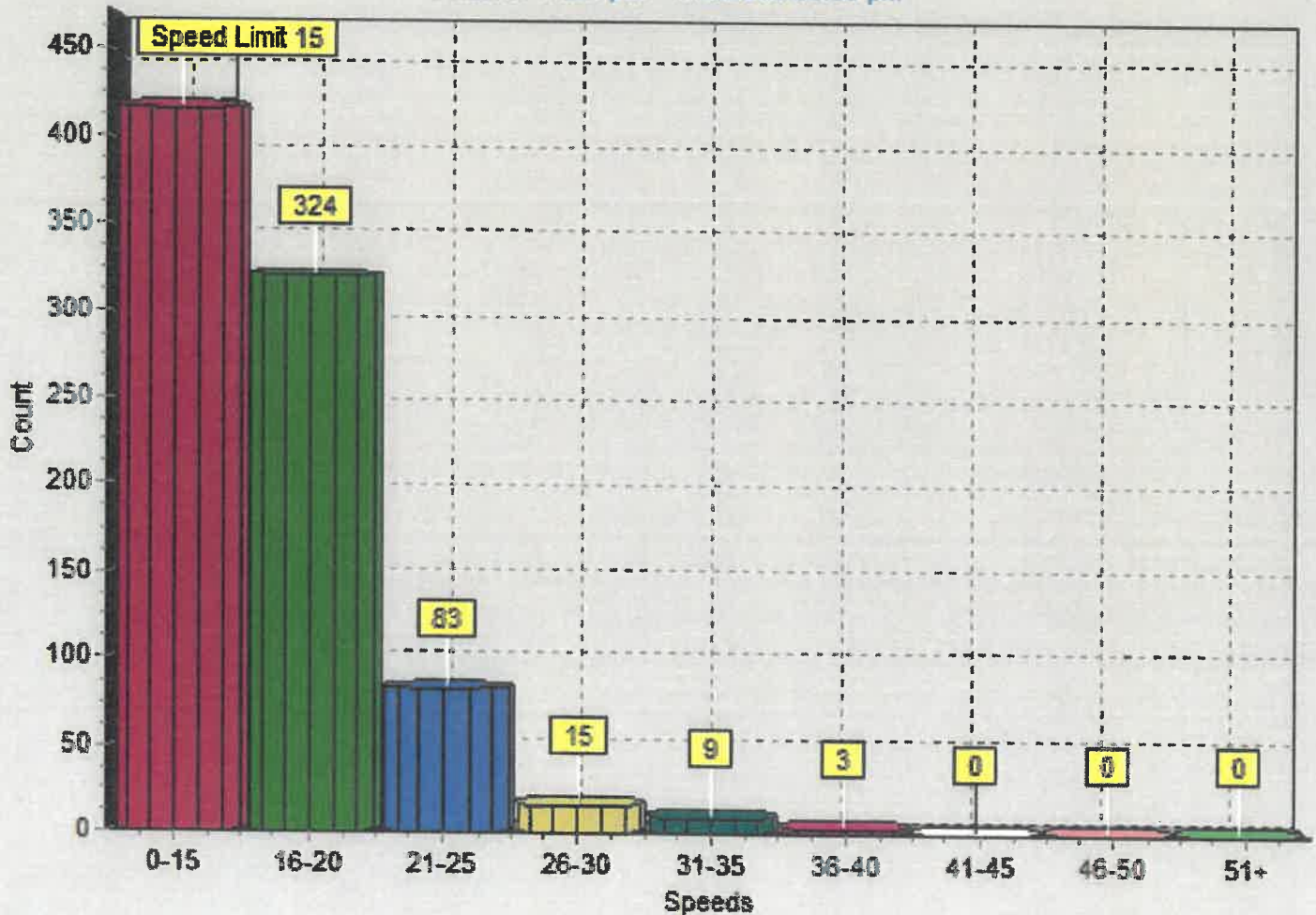
Total Number of Vehicles: 855

Comments:

Oakdale St / 8th Ave

Count vs. Speed

4/4/2018 04:00 pm - 4/10/2018 06:00 pm





Date: 5/24/2019 11:25:25 am

Start Date: 6/8/2018 03:00 pm

End Date: 6/14/2018 05:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 20 mph

Average Speed: 23 mph

Highest Speed: 48 mph

50th Percentile: 23 mph

85th Percentile: 27 mph

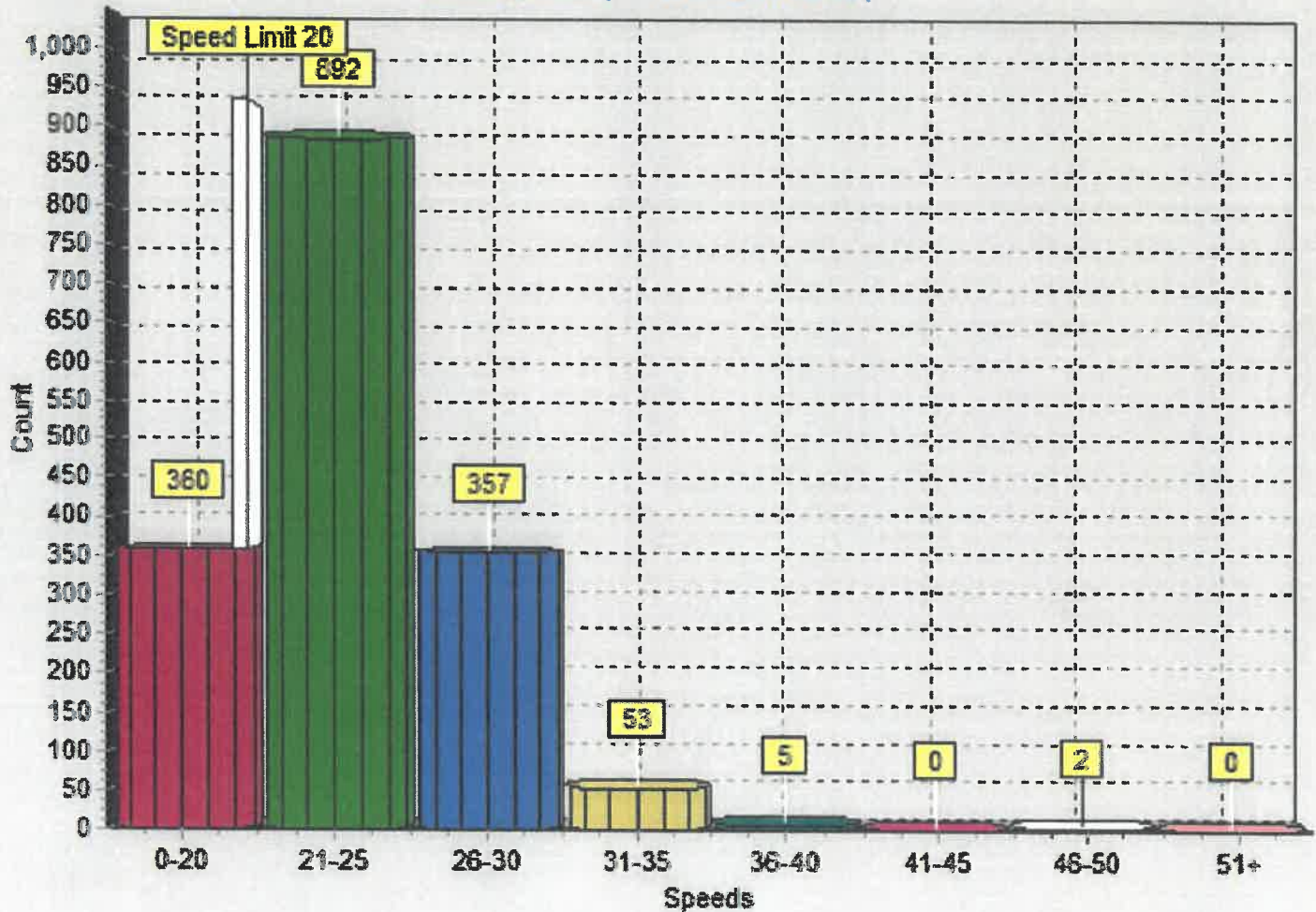
Number Above Speed Limit: 1309

Total Number of Vehicles: 1669

Comments:

Willow Brick Road

Count vs. Speed  
6/8/2018 03:00 pm - 6/14/2018 05:00 pm



Date: 5/24/2019 11:23:33 am

Start Date: 2/15/2019 02:00 pm

End Date: 2/25/2019 11:00 am

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 19 mph

Highest Speed: 34 mph

50th Percentile: 20 mph

85th Percentile: 20 mph

Number Above Speed Limit: 2281

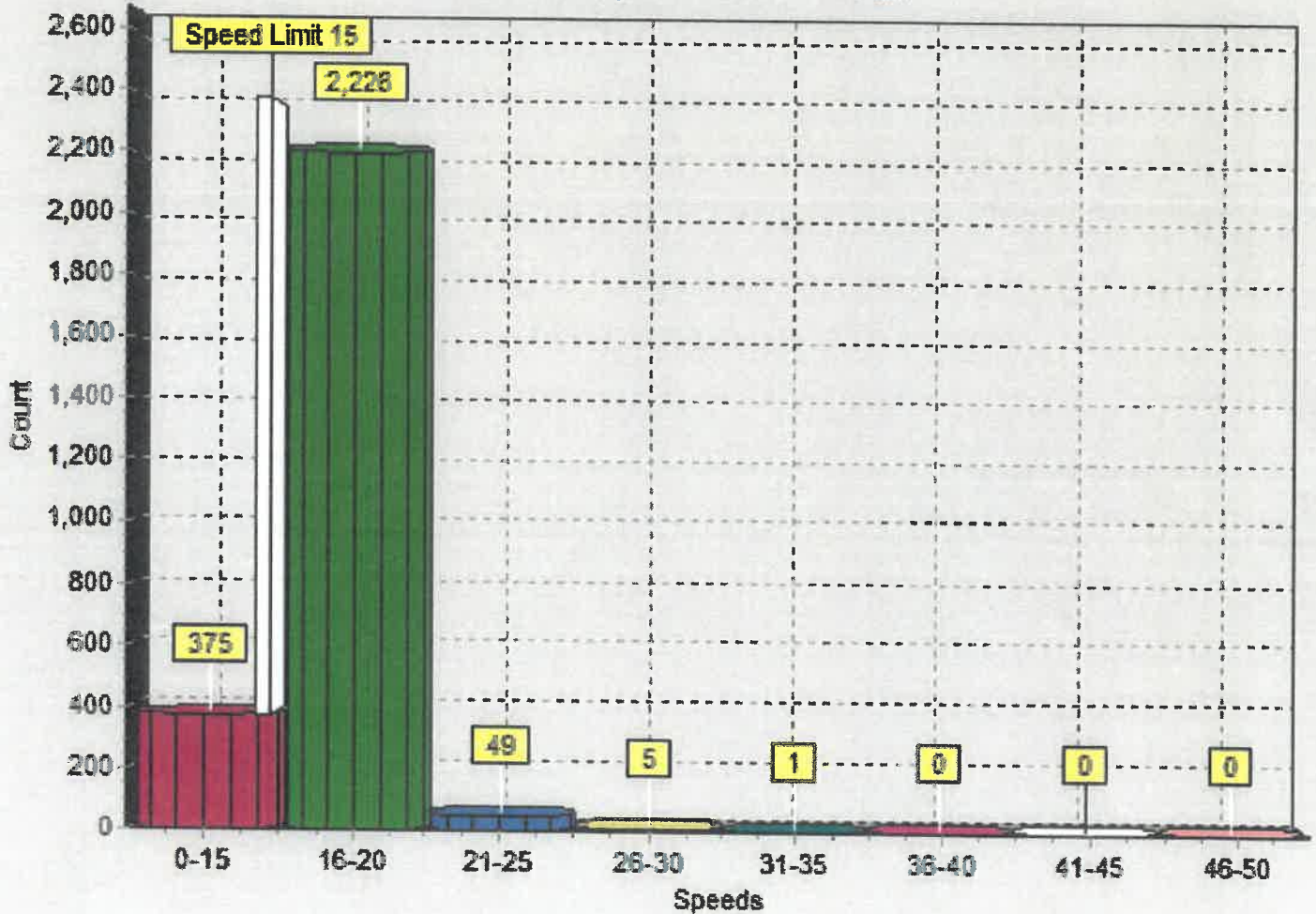
Total Number of Vehicles: 2656

Comments:

Oakdale St / 8th Ave

Count vs. Speed

2/15/2019 02:00 pm - 2/25/2019 11:00 am



Date: 5/24/2019 11:20:36 am

Start Date: 3/7/2019 02:00 pm

End Date: 3/15/2019 06:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 39 mph

50th Percentile: 14 mph

85th Percentile: 19 mph

Number Above Speed Limit: 703

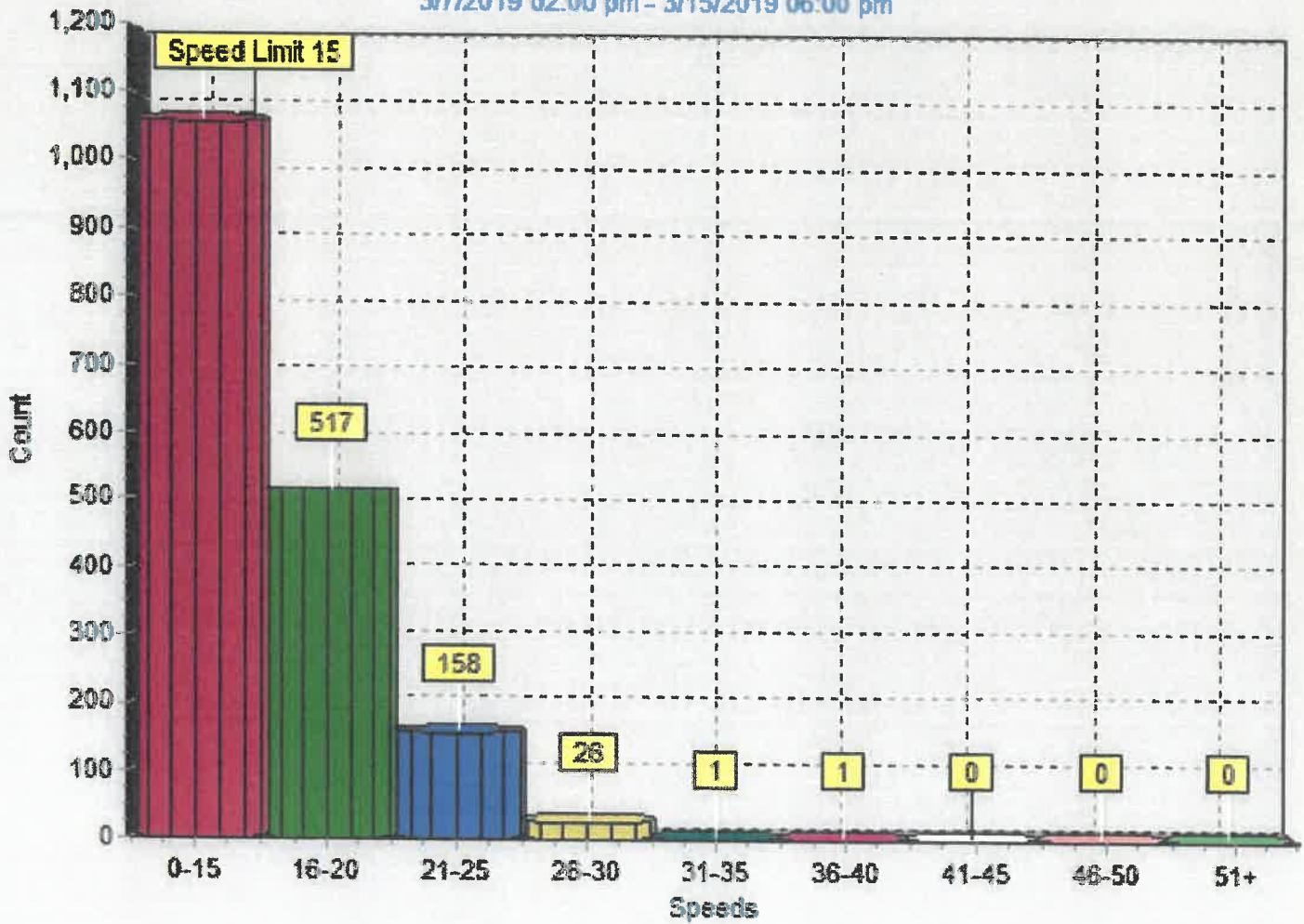
Total Number of Vehicles: 1771

Comments:

Magnolia St / 3rd Ave

Count vs. Speed

3/7/2019 02:00 pm - 3/15/2019 06:00 pm



Date: 5/24/2019 11:21:43 am

Start Date: 2/25/2019 11:00 am

End Date: 3/6/2019 10:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 13 mph

Highest Speed: 38 mph

50th Percentile: 13 mph

85th Percentile: 18 mph

Number Above Speed Limit: 489

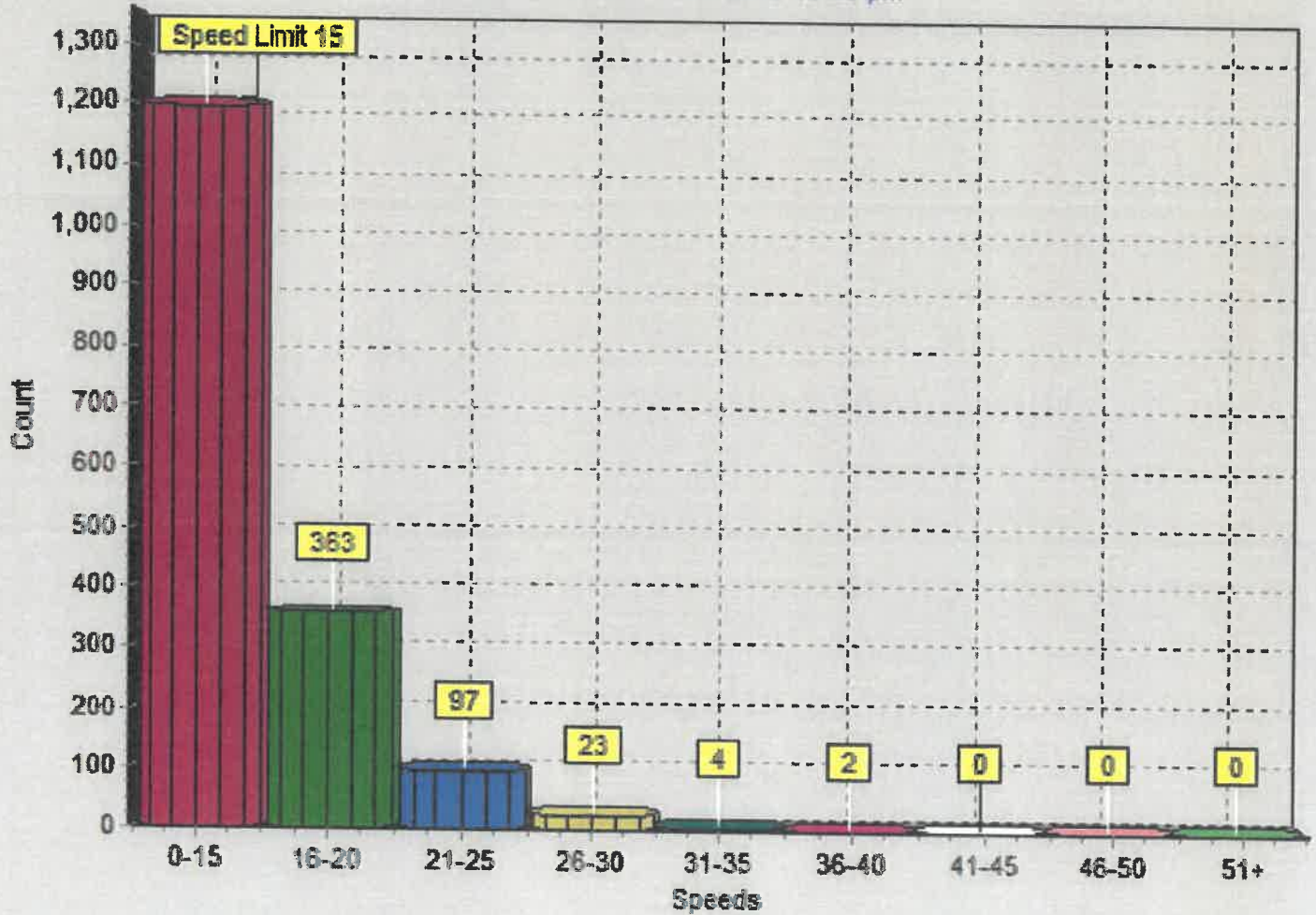
Total Number of Vehicles: 1698

Comments:

Ridgewood Ave / Lee St

Count vs. Speed

2/25/2019 11:00 am - 3/6/2019 10:00 pm



Date: 5/24/2019 11:19:59 am

Start Date: 3/26/2019 10:00 am

End Date: 4/3/2019 12:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 49 mph

50th Percentile: 13 mph

85th Percentile: 18 mph

Number Above Speed Limit: 464

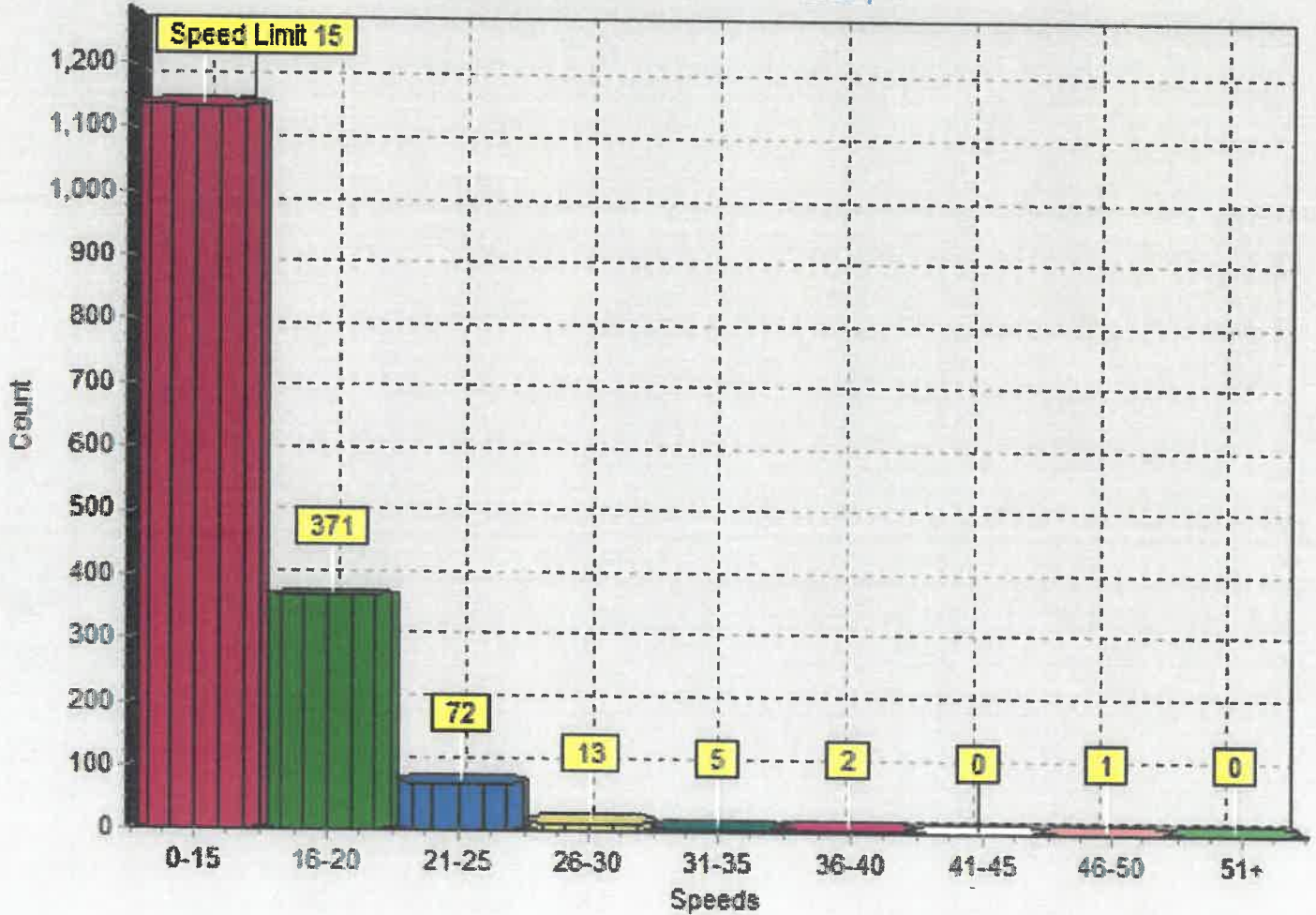
Total Number of Vehicles: 1611

Comments:

Oakdale St / 8th Ave

Count vs. Speed

3/26/2019 10:00 am - 4/3/2019 12:00 pm



Date: 5/6/2019 03:52:52 pm

Start Date: 4/26/2019 04:00 pm

End Date: 5/6/2019 04:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 11 mph

Highest Speed: 39 mph

50th Percentile: 11 mph

85th Percentile: 16 mph

Number Above Speed Limit: 61

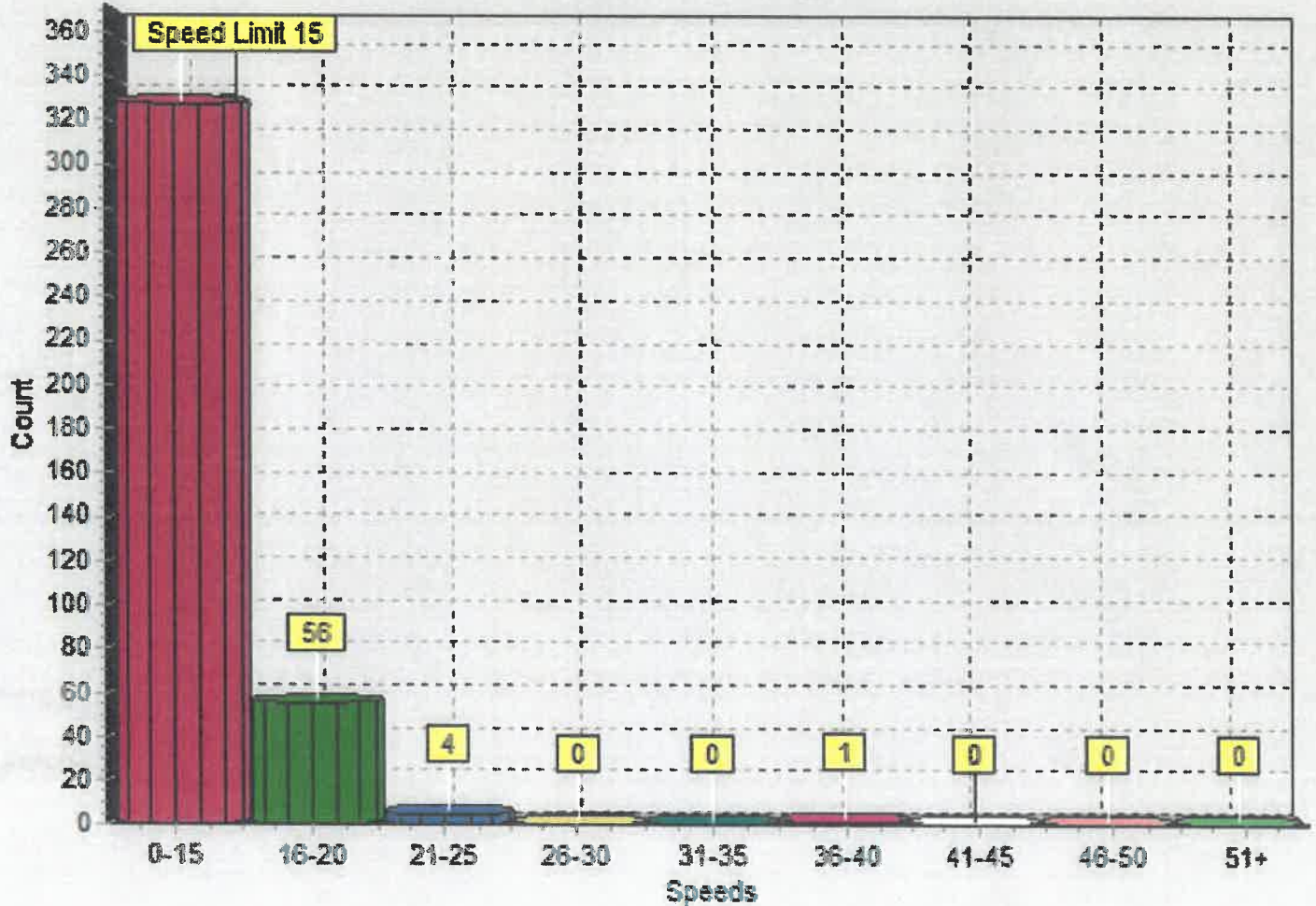
Total Number of Vehicles: 392

Comments:

RIDGEWOOD DR / LEE STREET

### Count vs. Speed

4/26/2019 04:00 pm - 5/6/2019 04:00 pm



# Classification Summary Report: Oakdale St / 8th Ave

## Station ID : Oakdale St / 8th Ave

Info Line 1 :  
Info Line 2 :

GPS Lat/Lon : 28 29.5670,N / 081 31.9473,W

DB File : Oakdale St 8th Ave.DB

Last Connected Device Type : Omega-G

Version Number : 1.11  
Serial Number : OG38599

Number of Lanes : 2  
Posted Speed Limit : 15.0 mph

## Lane Configuration

#	Dir.	Information	Vehicle Sensors	Sensor Spacing	Loop Length
1.	South		Axle-Axle	4.0 ft	
3.	North		Axle-Axle	4.0 ft	

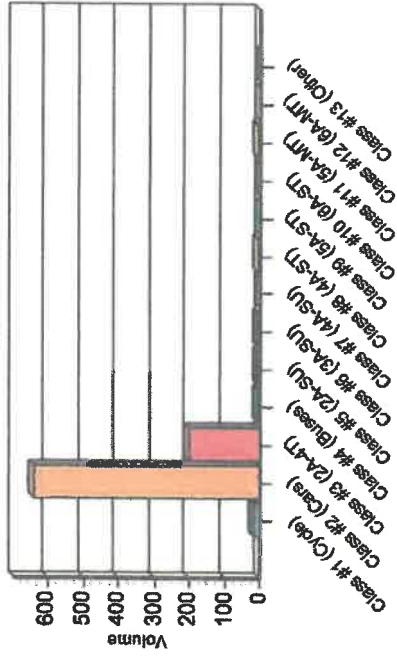
## Axle Class Summary:

(DEFAULT)	Lane	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	Total
Description	Cycle	2A-4T	Buses	2A-SU	3A-SU	4A-SU	4A-ST	5A-ST	5A-ST	6A-MT	6A-MT	6A-MT	6A-MT	Other	Other	Other	Other	Total
Total Count :	#1.	6	244	78	4	3	3	1	1	0	0	2	0	0	0	0	0	342
	#3.	11	395	125	1	3	0	1	5	0	0	1	0	0	0	0	0	542
		17	639	203	5	6	3	2	6	0	0	3	0	0	0	0	0	884
Percents :	#1.	2%	71%	23%	1%	1%	0%	0%	0%	0%	0%	1%	0%	0%	0%	0%	0%	39%
	#3.	2%	73%	23%	0%	1%	0%	0%	1%	0%	0%	0%	0%	0%	0%	0%	0%	61%
		2%	72%	23%	1%	1%	0%	0%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%

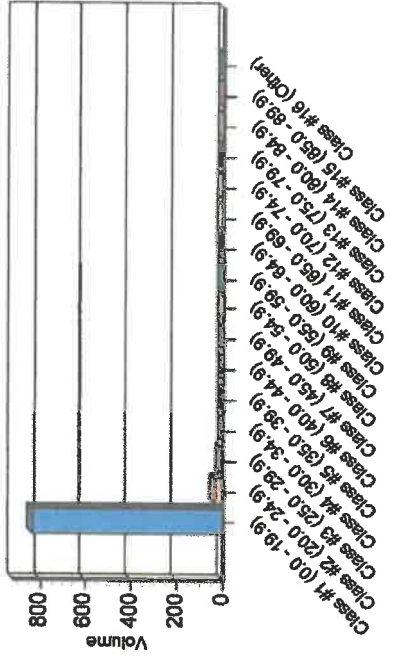
## Speed Class Summary:

(DEFAULT)	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	Total	
Description	0.0 - 20.0	20.0 - 25.0	25.0 - 30.0	30.0 - 35.0	35.0 - 40.0	40.0 - 45.0	45.0 - 50.0	50.0 - 55.0	55.0 - 60.0	60.0 - 65.0	65.0 - 70.0	70.0 - 75.0	75.0 - 80.0	80.0 - 85.0	85.0 - 90.0	90.0 - 95.0	Total	
Total Count :	#1.	322	15	2	0	2	0	1	0	0	0	0	0	0	0	0	342	
	#3.	508	19	9	2	2	0	0	0	0	0	0	1	0	0	1	542	
		830	34	11	2	4	0	1	0	0	0	0	1	0	0	1	884	
Percents :	#1.	94%	4%	1%	0%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	39%	
	#3.	94%	4%	2%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	61%	
		94%	4%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	
Avg. 50, 67, 85 :	#1.	10.9	10.8	14.2	18.0	Pace (pace %) : 10.0 - 19.9 47.4%										Days & ADT : #1.	4.0	86
	#3.	11.0	10.8	13.4	17.0	5.8 - 15.7 59.4%										#3.	4.0	136
		10.9	10.8	13.7	17.6	5.9 - 15.8 54.6%										4.0	222	

Axle Class vs. Volume (all lanes)



Speed Class vs. Volume (all lanes)





# Classification Summary Report: Lake Street / 5th Ave

**Station ID : Lake Street / 5th Ave**

Info Line 1 :  
Info Line 2 :

Last Connected Device Type : Omega-G  
Version Number : 1.11  
Serial Number : OG385599

GPS Lat/Lon : 28 29.8059,N / 081 31.8237,W

DB File : Lake Street 5th Ave.DB

Number of Lanes : 2  
Posted Speed Limit : 0.0 mph

## Lane Configuration

#	Dir.	Information	Vehicle Sensors	Sensor Spacing	Loop Length
1.	South		Axle-Axle	4.0 ft	
2.	North		Axle-Axle	4.0 ft	

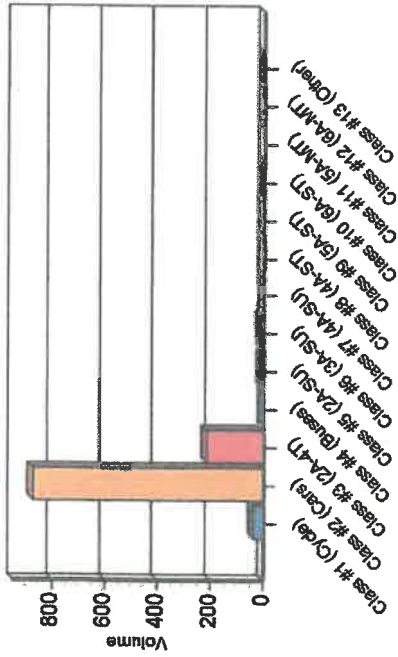
## Axle Class Summary:

(DEFAULT)	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	Total	
Description	Cycle	Cars	2A-4T	Buses	2A-SU	3A-SU	4A-SU	4A-ST	5A-ST	6A-ST	5A-MT	6A-MT	Other	Other	Other	Other		
<b>Total Count :</b>	#1.	20	283	63	0	2	4	0	0	0	0	0	0	0	0	0	1	353
	#2.	19	615	154	1	4	4	2	1	0	0	0	0	0	0	0	0	800
		39	878	217	1	6	8	2	1	0	0	0	0	0	0	0	1	1153
<b>Percents :</b>	#1.	6%	75%	18%	0%	1%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	31%
	#2.	2%	77%	19%	0%	1%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	69%
		3%	76%	19%	0%	1%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	69%

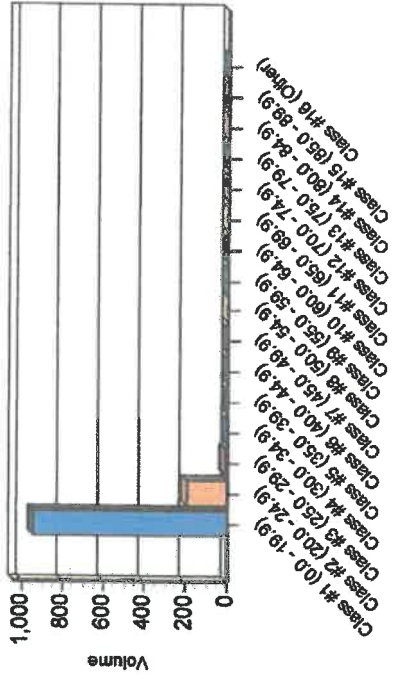
## Speed Class Summary:

(DEFAULT)	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	Total	
Description	Cycle	Cars	2A-4T	Buses	2A-SU	3A-SU	4A-SU	4A-ST	5A-ST	6A-ST	5A-MT	6A-MT	Other	Other	Other	Other		
<b>Total Count :</b>	#1.	314	36	3	0	0	0	0	0	0	0	0	0	0	0	0	0	353
	#2.	693	155	10	0	0	1	0	0	0	0	1	0	0	0	0	0	800
		947	191	13	0	0	1	0	0	0	0	1	0	0	0	0	0	1153
<b>Percents :</b>	#1.	89%	10%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	31%
	#2.	79%	19%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	69%
		82%	17%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	69%
<b>Avg. 50, 67, 85 :</b>	#1.	11.4	11.2	15.0	19.0				9.8 - 19.7	45.6%				Days & ADT : #1.	4.2	84		
	#2.	12.7	12.7	16.9	21.6				9.8 - 19.7	40.3%				#2.	4.2	191		
		12.3	12.2	16.2	21.1				9.5 - 19.4	41.9%					4.2	275		

Axle Class vs. Volume (all lanes)



Speed Class vs. Volume (all lanes)



# Classification Summary Report: Conroy Wind. Rd / Horizon Rd

**Station ID : Conroy Wind. Rd / Horizon Rd**

Info Line 1 :  
Info Line 2 :

Last Connected Device Type : Omega-G  
Version Number : 1.11  
Serial Number : OG38599  
Number of Lanes : 2  
Posted Speed Limit : 0.0 mph

GPS Lat/Lon : 28 29.6163,N / 081 30.9185,W

DB File : Conroy Wind Rd Horizon Rd.DB

## Lane Configuration

#	Dir.	Information	Vehicle Sensors	Sensor Spacing	Loop Length
1.	West		Axle-Axle	4.0 ft	
2.	East		Axle-Axle	4.0 ft	

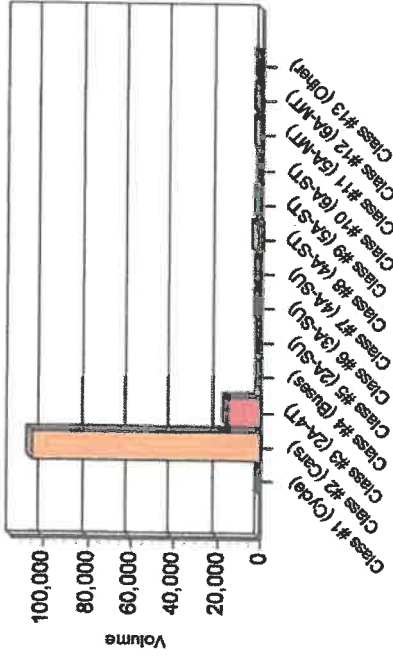
## Axle Class Summary:

(DEFAULT)	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	Total
Description	Cars	2A-4T	Buses	2A-SU	3A-SU	4A-SU	4A-ST	5A-ST	6A-ST	6A-MT	6A-MT	Other	Other	Other	Other	Other	
<b>Total Count :</b>	<b>#1.</b>	168	51784	8293	11	222	267	713	901	448	154	290	266	474	63971		
	<b>#2.</b>	42	59820	8555	8	146	200	591	746	584	132	291	227	509	63849		
		210	105584	14848	17	368	467	1304	1647	1032	286	581	493	983	127820		
<b>Percents :</b>	<b>#1.</b>	0%	81%	13%	0%	0%	1%	1%	1%	1%	0%	0%	0%	1%	1%	50%	
	<b>#2.</b>	0%	84%	10%	0%	0%	1%	1%	1%	1%	0%	0%	0%	1%	1%	50%	
		0%	83%	12%	0%	0%	1%	1%	1%	1%	0%	0%	0%	1%	1%		

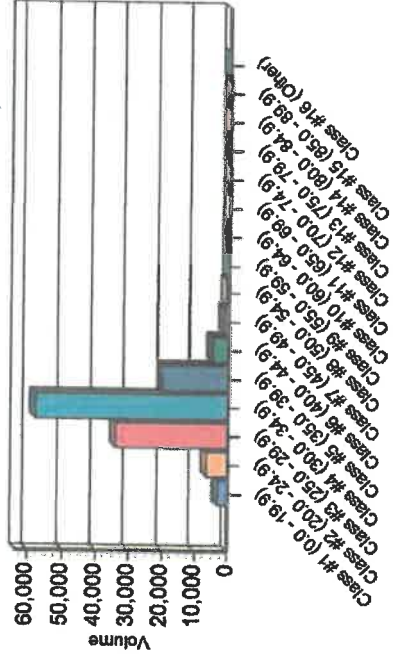
## Speed Class Summary:

(DEFAULT)	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	Total	
Description	0.0 - 20.0	20.0 - 24.9	25.0 - 29.9	30.0 - 34.9	35.0 - 39.9	40.0 - 44.9	45.0 - 49.9	50.0 - 54.9	55.0 - 59.9	60.0 - 64.9	65.0 - 69.9	70.0 - 74.9	75.0 - 79.9	80.0 - 84.9	85.0 - 89.9	Other		
<b>Total Count :</b>	<b>#1.</b>	2213	4404	14743	25924	11238	3543	1180	377	93	56	35	46	25	26	45	63971	
	<b>#2.</b>	447	2158	19283	31888	8433	989	193	77	57	54	39	35	31	27	18	44	63849
		2660	6560	34008	57910	19669	4532	1373	454	150	110	74	81	56	53	43	89	127820
<b>Percents :</b>	<b>#1.</b>	3%	7%	23%	41%	15%	6%	2%	1%	0%	0%	0%	0%	0%	0%	0%	50%	
	<b>#2.</b>	1%	3%	30%	50%	13%	2%	0%	0%	0%	0%	0%	0%	0%	0%	0%	50%	
		2%	5%	27%	45%	15%	4%	1%	0%	0%	0%	0%	0%	0%	0%	0%		
<b>Avg. 50, 67, 85 :</b>	<b>#1.</b>	31.8	32.1	34.2	36.2	Pace (pace %):	25.0 - 34.9	63.6%	Days & ADT : #1.	6.0	10680							
	<b>#2.</b>	31.4	31.6	33.2	35.3		25.0 - 34.9	80.3%	#2.	6.0	10960							
		31.6	31.8	33.7	37.0		25.0 - 34.9	71.9%		6.0	21340							

Axle Class vs. Volume (all lanes)



Speed Class vs. Volume (all lanes)



# Classification Summary Report: Conroy Wind. Rd / Horizon Cir

Station ID : Conroy Wind. Rd / Horizon Cir

Info Line 1 :  
Info Line 2 :

Last Connected Device Type : Omega-G  
Version Number : 1.11  
Serial Number : OG38599  
Number of Lanes : 2  
Posted Speed Limit : 30.0 mph

GPS Lat/Lon : 28.29.6169,N / 081.30.9193,W  
DB File : Conroy Wind Rd Horizon Cir.DB

## Lane Configuration

#	Dir.	Information	Vehicle Sensors	Sensor Spacing	Loop Length
1.	West		Axle-Axle	4.0 ft	
2.	East		Axle-Axle	4.0 ft	

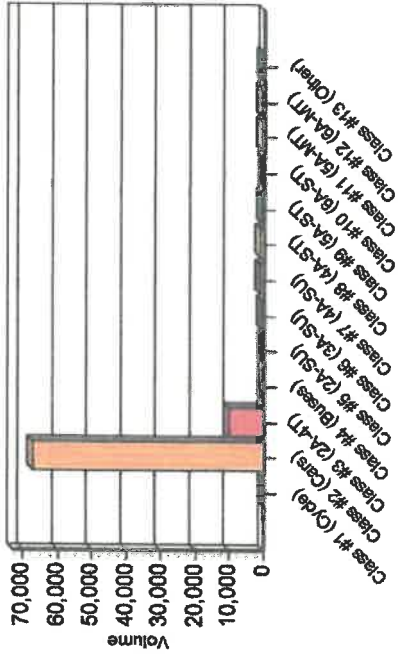
## Axle Class Summary:

(DEFAULT)	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	Total
Description	Lane	Cycle	2A-4T	Buses	2A-SU	3A-SU	4A-SU	4A-ST	5A-ST	6A-ST	5A-MT	6A-MT	Other				
Total Count :	#1.	83	33540	5542	4	169	219	556	569	329	153	233	173	418	418	418	41890
	#2.	27	33739	4436	3	115	117	367	549	430	102	213	145	368	368	368	40631
		110	67279	9978	7	284	336	925	1118	759	255	446	318	806	806	806	82621
Percents :	#1.	0%	80%	13%	0%	0%	1%	1%	1%	1%	0%	0%	0%	1%	0%	1%	51%
	#2.	0%	83%	11%	0%	0%	1%	1%	1%	1%	0%	0%	0%	1%	0%	1%	48%
		0%	81%	12%	0%	0%	1%	1%	1%	1%	0%	0%	0%	1%	0%	1%	

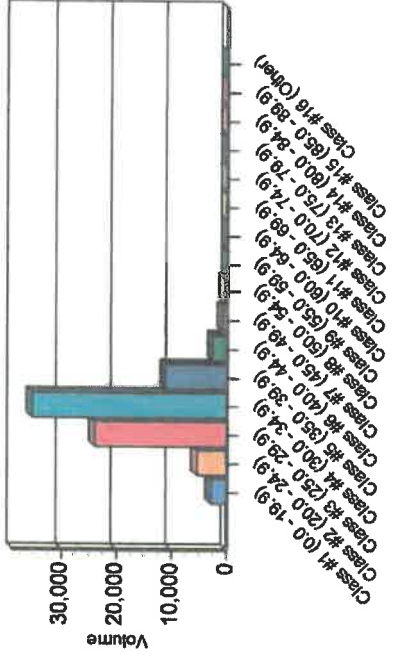
## Speed Class Summary:

(DEFAULT)	#1	#2	#3	#4	#5	#6	#7	#8	#9	#10	#11	#12	#13	#14	#15	#16	Total	
Description	Lane	Cycle	20.0-	25.0-	30.0-	35.0-	40.0-	45.0-	50.0-	55.0-	60.0-	65.0-	70.0-	75.0-	80.0-	85.0-		
Total Count :	#1.	2398	3951	10862	15374	6305	2001	673	197	64	48	19	23	24	14	15	22	41980
	#2.	307	1522	13204	20072	4617	560	118	49	29	32	20	20	24	19	9	29	40631
		2705	5373	24166	35446	10922	2561	791	246	93	80	39	43	48	33	24	51	82621
Percents :	#1.	6%	9%	26%	37%	15%	5%	2%	0%	0%	0%	0%	0%	0%	0%	0%	0%	51%
	#2.	1%	4%	32%	48%	11%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	49%
		3%	7%	29%	43%	13%	3%	1%	0%	0%	0%	0%	0%	0%	0%	0%	0%	
Avg, 50, 67, 85 :	#1.	30.6	31.2	33.6	37.5	Pace (pace %)	25.0 - 34.9	62.7%	Days & ADT : #1.								3.8	11105
	#2.	31.1	31.3	33.1	34.9		25.0 - 34.9	81.9%	#2.								3.8	10745
		30.9	31.3	33.2	36.2		25.0 - 34.9	72.2%									3.8	21850

Axle Class vs. Volume (all lanes)



Speed Class vs. Volume (all lanes)



# Volume Summary Report: 8 Chase Road

## Station ID : 8 Chase Road

Info Line 1 :  
Info Line 2 :

Last Connected Device Type : Omega-G

Version Number : 1.11  
Serial Number : OG38599

GPS Lat/Lon : 28 29.2333,N / 081 31.9262,W

Number of Lanes : 1  
Posted Speed Limit : 0.0 mph

DB File : 8 Chase Road.DB

### Lane Configuration

#	Dir.	Information	Volume Mode	Volume Sensors	Divide / 2	Comment
1.	West	Directional	Axle	Yes		

Total Count: 0000 0100 0200 0300 0400 0500 0600 0700 0800 0900 1000 1100 1200 1300 1400 1500 1600 1700 1800 1900 2000 2100 2200 2300 Total  
Lane #1 664 428 220 194 280 719 2002 3827 3816 3644 3561 3644 3958 3982 4675 5418 4577 4178 3917 3002 2656 2012 1613 1208 64095

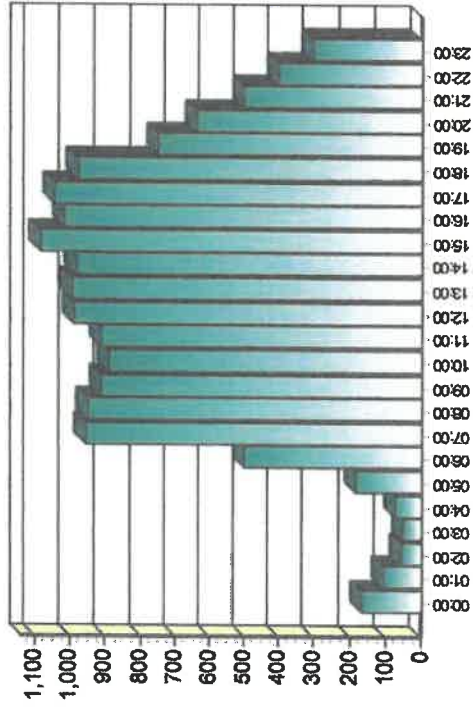
Percents: 0000 0100 0200 0300 0400 0500 0600 0700 0800 0900 1000 1100 1200 1300 1400 1500 1600 1700 1800 1900 2000 2100 2200 2300  
Lane #1 1% 4% 0% 0% 0% 1% 3% 6% 6% 6% 6% 6% 5% 6% 6% 7% 8% 7% 7% 6% 5% 4% 3% 3% 2%

ADT: 0000 0100 0200 0300 0400 0500 0600 0700 0800 0900 1000 1100 1200 1300 1400 1500 1600 1700 1800 1900 2000 2100 2200 2300 Total  
Lane #1 166 107 55 48 70 180 501 957 954 911 890 911 990 986 984 1084 1017 1045 979 751 539 403 302 15444

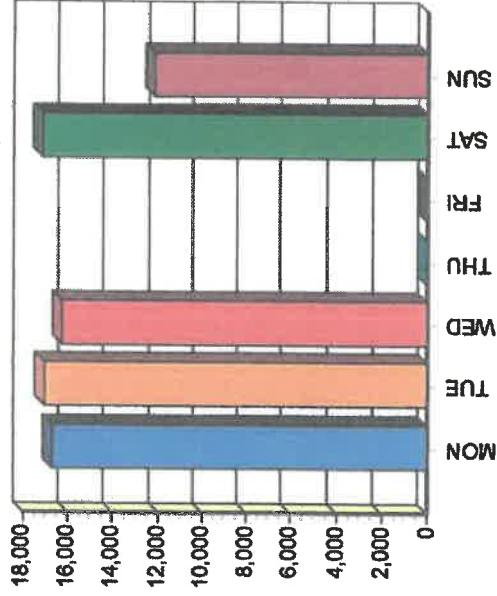
### Lane #1

	Sun	Mon	Tue	Wed	Thu	Fri	Sat	Total	Percent
DW Totals :	12175	16671	17078	11207	0	0	6964	44956	70%
# Days :	1.0	1.0	1.0	0.7	0.0	0.0	0.4	16728	ADT :
ADT :	12175	16671	17078	16301	0	0	17142	19139	Weekend (Sat-Sun) :
Percent :	19%	26%	27%	17%	0%	0%	11%	13610	ADT :

ADT Volume vs. Time (all lanes combined)



ADT By Day of Week (all lanes)





Date: 4/6/2017 12:36:04 pm

Start Date: 1/5/2016 02:00 pm

End Date: 1/9/2016 02:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 44 mph

50th Percentile: 13 mph

85th Percentile: 19 mph

Number Above Speed Limit: 93

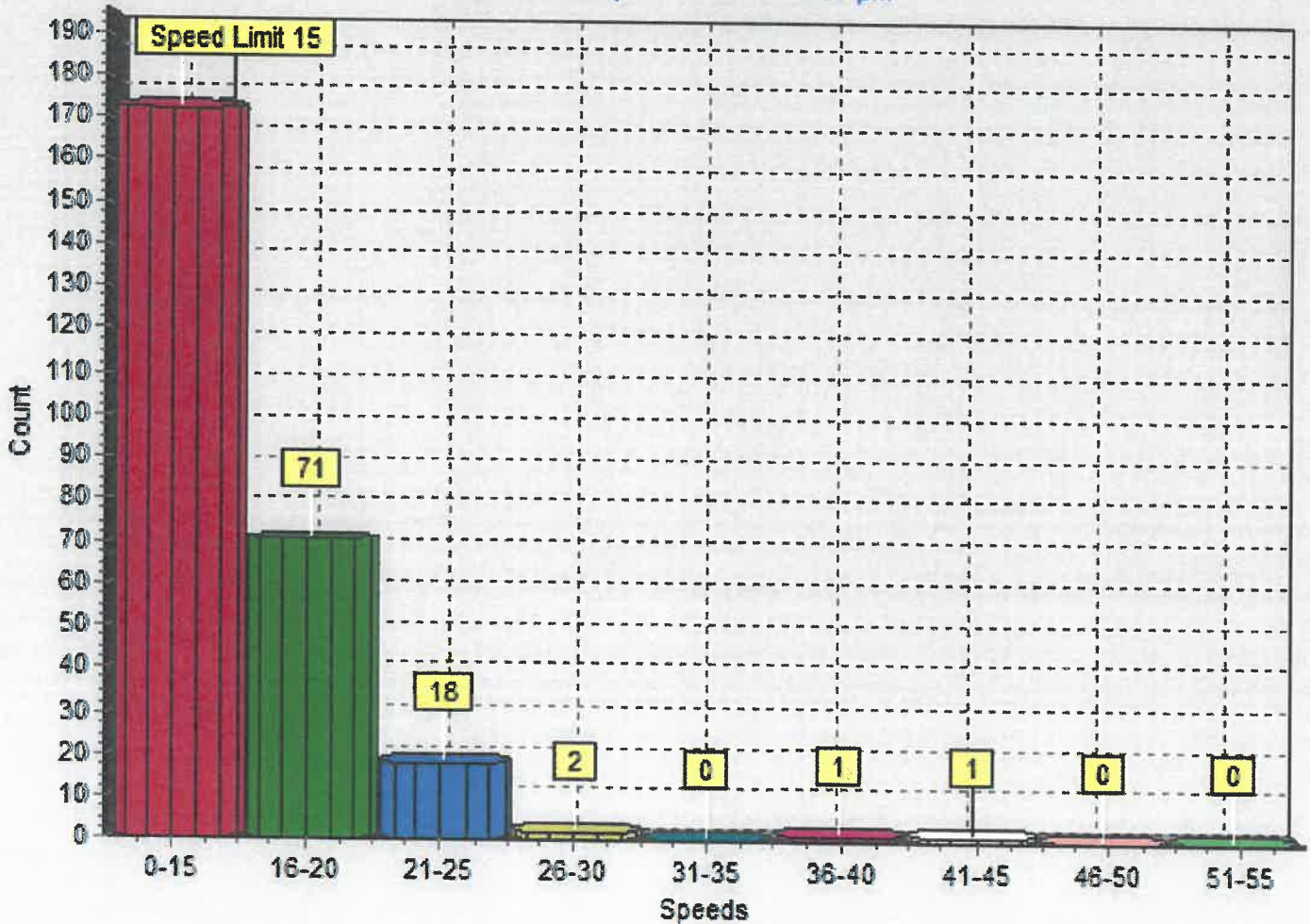
Total Number of Vehicles: 267

Comments:

Butler St / 5th Ave (n/b)

### Count vs. Speed

1/5/2016 02:00 pm - 1/9/2016 02:00 pm



Date: 4/6/2017 12:28:47 pm

Start Date: 5/23/2016 03:00 pm

End Date: 5/28/2016 07:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 45 mph

50th Percentile: 14 mph

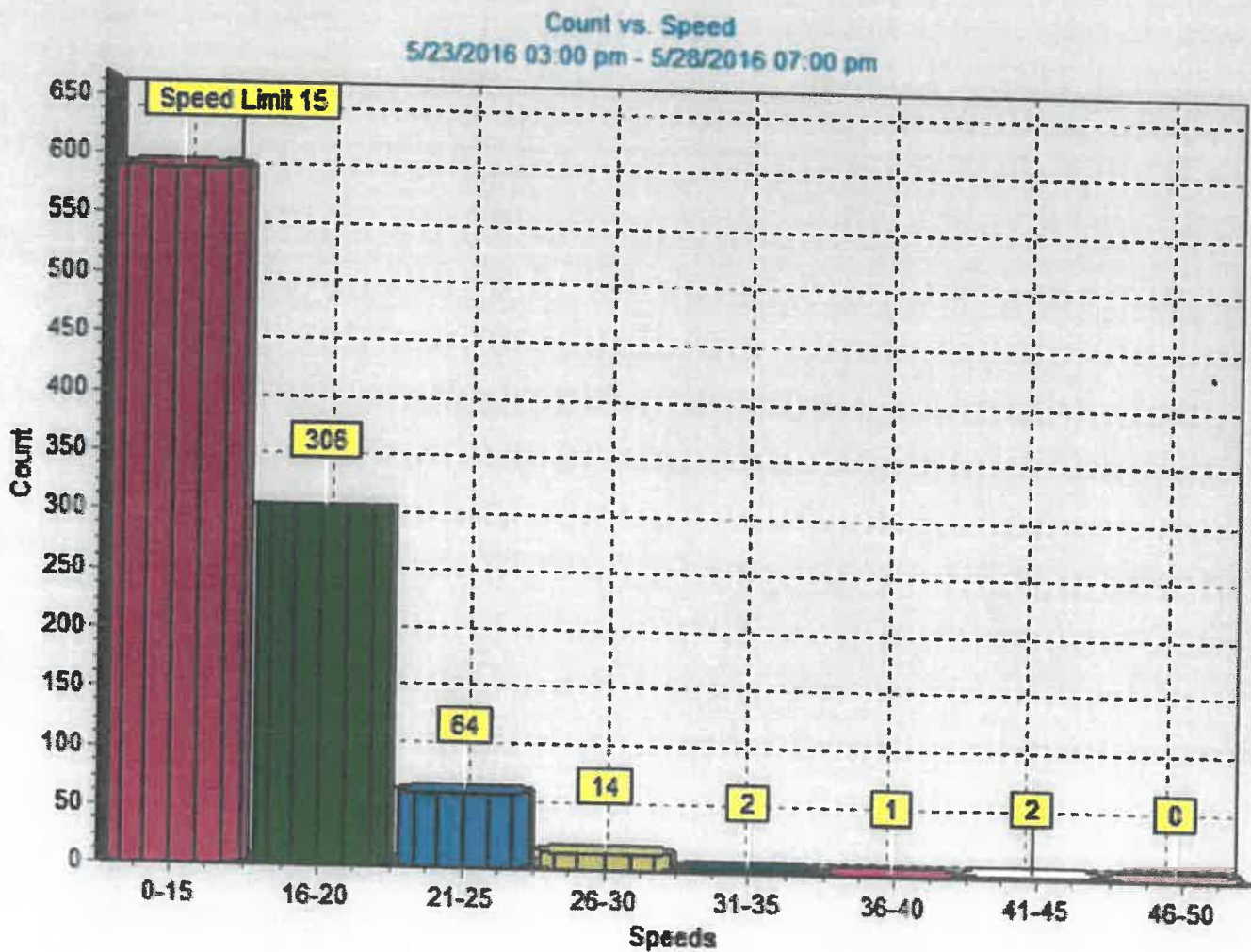
85th Percentile: 19 mph

Number Above Speed Limit: 389

Total Number of Vehicles: 985

Comments:

Oakdale St / 8th Ave (N/B)



Date: 4/6/2017 12:30:23 pm

Start Date: 5/3/2016 01:00 pm

End Date: 5/9/2016 12:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 13 mph

Highest Speed: 37 mph

50th Percentile: 13 mph

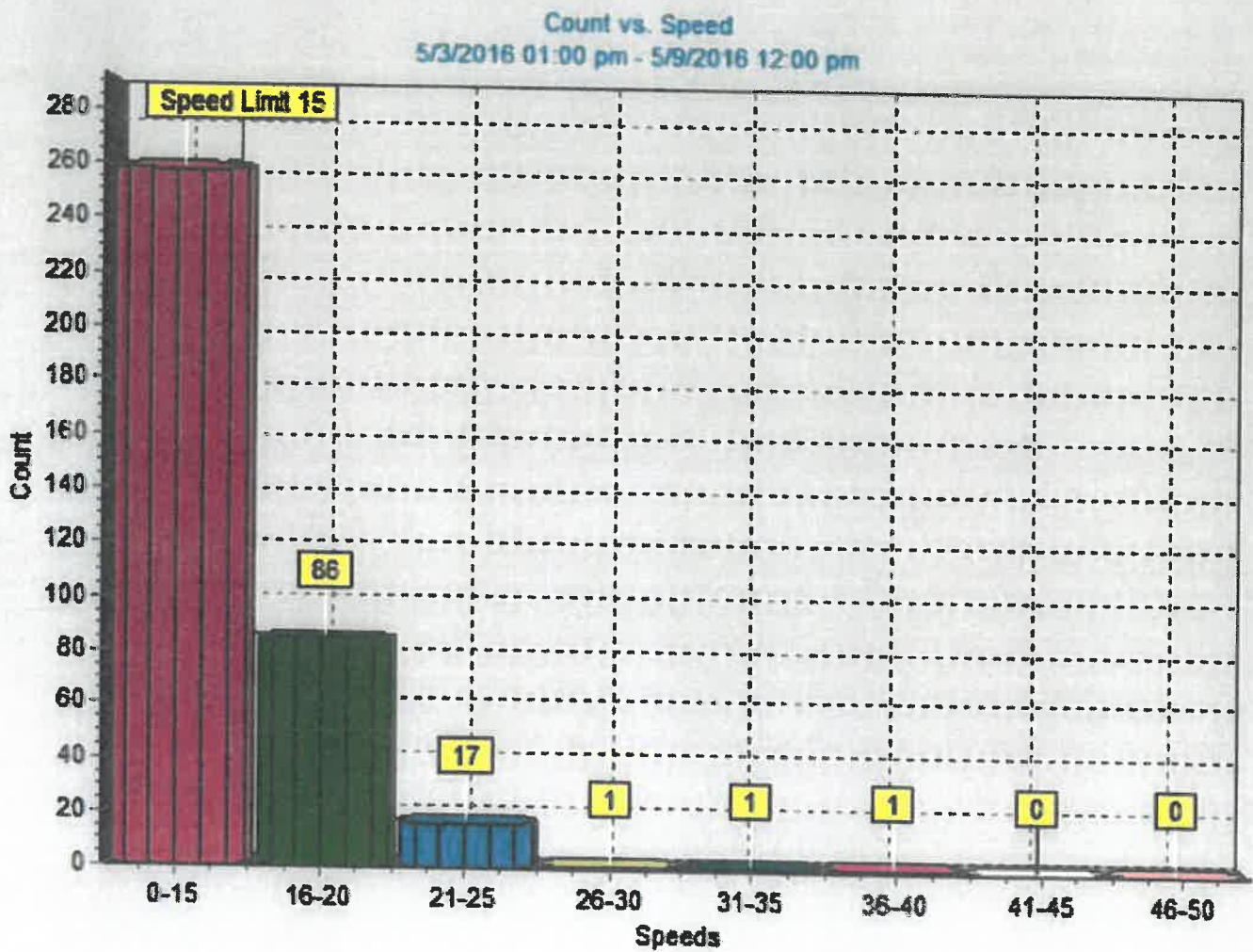
85th Percentile: 18 mph

Number Above Speed Limit: 106

Total Number of Vehicles: 367

Comments:

Oakdale Street / 10th Ave (S/B)



Date: 10/14/2017 11:51:00 am

Start Date: 10/10/2017 08:00 pm

End Date: 10/14/2017 03:00 am

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 38 mph

50th Percentile: 14 mph

85th Percentile: 19 mph

Number Above Speed Limit: 206

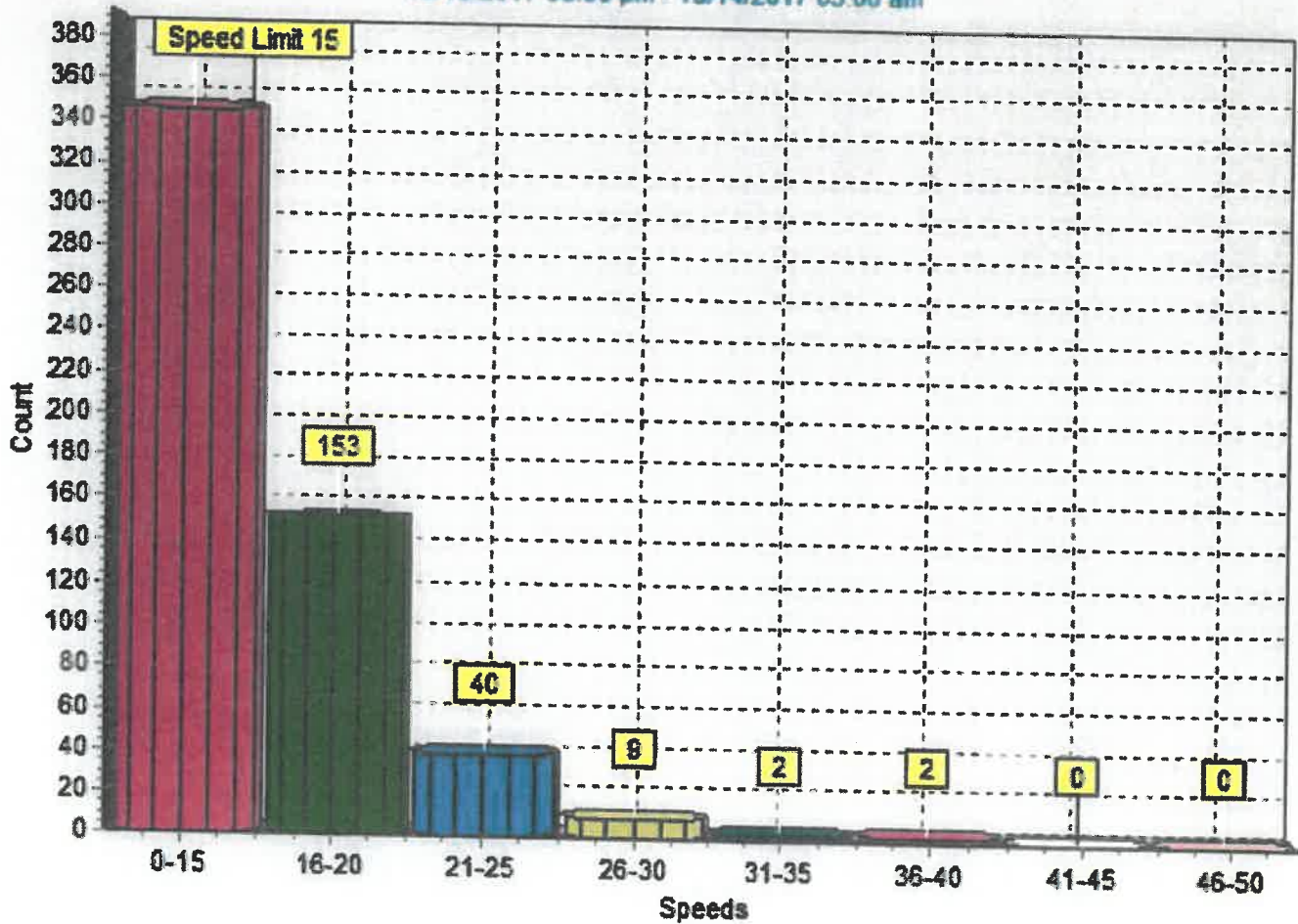
Total Number of Vehicles: 555

Comments:

Oakdale St / 8th Ave

### Count vs. Speed

10/10/2017 08:00 pm - 10/14/2017 03:00 am



Date: 10/14/2017 11:51:00 am

Start Date: 10/10/2017 08:00 pm

End Date: 10/14/2017 03:00 am

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 38 mph

50th Percentile: 14 mph

85th Percentile: 19 mph

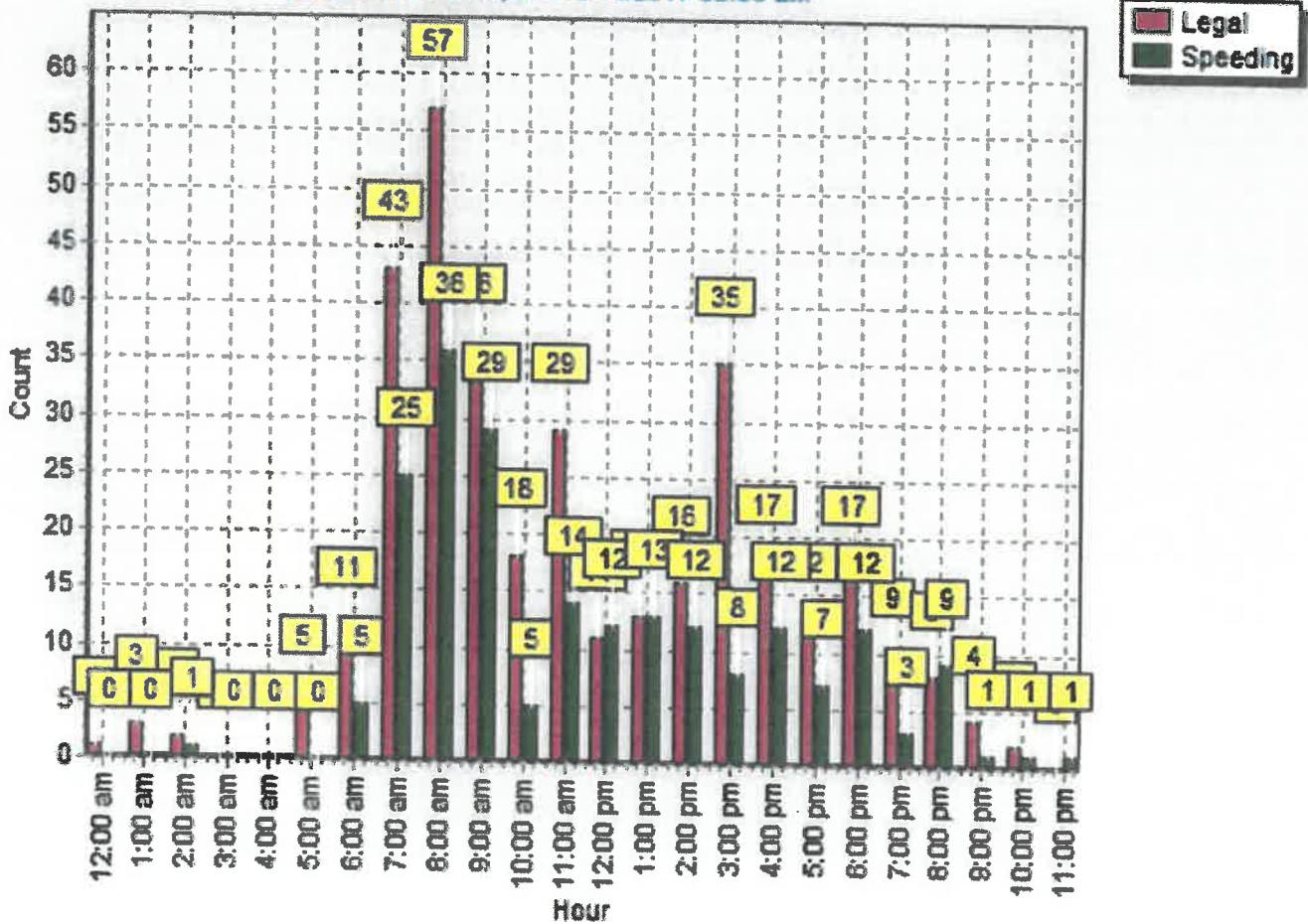
Number Above Speed Limit: 206

Total Number of Vehicles: 555

Comments:

Oakdale St / 8th Ave

Count vs. Hour  
10/10/2017 08:00 pm - 10/14/2017 03:00 am



Date: 7/3/2018 11:30:45 am

Start Date: 4/4/2018 04:00 pm

End Date: 4/10/2018 06:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 16 mph

Highest Speed: 40 mph

50th Percentile: 16 mph

85th Percentile: 20 mph

Number Above Speed Limit: 434

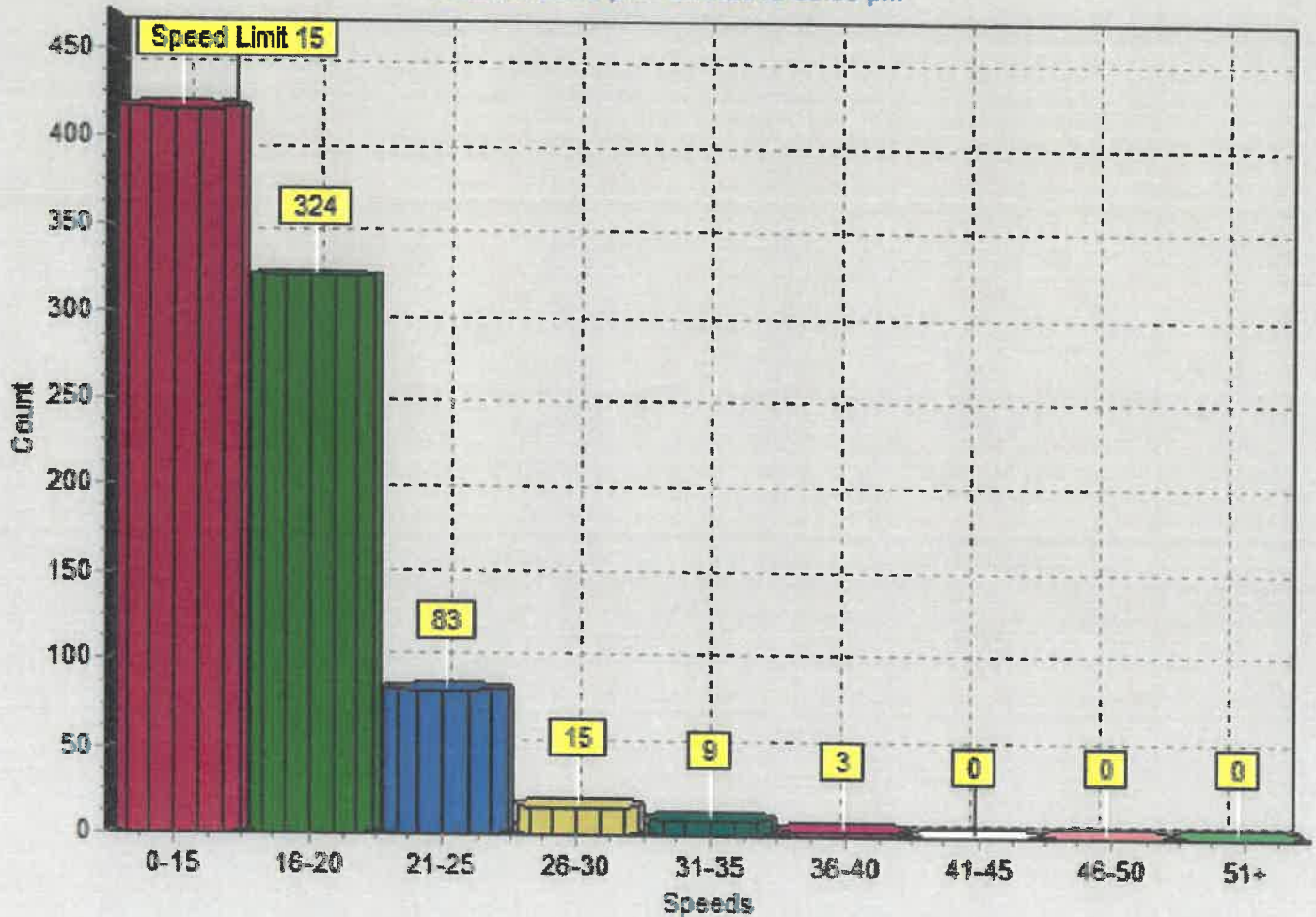
Total Number of Vehicles: 855

Comments:

Oakdale Street / 8th Ave (n/b)

Count vs. Speed

4/4/2018 04:00 pm - 4/10/2018 06:00 pm



Date: 4/6/2017 11:47:54 am

Start Date: 3/1/2017 05:00 pm

End Date: 3/5/2017 06:00 am

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 15 mph

Highest Speed: 34 mph

50th Percentile: 15 mph

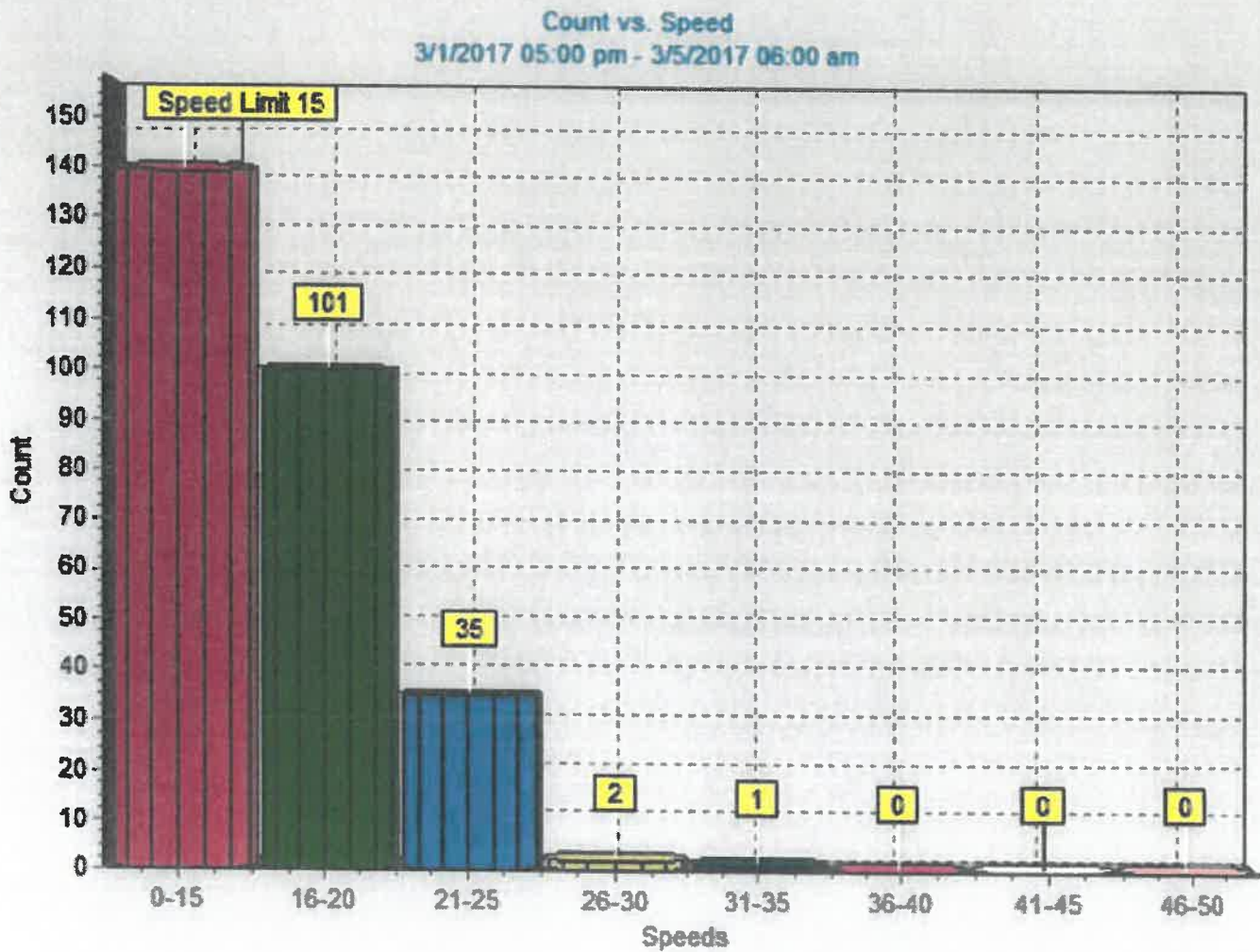
85th Percentile: 20 mph

Number Above Speed Limit: 139

Total Number of Vehicles: 280

Comments:

Ridgewood Ave / Lee St (W/B)



Date: 7/3/2018 11:32:10 am

Start Date: 10/30/2017 01:00 pm

End Date: 11/3/2017 11:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 13 mph

Highest Speed: 36 mph

50th Percentile: 13 mph

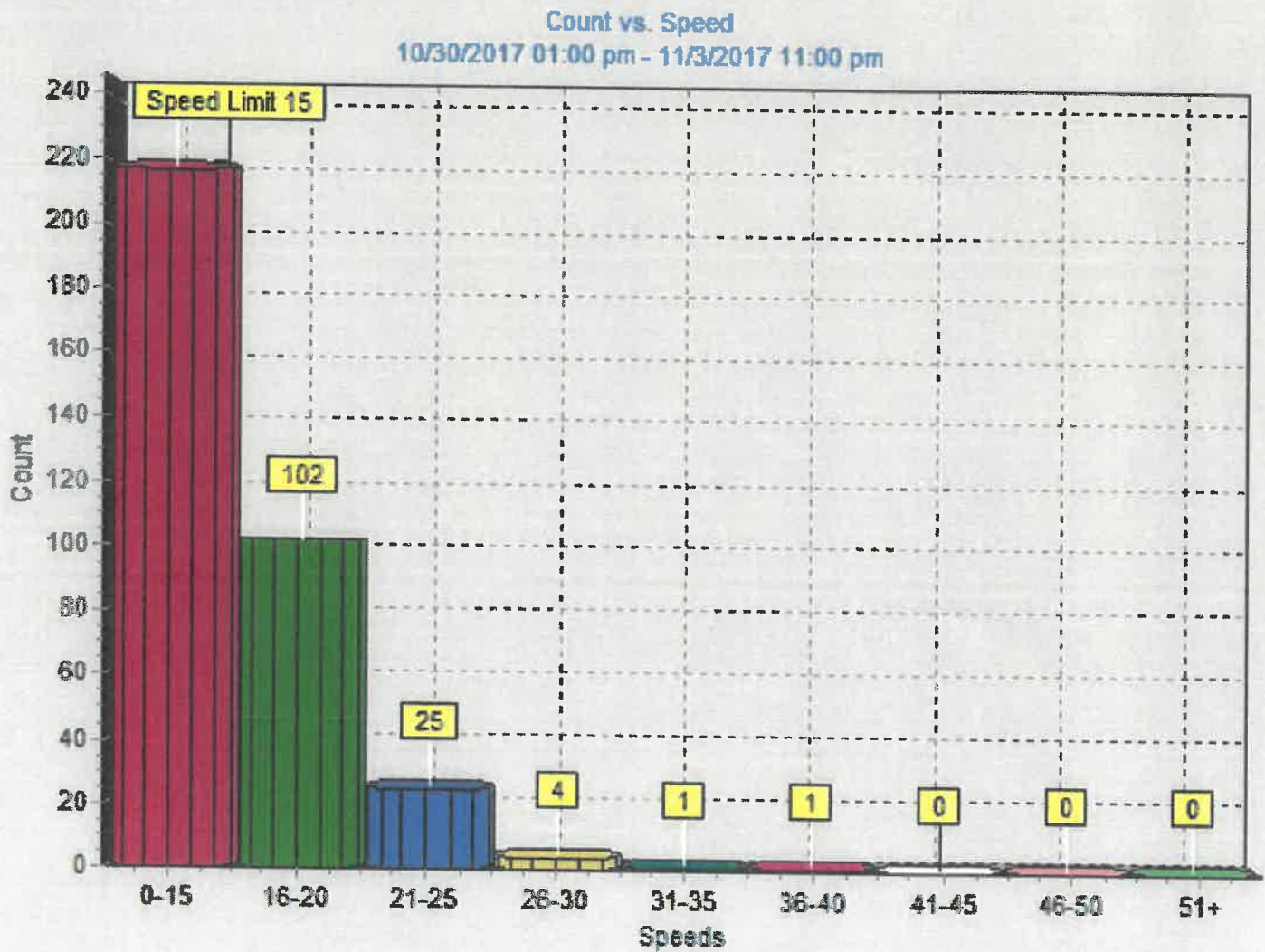
85th Percentile: 20 mph

Number Above Speed Limit: 133

Total Number of Vehicles: 352

Comments:

Ridgewood Ave / Lee St (w/B)





Date: 4/6/2017 12:41:19 pm

Start Date: 3/16/2015 01:00 pm

End Date: 3/24/2015 11:00 am

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 44 mph

50th Percentile: 13 mph

85th Percentile: 19 mph

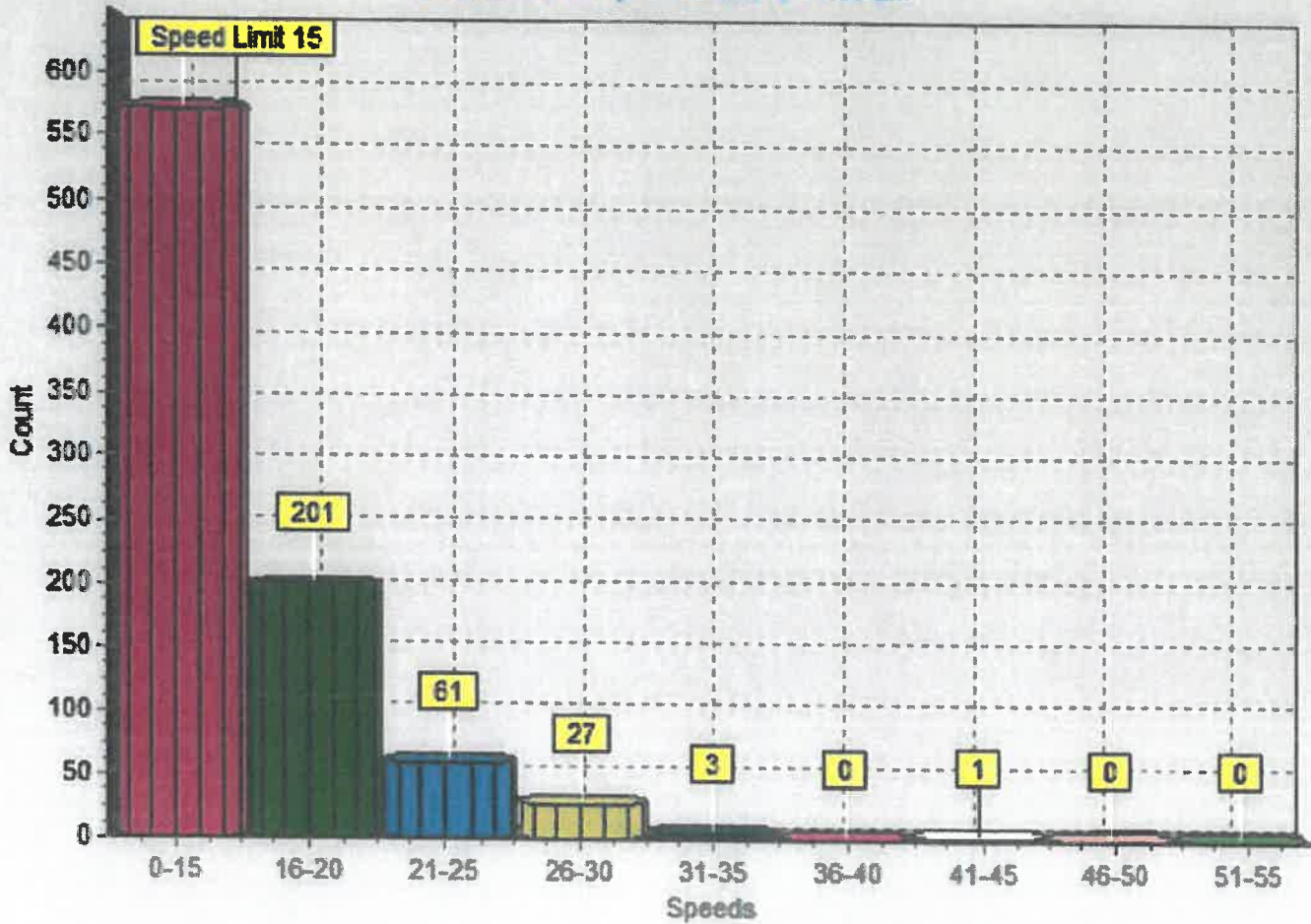
Number Above Speed Limit: 293

Total Number of Vehicles: 871

Comments:

Magnolia St / 3rd Ave

Count vs. Speed  
3/16/2015 01:00 pm - 3/24/2015 11:00 am



Date: 4/6/2017 12:26:57 pm

Start Date: 11/16/2016 04:00 pm

End Date: 11/20/2016 07:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 11 mph

Highest Speed: 37 mph

50th Percentile: 10 mph

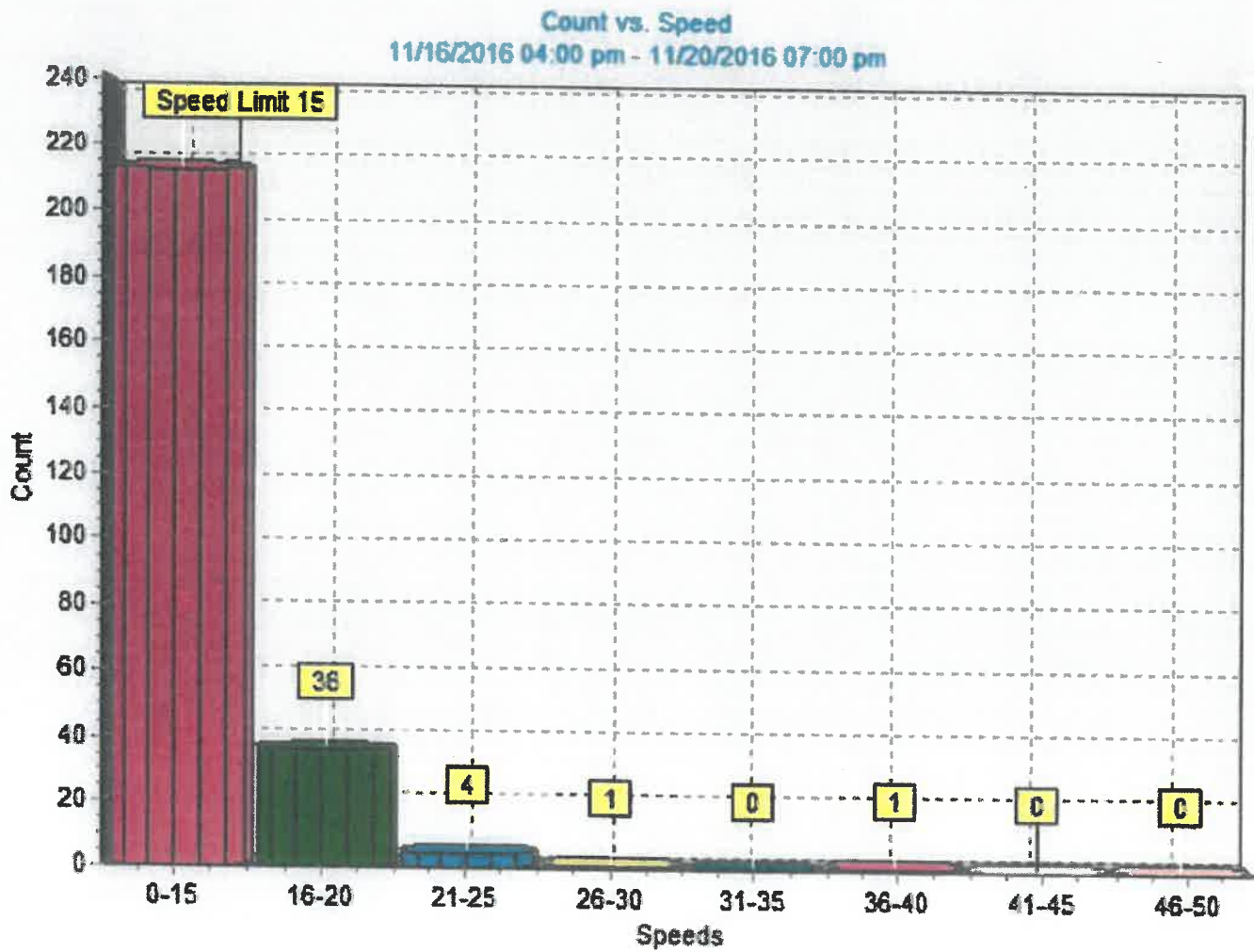
85th Percentile: 16 mph

Number Above Speed Limit: 42

Total Number of Vehicles: 257

Comments:

Forest St / 3rd Ave (N/B)



Date: 4/6/2017 12:26:57 pm

Start Date: 11/16/2016 04:00 pm

End Date: 11/20/2016 07:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 11 mph

Highest Speed: 37 mph

50th Percentile: 10 mph

85th Percentile: 16 mph

Number Above Speed Limit: 42

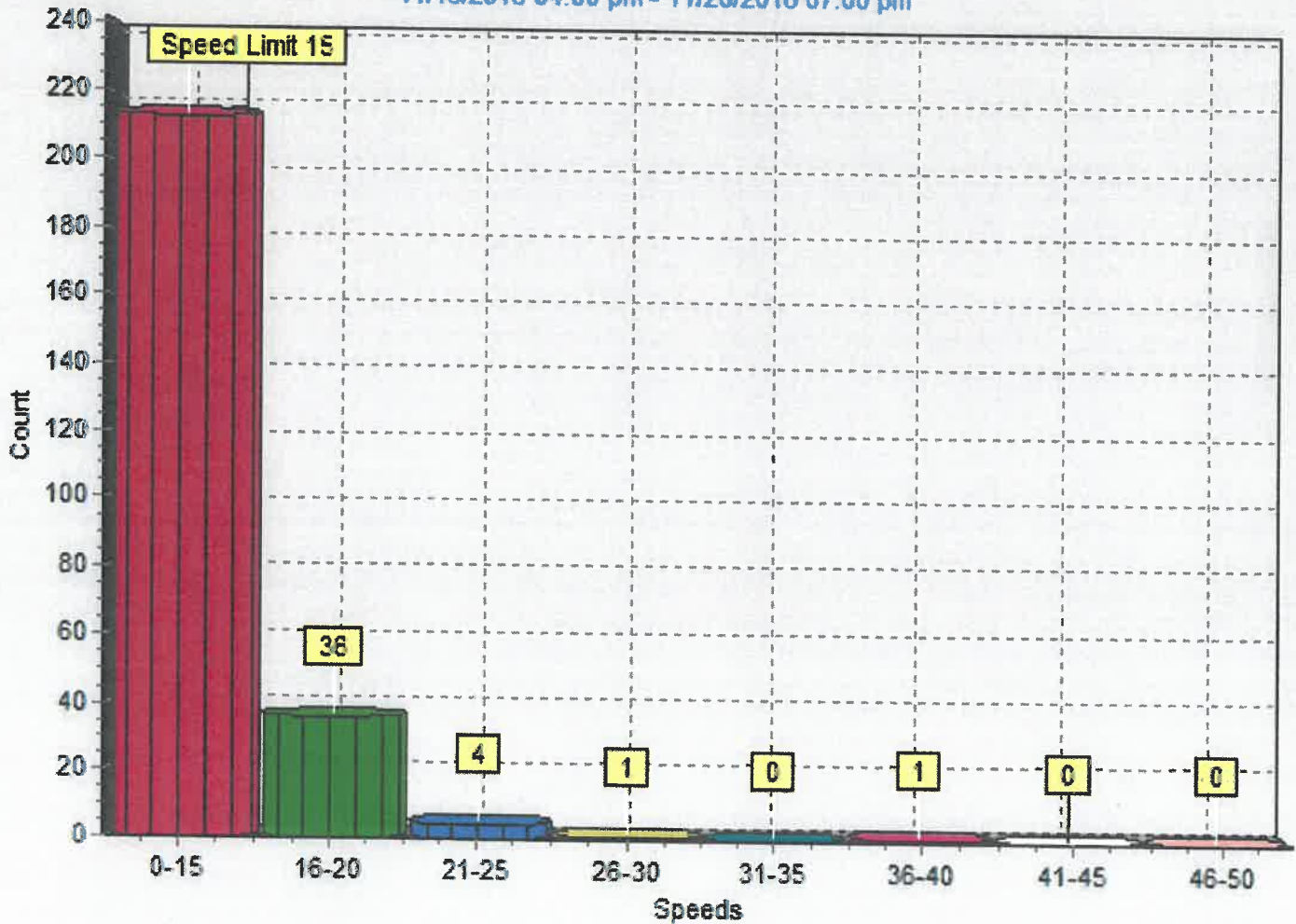
Total Number of Vehicles: 257

Comments:

Forest St / 3rd Ave (N/B)

### Count vs. Speed

11/16/2016 04:00 pm - 11/20/2016 07:00 pm



Date: 4/6/2017 12:41:19 pm

Start Date: 3/16/2015 01:00 pm

End Date: 3/24/2015 11:00 am

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 44 mph

50th Percentile: 13 mph

85th Percentile: 19 mph

Number Above Speed Limit: 293

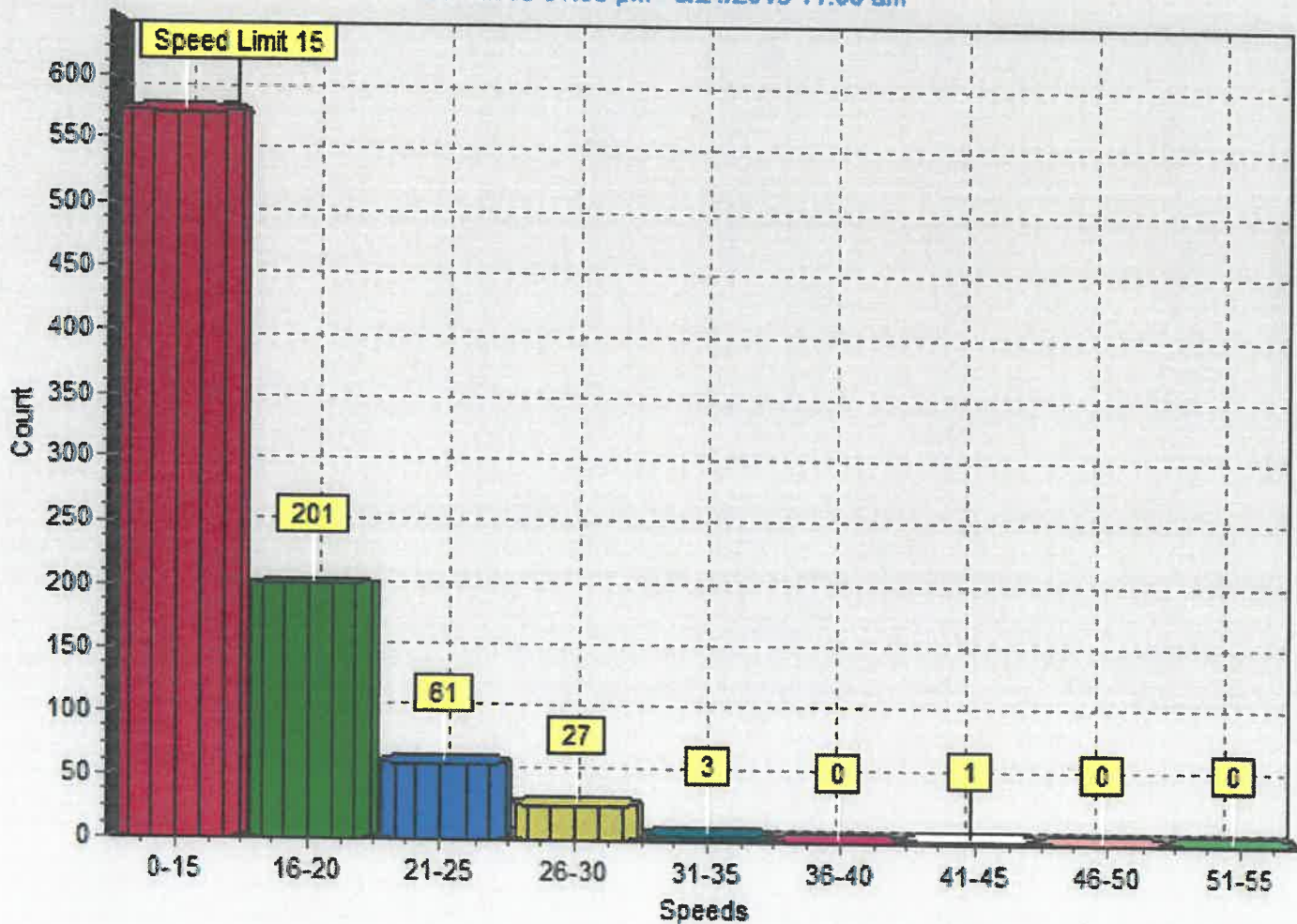
Total Number of Vehicles: 871

Comments:

Magnolia St / 3rd Ave

### Count vs. Speed

3/16/2015 01:00 pm - 3/24/2015 11:00 am



Date: 10/14/2017 11:51:00 am

Start Date: 10/10/2017 08:00 pm

End Date: 10/14/2017 03:00 am

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 38 mph

50th Percentile: 14 mph

85th Percentile: 19 mph

Number Above Speed Limit: 206

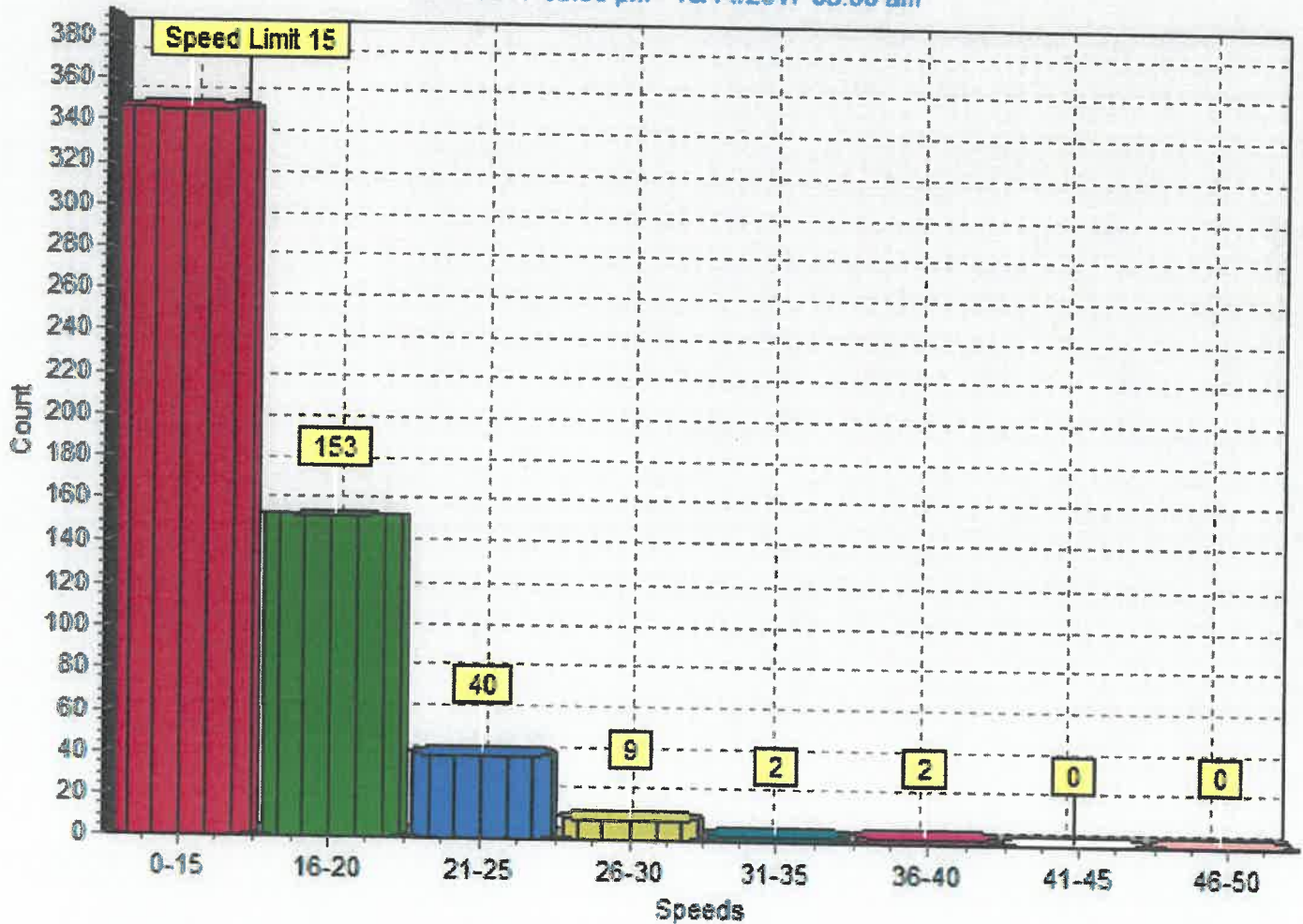
Total Number of Vehicles: 555

Comments:

Oakdale St / 8th Ave

### Count vs. Speed

10/10/2017 08:00 pm - 10/14/2017 03:00 am



Date: 10/14/2017 11:51:00 am

Start Date: 10/10/2017 08:00 pm

End Date: 10/14/2017 03:00 am

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 38 mph

50th Percentile: 14 mph

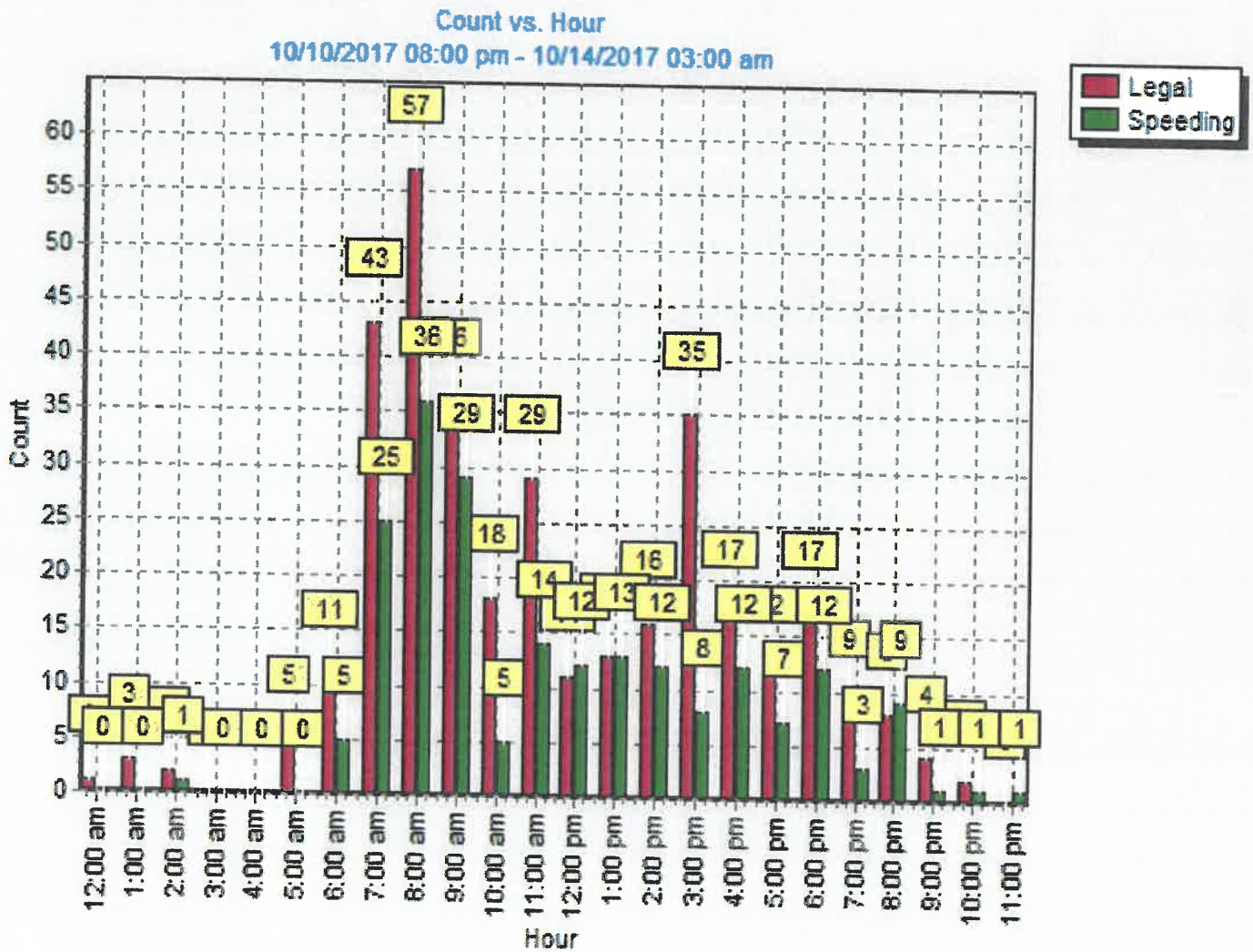
85th Percentile: 19 mph

Number Above Speed Limit: 206

Total Number of Vehicles: 555

Comments:

Oakdale St / 8th Ave



Date: 4/6/2017 12:30:23 pm

Start Date: 5/3/2016 01:00 pm

End Date: 5/9/2016 12:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 13 mph

Highest Speed: 37 mph

50th Percentile: 13 mph

85th Percentile: 18 mph

Number Above Speed Limit: 106

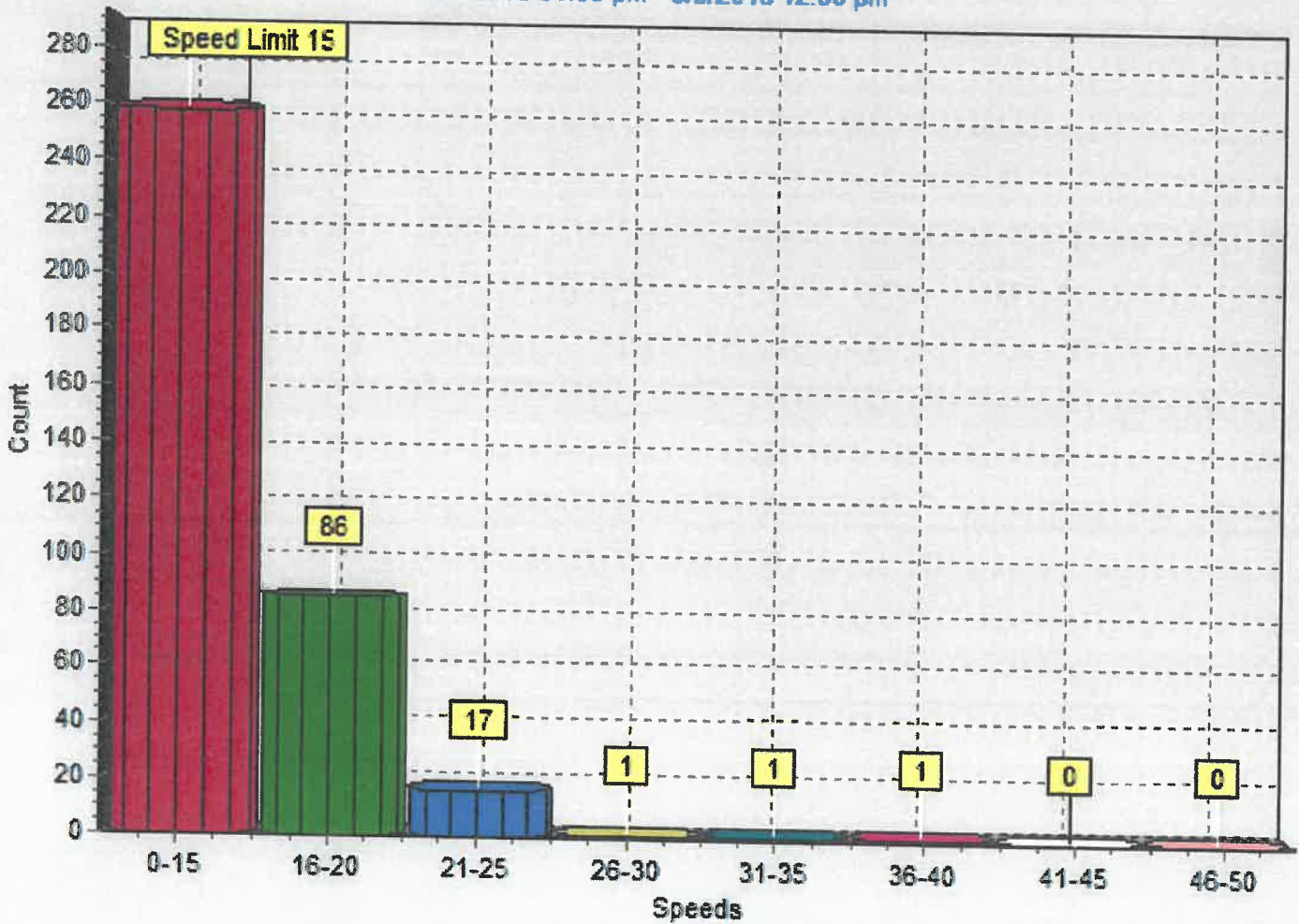
Total Number of Vehicles: 367

Comments:

Oakdale Street / 10th Ave (S/B)

### Count vs. Speed

5/3/2016 01:00 pm - 5/9/2016 12:00 pm



Date: 4/6/2017 12:28:47 pm

Start Date: 5/23/2016 03:00 pm

End Date: 5/28/2016 07:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 14 mph

Highest Speed: 45 mph

50th Percentile: 14 mph

85th Percentile: 19 mph

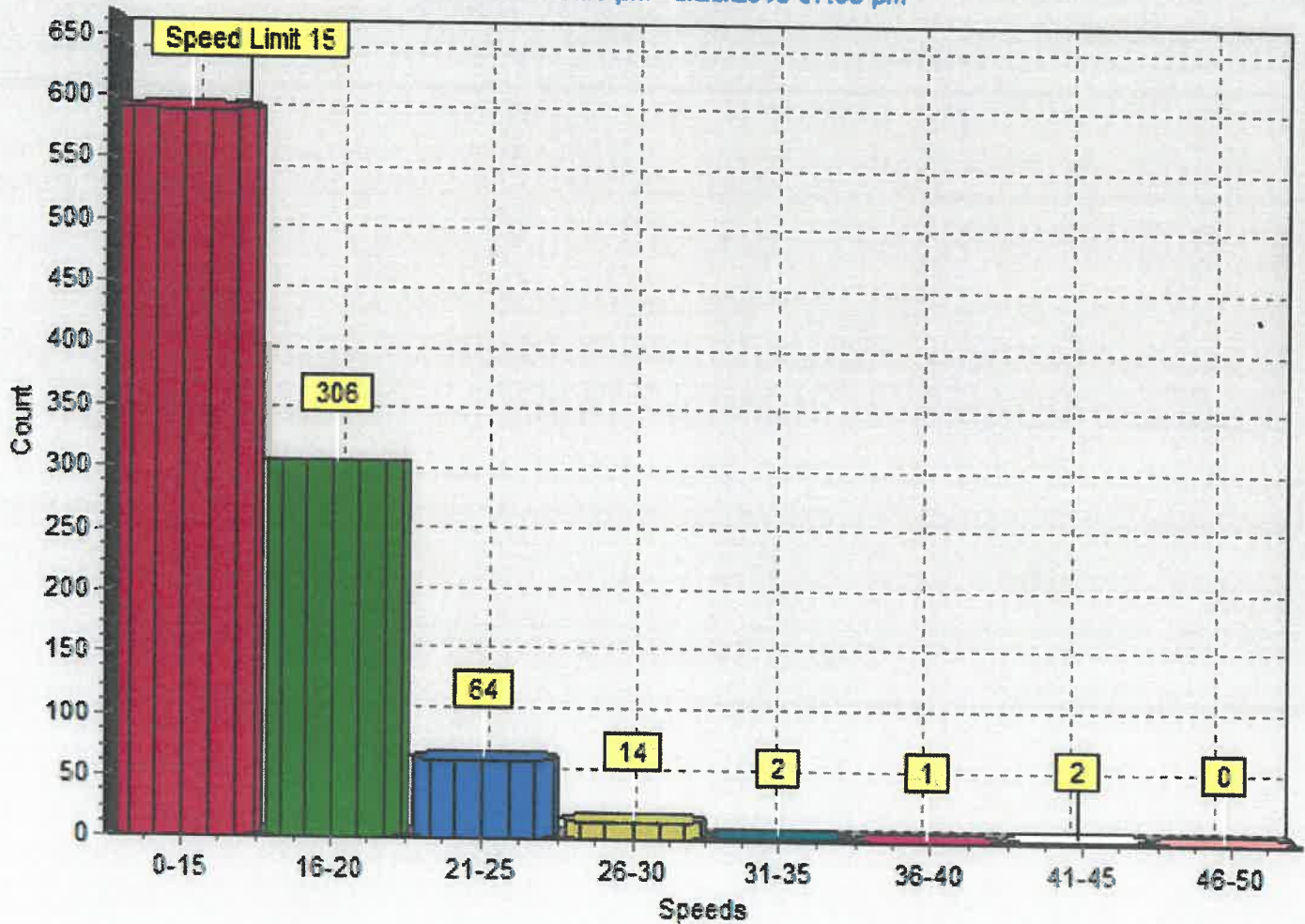
Number Above Speed Limit: 389

Total Number of Vehicles: 985

Comments:

Oakdale St / 8th Ave (N/B)

Count vs. Speed  
5/23/2016 03:00 pm - 5/28/2016 07:00 pm





Date: 4/6/2017 11:47:54 am

Start Date: 3/1/2017 05:00 pm

End Date: 3/5/2017 06:00 am

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 15 mph

Highest Speed: 34 mph

50th Percentile: 15 mph

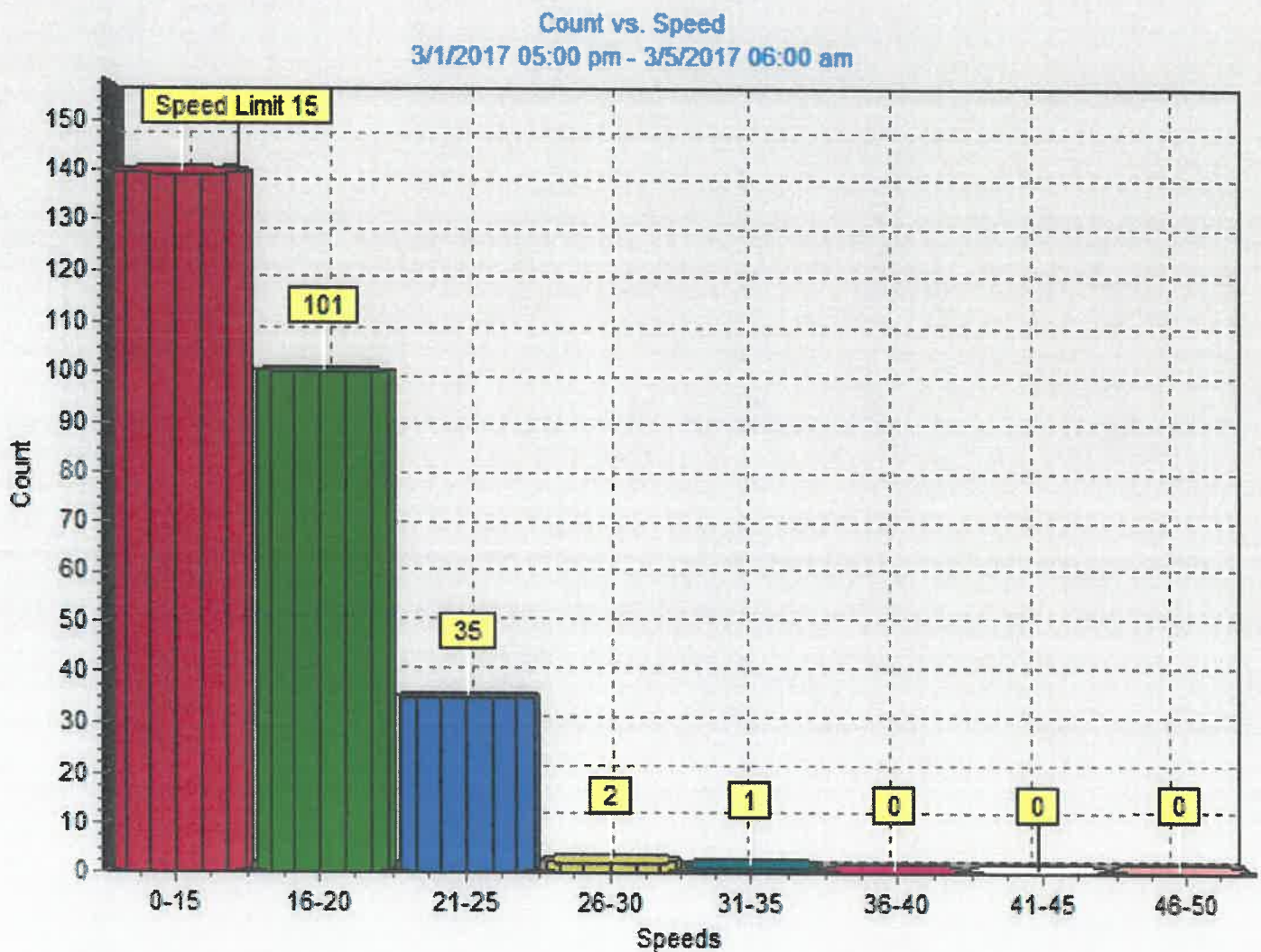
85th Percentile: 20 mph

Number Above Speed Limit: 139

Total Number of Vehicles: 280

Comments:

Ridgewood Ave / Lee St (W/B)



Date: 1/24/2018 03:05:23 pm

Start Date: 10/30/2017 01:00 pm

End Date: 11/3/2017 11:00 pm

Time Interval: 60 minutes

Speed Interval: 5 mph

Posted Speed Limit: 15 mph

Average Speed: 13 mph

Highest Speed: 36 mph

50th Percentile: 13 mph

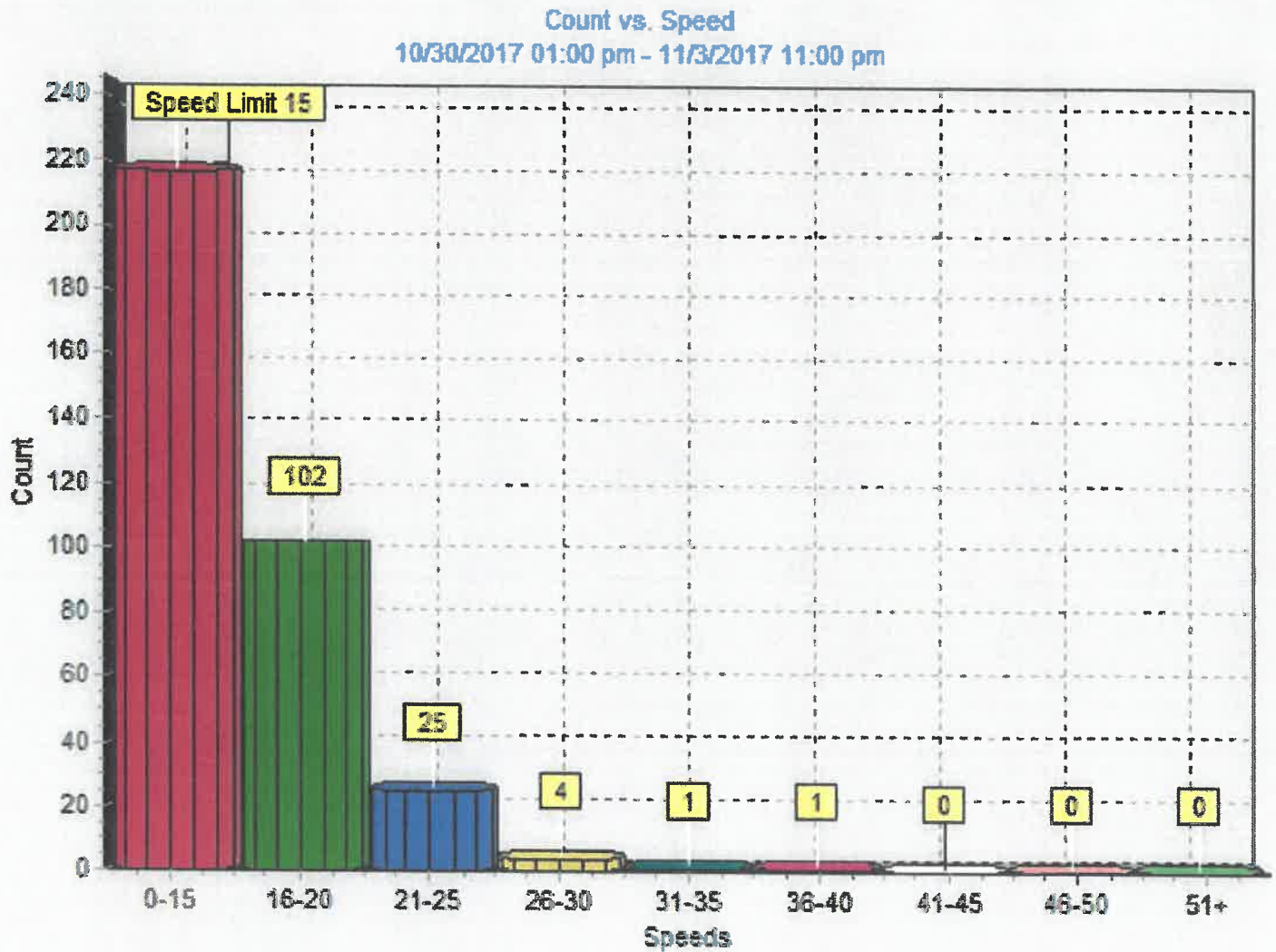
85th Percentile: 20 mph

Number Above Speed Limit: 133

Total Number of Vehicles: 352

Comments:

Ridgewood Dr East/West Bound



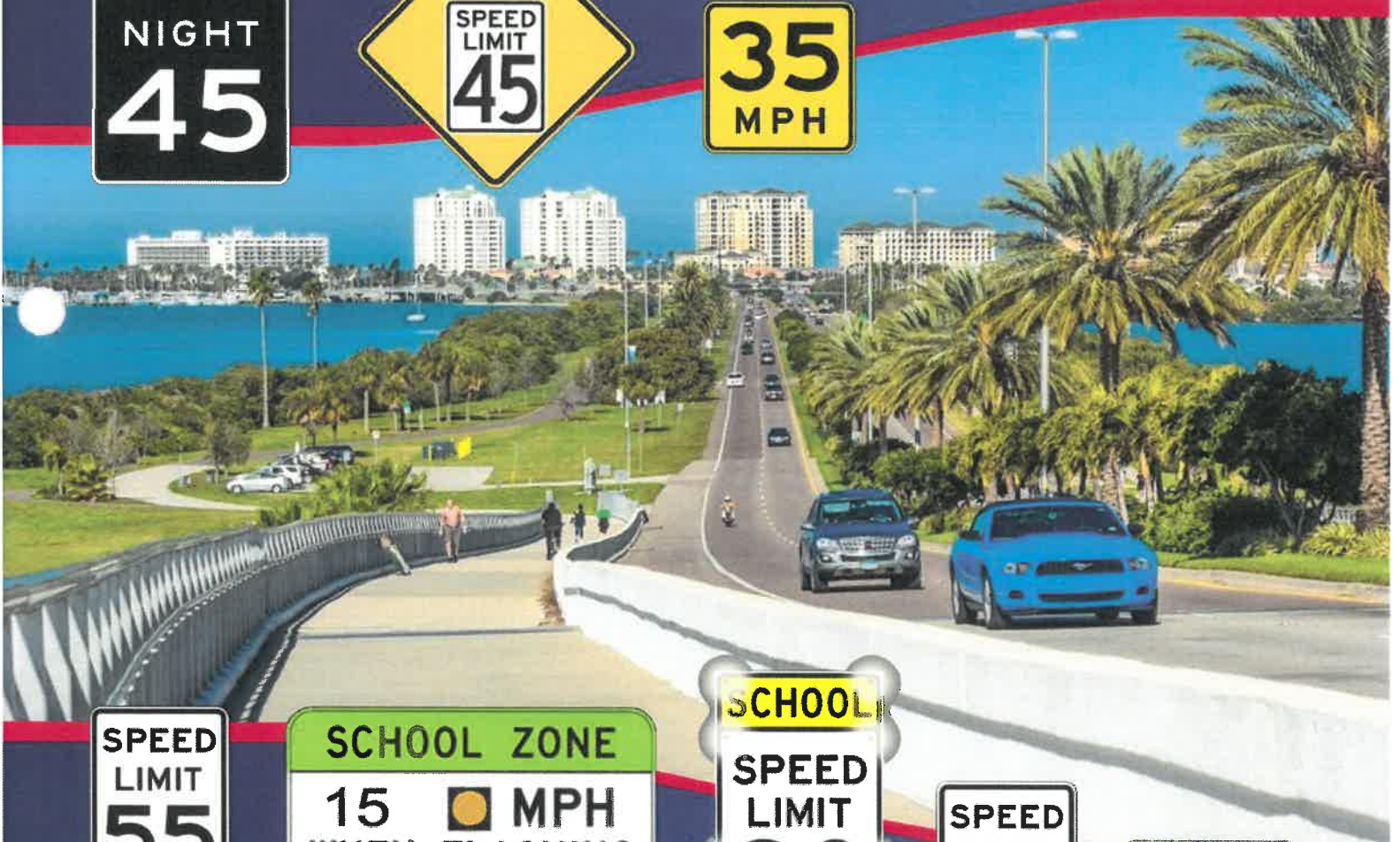
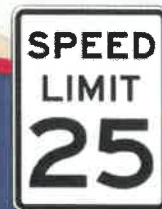
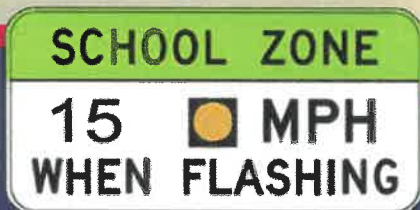
## **APPENDIX B**

### **Speed Zoning Manual Excerpt**



# SPEED ZONING

## For Highways, Roads and Streets In Florida



State Traffic Operations web page:

<http://www.fdot.gov/traffic/FAQs/SpeedLimitFAQ.shtm>

### 9.3 POSTED SPEED

- (1) According to [Section 2B.13 of the MUTCD](#), “Speed zones (other than statutory speed limits) shall only be established on the basis of an engineering study that has been performed in accordance with traffic engineering practices. The Speed Limit (R2-1) sign shall display the limit established by law, ordinance, regulation, or as adopted by the authorized agency. The speed limits shown shall be in multiples of 5 mph.”
- (2) Any alteration and posting of speed limits on municipal or county streets and roads, as set forth in [Section 316.189 F.S.](#), must be based upon an engineering and traffic investigation as promulgated herein by the FDOT. Altered speed limits established solely on the basis of individual or group opinions are contrary to the intent of the statute.
- (3) The posted speed limit shall be rounded to the nearest multiple of 5 mph of the observed 85<sup>th</sup> percentile speed or upper limit of the 10 mph pace, whichever is less. The 10 mph pace is the 10 mph band of travel speeds containing the largest number of observed vehicles. An observed 85<sup>th</sup> percentile speed that exceeds the 10 mph pace could result from a small percentage of vehicles exceeding the posted speed limit to a greater degree than the average driver traveling within the 10 mph pace.
- (4) With rounding, the posted speed limit should not differ from the 85<sup>th</sup> percentile speed or upper limit of the **10 mph pace** (whichever is less) by more than **3 mph**. Speed limits of more than 8 mph below the 85<sup>th</sup> percentile speed are not authorized. A speed limit of 4 to 8 mph less than the 85<sup>th</sup> percentile speed shall be authorized if supported by a supplemental investigation, which identifies the following:
  - (a) There are road or roadside features not readily obvious to the normally prudent driver, such as length of section, alignment, roadway width, surface condition, sight distance, traffic volume, crash experience, maximum comfortable speed in curves, side friction (roadside development), signal progression, etc.;
  - (b) Other standard signs and markings have been tried but found ineffective; or

- (c) To support a context classification target speed as defined in **Section 9.4** of this *Manual*.
- (5) The existing speed limit within a speed zone will not be changed if the 85<sup>th</sup> percentile speed or upper limit of the 10 mph pace is within +/- 3 mph of the posted speed limit, unless a supplemental investigation identifies the need for a change.
- (6) The posted speed should not exceed the design speed for the selected facility (if known) and shall not exceed the maximum speed as allowed by Florida Statutes, except as allowed by **Section 9.2(3)** of this *Manual*.

**Example:**

- (7) An observed 85<sup>th</sup> percentile speed equal to 42 mph would result in a 40 or 45 mph posted speed limit unless supplemental investigation conditions are met. The 40 or 45 mph limit then could be lowered 5 mph, thus producing a 35 or 40 mph posted speed limit (minimum potential speed limit). The maximum potential posted speed limit would be 45 mph unless the upper limit of the **10 mph pace** is less than 42 mph or the design speed is known to be less than 45 mph.
- (8) Extreme care must be taken to assure that the condition upon which the 5 mph reduction is based on is not one that a driver may have taken into account either consciously or subconsciously. Otherwise, it will be given double weight and result in an unrealistically low speed limit.

## 9.4 TARGET SPEED

- (1) Target speed is the highest speed at which vehicles should operate on a thoroughfare in a specific context, consistent with the level of multi-modal activity generated by adjacent land uses, to provide both mobility for motor vehicles and a safe environment for pedestrians, bicyclists, and public transit users.<sup>1</sup>
- (2) The target speed is influenced by elements of roadway design that are governed by design speed, as well as the form and function of the adjacent uses beyond the right-of-way. When determining the speed limit based on this Chapter, consideration should be given to the land use context classification and allowable speed range as provided in [\*Table 201.4.1 of the FDOT Design Manual\*](#).

<sup>1</sup>[https://www.fhwa.dot.gov/planning/css/design/controls/factsheet3\\_ite.cfm](https://www.fhwa.dot.gov/planning/css/design/controls/factsheet3_ite.cfm)

**Tree Board Notes**  
(New Noted in RED/ Previous Notes in BLACK)

Members

Chair: Susan Carter

Secretary: Frank Krens

Treasurer: Admin/Liaison as needed

Leslie Brabec

Debra Neill

Misc

4/10/19: Members to discuss at the next meeting goals, projects, and fundraising that they would like to accomplish over the next year. 4/18/19: Board approved 3/0 to pay \$145 for Frank to attend an ISA weekend class. Funds to come from WTB account. 4/16/19: Frank completed class and brought back some education links and materials. Recommend that all tree board members complete the Tree Board University class online at no cost.

Town Hall Landscape Plan

4/10/19: Formally recommend a tree/bush/shrub that has color and is suitable for placement near the SE corner of the Town Hall and minimum one location of a mature oak. 4/18/19: Recommended replacing Golden Shower Trees with Hong Kong Orchids (non-pod producing) due to the toxicity of the Golden Shower Tree pods. Voted 3/0 to approve to spend up to \$200 from WTB account on a Fringe Tree for replacing Laurel Oak (same location) at the SE corner of Town Hall. 5/16/19: Almost complete. Fringe or Hong Kong Orchid Trees have not been planted. 6/19/19: Fringe Tree only remaining left (on backorder)

5th/Forest Parking Lot

4/18/19: Recommended 3/0 to purchase, plant, and irrigate TWO 7-8" Live Oaks (1 on each of the west and east sides of the entry) totalling \$7,000. This will come from the Tree Mitigation Fund and must include a 1 year warranty from installer/nursery. Susan to price shop before moving forward (please allow 3 business days prior to moving forward with Dobsons). 5/16/19: Oaks are installed.

1887 School House

4/18/19: In need of replanting and treatment of grove. Susan speaking with arborist from Davey for recommendations. Frank to reach out to Rotary and Windermere grove contacts. 5/16/19: TB to recommend any removal or trimming needed on site by next meeting. Jason Arnold (potential vendor) stopped by the grove and will have a proposal/quote together by the week of the 20th (updated 05/17/19). 5/19/19: Board approved contract for repair, replacement, and 12 month maintenance of grove to Jason Arnold for up to \$4,000. Funds to be paid from WTB account.

### Arbor Day Trees

4/18/19: 2 weeks of advertising has been given to the Town Residents for remaining trees. Jackie and Susan will coordinate with Marina Bay about acceptable species and placement. Marina Bay to coordinate volunteers/hired help for planting at no expense to WTB or Town. Next meeting: decision on remaining trees. PW and WTB to think of needed locations. 5/16/19: All remaining Arbor Day trees have been inventoried by species and mature size. Marina Bay to have utilities marked for final placement. Susan to give them a deadline. 6/19/19: Utility companies had not marked area prior to meeting.

### Tree Ordinance (including Master Forestry Plan/Grants related to)

4/18/19: Reestablish a new sub-committee or special meeting once new members obtained. 5/16/19: May have a 3rd party review the current ordinance in conjunction with a Master Forestry Plan. Susan Carter to get an estimate on cost. No new sub-committee set up at this time. 5/19/19: Ordinance review will be part of a master plan if performed and therefore, a combined agenda item with an Urban Forest Master Plan moving forward. Tabled until next meeting until a scope of work is drawn up for an RFP. The scope for the *request for proposal* to be decided on at the next meeting.

### Urban Forest Master Plan

4/18/19: Used to provide goals, strategies, recommendations and proactive management and growth of the Town Canopy. Frank will start the process. Possibly look at a 3rd party to assist in the process. 5/16/19: Susan to get a quote on the approximate costs of a 5-10 year Master Plan including line items of tree inventory/survey and review and recommendations of the current tree ordinance. Frank to start gathering information on grants available and their processes to cover the costs if TB recommends to move forward with some or all of the Master Plan. 6/19/19: See: *Tree Ordinance*.

### Community Outreach

4/18/19: Susan to bring a couple articles for WTB approval for the Summer addition of the Windermere Gazette. The board will provide an article for each edition. Susan also exploring content for brochures. These will be used to hand out at events, Town Admin and to new residents (via admin and Realtors). WTB would like to set up at events for educating/recruiting. Chris to ask DBC if the Tree Board can set up at the Windermere Farmers Market. Look into promotional items that can be handed out. Leslie Brabec will be putting together an article for the Gazette by May 24th deadline. 6/19/19: Article completed and submitted for the Summer edition of the Gazette. Board to work on an article for the Fall edition.

### Treebute/Events

4/18/19: Board to think of new ideas to expand Treebute and possibly a different approach to the tree giveaway (eg less trees and stick with more popular trees). Continue to discuss other events to raise money to be self-supporting. 6/19/19: Due to the amount of planning involved, the Board will meet at different times than the regular WTB meeting for sole discussion/planning of Treebute. The first meeting is scheduled for Town Hall on July 10th @ 11am.



Fernwood Park:

5/16/19: Nora Brophy from Parks and Rec presented to the TB about removal of invasive trees and vegetation from the Fernwood shorelines in preparation of FRDAP funded project. TB wants to explore that and the cost effectiveness of removal of invasives near the Main St bridge at the same time. Robert Smith to get an estimate for clearing of Fernwood and also an estimate of clearing both Fernwood and Main St Bridge/ north path area on RR ROW. Provide TB and Tree Mit account balances and projections at the next meeting. 6/19/19: The Board agreed to split the cost of removal of shoreline invasives with Parks and Rec with the opinion that much of the quote for removal of invasive vegetation were not trees and therefore, did not fall within the scope of the Tree Mitigation Fund. The Board advises the Town to pay up to \$4,500 from the Tree Mit funds for the removal of invasive vegetation at Fernwood and Lake Down Parks.

Central Park:

5/16/19: Tree board to identify species and planting locations. Goal would be to obtain trees at the same time as the Arbor Day trees and plant once FDAP project is complete or no further risk to newly planted trees. 6/19/19: Tabled until the project is nearer to completion.

407-843-8880

BROCK.MAGRUDER@GRAY-ROBINSON.COM

## MEMORANDUM

**TO:** Robert Smith and Nora White  
**CC:** Tom Wilkes and Heather Ramos  
**FROM:** Brock Magruder  
**DATE:** June 6, 2019  
**SUBJECT:** Timeline, Summary, and Options re: Deobligations of FEMA Emergency Funds for Hurricanes Frances and Jeanne and Ramifications on Future Grants

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### Executive Summary

The Town's recent request for Federal Emergency Management Agency ("FEMA") and Florida Division of Emergency Management ("DEM") financial assistance in the aftermath of Hurricane Irma was approved in the amount of \$625,017.12 (the "Irma Funds"). However, instead of making the full amount available to the Town, DEM will apply \$483,837.73 to the Town's balance with DEM. The balance is from FEMA's retroactive 2014 deobligation of provided financial assistance for Hurricanes Jeanne and Frances in 2004.

The Town's multiple appeals of the Jeanne and Frances deobligations were ultimately denied, exhausting the Town's administrative remedies. A legal challenge of FEMA's decision remains via federal lawsuit. Non-legal, governmental relations options may also be available.

This memorandum delineates the timeline of FEMA's deobligation determinations and appeals for Jeanne and Frances, the ramifications of the deobligations on the Irma Funds, and the Town's options going forward.

### Timeline and Summary of Events

- **September, 2004** -- Hurricanes Frances and Jeanne caused extensive damage throughout the Town.
- **August 10, 2006** -- projects created and submitted to DEM by the Town for financial assistance for contract costs associated with the removal and disposal of hazardous tree limbs from public

property resulting felled by the storms. The Town received approximately \$1M in financial assistance from FEMA and DEM.

- During FEMA's review process at closeout, it determined the Town did not competitively bid the debris cleanup contract and identified duplicated costs and cost underruns in the following initial amounts for each storm:
  - Jeanne (PW 4116): \$165,008.05
  - Frances (PWs 650 and 7399): \$333,793.73
- Records eventually obtained from DEM show initial attempts were made by DEM to notify the Town of the deobligations in February and June, 2015. The Town did not receive actual notice of the deobligations with the requisite attachments and worksheets until December 17, 2015.
- **January 2016** -- the Town engaged GrayRobinson to analyze FEMA's deobligation determinations and assist with administrative appeals. Around the same time the Town also retained McDirmit Davis and Company, LLC to analyze the deobligation underlying expenditures and documents to reconcile and confirm or disprove FEMA's identified duplicate costs and project underruns.
- Due in large part to the excellent record keeping by the Town, it became clear FEMA made significant accounting and calculation errors in relation to PW 650, and FEMA reinstated \$68,547.50 on March 22, 2016. Likewise, because FEMA does not track or keep records for 'small projects,' i.e. those totaling less than \$63,000, many of the invoices relating to these transactions were not in FEMA's records or possession.
- Ultimately, the Town administration, McDirmit Davis, and GrayRobinson identified \$160,057.81 in appealable deobligations for Hurricane Jeanne and \$272,263.23 in appealable deobligations for Hurricane Frances, taking into account the monies already reinstated due to the above-referenced FEMA accounting errors.
- **February 15, 2016** -- the Town timely submitted its first appeals for both storms to DEM via its website for this purpose, [www.FloridaPA.org](http://www.FloridaPA.org). On appeal, the Town argued the funds were deobligated in error because it properly and competitively bid the contract in the emergency situation in compliance with federal regulations, that FEMA was prohibited from recovering funds because more than three years had elapsed since the funds were approved and paid under Section 705(a) of the Stafford Act, and that even were that not the case Section 705(c) of the Stafford Act barred deobligation because the expenditures were reasonable and used to accomplish the purpose of the grant, i.e. debris removal and disposal.
- **May 18, 2016** -- DEM forwarded the Town's appeals to FEMA and submitted letters in support of the Town's position.

- **July and August, 2017** -- FEMA issued Final Requests for Information (“RFIs”) for additional information and documents regarding the timing of the appeals. Under the applicable federal regulations, the Town had 60 days to submit its appeals (with which the Town complied), and DEM had 60 days from receipt of the Town’s appeals to transmit the appeals to FEMA. DEM failed to meet this deadline, and admitted as much in their initial and subsequent submissions to FEMA.
- The Town responded to the RFIs with additional information regarding its timely submission of the appeals. DEM could not provide information showing timely transmission of the Town’s appeals – the agency could not dispute it missed its deadline.
- **October and November, 2017** -- FEMA Region IV Regional Administrator denied the appeals as untimely. It also explained that FEMA’s position is that Section 705(c) protections cannot apply where the appellate rights were exhausted or expired.
- **December, 2017 and January, 2018** -- the Town appealed the first denial raising essentially the same substantive arguments. It also argued FEMA should not hold it accountable for DEM’s failure to comply with the regulatory deadline, which DEM adopted and concomitantly argued on the Town’s behalf.
- **April and May, 2018** -- FEMA denied the second appeals based on the untimely submissions by DEM. FEMA concluded the Town met its obligations by timely submitting its appeals to DEM, but that DEM failed to timely transmit the appeals to FEMA to preserve a consideration of the appeals on their merit. FEMA also concluded Section 705(c) protections did not apply because the appellate rights had lapsed and a final FEMA decision had been rendered.
- The denial of the second appeal exhausted the administrating remedies available to the Town in relation to the Jeanne and Frances deobligations.
- **September, 2017** -- Hurricane Irma caused massive damage to the Town, for which the Town sought financial assistance from DEM and FEMA.
- **March, 2019** -- FEMA obligated the Irma Funds to the Town.
- The Town has requested the release of the Irma Funds. According to the grants manager, which is now outsourced by DEM to RSM US, LLP, the Irma Funds will be released but the first \$483,837.73 will be applied to the deobligation balance for Jeanne and Frances as described above. The remaining \$141,179.39 will be released to the Town for use.

## Potential Options

### Legal Remedies

The Town has exhausted its administrative remedies via the two appeals to FEMA. Those steps were the logical first step in terms of costs, and were necessary pre-requisites to legal action in the court system.

The next legal course of action would be a lawsuit against the federal government in federal court. The potential causes of action are administrative review of FEMA's denial of the appeals, declaratory relief related to its interpretation of the Stafford Act as applied to these deobligation determinations, and seeking damages arising from FEMA's decision to deobligate the funds. The Town may also have causes of action against DEM for its failure to timely submit the Town's appeals – the dispositive basis for FEMA's denial of the appeals.

### Lobbying Remedies

DEM, and this process, has been completely reorganized under new leadership, likely due at least in part to issues like this, which are not unique to the Town. Media reporting exposed<sup>1</sup> at least 26 other appeals DEM failed to timely transmit to FEMA related to Hurricane Matthew. Former Senator Bill Nelson took interest in this issue stating "FEMA should not penalize local governments for the state of Florida's failure to submit the appeal" – a statement directly on point here and argued in the Town's appeals by the Town and DEM.

GrayRobinson has a well-established government relations team and is exploring potential connections and targets for potential pressure on DEM to reevaluate its policy regarding offsetting deobligated balances against future FEMA grants. Based on our research, Irma grants are the first funds being offset by DEM against past deobligation balances. While DEM always had that remedial option to collect the debt, this appears to be the first time it has been utilized. We may be able to create some traction and public outcry here based on this long-established but newly implemented offset plan.

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<sup>1</sup> <https://www.tallahassee.com/story/news/politics/2017/08/30/state-fires-two-after-missing-fema-deadline-help-hurricane-matthew/617670001/>



***WINDERMERE POLICE DEPARTMENT***

***After Action Report***

***Operation "Dusty Roads part Deux"***

***February 25<sup>th</sup>, 2019 – May 29<sup>th</sup>, 2019***

***Prepared by:  
Officer 2 Ryan Miller  
Windermere Police Department***

## EXECUTIVE SUMMARY

Operation "Dusty Roads Part Deux" was held between February 25<sup>th</sup> and May 29<sup>th</sup> of 2019. The goal of the Windermere Police Department operation was to identify, locate, cite, and/or educate when appropriate, the drivers traveling through the listed locations within the Town of Windermere, and in violation of Florida State Statutes, specifically, speeding and careless driving. This detail is based on data provided by residents, as well as traffic studies conducted on the streets in question, and utilized the resources of overtime details and on-duty patrol units when available. Multiple speed surveys and vehicle count surveys were completed during this operation; in the beginning, middle, and end, in the areas of Oakdale and Ridgewood as well as Conroy Windermere Road, Maguire Road and Chase Road.

### Problem Statement:

Windermere residents have consistently voiced their concerns to the attention of the Town of Windermere Council regarding vehicles speeding and driving carelessly through several of the dirt roads during peak travel hours, 0700 – 1000, and 1600 – 1900, Monday through Friday. The Windermere Police Department conducted a thirteen week operation during these peak travel times in 4-hour increments which focused on the Southeast quadrant (Oakdale, Magnolia, Bessie) in the morning, and the Northeast quadrant (Oakdale, Magnolia, and Ridgewood Drive) in the afternoon. This resulted in the following:

Total details performed:	76	(average of six per week)
Total traffic stops conducted:	173	
Total traffic citations issued:	66	
Total warnings issued:	91	
Total criminal traffic citations issued:	11	
Total arrests:	9	

Highest speed recorded by an officer during the morning detail time frame was 40 mph.  
Highest speed recorded by an officer during the evening detail time frame was 34 mph.

Traffic violators residency recorded by officers:

- 17 Town of Windermere residents
- 38 outside the Town limits but residing in the 34786 zip code
- 118 outside of the 34786 zip code

### Traffic Citation Dispositions:

Pending Suspension Order - 2	Dismissed – Produced Documentation - 16
Pending Court Hearing - 6	Dismissed – By Court, Officer, or Def. - 6
Pending Fee - 3	Court Fines – Traffic School – 13
Paid Fine - 13	Unaccounted for - 5
Open – Disposition Unknown - 2	

During one court hearing, the driver's attorney presented to the judge a copy of a Florida Advisory Legal Opinion (AGO 92-94) regarding the speed limit less than 25 on local streets & highways. Former Attorney General Robert A. Butterworth wrote, "In light of the above, I am, therefore, of the opinion that s. 316.189(1), F.S., does not authorize a municipality to establish a speed limit lower than 25 miles per hour on local streets and highways." As a result, the judge dismissed this particular case. Because the result of the police department writing traffic tickets was being challenged in court and with a potential of dismissing all citations issued, there was a need to conduct another speed survey with recommendations.

After further review of the above by GrayRobinson Attorneys at Law, they wrote that in 1996, the Legislature amended the above to permit a lower maximum speed of 20 miles per hour. As amended, the statute now allows a county or municipality to set a lower maximum speed of either 20 or 25 miles per hour on local streets in a residential area if an investigation determines that such a limit is reasonable. Thus, while section 316.189(1), Florida Statutes, permits a municipality to lower the speed limit to 20 or 25 miles per hour, it limits the exercise of such discretion to local streets in residential areas.

Local streets and highways for a Town's "residence district" means "the territory contiguous to, and including, a highway, not comprising a business district, when the property on such highway, for a distance of 300 feet or more, is, in the main, improved with residences or residences and buildings in use for business."

A traffic engineering investigation is needed to establish a 25 or 20 miles per hour speed limit. The Town can set speed zones of 25 or 20 miles per hour "after an investigation determines that such a limit is reasonable." "These investigations would include, but are not limited to, the measurements of vehicular speed and other traffic engineering evaluations."

The Town of Windermere's "Downtown Speed Limit Recommendations" by Kimley-Horn and Associates, June 2019, indicated, "target speed is the highest speed that vehicles should operate on a thoroughfare in a specific context. The context of the roads in downtown Windermere is a residential grid network of dirt roads that do not have sidewalks or bike lanes. The dirt roads have also been designated by the Town as "Golf Cart Friendly". The roads are used in ways that are consistent for residential neighborhoods, with vehicular, delivery, and service access to homes, people walking for recreation, kids and adults riding bicycles. Due to the lack of sidewalk facilities, the speed limit should be lower than what would otherwise be provided given otherwise similar conditions." "Given the narrow widths, the varying surface conditions, the lack of bicycle facilities, and the lack of sidewalk, the **recommended posted speed limit for study area roadways is 15 mph.**" A map showing the roadways with a recommended 15 mph limit is provided in **Figure 3** Kimley-Horn and Associates report (Page 5).



**Financial Impact of Operation Dusty Roads part Deux:**

Hours Worked	Salary	FICA	Medicare	Total
227	\$9,305.05	\$561.70	\$129.98	\$9,996.73
<b>Omega-G Traffic/Counter Classifier</b>	N/A	N/A	N/A	\$1,500
<b>Traffic Court - Off duty (Court hearings are still pending)</b>	N/A	N/A	N/A	\$205.87
			<b>Total:</b>	<b>\$11,702.60</b>

**Traffic Studies:**

Nine traffic studies were performed with the following results:

- **Ridgewood Drive and Lee Street (east/west traffic) from 2/25/19 – 3/3/2019**
  - Total vehicles- 999
  - 85% of the vehicles were 18 mph or lower
  - Highest speed recorded was 38 mph
  
- **Magnolia Street and E. 3<sup>rd</sup> Avenue (north/south traffic) from 3/7/2019 – 3/15/2019**
  - Total vehicles- 1,771
  - 85% of the vehicles were 19 mph or lower
  - Highest speed recorded was 39 mph
  
- **Oakdale Street and E. 8<sup>th</sup> Avenue (north/south traffic) from 3/26/2019 – 4/2/2019**
  - Total vehicles- 1,354
  - 85% of the vehicles were 18 mph or slower
  - Highest speed recorded was 38 mph
  
- **Oakdale Street and E. 8<sup>th</sup> Avenue (north/south traffic) from 4/4/2019 – 4/8/2019**
  - Total vehicles: southbound- 342 and northbound- 542
  - 94% of north and southbound vehicles were 19.9 mph or slower and 4% were 24.9 mph or slower
  - Highest speed recorded was between 75-79.9 mph (explained by the MFG as highly likely that two vehicles passed each other at the same time period giving a false reading)
  
- **Lake Street and E. 5<sup>th</sup> Avenue (north/south traffic) from 4/8/2019 – 4/12/2019**
  - Total vehicles: southbound- 353 and northbound- 800

- 89% of southbound and 79% of northbound vehicles were 19.9 mph or slower and 10% of southbound and 19% of northbound were 24.9 mph or slower
- Highest speed recorded was 65-69.9 mph (explained by the MFG as highly likely that two vehicles passed each other at the same time period giving a false reading)
- 8 Chase Road (east/west traffic) from 4/13/2019 – 4/17/2019
  - Total vehicles: 64,095
  - Average Daily vehicles: 15,444
  - This was a traffic volume study only
- Conroy Windermere Road and Horizon Circle (east/west traffic) from 4/26/19 – 5/2/2019
  - Total vehicles: westbound- 63,971 and eastbound- 63,849
  - 92% of westbound and 97% of eastbound vehicles were 39.9 mph or slower
  - Highest speed recorded was 85-89.9 mph
- Ridgewood Drive and Lee Street (east/west traffic) from 4/26/2019 – 5/3/2019
  - Total vehicles- 370
  - 85% of the vehicles were 16 mph or slower
  - Highest speed recorded was 22 mph
- Park Avenue and Wild Myrtle Court (east/west traffic) from 5/6/2019 – 5/9/2019
  - Total vehicles- 4,967
  - 85% of vehicles were 42 mph or slower
  - Highest speed recorded was 81 mph
- Maguire Road and Windermere Road 5/6/2019 – 5/20/2019
  - This study is not valid due to a malfunction in the counter in the new device. The device was sent back to the manufacturer to be repaired
  - We cannot provide an overall traffic count to compare against the 2014 Traffic Study and recommend that we measure that data when school returns

**Concerns / Complaints:**

- A question was raised regarding citing drivers for speeding one (1) mile per hour above the posted limit. Chief Ogden explained that there is no statutory fine for someone speeding up to five (5) miles per hour over the speed limit, and it does not justify a reason for a stop under the statutory guidelines or pursuant to case law.
- Resident on Oakdale was confronted by another resident on Oakdale reference speeding and posted on social media how the situation upset her. Have also heard this from other residents.
- Resident advised they felt a traffic app is routing drivers from Main Street down 7th Avenue then turning left onto Oakdale Street to get to 6th Avenue. The resident further advised they have counted in the morning time over a three day period four to six vehicles

every ten minutes not stopping at stop signs and not obeying the speed limit. Resident praised the increase in police presence but questioned what else can be done (if anything) aside from roadblocks and asked if more police presence was an option.

- Resident advised traffic on Oakdale Street (south end) was insane at 1700 hours and over a ten minute time frame observed five cars speeding excessively (40-50mph was the speed given). The resident further advised they have lived in Town for 20 years and went to the previous meetings regarding this issue and feel nothing has been done to address the traffic problem on Oakdale Street.
- Resident in the 800 block of Main Street phoned in a complaint of speeders in the morning on Main Street and advised her toddler was almost ran over when the toddler darted towards Main Street.
- Resident complaint of vehicles not stopping for the stop sign at Oakdale Street and 1<sup>st</sup> Ave and believed it due to not being visible enough due to a nearby tree. Public works moved the stop sign to a location where it was visible.
- Resident complaint of increased speeding on Park Avenue near the Windermere Elementary School during 1500-1700 hours and asked for additional police presence.
- Officer Czwornog said he stopped two people from out of the country. They stated that GPS re-routed them through the back streets due to the traffic congestion, and the app advised them a three minute quicker route time to cut through.
- Officer Czwornog had a local "Uber Eats" delivery driver advise him that GPS re-routed him to the dirt roads.
- A resident requested to focus on the intersection of Magnolia Street and 7th Avenue due to cut through traffic and excess speeding.
- Data showed a clear indication of speeding on a roadway (Park Avenue) compared to the data routinely received from the backroads. On the cut through roads, the 85% range is at or below the posted speed limit. On Park Avenue it is clearly speeding well above at the 85% range which law enforcement officers use as an indicator to validate speeding problems. NOTE: A strong effort concentrating on the cut through traffic may appear to have left the main thoroughfares short staffed for major enforcement efforts. Anecdotally, there seems to be a correlation of our redirected efforts.
- When evaluating data on the intelligence led policing model of success, our efforts would be better served on the main thoroughfare such as Park Avenue than on the backroads in the middle of the afternoon handling cut through traffic issues. Statistically, the cut through traffic issue in one of volume and not a clear ongoing speeding or reckless driving issue as reported.

- During the January 22, 2019 Town Workshop meeting, the following concerns and recommendations were discussed:
  - Mr. Mike Woodard from Kimley Horn gave a presentation of possible options for deterring traffic on the back roads.
  - Comments by the Town Council were made regarding barrier types and locations, maintenance issues and concerns with barriers, costs, roundabouts, Windermere Road and Maguire Road, stop signs, resident and EMS impacts, school traffic, golf car use, turn arounds, metered lights, double lane roundabouts, Keene's Pointe entrance, and continuous right-hand turn onto Chase Road.
  - The floor was opened to the public and the following comments were made:
    - Barriers would punish residents and decrease property value
    - Storm water concerns on Oakdale, barriers at 9<sup>th</sup> would require a pedestrian cut through
    - Ridgewood resident in favor of barriers and provided his own traffic count
    - Design like Keene's Point would be beneficial to 12<sup>th</sup> and Main
    - Four-way stop signs at Windermere Road work, not in favor of barriers and roundabouts work (Mr. Woodard explained that stop signs are designed to control an intersection; not slow down drivers)
    - Request made to "revisit" the idea of a continuous right turn onto Chase Road
    - Former Mayor Bruhn requested discussion to continue on the next agenda for: Oakdale and 7<sup>th</sup>, 9<sup>th</sup>, Ridgewood and 12<sup>th</sup>, Magnolia and 5<sup>th</sup>.
  
- During the March 26, 2109 Town Council meeting, the following concerns and recommendations were discussed:
  - The floor was opened to the public and the following comments were made:
    - Resident spoke in opposition of any traffic diversions as he wished to drive on the dirt roads. He requested to adopt recommendations from engineers
    - Resident opposed barriers. Town Manager Smith reminded public that Kimley Horn study does not require barriers.
    - Mr. Woodard provided a brief review of the study
    - Resident opposed to barriers and recommended money be used toward more police patrol in the area
    - Resident disseminated a barrier plan and proposed cul-de-sacs. (Concerns for Fire and EMS expressed if cul-de-sacs were added)
    - Additional residents expressed concerns regarding speeders on Ridgewood Drive
    - Resident stated that contact with the State and County needed to be made regarding reducing traffic; recommended lowering the speed limits and providing more police presence

- Resident recommended “speed humps” for the traffic concerns on dirt roads, and cul-de-sac neighborhood “quadrants”
- Resident requested a cul-de-sac on Lee Street
- Former Mayor Bruhn indicated that traffic will continue to worsen as Horizon’s West continues to grow and is 35 built out
- Recommendation to provide 90 days of police patrol in designated areas for overtime speed enforcement on roads with cut through and excessive speed concerns was approved.


**Conclusion:**

“Operation Dusty Roads part Deux” was conducted over the course of sixty-three (63) days in response to a growing concern for drivers exceeding the posted speed and driving carelessly through identified areas of the Town of Windermere. Utilization of overtime details approved by Town Council, on duty officers and command staff, saturated these areas during hours identified with higher volumes of traffic.

Details performed in the final six to seven weeks of this operation showed a decrease in traffic volume and observed violations; however, the police department received additional complaints of speeding vehicles in areas not covered during peak times due to, in part, this operation.

Due to a challenge of the 15 mile per hour speed limit relating to a previous Florida Advisory Legal Opinion (1992), an additional speed study was conducted which clearly established the need for a speed limit lower than 25 miles per hour in a residential area. This study determined the lower speed was reasonable and therefore fulfilled a requirement of an amended Florida Advisory Legal Opinion (1996). These findings are being submitted to the Clerk of the Court for future challenges.

The financial impact of this operation totaled \$11,702.60 which included overtime pay, a new speed measuring device, and court overtime costs. At the time of report, some citations issued are pending court hearings and may result in additional overtime expenses for the police department.

Prepared by: Officer 2 Ryan Miller  Date: 6/24/2019

Reviewed by: Deputy Chief Jennifer Treadwell Date:

Approved by: Chief David Ogden  Date: 6/24/2019