

Council Members

Roger Manning-Mayor
Katrina Long Robinson-Vice Mayor
John Stanavitch-Seat 1
Kara Crump-Seat 2
Phillip Everett-Seat 3



City of Westlake

4001 Seminole Pratt Whitney Rd.
Westlake, Florida 33470
Phone: 561-530-5880
Fax: 561-790-5466

Council Meeting
Monday, November 4, 2019

Meeting Location
Westlake Council Chambers
4005 Seminole Pratt-Whitney Road
Westlake, FL 33470
6:30 p.m.

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the City Council with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The meeting/hearing may be continued to another date and time as may be found necessary during the aforesaid meeting. In accordance with the provisions of the Americans with Disabilities Act (ADA), any person requiring special accommodations at these meetings because of disability or physical impairment should contact the Interim City Manager at (954)753-5841 at least two (2) calendar days prior to the meeting.

City of Westlake

4001 Seminole Pratt Whitney Rd.
Westlake, Florida 33470
Phone: 561-530-5880
Fax: 561-790-5466
Website: westlakegov.com



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October 31, 2019

City Council
City of Westlake

Dear Mayor and Council:

The City Council of the City of Westlake will hold a meeting on Monday, November 4, 2019 at 6:30 p.m. at the Westlake Council Chambers, 4005 Seminole Pratt Whitney Road, Westlake, Florida. Following is the advance agenda for the meeting.

1. Call to Order/ Roll Call
2. Approval of Agenda
3. Audience Comments on Agenda Items (3) Minute Time Limit
4. Presentation by Sandy Goodman – US Census Bureau
5. Approval of the Minutes of the October 7, Meeting
- TABLED ITEMS (Tabled from October 28, 2019)
6. Amendment to Funding Agreement with Minto PBLH, LLC
7. Ilex Way Phase III Final Plat, Resolution 2019-29
8. Presentation on Ordinance 2019-12, Chapter 1 (Administration)
9. Second Reading of Ordinance 2019-12, Chapter 1 (Administration)
10. Presentation on Ordinance 2019-13, Chapter 2 (Land Development)
11. Second Reading of Ordinance 2019-13, Chapter 2 (Land Development)
- FIRST READING OF ORDINANCE
12. Ordinance 2019-2, Establishing Regulations for Sale and Consumption of Alcoholic Beverages
13. Ordinance 2019-4, Establishing Regulations for Property Maintenance
14. Christ Fellowship Church West Campus Plat, Resolution 2019-38
15. Manager’s Report
16. Attorney’s Report
17. Audience Comments on Other Items (3) Minute Time Limit
18. Council Comments
19. Adjournment

Any additional supporting material for the items listed above, not included in the agenda package, will be distributed at the meeting. Staff will present their reports at the meeting. I look forward to seeing you, but in the meantime if you have any questions, please contact me.

Sincerely,

Kenneth Cassel

Kenneth G. Cassel
City Manager

cc: Pam E. Booker, Esq.
Terry Lewis
John Carter
Kelley Burke

Fifth Order of Business

**MINUTES OF MEETING
CITY OF WESTLAKE**

A meeting of the City Council of the City of Westlake was held on Monday, October 7, 2019 at 7:12 p.m., at the Westlake Community Center, 4005 Seminole-Pratt Whitney Road, Westlake, Florida.

Present and constituting a quorum were:

| | |
|-----------------------|---------------------|
| Roger Manning | Mayor |
| Katrina Long Robinson | Vice Mayor |
| John Stanavitch | City Council Seat 1 |
| Kara Crump | City Council Seat 2 |
| Phillip Everett | City Council Seat 3 |

Also present were:

| | |
|---------------------|-----------------|
| Kenneth Cassel | City Manager |
| Pam E. Booker, Esq. | City Attorney |
| Nilsa Zacarias | NZ Consultants |
| John Carter | Minto PBLH, LLC |
| Residents | |

The following is a summary of the minutes and actions taken during the October 7, 2019 City of Westlake Council Meeting.

FIRST ORDER OF BUSINESS

Call to Order/Roll Call

Mayor Manning called the meeting to order and Mr. Cassel called the roll.

SECOND ORDER OF BUSINESS

Approval of Agenda

On MOTION by Councilman Everett seconded by Councilwoman Crump with all in favor the agenda was approved as presented.

THIRD ORDER OF BUSINESS

**Audience Comments on Agenda Items (3)
Minute Time Limit**

The floor was opened to audience comments.

- Mr. Richard Moore addressed the Council about procurement procedures for the City. He also discussed issues with trash pickup and the bill from Solid Waste Authority.
- Ms. Brandi Dugger addressed the Council regarding the City’s website and having more updated information.

FOURTH ORDER OF BUSINESS

Approval of the Minutes of the September 9, 2019 Meeting

On MOTION by Councilwoman Crump seconded by Councilman Everett with all in favor the minutes of the September 9, 2019 meeting were approved.

FIRST READING OF ORDINANCES

FIFTH ORDER OF BUSINESS

Staff Presentation on Ordinance 2019-10, Chapter 9 (Parking Code)

This presentation was provided during the LPA meeting held prior to the Council meeting. There were no additional questions.

SIXTH ORDER OF BUSINESS

Ordinance 2019-10, Chapter 9 (Parking Code)

Mr. Cassel read Ordinance 2019-10 by title only.

On MOTION by Councilman Stanavitch seconded by Councilman Everett with all in favor Ordinance 2019-10 was approved at first reading.

SEVENTH ORDER OF BUSINESS

Staff Presentation on Ordinance 2019-12, Chapter 1 (Administration)

This presentation was provided during the LPA meeting held prior to the Council meeting. There were no additional questions.

EIGHTH ORDER OF BUSINESS

Ordinance 2019-12, Chapter 1 (Administration)

Mr. Cassel read Ordinance 2019-12 by title only.

On MOTION by Councilwoman Crump seconded by Councilman Stanavitch with all in favor Ordinance 2019-12 was approved at first reading.

NINTH ORDER OF BUSINESS

Staff Presentation on Ordinance 2019-13, Chapter 2 (Land Development Procedures)

This presentation was provided during the LPA meeting held prior to the Council meeting. There were no additional questions.

TENTH ORDER OF BUSINESS

Ordinance 2019-13, Chapter 2 (Land Development Procedures)

Mr. Cassel read Ordinance 2019-13 by title only.

On MOTION by Councilman Stanavitch seconded by Councilwoman Crump with Councilman Stanavitch, Councilwoman Crump, Mayor Manning and Vice Mayor Long Robinson voting aye and Councilman Everett voting nay, Ordinance 2019-13 was approved at first reading.

ELEVENTH ORDER OF BUSINESS

Consideration of Contract Extension with NZ Consultants

Mr. Cassel stated this is an extension of the original contract, which was a three-year contract with a two-year option to renew. Amending the agreement under the same terms and conditions is recommended.

On MOTION by Councilman Everett seconded by Councilwoman Crump with all in favor the contract extension with NZ Consultants was approved.

TWELFTH ORDER OF BUSINESS

Consideration of Contract Extension with Chen Moore and Associates

Mr. Cassel stated the original contract was a three-year contract with a three-year option to renew. Extension of the agreement was recommended.

On MOTION by Councilwoman Crump seconded by Councilman Everett with all in favor the contract extension with Chen Moore and Associates was approved.

THIRTEENTH ORDER OF BUSINESS

Consideration of Engagement Letter with Berger, Toombs, Elam, Gaines & Frank for the Fiscal Year 2019 Financial Audit

Mr. Cassel stated there is a small increase for a fee not to exceed \$5,250.

On MOTION by Councilman Stanavitch seconded by Councilwoman Crump with all in favor the engagement letter with Berger, Toombs, Elam, Gaines & Frank was approved.

FOURTEENTH ORDER OF BUSINESS

Manager’s Report

Mr. Cassel reported the following:

- PBSO started services under the new contract on October 1, 2019. There are five officers. There was a meet and greet for residents October 5, 2019 from 2:00 p.m. to 4:00 p.m. Approximately 20 to 40 residents stopped by to meet the officers.
- The next *Coffee with the Manager* is scheduled for Tuesday, October 22, 2019 from 6:00 p.m. to 8:00 p.m.
- There has been a response time issue with Fire Rescue and their GPS finding houses. The City sent all the GPS data points to the County several months ago. The issue is

how they put some of the information in the system. The City’s GIS consultant is working with them to resolve the issue.

FIFTEENTH ORDER OF BUSINESS

Attorney’s Report

Ms. Booker reported staff continues to work on drafting the City’s codes. They expect to be completed by December 9, 2019.

SIXTEENTH ORDER OF BUSINESS

**Audience Comments on Other Items (3)
Minute Time Limit**

There being none, the next item followed.

SEVENTEENTH ORDER OF BUSINESS

Council Comments

Mr. Mayor noted he was 20 minutes late to the meeting with the Sheriff.

EIGHTEENTH ORDER OF BUSINESS

Adjournment

There being no further business, the meeting adjourned at 7:34 p.m.

Kenneth Cassel
City Manager

Roger Manning
Mayor

Sixth Order of Business

ADDENDUM TO FUNDING AGREEMENT

BETWEEN CITY OF WESTLAKE AND MINTO PBLH, LLC

This Addendum to Funding Agreement (“Addendum”) dated November 4, 2019, between the **City of Westlake** (“City”), a Florida municipal corporation, located at 4001 Seminole Pratt Whitney Road, Westlake Florida, 33470, and **Minto PBLH, LLC.**, (“Minto”), a Florida Limited Liability Company, located at 4400 W. Sample Road, Suite 200, Coconut Creek, Florida, 33073, collectively referred to as “Parties”.

WHEREAS, the City previously entered into a contact for funding with Minto, on or about July 16, 2016; and

WHEREAS, pursuant to the terms and conditions of the Funding Agreement, Minto agreed to provide sufficient funds to cover any identified deficit to ensure adequate funds will be in the City’s general fund to cover all necessary expenditures; and

WHEREAS, the Funding Agreement obligates Minto to fund the general fund expenditures through the fiscal year 2021; and

WHEREAS, the Parties recognize the delay in receiving taxable revenue for the value of construction from the time of certificate of occupancy to the time the City receives revenue from the tax collector; and

WHEREAS, in recognition of the delay in sufficient funds to cover all necessary expenditures of the general fund, Minto has agreed to fund the necessary expenditures through the fiscal year 2023.

NOW THEREFORE, the Parties hereby agree to the following amendments to the Funding Agreement.

1. **Section 2.3.** ~~For each fiscal year hereafter through fiscal year 2021.~~

For each fiscal year hereafter through fiscal year 2023, ending on September 31, 2023.

2. Except as otherwise expressly set forth in the Addendum, the Funding Agreement shall remain unchanged and in full force and effect in accordance with the terms and provisions contained therein.

IN WITNESS WHEREOF, the Parties have executed this Agreement, this 4th day of November, 2019, by their duly authorized representative.

Attest:

CITY OF WESTLAKE, FLORIDA

City Clerk, Sandra DeMarco

Roger Manning, Mayor

Approved as to Form & Sufficiency

By: _____

Pam E. Booker, City Attorney

Minto PBLH, LLC

BY: John Carter, Vice President

Witnesses:

By: _____

Print Name: _____

By: _____

Print Name: _____

Funding Agreement

This Funding Agreement (“Agreement”) is made and entered into this 25 day of July, 2016, by and between:

The City of Westlake, Florida, a municipal corporation (hereinafter “City”), whose address is 4001 Seminole Pratt Whitney Road, Loxahatchee, FL 33470, and

Minto PBLH, LLC, a Florida Limited Liability Company (hereinafter “Minto”), whose address is 4400 W. Sample Road, Suite 200, Coconut Creek, Florida 33073.

WHEREAS, the City was created on June 20, 2016, when the Supervisor of Elections of Palm Beach County certified the results of a referendum election of the qualified electors of the Seminole Improvement District (hereinafter “District”) wherein the majority of the electors voted to convert the District into a municipality; and

WHEREAS, the City, pursuant to the responsibilities and authorities vested in it by the Laws of Florida, desires to proceed with the discharge of its municipal responsibilities and duties; and

WHEREAS, consistent with the Proposed Elector-Initiated Combined Conversion and Incorporation Plan for the City (hereinafter “Incorporation Plan”), dated April 5, 2016, the City recognizes that it will operate at a deficit through fiscal year 2021 in discharging its responsibilities and duties to allow tax revenues to catch up with expenditures; and

WHEREAS, Minto owns or controls the majority of all lands within the City and recognizes the need for the City to have funds to discharge its responsibilities and duties as a municipality in the State of Florida; and

WHEREAS, Minto issued a letter of its intent, included as part of the Incorporation Plan, to fund the deficit of the City through the year 2021; and

WHEREAS, the City and Minto wish to enter into this Agreement to establish the terms of Minto’s provision of funding to the City so that the City may properly budget for its anticipated expenditures for the remainder of the 2016 tax year and prepare a budget for the 2017 fiscal year, and so that Minto can timely transfer funds to the City;

NOW, THEREFORE, based upon good and valuable consideration and the mutual covenants of the parties hereinafter recited, the receipt and sufficiency of which is hereby acknowledged, the City and Minto agree as follows:

Section 1: Recitals The recitals stated above are true and correct and are incorporated by reference herein as a material part of this Agreement.

Section 2: Funding Obligations

2.1 The City shall prepare a budget for the general fund and operational expenditures of the City from June 20, 2016 through September 30, 2016, similar to the 5-Year Operational Plan included as part of the Incorporation Plan, a copy of which shall be provided to Minto.

2.2 On or before August 1, 2016, Minto shall provide funding sufficient to cover any identified deficit in the remaining 2016 fiscal year to ensure adequate funds will be in the City's general fund to cover all necessary expenditures through the remainder of the 2016 fiscal year associated with the City's carrying out its general and special municipal duties and responsibilities consistent with an approved budget, including payment on all contracts for the provision of municipal services. The funds shall be deposited in the City's General Fund account.

2.3 For each fiscal year hereafter through fiscal year 2021:

2.3.1 The City shall prepare a budget of the general fund and operation expenditures of the City similar to the 5-Year Operational Plan included as part of the Incorporation Plan, a copy of which shall be provided to Minto no later than August 1st of each fiscal year.

2.3.2 Minto shall provide funding to the City's General Fund on October 1, February 1 and June 1 each year in a total amount sufficient to cover any identified deficit in the adopted City budget for that fiscal year.

2.3.3 Funds provided by Minto pursuant to this Agreement shall be used by the City in carrying out its municipal duties and responsibilities consistent with an approved budget, including payment on all contracts for the provision of municipal services.

2.4 The City shall maintain an accounting of the use of all funds provided by Minto for deficit funding during the term of this Agreement.

Section 3: Default

3.1 A default by either party under the Agreement shall entitle the other party to all remedies available at law or in equity.

3.2 No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing

Section 4: City Retains Authority Nothing in this Agreement shall be construed, interpreted or applied in such a manner as will constitute contracting away or waiver of any governmental police power by the City or any Agency of the City, including its land use authority. Nothing in this Agreement has any relevance, or impact on the ability of the City to approve, deny or condition any future application filed by Minto, its agents, successors or assigns, as the City deems appropriate in its sole discretion.

Section 5: Notices All notices or other communications required under this Agreement shall be in writing and shall be given by hand-delivery or by registered or certified U.S. Mail, return receipt requested, addressed to the other party at the address

indicated herein or to such other address as a party may designate by notice given as herein provided. Notice shall be deemed given on the day on which personally delivered; or, if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

For the City of Westlake: City Manager
with copy to City Attorney
4001 Seminole Pratt Whitney Road
Loxahatchee, FL 33470

For Minto PBLH LLC: John Carter
Minto PBLH, LLC
4400 W. Sample Road
Suite 200
Coconut Creek, FL 33073

with Copy to:

Tara W. Duhy, Esq.
Lewis, Longman & Walker, P.A.
515 N. Flagler Drive
Suite 1500
West Palm Beach, FL 33401

Section 6: Miscellaneous Provisions

- 6.1 Binding Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement. This Agreement shall be binding upon the parties hereto, their heirs, executors, legal representatives, successors, or assigns.
- 6.2 Entire Agreement.** This instrument and its Exhibits constitute the sole and entire agreement of the parties relating to the subject matter hereof and correctly set forth the rights, duties, and obligations of each to the other as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement, are of no force or effect. No modification or amendment hereto shall be valid unless in writing and executed by properly authorized representatives of the parties herein.
- 6.3 Counterparts and Transmission.** To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The executed signature page(s) from each original may be joined together and attached to one such original and it shall constitute one and the same instrument. In addition, said counterparts may be transmitted electronically (i.e.,

via facsimile or .pdf format document sent via electronic mail), which transmitted document shall be deemed an original document for all purposes hereunder

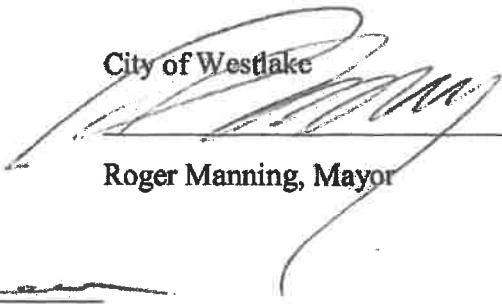
6.4 Severability. In the event any provision of this Agreement is deemed invalid, against public policy, void, or otherwise unenforceable by a court of law, such provision shall be deemed severed from the remainder of this Agreement and the remaining provisions of this Agreement shall nonetheless remain in full force and effect.

6.5 Governing Law, Jurisdiction and Venue. This Agreement shall be construed and enforced according to the laws of the State of Florida. The Parties hereto submit to the jurisdiction of any Florida State or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue for any action arising out of this agreement shall be in Palm Beach County, Florida.

6.6 Headings. Title and paragraph headings are for convenient reference and are not a part of this Agreement.


IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative.

City of Westlake



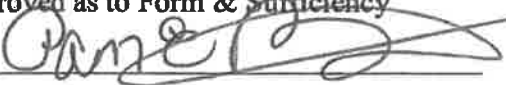
Roger Manning, Mayor

Attest:



Sandra H. Demarco
Ken Counsel, Clerk

Approved as to Form & Sufficiency

By: 

Pam E. Booker, Interim City Attorney


Minto PBLH, LLC



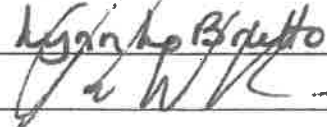
By:

(Title) 

Witnesses:

By: 

Print Name

By: 

Print Name





April 1, 2016

To Mayor and City Council of the City of Westlake:

Minto PBLH, LLC, ("Minto") which is the primary landowner within the Seminole Improvement District, intends to enter into a development agreement with the City of Westlake, once established, or to guarantee contracts necessary to provide the services identified in the Proposed Elector-Initiated Combined Conversion and Incorporation Plan ("PEICCIP") or to post such other security as the City deems sufficient to provide deficit funding through the year 2021. This commitment is made in support of the PEICCIP to evidence fiscal capacity through 2021. Through the appropriate vehicle, Minto will contribute an amount equal to any deficit through the year 2021, as provided for in the PEICCIP. Minto shall make such payment or ensure such fund are available to the City annually at the beginning of each fiscal year. For the partial year of 2016, Minto shall make the deficit payment upon incorporation of the City.

Founded in 1955, Minto is a family-owned business that has grown over the last 60 years into one of North America's leading builders, with more than 80,000 homes built, including 25,000 in Florida. Minto creates a wide array of award-winning new homes and resort-style master-planned communities to meet every lifestyle. The company has earned national awards and recognition that include consistently high rankings from Eliant Customer Service Surveys, Leadership in Energy and Environment Design (LEED) and multiple national awards in community and home design.

John F. Carter
Vice President, Minto PBLH, LLC

Seventh Order of Business

October 28, 2019

RESOLUTION 2019-29

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, APPROVING THE FINAL PLAT FOR ILEX WAY PHASE III, BEING DESCRIBED AS A PORTION LAND DESCRIBED BY METES AND BOUNDS AS A PORTION OF LAND LYING IN SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, IN THE CITY OF WESTLAKE, PALM BEACH COUNTY, FLORIDA, PROVIDING AN EFFECTIVE DATE AND PROVIDING FOR RECORDATION.

WHEREAS, Minto PBLH, LLC, a Florida Limited Liability Company, as the Applicant has requested approval for the ILEX WAY Phase III, Final Plat, described by metes and bounds as a parcel of land lying in Section 12, Township 43 South, Range 40 East, containing approximately 3.939 acres in the City of Westlake, Palm Beach County, Florida, as described in Exhibit "A", attached hereto; and

WHEREAS, the City of Westlake has the exclusive jurisdiction to approve the plat pursuant to Florida Statutes, §177.071; and

WHEREAS, on or about January 14, 2019, the City of Westlake considered and approved a plat for ILEX Way Phase III, for a portion of the lands described herein; and

WHEREAS, the applicant made changes to the plat subsequent to City Council approval but prior to recordation of the plat as approved on January 14, 2019; and

WHEREAS, the application has been reviewed and approved by a Professional Surveyor and Mapper for the City of Westlake, and said Surveyor and Mapper has found the application to be consistent with the requirements under Florida Statutes, Chapter 177; and

WHEREAS, Engineering staff and Planning staff for the City of Westlake have reviewed the application, the final plat and the boundary survey, and the collective staff has recommended approval; and

WHEREAS, after careful review and consideration, the collective staff has determined that this application has complied with the Palm Beach County Unified Land Development Codes and Florida law.

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

- Section 1:** The above recitals are true and correct and are incorporated herein by this reference.
- Section 2:** The City Council for the City of Westlake hereby approves the final plat and boundary survey for the ILEX Way Phase III road right-of-way, as described in the attached Exhibit "A", containing approximately 3.939 acres, which is located in the City of Westlake, and in Palm Beach County, Florida.
- Section 3.** The applicant shall provide a certified copy of the recorded plat and the applicant shall cover the costs of recording the plat in the public records in and for Palm Beach County Florida.

Section 4: This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by City Council for the City of Westlake, on this day of October 28, 2019.

City of Westlake
Roger Manning, Mayor

Sandra DeMarco, City Clerk

Approved as to Form and Sufficiency
Pam E. Booker, City Attorney

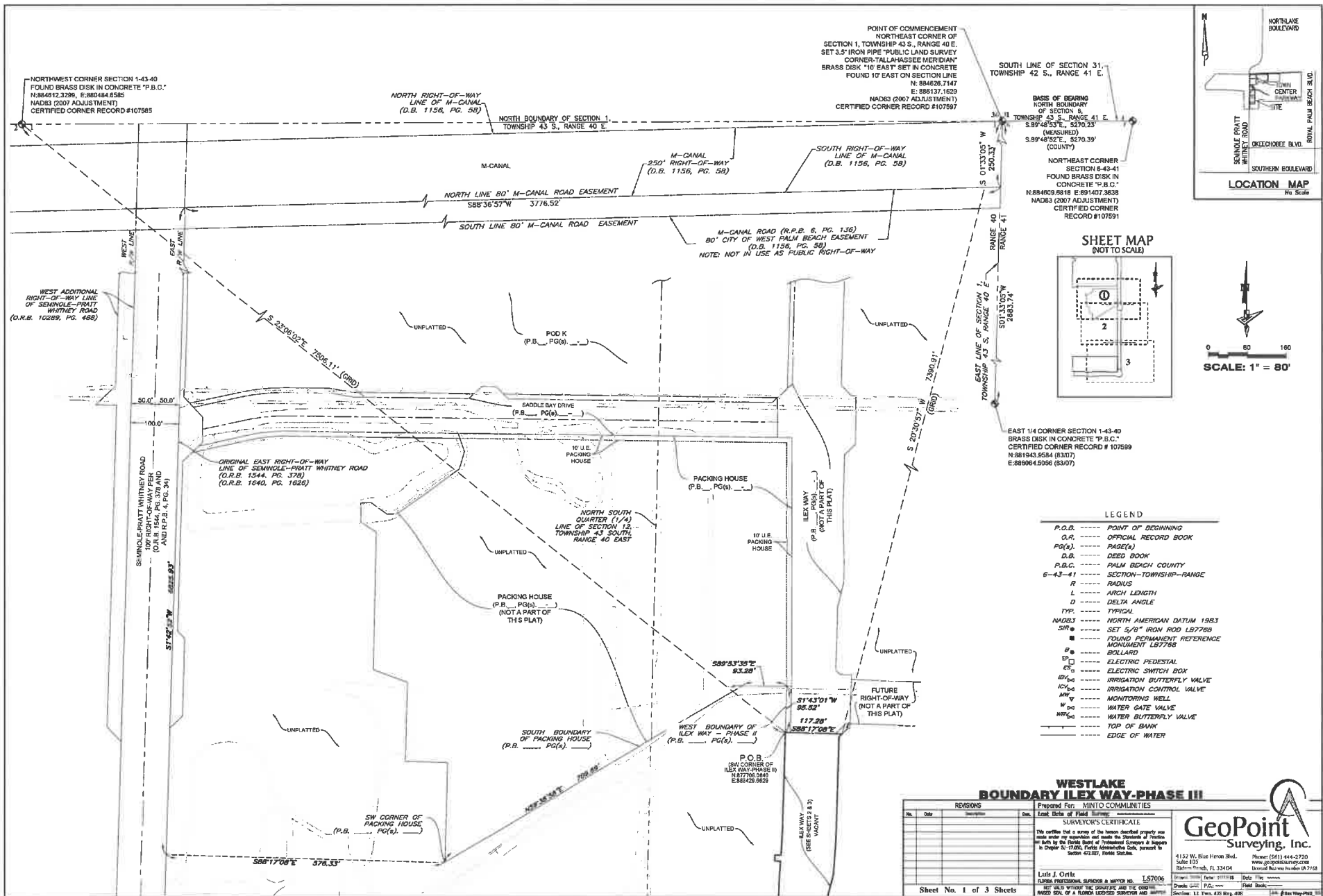
Exhibit 'A'
Legal Description
ILEX WAY PHASE III

A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, CITY OF WESTLAKE, PALM BEACH COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 40 EAST; THENCE S.01°33'05"W. ALONG THE EAST LINE OF SAID SECTION 1, A DISTANCE OF 250.33 FEET TO A POINT ON THE NORTH LINE OF THE 80 FOOT M-CANAL ROAD EASEMENT AS RECORDED IN DEED BOOK 1156, PAGE 58 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND AS SHOWN IN ROAD PLAT BOOK 6, PAGE 136 OF SAID PUBLIC RECORDS, AND AS MONUMENTED; THENCE S.88°36'57"W. ALONG SAID NORTH LINE OF THE 80 FOOT M-CANAL ROAD EASEMENT, A DISTANCE OF 3776.52 FEET TO A POINT ON THE ORIGINAL EAST RIGHT-OF-WAY LINE OF SEMINOLE PRATT WHITNEY ROAD AS RECORDED IN OFFICIAL RECORD BOOK 1544, PAGE 378 AND OFFICIAL RECORD BOOK 1640, PAGE 1626 BOTH OF SAID PUBLIC RECORDS; THENCE S.01°42'52"W. ALONG SAID ORIGINAL EAST RIGHT-OF-WAY LINE OF SEMINOLE PRATT WHITNEY ROAD, A DISTANCE OF 6825.93 FEET; THENCE S.88°17'08"E., A DISTANCE OF 576.33 FEET; THENCE N.59°38'58"E., A DISTANCE OF 709.69 FEET; THENCE S.89°53'35"E., A DISTANCE OF 93.28 FEET; THENCE S.01°43'01"W., A DISTANCE OF 95.52 FEET TO THE POINT OF BEGINNING; THENCE S.88°17'08"E., A DISTANCE OF 117.28 FEET; THENCE S.46°42'52"W., A DISTANCE OF 8.88 FEET; THENCE S.01°42'52"W., A DISTANCE OF 186.80 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY, WITH A RADIUS OF 1261.00 FEET; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 03°07'28", A DISTANCE OF 68.77 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE EASTERLY, WITH A RADIUS OF 1139.00 FEET; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°11'27", A DISTANCE OF 23.67 FEET; THENCE S.14°56'34"W., A DISTANCE OF 50.90 FEET; THENCE S.01°42'52"W., A DISTANCE OF 1053.38 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE EASTERLY, WITH A RADIUS OF 990.00 FEET; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°09'20", A DISTANCE OF 19.97 FEET TO A POINT OF TANGENCY; THENCE S.00°33'32"W., A DISTANCE OF 179.83 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY, WITH A RADIUS OF 1010.00 FEET; THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°08'57", A DISTANCE OF 20.26 FEET TO A POINT OF TANGENCY; THENCE S.01°42'29"W., A DISTANCE OF 57.97 FEET; THENCE N.88°17'31"W., A DISTANCE OF 107.96 FEET; THENCE N.01°44'23"E., A DISTANCE OF 65.35 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE EASTERLY, WITH A RADIUS OF 1010.00 FEET ; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°07'49", A DISTANCE OF 19.93 FEET TO A POINT OF TANGENCY; THENCE N.02°52'12"E., A DISTANCE OF 172.79 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY, WITH A RADIUS OF 990.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 01°09'20", A DISTANCE OF 19.97 FEET; THENCE N.01°42'52"E., A DISTANCE

OF 1064.50 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE EASTERLY, WITH A RADIUS OF 1250.00 FEET; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $02^{\circ}50'58''$, A DISTANCE OF 62.17 FEET TO A RADIAL INTERSECTION; THENCE $N.85^{\circ}26'10''W.$, A DISTANCE OF 12.00 FEET; THENCE $N.04^{\circ}41'44''E.$, A DISTANCE OF 12.00 FEET; THENCE $S.85^{\circ}27'36''E.$, A DISTANCE OF 12.00 FEET TO A NON-TANGENT INTERSECTION WITH A CURVE CONCAVE WESTERLY WITH A RADIUS OF 1150.00 FEET AND A RADIAL BEARING OF $N.85^{\circ}27'36''W.$, AT SAID INTERSECTION; THENCE NORTHERLY, ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $02^{\circ}49'32''$, A DISTANCE OF 56.71 FEET TO A POINT OF TANGENCY; THENCE $N.01^{\circ}42'52''E.$, A DISTANCE OF 193.08 FEET TO THE POINT OF BEGINNING.

CONTAINING: 3.939 ACRES, MORE OR LESS.



- LEGEND**
- P.O.B. ----- POINT OF BEGINNING
 - O.R. ----- OFFICIAL RECORD BOOK
 - PG(s) ----- PAGE(S)
 - D.B. ----- DEED BOOK
 - P.B.C. ----- PALM BEACH COUNTY
 - 6-43-41 ----- SECTION-TOWNSHIP-RANGE
 - R ----- RADIUS
 - L ----- ARCH LENGTH
 - Δ ----- DELTA ANGLE
 - TYP. ----- TYPICAL
 - NA83 ----- NORTH AMERICAN DATUM 1983
 - SIR # ----- SET 5/8" IRON ROD LB7768
 - ----- FOUND PERMANENT REFERENCE MONUMENT LB7768
 - B ----- BOLLARD
 - EP ----- ELECTRIC PEDIESTAL
 - ESB ----- ELECTRIC SWITCH BOX
 - IBV ----- IRRIGATION BUTTERFLY VALVE
 - ICV ----- IRRIGATION CONTROL VALVE
 - MW ----- MONITORING WELL
 - WG ----- WATER GATE VALVE
 - WBV ----- WATER BUTTERFLY VALVE
 - ----- TOP OF BANK
 - EDGE OF WATER

WESTLAKE BOUNDARY ILEX WAY PHASE III

REVISIONS

| No. | Date | Description | By |
|-----|------|-------------|----|
| | | | |
| | | | |
| | | | |

Prepared For: **WANTO COMMUNITIES**

SURVEYOR'S CERTIFICATE

I, the undersigned, being a duly qualified and licensed Surveyor and Engineer in Charge in the State of Florida, do hereby certify that I am the author of the foregoing plat and that it is a true and correct copy of the original as shown to me by the Florida Board of Professional Surveyors & Engineers in Charge on 11/20/2024. Florida Identification Code, Permit to Survey 472507, Florida Statute.

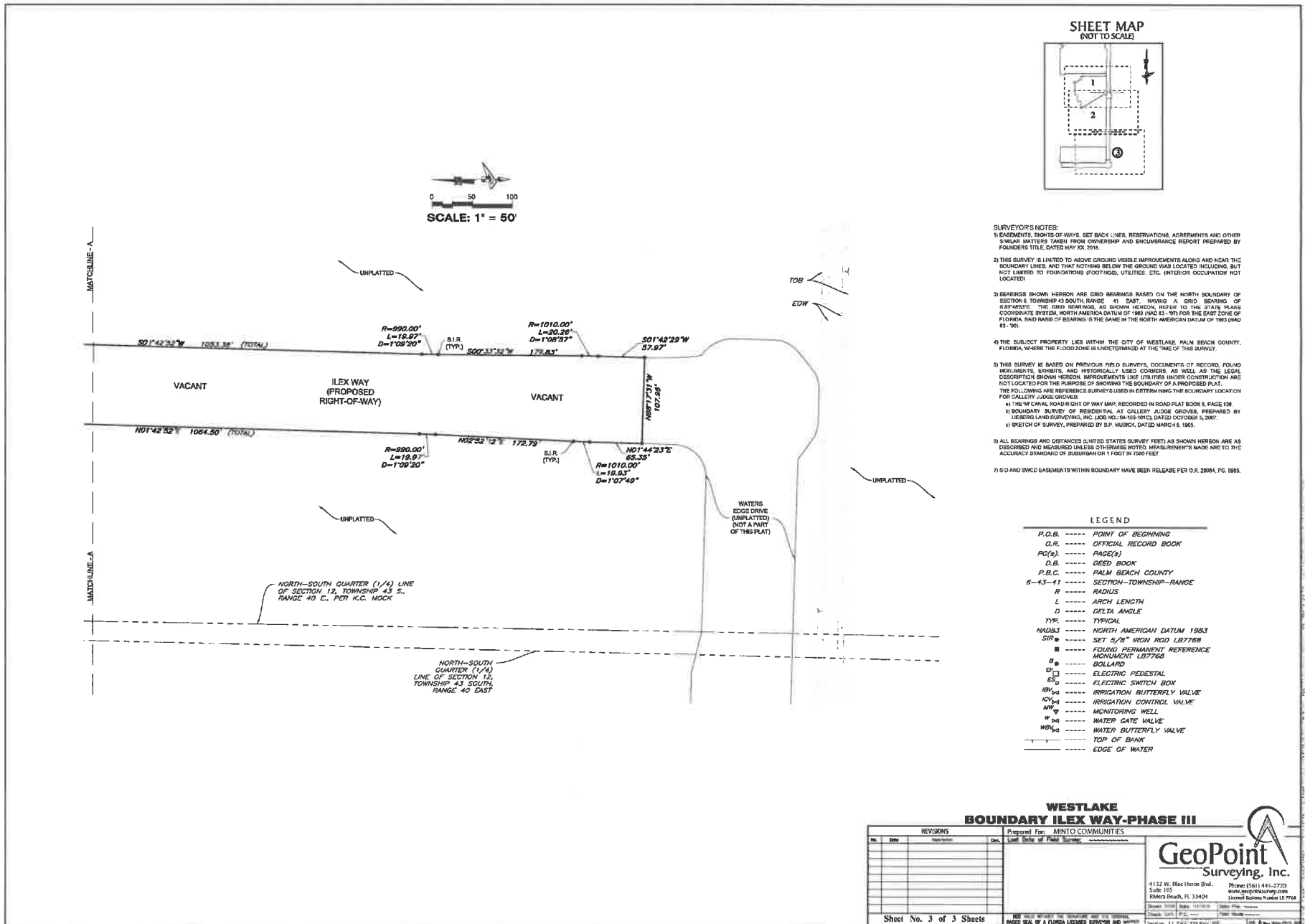
Luis J. Ortiz
 Survey Professional Supervisor & Engineer No. 157006
 4132 W. Blue Heron Blvd., Suite 100, Boca Raton, FL 33404
 Phone: (561) 444-2720
 www.geopointinc.com

GeoPoint Surveying, Inc.

4132 W. Blue Heron Blvd., Suite 100, Boca Raton, FL 33404
 Phone: (561) 444-2720
 www.geopointinc.com
 License of Professional Surveyor 15754

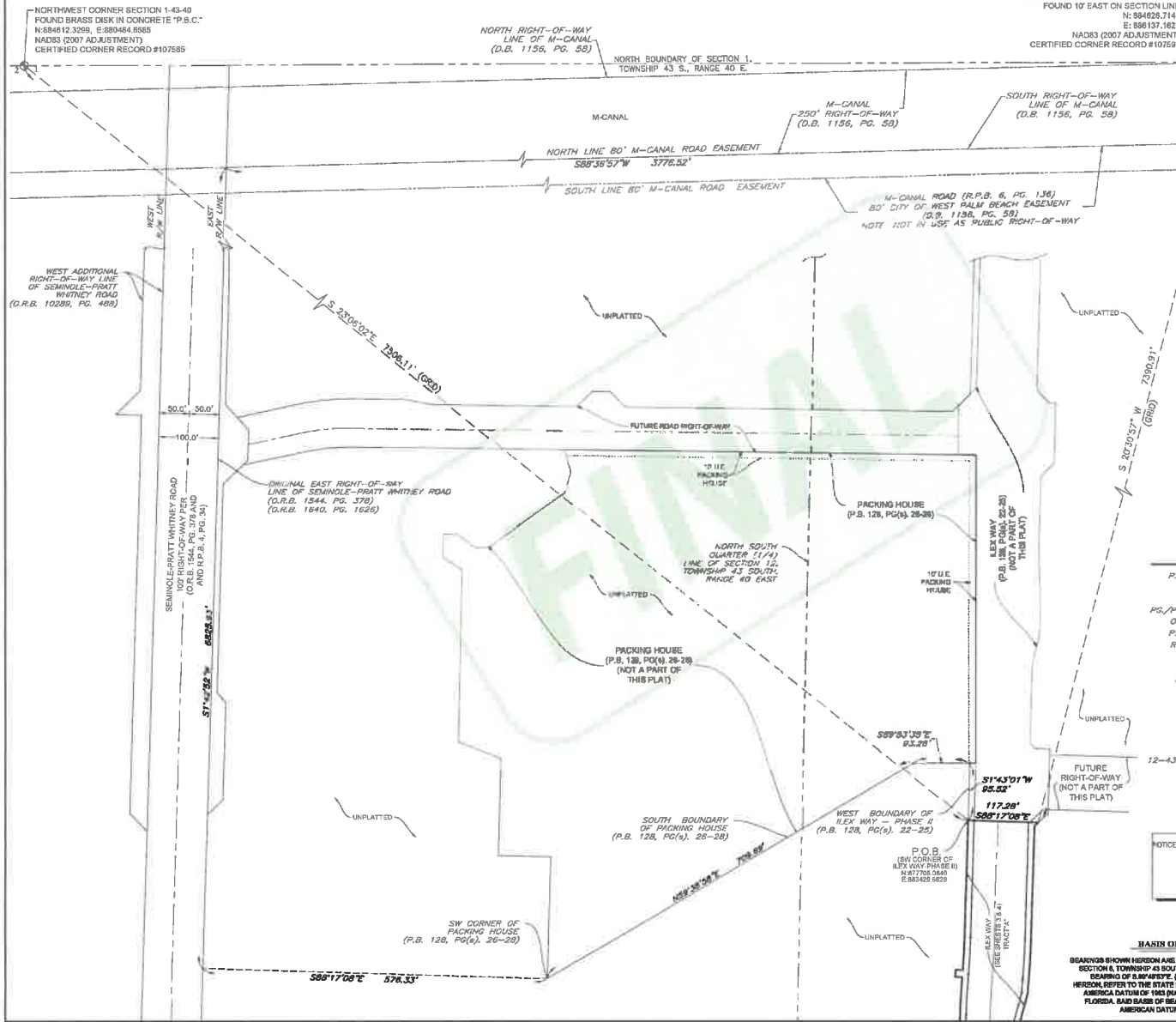
Sheet No. 1 of 3 Sheets

Scale: 1" = 80'



ILEX WAY - PHASE III

BEING A PLAT OF A PORTION OF
SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST,
CITY OF WESTLAKE, PALM BEACH COUNTY, FLORIDA

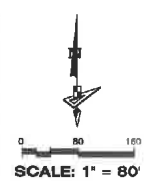
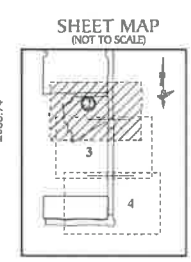


POINT OF COMMENCEMENT
NORTH-EAST CORNER OF
SECTION 1, TOWNSHIP 43 S., RANGE 40 E.
SET 3.5" IRON PIPE "PUBLIC LAND SURVEY
CORNER-TALLAHASSEE MERIDIAN"
BRASS DISK "10' EAST" SET IN CONCRETE
FOUND 10' EAST ON SECTION LINE
N: 884825.7147
E: 886137.1629
NAD83 (2007 ADJUSTMENT)
CERTIFIED CORNER RECORD #107597

SOUTH LINE OF SECTION 31,
TOWNSHIP 42 S., RANGE 41 E.

BASIS OF BEARING
NORTH BOUNDARY
OF SECTION 6,
TOWNSHIP 43 S., RANGE 41 E.
S: 89°46'53\" E.: 5270.23'
(MEASURED)
S: 89°46'53\" E.: 5270.39'
(COUNTY)

NORTHEAST CORNER
SECTION 6-43-41
FOUND BRASS DISK IN
CONCRETE "P.B.C."
N: 884809.6818 E: 891407.3638
NAD83 (2007 ADJUSTMENT)
CERTIFIED CORNER
RECORD #107591



LEGEND

| | | | |
|-----------------|---------------------------------------|--|---|
| P.O.B. ----- | POINT OF BEGINNING | | COORDINATES SHOWN HEREON ARE FLORIDA STATE PLANE GRID |
| P.B. ----- | PLAT BOOK | | DATUM = NAD83 2007 ADJUSTMENT |
| D.B. ----- | DEED BOOK | | ZONE = FLORIDA EAST |
| PG./PG(S) ----- | PAGE(S) | | LINEAR UNITS = US SURVEY FEET |
| O.S.T. ----- | OPEN SPACE TRACT | | COORDINATE SYSTEM = 1983 STATE PLANE |
| P.B.C. ----- | PALM BEACH COUNTY | | PROJECTION = TRANSVERSE MERCATOR |
| R.R.B. ----- | ROAD PLAT BOOK | | ALL DISTANCES ARE GROUND |
| LB ----- | LICENSED BUSINESS | | SCALE FACTOR = 1.0000 |
| U.E. ----- | UTILITY EASEMENT | | GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE |
| R/W ----- | RIGHT-OF-WAY | | PLAT BEARING = GRID BEARING |
| E ----- | CENTERLINE | | NO ROTATION |
| R ----- | RADIUS | | ALL TIES TO SECTION CORNERS AND QUARTER CORNERS ARE GENERATED FROM MEASURED VALUES |
| L ----- | ARC LENGTH | | |
| D ----- | DELTA-CENTRAL ANGLE | | |
| C ----- | CHORD | | |
| CB ----- | CHORD BEARING | | |
| 12-43-40 ----- | SECTION-TOWNSHIP-RANGE | | |
| □ ----- | FOUND PERMANENT REFERENCE MONUMENT | | |
| ■ ----- | SET PERMANENT REFERENCE MONUMENT | | |
| ⊙ ----- | PERMANENT CONTROL POINT | | |

NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE
OFFICIAL DESCRIPTION OF THE SURVISED LANDS DESCRIBED
HEREIN AND WILL, IN NO CIRCUMSTANCES BE SUPPLANTED
IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM
OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT
ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN
THE PUBLIC RECORDS OF THIS COUNTY.

BASIS OF BEARINGS
BEARINGS SHOWN HEREON ARE BASED ON THE NORTH BOUNDARY OF
SECTION 6, TOWNSHIP 43 SOUTH, RANGE 41 EAST, HAVING A GRID
BEARING OF S 89°46'53\" BEARINGS SHOWN
HEREON REFER TO THE STATE PLANE COORDINATE SYSTEM, NORTH
AMERICA DATUM OF 1983 (NAD 83 - 97) FOR THE EAST ZONE OF
FLORIDA. GRID BASIS OF BEARING IS THE SAME IN THE NORTH
AMERICAN DATUM OF 1983 (NAD 83 - 96).



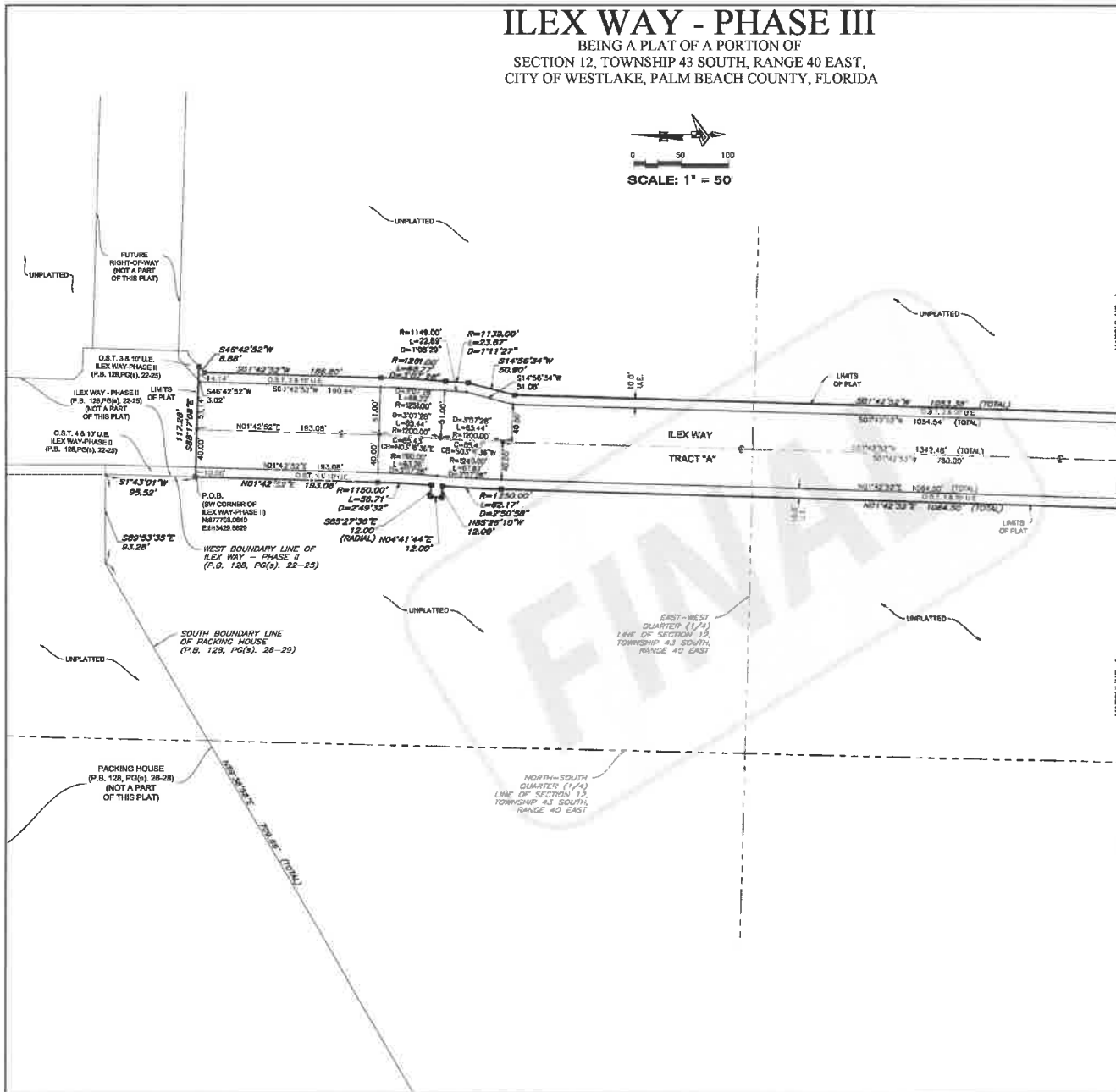
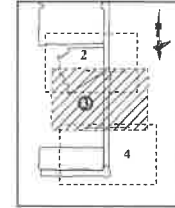
4153 W. Blue Haven Blvd.
Suite 102
Riviera Beach, FL 33404
Phone: (561) 444-0700
www.geopointsurveying.com
Florida Business Number LP 7964
Sheet No. 2 of 4 Sheets

ILEX WAY - PHASE III

BEING A PLAT OF A PORTION OF
SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST,
CITY OF WESTLAKE, PALM BEACH COUNTY, FLORIDA



SHEET MAP
(NOT TO SCALE)



LEGEND

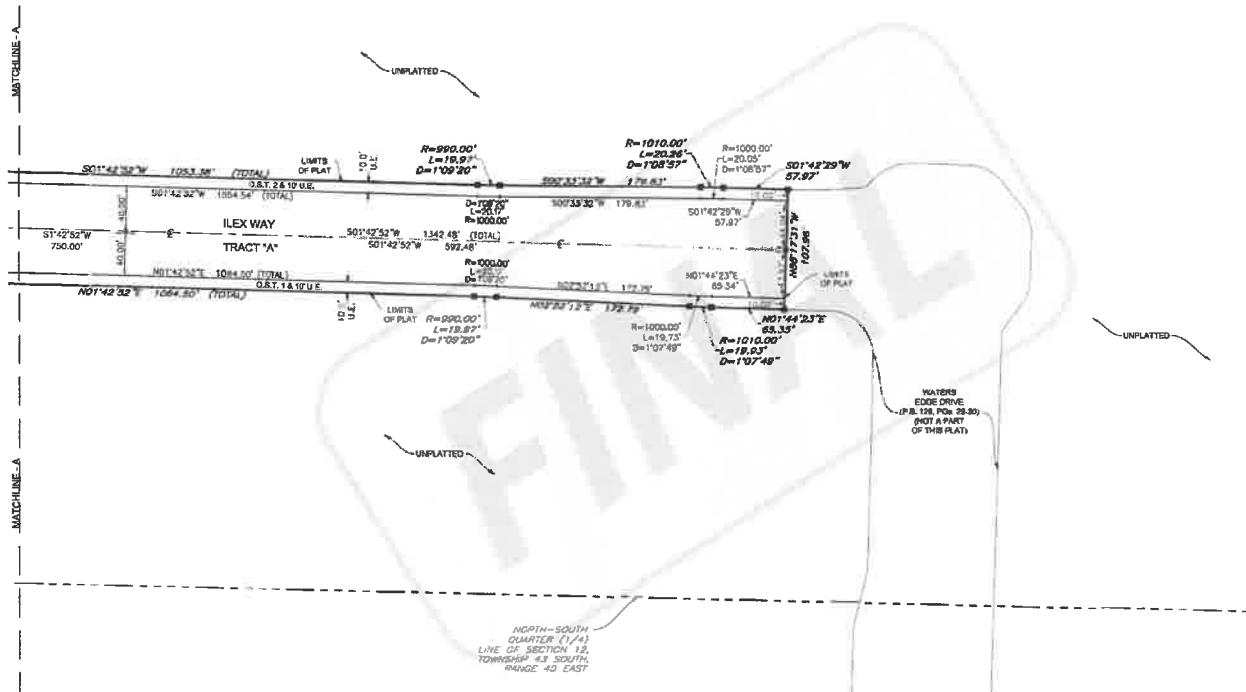
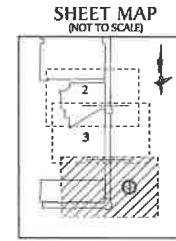
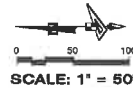
- P.O.B. ----- POINT OF BEGINNING
- P.B. ----- PLAT BOOK
- D.B. ----- DEED BOOK
- PG./PG(s) ----- PAGE(S)
- O.S.T. ----- OPEN SPACE TRACT
- P.B.C. ----- PALM BEACH COUNTY
- R.P.B. ----- ROAD PLAT BOOK
- LB ----- LICENSED BUSINESS
- U.E. ----- UTILITY EASEMENT
- R/W ----- RIGHT-OF-WAY
- E ----- CENTERLINE
- R ----- RADIUS
- L ----- ARC LENGTH
- D ----- DELTA-CENTRAL ANGLE
- C ----- CHORD
- CB ----- CHORD BEARING
- 12-43-40 ----- SECTION-TOWNSHIP-RANGE
- D ----- FOUND PERMANENT REFERENCE MONUMENT
- ----- SET PERMANENT REFERENCE MONUMENT
- ----- PERMANENT CONTROL POINT



4153 W. Blue Heron Blvd.
Suite 105
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Phone: (561) 444-2720
www.geopointsurveying.com
Licenses: Surveyor License Number: 187700
Sheet No. 5 of 4 Sheets

ILEX WAY - PHASE III

BEING A PLAT OF A PORTION OF
SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST,
CITY OF WESTLAKE, PALM BEACH COUNTY, FLORIDA



LEGEND

| | |
|----------------|------------------------------------|
| P.O.B. | POINT OF BEGINNING |
| P.B. | PLAT BOOK |
| D.B. | DEED BOOK |
| PG./PG(s) | PAGE(S) |
| O.S.T. | OPEN SPACE TRACT |
| P.B.C. | PALM BEACH COUNTY |
| R.P.R. | ROAD PLAT BOOK |
| LB | LICENSED BUSINESS |
| U.E. | UTILITY EASEMENT |
| R/W | RIGHT-OF-WAY |
| E | CENTERLINE |
| R | RADIUS |
| L | ARC LENGTH |
| D | DELTA-CENTRAL ANGLE |
| C | CHORD |
| CB | CHORD BEARING |
| 12-43-40 | SECTION-TOWNSHIP-RANGE |
| □ | FOUND PERMANENT REFERENCE MONUMENT |
| ■ | SET PERMANENT REFERENCE MONUMENT |
| ● | PERMANENT CONTROL POINT |



4152 W. Blue Heron Blvd.
Suite 105
Riviera Beach, FL 33404

Phone: (861) 444-2720
www.geopointsurvey.com
License # License Number 187966

Sheet No. 4 of 4 Sheets



CITY OF WESTLAKE
Engineering Department
4001 Seminole Pratt Whitney Road
Westlake, Florida 33470
Phone: (561) 530-5880
www.westlakegov.com

-
- 1. DATE:** 9/12/2019
2. PETITION NUMBER: ENG-2018-25
3. DESCRIPTION: Ilex Way Phase III Plat Revisions
APPLICANT: Minto PBLH, LLC
OWNER: Minto PBLH, LLC
REQUEST: Plat & Boundary Survey Review
LOCATION: Westlake, Florida

4. STAFF REVIEW: APPROVAL

This is the fourth review of this Plat and Boundary Survey. This review is done for compliance with Chapters 177, Florida Statutes, and the City of Westlake's codes and ordinances. All previous comments have been adequately addressed. The Plat is now in compliance with Chapters 177, Florida Statutes, and the City of Westlake's codes and ordinances.

The Engineering Department approves the plans.

This letter has been prepared by the following individual, in association with their consultants and subconsultants:

A handwritten signature in blue ink, appearing to read "S. Dombrowski".

Suzanne Dombrowski, P.E.
Chen Moore and Associates
Tel: 561.746.6900 x 1035
Email: sdombrowski@chenmoore.com

Eighth Order of Business



CITY OF WESTLAKE

CITY COUNCIL -Second Reading Chapter 1 - Administration 10.28.19

ARTICLE 1.9. INTERACTION WITH SID

between the City of Westlake and the Seminole Improvement District Regarding the Provision of Certain Services, Infrastructure, and Public Facilities and for Assurance of Non-Duplication of Services dated February, 2018, as these documents may be amended from time to time.

- (A)** Pursuant to the Interlocal Agreement described above, SID shall have the exclusive authority to set requirements and standards for, review, approve, and issue permits for: the facilities in SID's Water Control Plan; parks; potable water, wastewater, and reclaimed water utility services and facilities; irrigation water service; roadways and transportation infrastructure; and surface water management and drainage. SID and the City shall only review those items or matters over which it has jurisdiction, and no party shall deny a permit or authorization on grounds over which it has no jurisdiction.
- (B)** Pursuant to the City Charter, the City shall not exercise any function or provide any service being performed by or provided by SID **except as the parties may agree.**
- (C)** Whenever a permit, application, proposal, or development order will impact SID facilities, services, infrastructure, or property, SID shall be included in the development review process.
- (D)** The City shall coordinate with SID to create joint applications and efficient processes whenever possible to facilitate the development process and the working relationship between the City and SID.
- (E)** **The City and SID have agreed on processes to identify, avoid, and manage potential conflicts concerning the provision of services and the sharing of powers as they may from time to time agree.**

RELOCATED TO CHAPTER 2

~~HEARING OFFICE; APPEALS~~

~~Section 1. Scope and Authority. The Hearing Officer appointed by the City Council shall have the authority to hear and decide appeals of an interpretation of the LDRs pursuant to the process provided in Chapter 2.~~



CITY OF WESTLAKE

**Local Planning Agency
CITY COUNCIL - First Reading
Chapter 1 - Administration
10.7.19**

CHAPTER 1- ADMINISTRATION

- ▶ **Article 1.1. ADOPTION.** In accordance with the adopted Comprehensive Plan and the authority granted by the City Charter, the Florida Statutes, and the Constitution of the State of Florida, **the City Council of the City of Westlake, Florida, hereby ordains and enacts the provisions of these Land Development Regulations**

- ▶ **Article 1.2. INTERPRETATION**
 - **Section 1: Definitions**

DEFINITIONS

ACCESSORY DWELLING UNIT: A dwelling unit located on the same parcel of land as a principal single family dwelling. **An accessory dwelling is a complete, independent living facility equipped with a kitchen and bathroom.**

MULTIFAMILY DWELLING: Multiple separate dwelling units contained within one building or several buildings including but not limited to apartment buildings, but **excluding single family attached dwellings.**

► **Article 1.3. CONSISTENCY OF LDRs WITH THE COMPREHENSIVE PLAN; INTERPRETATION.** Agenda Page 39

Section 1: Comprehensive Plan Controlling. In the event any provision of these LDRs conflicts with any provision of the Comprehensive Plan, including the Map Series, **the Comprehensive Plan shall control.**

Section 2. Procedure for Conflicts between LDRs and Comprehensive Plan.

(A) If it appears a **conflict exists between these LDRs and the Comprehensive Plan,**

- Written request may be submitted to the **Planning and Zoning Director** identifying the specific provisions of the Comprehensive Plan and LDRs in conflict.
- The Planning and Zoning Director will respond to the request and provide an interpretation or proposed solution within 45 days.
- Interpretations of the Planning and Zoning Director may be appealed by submitting a **written request for review to the City Attorney**, who will acknowledge receipt of the request and respond within a reasonable amount of time, but no later than 45 days of receipt of the request.
- The request for clarification of the conflict shall be placed on the agenda of the next regularly scheduled **City Council meeting for resolution by vote of the City Council.** Any decision by the City Council is deemed a final decision.

Section 3. Procedures for Interpretation of LDRs

- A. When a question arises as to the meaning or intent of a phrase, or other portion of the LDRs, a written request for interpretation may be submitted to the **Planning and Zoning Director for interpretation**. The Planning and Zoning Director shall have 45 days to provide an interpretation or to elevate the question to the City Attorney for the City Attorney to interpret.
- B. The party who requested the interpretation may appeal the interpretation of the Planning and Zoning Director to **the City Attorney**. The City Attorney shall acknowledge receipt of and respond to any request for interpretation within a reasonable amount of time, but no later than 45 days of receipt of the request.
- C. The party who requested the interpretation may appeal the interpretation of the City Attorney concerning these LDRs to **the Hearing Officer**. **Decisions of the Hearing Officer are final decisions.**

▶ **Article 1.4. PLANNING AND ZONING DIRECTOR**

Section 1. Appointment. The City Council shall designate a **Planning and Zoning Director who shall be responsible for coordinating the City's review of all applications subject to these LDRs**, including review by the City Engineer and coordination with the Seminole Improvement District, as necessary.

Section 2. Policies and Procedures. The Planning and Zoning Director is authorized to **create administrative policies and procedures** as necessary to administer the responsibilities of the Planning and Zoning Director assigned by this Chapter and these LDRs.

Section 3. Approval of Administrative Applications. The Planning and Zoning Director is **authorized to approve or deny applications that only require administrative approval.**

► ARTICLE 1.5 CITY COUNCIL

(A) **Power and Authority.** In addition to the powers and authorities described elsewhere in this Code, the City Council shall have the power and authority to:

(1) Establish fees for the review of applications.

(2) Designate one or more Hearing Officers to make decisions as described in these LDRs, and to empower the Hearing Officer(s) to make other decisions as deemed appropriate by the City Council. The City Council may not appoint an employee or attorney of the City to serve as the Hearing Officer. The City Council must appoint Hearing Officers with the following qualifications: **a Hearing Officer must be an attorney with at least five years of experience in the area of land use and zoning.**

(1) To initiate, consider, and render decisions concerning amendments to the text of these LDRs, the Official Zoning Map, the Comprehensive Plan and matters concerning annexation.

(2) Consider and act upon such other business as may come before it.

► ARTICLE 1.6 LOCAL PLANNING AGENCY

Section 1. Membership.

The Local Planning Agency (LPA) **will consist of the City Council.**

LPA serves as the **local planning agency** referenced in Florida Statutes.

Section 4. Functions and Authority.

Review amendments to the Comprehensive Plan and LDRs and **make recommendations to the City Council**

A recommendation by the LPA must be consistent with all applicable law and in one of the following forms: **a recommendation of approval; a recommendation of approval with conditions or restrictions; or a recommendation denial.** Recommendations shall not be binding on the City Council.

▶ ARTICLE 1.8. PLANNING AND ZONING BOARD

Section 1. The City Council may sit as or establish a Planning and Zoning Board for the purpose of taking action on the following applications:

- ▶ **Conditional Uses.** The Planning and Zoning Board shall **make recommendations** to the City Council regarding conditional uses.
- ▶ **Variances.** The Planning and Zoning Board shall **make final determinations** on applications for variances, which decisions are appealable to City Council.

- ▶ **ARTICLE 1.9. INTERACTION WITH SEMINOLE IMPROVEMENT DISTRICT (SID)**
- ▶ Independent special purpose government, empowered to construct and maintain a number of public works and utilities, including water, wastewater, drainage, irrigation, water management, parks, recreation facilities, roads, and related activities.
- ▶ The relationship between the City and SID is governed by the City of Westlake Charter and the Interlocal Agreement, dated February, 2018
 - A. When any requirement of these LDRs conflicts with any requirement of SID, **the requirement of SID shall control.**
 - B. When a function or service is provided by SID, **SID shall be the exclusive provider of that service or function.**
 - C. Whenever a permit, application, proposal, or development order will impact SID facilities, services, infrastructure, or property, **SID shall be included in the development review process.**
 - D. The City shall coordinate with SID to create joint applications and efficient processes whenever possible to facilitate the development process and the working relationship between the City and SID.

► **ARTICLE 1.10. LDRS NOT RETROACTIVE.**

Amendments to these LDRs are not retroactive.

Developments with final **development orders approved prior** to the effective date of these LDRS, or prior to a modification of the LDRs, **do not need to comply with the new or modified LDRs** unless or until there is an application to modify the development order.

THANK YOU!

Ninth Order of Business

1st Reading October 7, 2019
2nd Reading November 4, 2019

ORDINANCE NO. 2019-12

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, PROVIDING FOR THE ADMINISTRATION OF LAND DEVELOPMENT REGULATIONS FOR THE CITY OF WESTLAKE; PROVIDING FOR ADOPTION OF LAND DEVELOPMENT REGULATIONS; PROVIDING FOR INTERPRETATION OF LAND DEVELOPMENT REGULATIONS; PROVIDING FOR CONSISTENCY WITH THE CITY OF WESTLAKE COMPREHENSIVE PLAN; ESTABLISHING A PLANNING AND ZONING DIRECTOR' PROVIDING FOR CITY COUNCIL PROCEDURES AND AUTHORITY; PROVIDING FOR A LOCAL PLANNING AGENCY; PROVIDING FOR A PLANNING AND ZONING BOARD; PROVIDING FOR A HEARING OFFICER; PROVIDING FOR INTERACTION WITH SID; PROVIDING FOR NON-RETROACTIVITY AND SEVERABILITY; WHICH SHALL BECOME PART OF THE CODE OF ORDINANCES, ENTITLED 'ADMINISTRATION', PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about May 3, 2018, the Florida Department of Economic Opportunity provided the City with notice of intent to find the City's initial comprehensive plan in compliance and the same is now the effective and controlling Comprehensive Plan for the City of Westlake ("Comprehensive Plan"); and

WHEREAS, the City desires to adopt provisions concerning the administration of the Land Development Regulations; and

WHEREAS, adoption of this chapter, entitled "Administration" will assist the City in carrying out the goals, objectives and policies of the adopted comprehensive plan; and

WHEREAS, the purpose of this ordinance is to provide for the administration of the land development regulations, including the interpretation and application thereof; and

WHEREAS, the further purpose of this ordinance is to provide for the establishment and governance of a Planning and Zoning Director, and Local Planning Agency, and a Planning and Zoning Board for the City; and

WHEREAS, the further purpose of this ordinance is to provide for certain City Council procedures and authority; and

WHEREAS, the City and the Seminole Improvement District (SID) have a special relationship governed by the City Charter and the Interlocal Agreement between the City of Westlake and the Seminole Improvement District Regarding the Provision of Certain Services, Infrastructure, and Public Facilities and for Assurance of Non-Duplication of Services originally dated February, 2018;

WHEREAS, the City seeks to promote quality development within the City of Westlake in the short and long term; and

WHEREAS, Section 163.3202, Florida Statutes encourages the use of innovative land development regulations; and

WHEREAS, the City Council finds it is in the public's interest to establish policies and procedures to allow for consistent, flexible, creative, and economically beneficial development within the City of Westlake while protecting health, safety, and general welfare of individuals and the community at large.

WHEREAS, the Local Planning Agency has conducted a hearing on October 7, 2019, and made a recommendation to the City Council with respect to the adoption of this Land Development Procedures Ordinance; and

WHEREAS, the City Council has conducted two public hearings on October 7, 2019 and October 28, 2019, where it considered the recommendation of the Land Planning Agency, the City staff’s presentation, and comments from the public and has determined that the adoption of this Land Development Procedures Ordinance is in the best interest of the public safety and welfare of the City of Westlake;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, as follows:

Section 1. Incorporation. The above recitals are confirmed, adopted and are incorporated herein by reference.

Section 2. Administration. The code of ordinances for the City of Westlake shall contain a chapter entitled “Administration” which code shall contain the provisions as specifically set forth herein.

CHAPTER 1: ADMINISTRATION

ARTICLE 1.1 ADOPTION. In accordance with the adopted Comprehensive Plan and the authority granted by the City Charter, the Florida Statutes, and the Constitution of the State of Florida, the City Council of the City of Westlake, Florida, hereby ordains and enacts the provisions of these Land Development Regulations.

ARTICLE 1.2 INTERPRETATION

Section 1: Definitions and Acronyms.

(A) Florida Statute Definitions. The definitions used in Chapter 163, Florida Statutes, apply.

(B) Words Not Defined. Words not defined by the Florida Statutes, the Comprehensive Plan, or these LDRs shall have their plain and ordinary meaning.

(C) Definitions. The following words have the following meanings, and shall apply to both the single and plural forms of the words, whether or not such words are capitalized:

ACCESSORY DWELLING UNIT: A dwelling unit located on the same parcel of land as a principal single family dwelling. An accessory dwelling is a complete, independent living facility equipped with a kitchen and bathroom.

ACCESSORY SOLAR FACILITY: A solar energy system which utilizes roof space or other space on the parcel of land to provide electricity or heat for use on the parcel of land. Export of electricity to the electrical grid is incidental and subordinate to the purpose of supplying electricity to the primary use of the parcel of land.

ACCESSORY USE OR ACCESSORY STRUCTURE: A use or structure incidental and subordinate to the principal use, including accessory dwelling units and accessory solar facilities.

AGRICULTURAL USES: The use of land for aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, plant crops, and any other form of farm product and farm production. Land areas include croplands, pasture lands, orchards, vineyards, nurseries, horticulture areas, groves, and specialty farms. Buildings, support facilities, dwelling units for farm operators and farmworkers, machinery, and other appurtenances used in the production of agricultural products are included. Agricultural uses do not include concentrated and/or confined animal feeding operations.

ALLEY: a through public right of way less than twenty-five feet in width commonly located to the rear or side of a property.

AMENITY CENTER: a facility to accommodate recreational and/or social activities such as parties, receptions, banquets, meetings, recreation, exercise, and neighborhood gatherings, for exclusive use of the residents and guests of a specific development or defined residential area and that provides opportunities for limited retail, including a leasing/real estate sales office, and property management offices.

ANTENNA: a transmitting and/or receiving device mounted on a telecommunications tower, building or structure and used in telecommunications services that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communications signals and other communication signals including directional antennas such as panel and microwave dish antennas, and omnidirectional antennas such as whips, but excluding radar antennas, amateur radio antennas and satellite earth stations. This does not include telecommunications services as defined by 47 United States Code § 332.

APARTMENT: a room or a suite of rooms within an apartment building, arranged, intended or designed to be used as a home or residence of one family with kitchen facilities for the exclusive use of the one family.

APARTMENT BUILDING: a building with three or more separate apartments, each of which is used or intended to be used as a home or residence for one family, in which the yard areas, hallways, stairways, balconies and other common areas and facilities are shared by families living in the apartment units.

APPLICANT: Property owner and/or property owner's authorized representatives.

ARTERIAL ROAD: A road providing service that is relatively continuous and of relatively high traffic volume, long average trip length, and high operating speed. In addition, every United States numbered highway is an arterial road.

ASSISTED LIVING FACILITY: Residential care facilities that provide housing, meals, personal care and supportive services to older persons and disabled adults who are unable to live independently.

ATHLETIC TRAINING FACILITY: a facility for the education and training of athletes. Such facilities may include commercial recreational uses, primary and secondary schools, colleges and universities, and associated residence halls and dormitories for students, faculty, and visitors.

AVERAGE DAILY TRAFFIC (ADT): The total traffic volume during a given 24-hour time period for all allowable directions on a given road.

BACKGROUND TRAFFIC: The projected traffic generation from previously approved but incomplete projects, and other sources of traffic growth.

BERM: A landscaped earthen mound in excess of two feet in vertical height designed to provide visual interest, or serve as a buffer.

BIOSWALE: Landscaping features (usually a swale or trench) filled with vegetation and/or organic matter, designed to collect or move stormwater and runoff and pass it through the vegetation or organic matter to remove debris and filter out pollution.

BUFFER: The use of vegetation, walls, fences, berms, setbacks, less intense development, and/or less dense development to mitigate the impacts of unsightly views, lights, noises, odors, and/or dust.

BUILDING: any structure having a roof entirely separated from any other structure by space in which there are no communicating doors or windows or any similar opening and erected for the purpose of providing support or shelter for persons, animals, things or property of any kind.

BUILDING CODE: the Florida Building Code, as amended from time to time.

CANAL: a body of water having a width of 100 feet or less for linear areas in excess of 200 feet in length and used principally for the conveyance of water.

CHILD OR ADULT CARE CENTER: an enterprise involving the care of five or more children and/or adults at one location at the same time, which children and/or adults are not foster children or related by blood or marriage to the operator. Adult care centers shall not include those uses meeting the definition of assisted living facilities or nursing home.

CITY: the City of Westlake, Florida.

CITY COUNCIL: the City Council members collectively in their capacity as the governing body for the City of Westlake.

CIVIC USES: Structures or facilities that provide cultural, social, or governmental services and/or functions. These include community centers; cultural centers; places of assembly; places of worship; museums; libraries; government administration, operations, and services; judicial facilities; post offices; public arenas and auditoriums; meeting halls; exhibition and conference center; fairgrounds; cemetery; child or adult care centers; and others owned and operated for public uses.

COLLECTOR ROAD: A road providing service that is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a road also collects and distributes traffic between local roads and arterial roads.

COMMERCIAL RECREATION: Uses that typically charge a fee or have other requirements for participation or attendance as a spectator. Uses include, but are not limited to, outdoor and indoor recreational facilities such as tennis clubs, jai alai frontons, amusement and sport centers, outdoor amphitheaters, hunting and gun clubs, marinas, vehicular and non-vehicular race tracks, outdoor zoos and wildlife attractions, fairs, parks and recreation exhibitions, entertainment, and/or other amusements, private sports and recreation clubs, golf courses, and sports stadiums and venues. Uses may include accessory uses and activities that are supportive of the activity including shops and restaurants.

COMMERCIAL USES: Activities within land areas that are predominantly connected with the sale, rental and distribution of products or the performance of services, including offices and medical facilities.

COMMUNITY PARK: A park located near collector or arterial roads designed to serve the needs of more than one neighborhood. It is designed to serve community residents within a radius of up to 3.5 miles. The term “community park” includes any related recreational facilities, and can be publically or privately owned.

COMPLETE STREETS: Roads including adjacent sidewalks and shared use paths that are designed and operated to enable safe access and travel for all users, which may include pedestrians, bicyclists, transit riders, and motorists. Complete streets incorporate different elements based on the different role, function, and characteristic of the facility.

COMPREHENSIVE PLAN: City of Westlake Comprehensive Plan, unless context clearly implies otherwise.

CONSERVATION USES: The use or condition of land areas designated for conserving or protecting natural resources or environmental quality, including areas designated for flood control and floodplain management, the protection of the quality or quantity of ground or surface water, commercial or recreational fish and shellfish habitat, water supply, and/or vegetative communities or wildlife habitats.

CONTINUING CARE FACILITIES: A variety of housing options and services designed to meet the changing needs of its residents who require varying levels of care. Housing options typically include independent living units, assisted living facilities, and/or nursing homes.

CORNER LOT: a lot abutting two or more streets at their intersection.

DENSITY: The number of dwelling units per gross acre.

DRIVE THROUGH: a facility designed to accommodate pickup of food, merchandise or services by a motor vehicle momentarily at rest in a driveway expressly designed for that purpose.

DWELLING UNIT: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

EDUCATIONAL USES: Activities and facilities for public or private primary or secondary schools; vocational and technical schools; and colleges and universities including all campus buildings, residence halls and dormitories, fraternity and sorority housing, and recreational facilities.

ESSENTIAL FACILITIES AND SERVICES: Essential facilities and services include roads, bicycle lanes, shared use paths, sidewalks, bridges, transmission lines for electricity, cable, water (including reclaimed water), sewer, and gas that serve local area demands, electricity sub-stations, stormwater and drainage facilities and systems, electric car generation ports/stations, transit facilities, and accessory solar facilities. Essential facilities and services do not include wireless communication facilities.

FAMILY: One or more persons related by blood, adoption, or marriage or not more than two unrelated persons occupying the whole of a dwelling unit as a single housekeeping unit.

FENCE: an artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

FIRE CODE: the Florida Building Code, the Palm Beach County Local Amendments to the Florida Fire Prevention Code, and other codes adopted by the City for the prevention or control of fires.

FLOOR AREA RATIO (FAR): A means of measuring building intensities for nonresidential land. FAR is the ratio of total floor area of all buildings on the parcel to the gross acreage. FAR does not regulate the building height or site coverage. It does not include the area within structures used for parking and vehicular circulation or open outdoor storage or display areas.

FOSTER CARE FACILITY: A facility which houses foster residents, and provides a family living environment for the residents, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents.

GROSS ACREAGE: The total area of a parcel of land measured in acres including developed and undeveloped land, agricultural areas, open space, roads, rights-of-way, easements, and environmental features such as lakes, floodplains, and wetlands.

GROUP HOME: A facility which provides living quarters for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional, and social needs of the residents. It shall not include rooming or boarding homes, clubs, fraternities, sororities, monasteries or convents, hotels, residential treatment facilities, nursing homes, or emergency shelters.

HEIGHT: Unless otherwise noted, height shall be measured from the minimum finished floor elevation to the midpoint of the roof, or if the roof is flat, to the top of the parapet. Architectural features shall not count for purposes of measuring height so long as the architectural features do not exceed 10% of the height of the structure.

HELIPAD: The surface on which a helicopter lands and is used for helicopter parking.

HELISTOP: any area of land or any man-made object or facility located thereon or building rooftop area which is used, or intended for use, solely for the landing and takeoff of vertical-takeoff aircraft and which has no appurtenant areas, buildings or other facilities supporting the use, landing and takeoff of vertical-takeoff aircraft.

HOSPITAL: a medical facility which provides for both inpatient and outpatient treatment and has overnight accommodations, wherein professional services concerning personal health of humans are administered by medical doctors, chiropractors, osteopaths, optometrists, dentists or any other such professional.

HOTEL: a building within which a commercial establishment provides lodging as overnight sleeping accommodations for the public in which ingress and egress to all rental rooms shall be through an inside lobby or office supervised by a person in charge at all hours.

INSTITUTIONAL USES: Activities and facilities that include juvenile facilities, nursing homes/skilled-nursing facilities, mental (psychiatric) hospitals, in-patient hospice facilities, residential schools for people with disabilities, residential treatment centers for adults, and City jails/confinement facilities (excludes residential group homes for juveniles, correctional residential facilities such as halfway houses, federal detention centers, and federal and state prisons).

INTENSITY: The amount of non-residential development as measured by the Floor Area Ratio.

INTERIOR LOT: a lot other than a corner lot.

LANDSCAPE OPEN SPACE: Any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and non-living landscape material (such as rocks, pebbles, sand, mulch or decorative paving materials). Non-living landscape material shall not be used as major landscape ground cover. In no case shall these materials exceed ten percent of the landscaped area.

LEGAL NON-CONFORMING LOT: a lot of record, which does not meet the area or width requirements of the Comprehensive Plan and LDRs for the zoning district in which the lot is located.

LEGAL NON-CONFORMING STRUCTURE: A structure that was lawfully established before the adoption of the Comprehensive Plan and Land Development Regulations that does not conform to the Land Development Regulations for the zoning district in which the parcel of land is located.

LEGAL NON-CONFORMING USE: A use that was lawfully established before the adoption of the Comprehensive Plan and Land Development Regulations, which does not conform with the allowed uses by the Comprehensive Plan Future Land Use Category or of the zoning district in which it is located.

LEGAL POSITIVE OUTFALL: the permanently established connection of a stormwater discharge conveyance facility serving a development site to a watercourse or water body under the control and jurisdiction of one or more public agencies, said connection being subject to all applicable agency permitting and approval requirements.

LEVEL OF SERVICE (LOS): An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. LOS shall indicate the capacity per unit of demand for each public facility or performance measures for road traffic or stormwater facilities.

LIGHT INDUSTRIAL USES: Land uses that include construction operation and storage facilities, manufacturing, assembly, processing or storage of products when such activities have minimal and inoffensive external impacts such as smoke, noise, dust, soot, dirt, vibration, stench, or adverse visual impacts on the surrounding neighborhood. Light industrial uses may include research and development technology centers including server farms, medical and dental laboratories, warehouse and/or distribution centers, and recycling centers. Light industrial uses shall not include mining and extraction industries, electrical generation plants, or regional sewer treatment plants.

LOCAL ROAD: A road that carries low volumes and provides service for local traffic between land uses and collector roads, with direct property access as the primary purpose. Any road that is not an arterial or collector road and is under the jurisdiction of the City is a local road.

LOT: includes tract or parcel and means the least fractional part of subdivided lands having limited fixed boundaries, and an assigned number, letter, or other name through which it may be identified, as defined by Section 177.031, Florida Statutes, as may be amended from time to time.

LOT AREA: the area contained within the boundary lines of a lot.

LOT COVERAGE: That portion of the area of a lot, plot, or building site, expressed as a percentage, occupied by all buildings or structures which are roofed, exclusive of its eaves. Pool decks, patios or outdoor sitting areas, even if enclosed with a screen enclosure shall not be calculated as part of lot coverage.

LOT DEPTH: the mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries; however, for radial lots the lot depth shall be measured from the setback not the front lot line.

LOT FRONTAGE: means the portion of a lot nearest the street; also the front property line. Where a building has two sides that face two or more streets, the side associated with the street address shall be designated as having lot frontage, or the front property line.

LOT LINE: a line bounding a lot which divides one lot from another or from a road or any other public or private space.

LOT LINE, REAR: that lot line which is parallel to and most distant from the front lot line of the lot. In the case of an irregular, triangular, or gore-shaped lot, a line 20 feet in length, entirely within the lot, parallel to and at the maximum possible distance from the front line shall be considered to be the rear lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot frontage.

LOT LINE, SIDE: any lot line other than a front or rear lot line.

LOT LINE, STREET: In the case of a lot abutting multiple roads, all lot lines abutting a road except the lot frontage.

LOT OF RECORD means a part of the land subdivision, the map of which has been recorded in the office of the clerk of the court of the county.

LOT WIDTH: The horizontal distance between opposite side lot lines, measured at the root setback line to accommodate variation and radial streets. Where there is only one side lot line, lot width shall be measured between such lot line and the opposite lot line or future right-of-way line.

MAJOR CANALS: the M Canal and M-2 Canal.

MANUFACTURED HOME: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the site, bearing a label certifying that it is built in compliance with the federal manufactured housing construction and safety standards, or inspected by an approved inspection agency conforming to the requirements of HUD, and bearing an insignia of approval.

MULTIFAMILY DWELLING: Multiple separate dwelling units contained within one building or several buildings including but not limited to apartment buildings, but excluding single family attached dwellings.

MULTIMODAL TRANSPORTATION SYSTEM: The system which provides safe and efficient movement of people, goods, and services by more than one mode of transportation.

NEIGHBORHOOD CENTER: Compact areas that allow a mix of commercial uses that serve neighborhoods such as retail (goods and services), restaurants, offices and clubhouses, schools, religious uses, small scale civic uses, and amenity centers.

NEIGHBORHOOD PARK: A park that serves the residents of a neighborhood and is accessible to bicyclists and/or pedestrians. It is designed to serve the population of a neighborhood in a radius of up

to one-half mile. Neighborhood parks include any related recreational facilities, and can be publically or privately owned.

NET PEAK HOUR DIRECTIONAL TRIPS: Total project trip generation minus internal trips, pass-by trips less any previously-approved traffic or traffic from any existing use established in accordance with Chapter 7.

OFFICE: a use where the clerical, administrative, financial or consulting aspects of business, professional medical or governmental services are conducted. Office use shall include but not be limited to: financial institutions, insurance offices, medical offices, or business consulting services.

OPEN SPACE: Areas open to the sky that are partly or completely covered with grass, trees, shrubs, other vegetation or water, or if partially or completely paved serve to shape or enhance urban form or provide for public use. Open spaces have little to no vertical structures and can be publicly or privately owned. Open spaces include parks, transportation corridor parkways, vegetated buffers, shared use paths, plazas, courtyards, squares and areas that provide stormwater management.

PARCEL: Any quantity of land capable of being described with such definiteness that its location and boundaries may be established.

PARK: A site that provides opportunities to partake in active or passive recreational activities, including structures associated with a park's recreational activities, including dog parks

PEAK HOUR PEAK DIRECTION CAPACITY: The maximum number of vehicles that can pass a given point in one direction on a road in one hour under given traffic and road conditions per the FDOT Quality/Level of Service Handbook in one hour.

PEAK HOUR TRAFFIC: the one hour of traffic representative of the peak period, as defined in Chapter 7, and includes two-way and peak direction volumes. Peak Hour Traffic shall be determined from actual traffic counts. The project, at the approval of the City Engineer, the Peak Hour Traffic may be determined by factoring the Average Daily Traffic by an approved "K" factor.

PEAK SEASON: The time from January 1 through March 31, inclusive.

PERVIOUSNESS PERCENTAGE. This indicates the percentage of the overall lot or parcel that must be pervious.

PLACE OF ASSEMBLY: a building, portion of a building or other site in or at which facilities are provided for civic, fraternal, educational, political, religious, cultural or social purposes.

PLACE OF WORSHIP: any church, synagogue, denomination or ecclesiastical organization having an established place for worship in the City at which nonprofit religious services and activities are regularly conducted.

PRIMARY SOLAR FACILITY: A solar energy system which primarily functions to provide electricity for off-site use. This term includes the structures, equipment, infrastructure, and support systems necessary for the collection, storage, and distribution of solar energy, along with all functions necessary to develop and operate a primary solar facility including construction, management, administration, maintenance, security, and safety.

RADIUS OF DEVELOPMENT INFLUENCE: The area surrounding a proposed project as set forth in Chapter 7. The distance shall be measured in road miles from the point at which the proposed project's traffic enters the first road, not as a geometric radius.

RECREATIONAL USES: Areas and development used for leisure time activities and sports in an indoor or outdoor setting, including parks and golf courses.

RESIDENT: A person who makes his or her home in a particular place for most of the year or for a portion of the year, including a seasonal resident.

RESIDENTIAL USES: Land uses consisting of dwelling units, including mobile and manufactured homes. Residential uses include assisted living facilities and group homes.

RETAIL: establishments engaged in selling goods or merchandise directly to the ultimate consumer for personal or household consumption and rendering services incidental to the sale of such goods. Establishments primarily engaged in providing services as opposed to products to individuals shall also be considered a retail use.

RIGHT-OF-WAY: Land dedicated or required for a transportation or utility use that a government entity owns in fee simple or over which it has an easement.

SELF-STORAGE FACILITY: a fully enclosed space used for warehousing that contains individual storage units.

SEMINOLE IMPROVEMENT DISTRICT (SID): Independent special purpose government established in 1970 pursuant to Chapter 70-854, Laws of Florida, codified pursuant to Chapter 2000-431, Laws of Florida, formerly known as the Seminole Water Control District. SID is coextensive with the boundaries of the City of Westlake and consists of approximately 4,142 acres of land. SID is empowered to construct and maintain a number of public works and utilities including water, sewer, drainage, irrigation, water management, parks, recreation facilities, roads and related activities.

SENIOR HOUSING: Age-restricted dwelling units for older adults, aged 55+, who are able to care for themselves.

SETBACK: the horizontal distance between the front line, side line, or rear line of the building site to the front, side, or rear of the building or structure, respectively. Setbacks shall be measured perpendicular to and parallel with the property or right-of-way lines, and shall be measured from the point at which the face of the building or structure touches the ground.

SEXUALLY ORIENTED USES: any place in which a principal use is the exchange, for consideration in any form, monetary or otherwise, for profit or not for profit, of materials or exhibitions, including but not limited to books, magazines, photographs, performances, videotapes, electronic media or movies which have as their dominant theme matters depicting, describing, demonstrating or relating to completely or to opaquely covered human genitals or pubic regions, buttocks, or female breasts below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered, or which have as their dominant theme matters depicting, describing, demonstrating or relating to human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, or the fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

SHARED USE PATH: A paved facility for use by pedestrians, bicyclists, and/or other users that is separated from vehicular traffic. Golf carts may be used on shared use paths in certain areas, under certain circumstances.

SINGLE FAMILY ATTACHED DWELLING: A single dwelling unit physically attached to other buildings, dwelling units, or structures through one or more shared walls, but not including multifamily dwellings.

SINGLE FAMILY DETACHED DWELLING: A single dwelling unit, including a manufactured home, not physically attached to other buildings, dwelling units, or structures.

SOLAR ENERGY OVERLAY: An area designated on the Future Land Use Map (FLU Map 2.1) that allows Primary Solar Facilities in addition to uses allowed by the underlying future land use category.

SPECIAL EVENT: special/community event is an activity or use that is public or quasi-public in nature and occurs once in a fiscal year, not to exceed three (3) weeks. This includes Fourth of July activities, parades, races and festivals. Events that require a Special Use may be subject to the Traffic Study requirements of this Article as determined by the City

SUBDIVISION: the division of land into two or more lots, or parcels, or any other division of land.

SUSTAINABLE COMMUNITY: An urban area with a long term planning and management vision that incorporates a multi-modal transportation network, walkable, mixed use patterns of development, denser development where infrastructure exists, civic spaces and interconnected open spaces for recreation, economic vitality and job choices, choices in housing price and size, a quality educational system, and a unique identity.

TELECOMMUNICATIONS FACILITY: any facility that is used to provide one or more telecommunications services, including, without limitation, radio transmitting telecommunications towers, other supporting structures, and associated facilities used to transmit telecommunications signals. Telecommunications facilities includes any antenna or broadcast equipment located outdoors, which is used for telecommunications and not otherwise defined as an antenna. Telecommunications facilities include telecommunications services as defined by 47 United States Code § 332.

TEMPORARY USES: are uses that are required in the construction phase of development or are uniquely temporary or seasonal in nature.

THROUGH LOT: a lot, other than a corner lot, having frontage on more than one street.

TOTAL TRAFFIC: the sum of: a) Existing Traffic, b) Net Trips, and c) Background Traffic.

TRANSIT: Passenger transportation services such as commuter rail, rail rapid transit, light rail transit, light guideway transit, express bus, autonomous vehicles, and local fixed route bus provided by public, private, or non-profit entities. The terms “transit” and “mass transit” are used interchangeably.

UTILITIES: Seminole Improvement District water, wastewater or reuse water facilities.

VEGETATED BUFFER: A natural or planted vegetated area used to mitigate potential impacts of unsightly views, lights, noises, and/or dust.

WORK PLAN: City of Westlake Water Supply Facilities Work Plan dated March 2018.

(D) Acronyms. The following acronyms shall have the following meanings:

TABLE 1-1: ACRONYMS

| | |
|----------------|--|
| ADA | Americans with Disabilities Act |
| ADT | Average Daily Traffic |
| ANSI | American National Standards Institute |
| BFE | Base Flood Elevation |
| CCDs | The Census County Divisions |
| CO | Certificate of Occupancy |
| CPTED | Crime Prevention Through Environmental Design |
| EPA | U.S. Environmental Protection Agency |
| FAR | Floor Area Ratio |
| FDEP | Florida Department of Environmental Protection |
| FDOT | Florida Department of Transportation |
| FEMA | Federal Emergency Management Agency |
| FIRM | Flood Insurance Rate Map |
| FLEPPC | Florida Exotic Pest Plant Council |
| GIS | Geographic Information System |
| GPD | Gallons Per Day |
| HCM | Highway Capacity Manual |
| HUD | U.S. Department of Housing and Urban Development |
| HOA | Home Owner’s Association |
| LDRs | City of Westlake Land Development Regulations |
| LEC | Lower East Coast |
| LOS | Level of Service |
| LPA | Local Planning Agency |
| MGD | Million Gallons per Day |
| MUTCD | Manual on Uniform Traffic Control Devices |
| NAVD 88 | North American Vertical Datum of 1988 |
| NRPA | National Recreation and Park Association |
| OEDR | Office of Economic and Demographic Research |
| PD | Planned Development Zoning District |
| PM | Particulate Matter |
| PPH | Population Per Household |
| PZB | Planning and Zoning Board |
| SFWMD | South Florida Water Management District |
| SID | Seminole Improvement District |
| SIS | Strategic Intermodal System |
| SRPP | The Strategic Regional Policy Plan |
| SWA | Solid Waste Authority |
| TAZ | Traffic Analysis Zone |

| | |
|--------------|--|
| TCRPC | Treasure Coast Regional Planning Council |
| TDM | Transportation Demand Management |
| TDP | Transit Development Plan |
| TPA | Palm Beach Transportation Planning Agency |
| TPS | Traffic Performance Standards of Palm Beach County |
| TSM | Transportation Systems Management |
| ULDC | Palm Beach County Unified Land Development Code |
| USDA | U.S. Department of Agriculture |

(E) Chapter; Article; Section; Subsection; Paragraph; Subparagraph. The terms “Chapter,” “Article,” “section,” “subsection,” “paragraph,” and “subparagraph” shall be understood to refer to the material within each part as illustrated below. For this example, “1” shall refer to any Arabic numeral, “A” and “a” shall refer to any letter, and “i” shall refer to any Roman numeral in lowercase. The terms above shall be understood as follows:

- CHAPTER 1
- Article 1.1
- Section 1.
- (A) Subsection
- (1) Paragraph
- (a) Subparagraph
- (i) Sub-subparagraph

(F) Graphics. Unless a graphic explicitly states it is regulatory in nature, graphics in these LDRs are illustrative and not regulatory.

(G) Purpose and Intent Statements. Purpose and intent statements are intended to provide context and guidance, but are not regulatory.

ARTICLE 1.3 CONSISTENCY OF LDRs WITH THE COMPREHENSIVE PLAN; INTERPRETATION.

Section 1: *Comprehensive Plan Controlling.* In the event any provision of these LDRs conflicts with any provision of the Comprehensive Plan, including the Map Series, the Comprehensive Plan shall control.

Section 2: *Procedure for Conflicts between LDRs and Comprehensive Plan.*

(A) If it appears a conflict exists between these LDRs and the Comprehensive Plan, a written request may be submitted to the Planning and Zoning Director identifying the specific provisions of the Comprehensive Plan and LDRs in conflict. The Planning and Zoning Director will respond to the request and provide an interpretation or proposed solution within 45 days. Interpretations of the Planning and Zoning Director may be appealed by submitting a written request for review to the City Attorney, who will acknowledge receipt of the request and respond within a reasonable amount of time, but no later than 45 days of receipt of the request. The request for clarification of the conflict shall be placed on the agenda of the next regularly scheduled City Council meeting for resolution by vote of the City Council. Any decision by the City Council is deemed a final decision.

- (B) All decisions of the City Council regarding conflicts between the Comprehensive Plan and the LDRS will be annotated and consolidated in a written document that will be available upon request from the City.

Section 3: *Procedures for Interpretation of LDRs*

- (A) When a question arises as to the meaning or intent of a phrase, or other portion of the LDRs, a written request for interpretation may be submitted to the Planning and Zoning Director for interpretation. The request must identify the applicable provision(s), the specific question regarding the meaning of the provision, and the explicit interpretation requested. The Planning and Zoning Director shall have 45 days to provide an interpretation or to elevate the question to the City Attorney for the City Attorney to interpret.
- (B) The party who requested the interpretation may appeal the interpretation of the Planning and Zoning Director to the City Attorney. The City Attorney shall acknowledge receipt of and respond to any request for interpretation within a reasonable amount of time, but no later than 45 days of receipt of the request.
- (C) The party who requested the interpretation may appeal the interpretation of the City Attorney concerning these LDRs to the Hearing Officer. Decisions of the Hearing Officer are final decisions.
- (D) All decisions regarding interpretation of these LDRs shall be annotated and consolidated in a written document that will be available upon request from the City.

Section 4: *Rules Governing Interpretation*

- (A) The rules of statutory construction apply to the interpretation of these LDRs.
- (B) The LDRs shall be interpreted to be consistent with the Comprehensive Plan.

Section 5: *Procedure for Interpretation of Zoning Map.*

- (A) When a question arises as to the zoning district designation for a particular parcel of land on the zoning map, an applicant may request a zoning confirmation letter from the Planning and Zoning Director. The request must identify the particular lot(s) or parcel(s) for which the zoning confirmation letter is requested.
- (B) The Planning and Zoning Director shall acknowledge receipt of and respond to any request for interpretation within a reasonable amount of time, but no later than 45 days from receipt of the request. Decisions of the Planning and Zoning Director are final decisions.
- (C) All decisions regarding the interpretation of the Zoning Map will be annotated and consolidated in a written document that will be available upon request from the City.

Section 6: *Calculation of time.*

- (A) If a procedural deadline falls on a weekend, state holiday, or federal holiday, the deadline shall fall on the next business day.

- (B) Unless otherwise indicated, “days” indicates calendar days.
- (C) “Business days” shall mean days Monday through Friday but shall not include state holidays or federal holidays.

ARTICLE 1.4 PLANNING AND ZONING DIRECTOR

Section 1: *Appointment.* The City Manager shall designate a Planning and Zoning Director who shall be responsible for coordinating the City’s review of all applications subject to these LDRs, including review by the City Engineer and coordination with the Seminole Improvement District, as necessary.

Section 2: *Policies and Procedures.* The Planning and Zoning Director is authorized to create administrative policies and procedures as necessary to administer the responsibilities of the Planning and Zoning Director assigned by this Chapter and these LDRs.

Section 3: *Approval of Administrative Applications.* The Planning and Zoning Director is authorized to approve or deny applications that only require administrative approval.

ARTICLE 1.5 CITY COUNCIL

Section 1: *Authority and Procedures.*

(A) **Procedure.** The City Council may determine and adopt by ordinance its own rules of procedure for City Council meetings, which will govern the functioning and proceedings of the City Council except as otherwise provided by the City Charter, these LDRs, or laws of Florida. Once adopted, the rules may only be altered by an amending ordinance. The rules may be suspended by a majority vote of the City Council. In the absence of a rule by the City Council concerning procedure, Robert’s Rules of Order shall govern.

(B) **Power and Authority.** In addition to the powers and authorities described elsewhere in this Code, the City Council shall have the power and authority to:

- (1) Establish fees for the review of applications.
- (2) Designate one or more Hearing Officers to make decisions as described in these LDRs, and to empower the Hearing Officer(s) to make other decisions as deemed appropriate by the City Council. The City Council may not appoint an employee or attorney of the City to serve as the Hearing Officer. The City Council must appoint Hearing Officers with the following qualifications: a Hearing Officer must be an attorney with at least five years of experience in the area of land use and zoning.
- (3) To initiate, consider, and render decisions concerning amendments to the text of these LDRs, the Official Zoning Map, the Comprehensive Plan and matters concerning annexation.
- (4) Consider and act upon such other business as may come before it.

Section 2: *Special Meeting.* Special meetings may be held upon the call of the mayor or City manager, or upon the call of three council members and upon no less than 48-hours' notice to each member and the public, or such shorter time as a majority of the council shall deem necessary in case of an emergency affecting the healthy, safety, or welfare of the public. Only those items identified in writing by the mayor, City Council or City Manager as the reason for the special call meeting shall be placed on an agenda as substantive discussion items. The City Manager shall be responsible for preparing the agenda for all special call City Council meetings. Once the City Manager has completed his/her review, the City Manager shall deliver the items to the City Attorney for review and legal sufficiency.

Section 3: *Notice.* Notice shall meet all applicable state statutory requirements. Additional notice requirements are contained in Chapter 2.

Section 4: *Agenda.* Publication of the agenda shall meet all applicable state statutory requirements.

ARTICLE 1.6 LOCAL PLANNING AGENCY

Section 1: *Membership.*

(A) The Local Planning Agency (LPA) will consist of the City Council and will have the powers set forth in this Chapter. It is the intent that the LPA serve as the local planning agency referenced in § 163.3174, Florida Statutes, and the land development regulation commission as defined in § 163.3164(25) and referenced in § 163.319, Florida Statutes.

(B) In addition to the City Council members, the Board of the School District of Palm Beach County will appoint a non-voting member to the LPA to attend those meetings at which the LPA considers Comprehensive Plan amendments that would, if approved, increase residential density on the property that is the subject of the application.

Section 2: *Public Meetings and Records.* The LPA shall meet once a month or at times designated by the City Manager or City Council. All meetings of the LPA will be public meetings that shall be noticed once in a newspaper of general circulation in the City. The notice shall meet the requirements of all applicable state statutory requirements.

Section 3: *Compensation.* Members of the LPA will not be compensated for service on the LPA; however, members will be paid actual expenses incurred in the performance of their duties, which may not exceed allowances prescribed by state law.

Section 4: *Functions and Authority.* To effectuate its responsibilities as provided in Florida Statutes, the LPA will:

(A) Review any amendments to the Comprehensive Plan proposed for adoption and make recommendations to the City Council regarding the proposed Comprehensive Plan amendment.

(B) Recommend to the City Council any amendments to the Comprehensive Plan as may from time to time be required, including any amendments resulting from the periodic evaluation and appraisal of the Comprehensive Plan as required by Florida Statutes.

(C) Review proposed land development regulations or amendments thereto, and make recommendations to the City Council as to the consistency of the proposal with the adopted Comprehensive Plan.

- (D) Take administrative actions necessary or convenient to accomplish its duties and responsibilities.
- (E) The LPA must make a final recommendation regarding adoption of the Comprehensive Plan or Comprehensive Plan amendment to the City Council. The LPA may - in cooperation with the City, another person, or entity - prepare a Comprehensive Plan or Comprehensive Plan amendment. However, the LPA may not delegate its responsibility to make a recommendation regarding the adoption of the Comprehensive Plan or Comprehensive Plan amendment to the City Council.
- (F) A recommendation by the LPA must be consistent with all applicable law and in one of the following forms: a recommendation of approval; a recommendation of approval with conditions or restrictions; or a recommendation of denial. Recommendations shall not be binding on the City Council.

ARTICLE 1.7 CITY SUPPORT

- Section 1:** The City Manager or designee shall attend the Planning and Zoning Board and LPA meetings. The City Manager or designee shall provide staff and clerical assistance for the Planning and Zoning Board and LPA members as may be required for the reasonable performance of their duties. This shall include a recording secretary to keep records of all proceedings.
- Section 2:** The City Planning and Zoning Director shall advise and assist the Planning and Zoning Board and LPA in all of its presentations, hearings, and deliberations on items which appear before the board for consideration.
- Section 3:** The Board may request from the City Manager, the City Attorney or other City consultant(s) additional information for the proper evaluation of items which appear before the Board or LPA which will assist in the decision making process.
- Section 4:** The City Attorney shall provide legal representation to the Planning and Zoning Board and LPA at all meetings of the Board.

ARTICLE 1.8 PLANNING AND ZONING BOARD.

- Section 1:** The City Council may sit as or establish a Planning and Zoning Board for the purpose of taking action on the following applications:
 - (A) **Conditional Uses.** The Planning and Zoning Board shall make recommendations to the City Council regarding conditional uses.
 - (B) **Variances.** The Planning and Zoning Board shall make final determinations on applications for variances, which decisions are appealable to City Council.

ARTICLE 1.9 INTERACTION WITH SID. The Seminole Improvement District (SID) is an independent special purpose government, which was established in 1970 pursuant to Chapter 70-854, Laws of Florida, codified pursuant to Chapter 2000-432, Laws of Florida. SID is empowered to construct and maintain a number of public works and utilities, including water, wastewater, drainage, irrigation, water management, parks, recreation facilities, roads, and related activities. The relationship between the City and SID is governed by the City of Westlake Charter and the Interlocal Agreement

between the City of Westlake and the Seminole Improvement District Regarding the Provision of Certain Services, Infrastructure, and Public Facilities and for Assurance of Non-Duplication of Services dated February, 2018, as these documents may be amended from time to time.

- (A) Pursuant to the Interlocal Agreement described above, SID shall have the exclusive authority to set requirements and standards for, review, approve, and issue permits for: the facilities in SID's Water Control Plan; parks; potable water, wastewater, and reclaimed water utility services and facilities; irrigation water service; roadways and transportation infrastructure; and surface water management and drainage. SID and the City shall only review those items or matters over which it has jurisdiction, and no party shall deny a permit or authorization on grounds over which it has no jurisdiction.
- (B) Pursuant to the City Charter, the City shall not exercise any function or provide any service being performed by or provided by SID except as the parties may agree.
- (C) Whenever a permit, application, proposal, or development order will impact SID facilities, services, infrastructure, or property, SID shall be included in the development review process.
- (D) The City shall coordinate with SID to create joint applications and efficient processes whenever possible to facilitate the development process and the working relationship between the City and SID.
- (E) The City and SID have agreed on processes to identify, avoid, and manage potential conflicts concerning the provision of services and the sharing of powers as they may from time to time agree.

ARTICLE 1.10 LDRS NOT RETROACTIVE. Amendments to these LDRs are not retroactive. Developments with final development orders approved prior to the effective date of these LDRS, or prior to a modification of the LDRs, do not need to comply with the new or modified LDRs unless or until there is an application to modify the development order.

ARTICLE 1.11 SEVERABILITY. It is the declared legislative intent of the City Council that if any part, section, subsection, paragraph, subparagraph, subsubparagraph, sentence, phrase, clause, term, or word of these LDRs is declared unconstitutional by the final and valid judgment or decree of any court of competent jurisdiction, this declaration of unconstitutionality or invalidity shall not affect any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of these LDRs.

Section 3 Severability. Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

Section 4. Codification. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Westlake, Florida, and the sections of this ordinance may be re-numbered or re-lettered to accomplish such intentions, and the word 'ordinance' shall be changed to "section" or other appropriate word.

Section 5. Effective Date: This ordinance shall be effective upon adoption on second reading.

PASSED this 7th day of October, 2019, on first reading.

PASSED AND ADOPTED this 28th day of October, 2019, on second reading.

City of Westlake
Roger Manning, Mayor

Sandra Demarco, City Clerk

Approved as to Form and Sufficiency

Pam E. Booker, City Attorney

Tenth Order of Business



CITY OF WESTLAKE

CITY COUNCIL -Second Reading Chapter 2 -Land Development Procedures 10.28.19

- (l) Traffic Circulation.
- (m) The application must contain architectural elevations to demonstrate the style and theme of the project, including representative color for illustrative purposes only. Improvements must be constructed reasonably be in accordance with submitted architectural style and theme.

~~requirements for the final landscape plan submitted with the landscape permit.~~

(b) Prior to the issuance of the certificate of occupancy for single-family residential lots and single family attached residential structures with 3 units or less the builder shall submit a certification by a Landscape Architect to the City stipulating that the required minimum landscaping has been installed consistent with the requirements of Chapter 4 (Landscaping and Buffers). All common area landscaping, open space landscaping, buffering, streetscape plantings (all plantings within a ROW) shall be certified by the Landscape Architect of record prior to the last certificate of occupancy for a residential pod.

ARTICLE 2.2 ADDITIONAL PROVISIONS

Section 1: *Life of Approvals.*

(A) **In General.** Unless otherwise specified, all approvals subject to these LDRs shall be valid for 5 years from the date of approval.

(B) **Specific Approvals.**

(1) **Site Plans.** Approved site plans shall be valid for 5 years from the date of approval.

(2) **Conditional Uses.** Conditional uses shall expire 12 months after the date of approval of such conditional use unless a longer time period is provided for in the approval, or unless a building permit based upon and incorporating the conditional use is issued within the 12-month period, or, if a building permit is not required, the expiration date shall be 12 months from the date of approval if by that date the use for which the conditional use was granted has not been commenced. An approved conditional use which ceases operation for a period of 12 months shall expire.

(3) **PDs.** PDs shall have a build out date established in the development order.

(4) **Rezoning.** Rezoning do not have an expiration date.

(5) **Comprehensive Plan Amendments.** Comprehensive Plan Amendments do not have an expiration date.

(6) **Plats.** Plats must be recorded within 18 months of the date of approval to remain valid. If a plat is not recorded within 18 months of the date of approval, the plat is no longer valid.

(C) **Extensions.** All development orders may be extended at the discretion of the City.

(1) Applications for extensions of 30 days or less may be approved by the Planning and Zoning Director.

(2) Applications for extensions over 30 days but less than 90 may be reviewed by the Planning and Zoning Director, who will make a recommendation to the City Council.

(3) Applications for extensions of more than 90 days require the same type of approval as the original application.

ARTICLE 2.4 HEARING OFFICER; APPEALS

Section 1: Scope and Authority; The Hearing Officer shall be appointed by the City Council shall have the authority to hear and decide appeals of an interpretation of the LDRs pursuant to the process as set forth herein.

Section 2: Appointment, Removal and Qualifications; -

(A) Appointment. The City Council may appoint one or more Hearing Officers who shall have the powers and authority to hold hearings as set forth herein.

(B) Recommendation. The City manager shall, upon the recommendation and advice of the City Attorney, bi-annually recruit qualified attorneys and retired judges to serve as Hearing Officers. Upon being provided two recommended attorneys and/or retired judges by the City Manager and City Attorney, the City Council shall appoint, by resolution, at least one Hearing Officer and one alternate Hearing Officer.

(C) Qualification. Applicants for the Hearing Officer position must:

(1) Be a resident of the State of Florida

(2) Be a retired Florida Judge or be an attorney who has been a member in good standing with the Florida Bar for at least seven; and

(3) Possess experience and expertise in land use and local government law and a working familiarity with real estate and administrative law.

(D) Term. Each Hearing Officer shall have the term of two (2) years. Hearing Officers may be appointed for consecutive two (2) year terms. Hearing Officers are subject to removal, with or without cause, from their positions at any time by the City Council in its sole discretion.

(E) Not City Employees. Hearing Officers should not be considered City Employees. However, subject to compliance with documentation required by the City Manager or his or her designee, a Hearing Officer may be compensated at a rate to be determined by the City Manager. Hearing Officers shall serve in an ex officio capacity if the appointed Hearing Officer serves other local governments as a special magistrate. Such service to other local governments does not create duties inconsistent with serving as Hearing Officer to the City of Westlake.

(F) Jurisdiction. Hearing Officers shall have the jurisdiction and authority to decide cases appealing the interpretations of the City's Land Development Regulations made by the Planning and Zoning Director, as confirmed by the City Attorney, pursuant to the process set forth in Chapter 1 of these Land Development Regulations.

(G) Powers. The Hearing Officers shall have the power to:

- (1) adopt** rules for the conduct of its hearings;
- (2) take** testimony under oath;
- (3) issues** orders interpreting the Land Development Regulations as set forth in this Section.

Section 3: Procedures – In the event that an Applicant has sought an interpretation of these Land Development Regulations pursuant to the process set forth in Chapter 1, and thereafter wishes to appeal such interpretation issued by the Planning and Zoning Director as confirmed by the City Attorney to the Hearing Officer, the following procedures shall apply.

(A)

Fees and Costs. Applicants shall be ~~be~~ responsible for fees and costs associated with Appeals pursuant to this Chapter Article. The City Manager shall establish the appropriate schedule of fees, charges, and expenses related to Appeals pursuant to this Chapter Article.



CITY OF WESTLAKE

Local Planning Agency

CITY COUNCIL - First Reading

Chapter 2 -Land Development Procedures

10.7.19

What is the process to apply for a development?

What are the requirements to apply for..?

How long does my approval is valid for?

How do I notify the public?

▶ **Applicability.** The provisions of this Chapter shall apply to all applications provided for in Table 2-2, including but not limited to the following:

- ▶ Comprehensive Plan Map Amendment - Large and Small Scale
- ▶ Comprehensive Plan Text Amendment
- ▶ Conditional Use (Non-Residential and Residential)
- ▶ Development Order Modifications
- ▶ Landscape Permit
- ▶ Master Sign Plan
- ▶ Plat (including replats, plat waiver)
- ▶ Rezoning
- ▶ Modifications to permits and approvals other than development orders
- ▶ Site/Land Development Permits
- ▶ Site Plans
- ▶ LDR Text Amendment
- ▶ Variance
- ▶ Waiver
- ▶ Zoning Confirmation

SECTION 1

Table 2-1: Review and Approval Required

| | Type of Approval Required | LPA Review Required | Planning and Zoning Board Review Required |
|--|--|---------------------|---|
| Comprehensive Plan Map Amendment – Large and Small Scale | City Council | ✓ | |
| Comprehensive Plan Text Amendment | City Council | ✓ | |
| Conditional Use (Non-Residential) | City Council | | ✓ |
| Conditional Use (Residential) | City Council | | ✓ |
| Conditional Use Expansion – Large Scale | City Council | | ✓ |
| Conditional Use Expansion – Small Scale | Administrative | | |
| Development Order Modification that alters density or intensity by 10% or less | Administrative SID, if SID approved existing approval | | |

SECTION 3

Table 2-1: Review and Approval Required

| | Type of Approval Required | LPA Review Required | Planning and Zoning Board Review Required |
|--|--|---------------------|---|
| Development Order Modification that alters density or intensity by more than 10% | Same approving entity as required for existing development order | | |
| Land Development Regulation Text Amendments | City Council | ✓ | |
| Landscape Permit | Administrative SID† | | |
| Master Sign Plan | City Council SID† | | |
| Plat (including <u>Replat</u>) | City Council SID | | |
| Plat Waiver | Administrative SID | | |

SECTION 3

Table 2-1: Review and Approval Required

| | Type of Approval Required | LPA Review Required | Planning and Zoning Board Review Required |
|--|---|---------------------|---|
| Rezoning | City Council | ✓ | |
| Modification to Existing Permit/Approval (other than modification to Development Orders) | Same type(s) of approval as existing approval | | |
| Required Improvements Waiver | Administrative | | |
| Site Development Permit – General | Administrative SID | | |
| Site Development Permit – Lakes Outside of Pods | Administrative SID | | |
| Site Development Permit – Roads Outside of Pod | Administrative SID | | |
| Site Plan (Containing Non-Residential or Multifamily) | City Council SID+ | | |
| Site Plan (Residential Only) | Administrative SID+ | | |
| Temporary Signage | Administrative | | |
| Variance | Planning and Zoning Board | | |
| Waiver | Administrative or Council, as applicable | | |
| Zoning Confirmation | Administrative | | |

SECTION 3

▶ **Table 2-2: Application Requirements for Approvals**

▶ **Additional Information Required**

- Plats
- Site Plan
- *Landscape Plan - Single family residential language - additional language..*
- Engineering Plan
- Conceptual Lighting Plan; Non-Residential Photometric Lighting Plan; Residential Lighting Plan
- Signage Plan

SECTION 3

ARTICLE 2.2.

ADDITIONAL PROVISIONS

Life of Approvals

- ▶ Unless otherwise specified, all approvals shall be valid for **5 years** from the date of approval.
- ▶ Site Plan approvals- valid for **5 years**

Conditional Uses. Conditional uses shall **expire 12 months** after the date of approval of such conditional use unless a longer time period is provided for in the approval, or unless a building permit based upon and incorporating the conditional use is issued within the 12-month period, or, if a building permit is not required, the expiration date shall be 12 months from the date of approval if by that date the use for which the conditional use was granted has not been commenced. An approved conditional use which ceases operation for a period of 12 months shall expire.

Rezoning. Rezoning **do not have** an expiration date.

Comprehensive Plan Amendments. Comprehensive Plan Amendments **do not have** an expiration date.

Plats. Plats must be **recorded within 18 months of the date of approval** to remain valid. If a plat is not recorded within 18 months of the date of approval, the plat is no longer valid.

Extensions. All development orders may be extended at the discretion of the City.

Applications for extension of 30 days or less may be approved by the Planning and Zoning Director. Applications for extensions of **more than 30 days** require the same type of approval as the original application.

SECTION 1

Special Applications

- ▶ Small Scale Plan Amendment
- ▶ Variances - Approved by the P&Z Board

To allow reasonable relief from strict application of one or more land development regulations. **Variance will be granted on a case-by-case basis.** Must demonstrate compliance with 9 criteria.

- ▶ **Waivers** (other than plat waiver)

In order to allow for innovative design, **the City Manager** may grant waivers to **allow deviations from the requirements of LDRs.**

- ▶ Waivers **may not** be permitted for **density, intensity, permitted uses, setbacks or height**

SECTION 2

Special Applications

▶ Plat Waiver

Plat waivers must meet the requirements of Chapter 5.

Plat waivers shall require a certified boundary survey. **The City Engineer, and if applicable the SID Engineer, may accept a certified sketch and legal description in lieu of a certified boundary survey.** The certified sketch and legal description shall meet the requirements for certified sketches and descriptions set forth by Chapter 5J-17, F.A.C., pursuant to Sec. 472.027, Fla. Stat. and the applicable City and SID requirements. **The certified boundary survey or sketch and legal description shall not require approval of the Council prior to recordation.**

▶ Site Development Permit

▶ Land Development Regulation (LDR) Text Amendments

SECTION 2

Special Applications

► Conditional Uses

A conditional use **is a use that would not be appropriate generally or without restriction throughout a particular zoning district**, but may, if controlled as to number, area, location and/or relation to other development.

Standard for approval. A development order application for conditional use approval shall demonstrate compliance with the criteria listed below:

Comprehensive plan

- Chapter Requirements
- Zoning District Standards
- Public Welfare
 - Screening and buffering
- Patterns of Development
- Purpose and Intent
- Compatibility

SECTION 2

Concurrency

All site plan approvals **must meet concurrency** requirements for sanitary sewer, solid waste, drainage, and potable water established in the **Comprehensive Plan**.

The **City** may require, as a condition of a development order or permit, that the necessary public facilities (excluding transportation facilities) are in place or are guaranteed in an enforceable development agreement prior to issuance of a certificate of occupancy or its functional equivalent. **SID** shall have exclusive authority to make concurrency determinations regarding capacity and ability to serve a development for **sanitary sewer, drainage, and potable water** for the concurrency review. Concurrency becomes reserved upon approval of a site plan.

SECTION 3

Concurrency Availability

An applicant **may request a concurrency availability** determination from the Planning and Zoning Director.

- ▶ The request must identify the particular lot, lots, parcel or parcels for which the determination is requested. If applicable, the applicant may be required to submit a drainage statement along with the request.
- ▶ The **Planning and Zoning Director shall acknowledge receipt of and coordinate with SID** to respond to any request within a reasonable amount of time, but no later than 30 days from receipt of the request.

SECTION 4

Notice

- Notice of all public hearings required LDRs shall be consistent with Florida Statutes. If the City initiates an amendment to Comprehensive Plan, LDRs or Zoning Map, it shall **notify by mail** each subject property owner
- Public notice, including **mailing, publication in a newspaper, and posting of property** shall be provided per Table 2-3: Notice of Requirements

SECTION 5

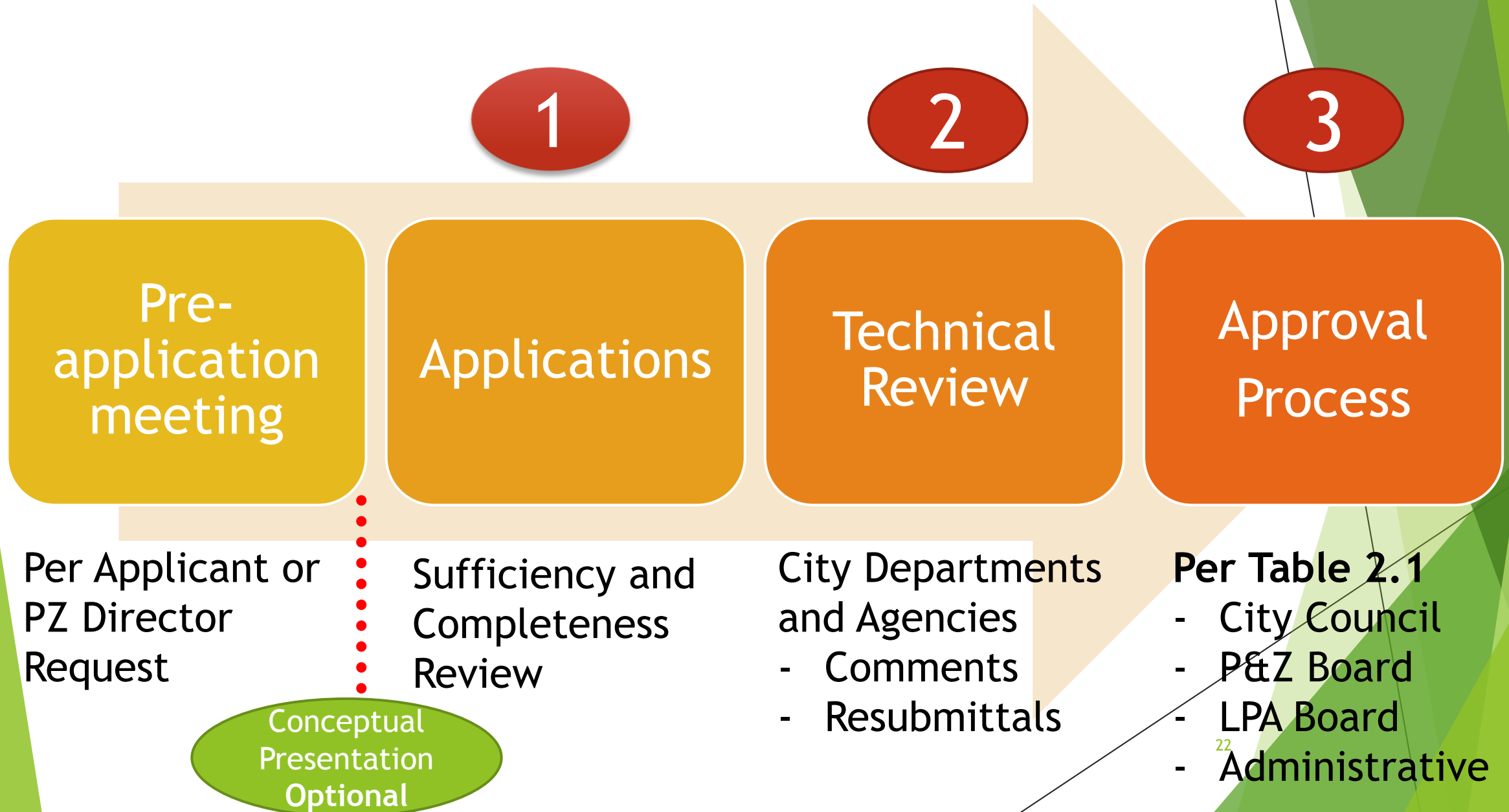
Table 2-3: Notice Requirements

| Application | Mail Prior to City Council Meeting/Hearing | Publication Prior to City Council Meeting/Hearing | Post Prior to City Council Meeting/Hearing | Additional Requirements Prior to LPA/P&Z |
|-------------|--|---|--|--|
| | | | | |

ARTICLE 2.3.

PROCEDURES

DEVELOPMENT APPLICATION ROAD MAP



▶ Concurrent Processing

▶ Administrative Review

Planning and Zoning Director will coordinate review of the application for consistency with the Comprehensive Plan and these LDRs. **After review of the application, the Planning and Zoning Director will:**

- ▶ Provide a request for **additional information** to the applicant with deadlines for resubmittal;
- ▶ **Approve** the application (for applications requiring only administrative approval); or
- ▶ **Place the application on the agenda** of the next available LPA or Planning and Zoning Board hearing or City Council hearing as required by Table 2-1, with a staff recommendation.

▶ Limitation on Review of Resubmittals

▶ Review Period

- ▶ For applications requiring only administrative approval, the City will have **90 days from the date of the original submittal** to approve or deny the application.
- ▶ For applications requiring LPA review or City Council approval, the City will have **90 days to place** the application on the agenda of the next regularly scheduled LPA, Planning Zoning Board or City Council meeting, **as required by Table 2-1.**

- ▶ ***Inactivity.*** If City has notified an applicant that some action on an application is required, and applicant does not take any action on the application for **30 days**, the application is deemed inactive and will be administratively withdrawn. **Planning and Zoning Director shall notify** an applicant in writing five **(5) days** prior to administratively withdrawing an application. **Applicant** will have **five (5) days** after receipt of this notice to **reactivate the application.**

Applications Requiring Action by PZB or LPA

Procedures for applications requiring **recommendation** of approval by the PZB or LPA.

Administrative recommendation for proceeding to the PZB or LPA will be effectuated as follows:

- ▶ The **Planning and Zoning Director** will send a letter to applicant with notice of date and time of the PZB or LPA public hearing, and a copy of staff report
- ▶ If **Planning and Zoning Director** recommends denial of application, the **Planning and Zoning Director** **must specifically state the provisions** of the Comprehensive Plan, LDRs, or statutes that serve as the basis for the recommendation of denial in the staff report.

At PZB or LPA hearing, **the PZB or LPA shall make a recommendation to the City Council of approval, approval with conditions, or denial of the application.** If the PZB or LPA recommends denial of the application, it must specifically state the provisions of the Comprehensive Plan, LDRs, or statutes that serve as the basis for the recommendation of denial.

After the PZB or LPA hearing, the application will be placed on the agenda of the City Council at its next regularly scheduled public meeting.

Application Requiring City Council Approval

- ▶ The City Council shall render a decision on any application before it at the hearing. **The City Council may approve, deny, or approve with conditions an application.** If the City Council denies an application for an amendment to the Comprehensive Plan, LDRs or Zoning Map, or denies a request for a Conditional Use, the **City Council shall cite the legal authority for the denial of the application at the hearing, and shall, within 5 days of the hearing, give written notice to the applicant of the denial. The written notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority cited by the City Council for the denial.**
- ▶ The applicant may request that its application be tabled at any time during any public hearing before the City Council, which request will be granted at least once.
- ▶ **Denial of any application by the City Council shall constitute final agency action** appealable in the Division of Administrative Hearings or the applicable court of law. The date of the denial shall be the date of the City Council meeting at which the application was denied.

ARTICLE 2.4.

HEARING OFFICER; APPEALS

Interpretation and Application of LDRs

- ▶ An application for interpretation or application of these LDRs will be heard by the **Hearing Officer** no later than **45 days** following submittal of the appeal to the **Hearing Officer by the City Attorney**.
- ▶ Applications governed by this section may be submitted on any day during normal business hours and must be submitted within **30 days** of the date of the denial.
- ▶ **The City attorney** shall have 10 business days from submittal to forward the application for appeal to the Hearing Officer for review.

Procedures

- ▶ Applicants and the City may submit written materials to the Hearing Officer prior to the hearing.
- ▶ The applicant and the City shall each have at least 15 minutes to present before the Hearing Officer
- ▶ The Hearing Officer shall render a decision on the application for appeal within 20 days of the hearing.
- ▶ The Hearing Officer shall provide written notice of its decision. **If the decision is denial**, the written decision must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority serving as the basis for the denial.
- ▶ The written decision of the Hearing Officer shall constitute final agency action and the applicant **may appeal** the decision of the Hearing Officer in the Division of Administrative Hearings or the applicable court of law.
- ▶ The decision of the hearing officer is binding on the City and is deemed the official City interpretation.

THANK YOU!

Eleventh Order of Business

1st Reading October 7, 2019

2nd Reading November 4, 2019

ORDINANCE NO. 2019-13

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, ESTABLISHING LAND DEVELOPMENT PROCEDURES WITHIN THE CITY OF WESTLAKE; PROVIDING FOR APPLICATION REVIEW AND REQUIREMENTS; PROVIDING FOR PAYMENT OF FEES; PROVIDING FOR SPECIAL APPLICATION REQUIREMENTS; PROVIDING FOR NOTICE REQUIREMENTS; PROVIDING FOR PROCEDURES FOR APPLICATION REVIEW AND APPEAL; AND PROVIDING FOR WHICH SHALL BECOME PART OF THE CODE OF ORDINANCES, ENTITLED 'LAND DEVELOPMENT PROCEDURES', PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about May 3, 2018, the Florida Department of Economic Opportunity provided the City with notice of intent to find the City's initial comprehensive plan in compliance and the same is now the effective and controlling Comprehensive Plan for the City of Westlake ("Comprehensive Plan"); and

WHEREAS, the City's adopted comprehensive plan contemplates the development of land within the City; and

WHEREAS, adoption of this chapter, entitled "Land Development Procedures" will assist the City in carrying out the goals, objectives and policies of the adopted comprehensive plan; and

WHEREAS, the City seeks to promote quality development within the City of Westlake in the short and long term; and

WHEREAS, the purpose of this ordinance is to promote the efficient and effective review of applications for land development within the corporate limits of the City of Westlake, and to ensure that applicants for land development provide the City with the materials necessary for the City to properly review such application;

WHEREAS, Section 163.3202, Florida Statutes encourages the use of innovative land development regulations; and

WHEREAS, the City Council finds it is in the public's interest to establish policies and procedures to allow for consistent, flexible, creative, and economically beneficial development within the City of Westlake while protecting health, safety, and general welfare of individuals and the community at large.

WHEREAS, the Local Planning Agency has conducted a hearing on October 7, 2019, and made a recommendation to the City Council with respect to the adoption of this Land Development Procedures Ordinance; and

WHEREAS, the City Council has conducted two public hearings on October 7, 2019 and October 28, 2019, where it considered the recommendation of the Land Planning Agency, the City staff's presentation, and comments from the public and has determined that the adoption of this Land Development Procedures Ordinance is in the best interest of the public safety and welfare of the City of Westlake;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, as follows:

Section 1. Incorporation. The above recitals are confirmed, adopted and are incorporated herein by reference.

Section 2. Land Development Procedures. The code of ordinances for the City of Westlake shall contain a chapter entitled “Land Development Procedures” which code shall contain the provisions as specifically set forth herein.

CHAPTER 2: LAND DEVELOPMENT PROCEDURES

ARTICLE 2.1 APPLICATIONS, FEES AND NOTICE

Section 1: *Applicability.* The provisions of this Chapter shall apply to all applications provided for in Table 2-2, including but not limited to the following:

- (A) Comprehensive Plan Map Amendment – Large and Small Scale
- (B) Comprehensive Plan Text Amendment
- (C) Conditional Use (Non-Residential and Residential)
- (D) Development Order Modifications
- (E) Landscape Permit
- (F) Master Sign Plan
- (G) Plat (including replats, plat waiver)
- (H) Rezoning
- (I) Modifications to permits and approvals other than development orders
- (J) Site/Land Development Permits
- (K) Site Plans
- (L) LDR Text Amendment
- (M) Variance
- (N) Waiver
- (O) Zoning Confirmation

Section 2: *Form of Applications; Fees and Costs.* The City shall make available all applications and its adopted fee schedule. Fees associated with the applications will be set forth on a Fee Schedule adopted by the City Council.

(A) ***Cost of development order applications.*** It is declared to be the policy of the city council that all applicants for development order approval requesting a rezoning, platting, planned development, conditional use, any type of variance, site plan review, amendments to approved development orders, or any other similar application shall prepare and present at their expense the necessary documentation and information required by this chapter.

(B) ***Additional documentation requests.*** An applicant may request, through the Planning and Zoning Director, information and documentation from the city engineer, city attorney, or other city department relative to the application. If the request is in excess of the information and documentation normally utilized to review the application, such additional information and documentation shall be provided at the expense of the applicant.

(C) ***Third Party Experts.***

- (1) ***Employment.*** The city council, city manager, or Planning and Zoning Director may determine that a third-party expert in the field of land planning, traffic engineering, engineering, architecture, landscape architecture, or other similar area of professional expertise is necessary to thoroughly review a development order application. Such experts may be employed by the city, with the petitioner paying all reasonable costs for such services.

(2) *Reimbursement for third-party experts.* The applicant shall reimburse the city for any costs associated with the employment of third-party experts. The applicant shall reimburse the city for such costs within 30 days of the date of receipt of an invoice for such services. Failure by the applicant to make such reimbursement when due shall delay the pending application until paid.

(D) *Reimbursement for staff costs.* The applicant shall reimburse the city for any excess time spent by the city engineer, city attorney, or other city staff, together with the cost of any document or drawings not part of the city records. The cost of time billed to the applicant shall be the same cost as billed by the city engineer or city attorney, or the cost of city staff time. The applicant shall reimburse the city for such costs within thirty days of the date of receipt of an invoice for such services. Failure by the applicant to make such reimbursement when due shall delay the pending application until paid.

Section 3: Applications.

(A) Table 2-1: Review and Approval Required, below, indicates the approval required for each type of planning and zoning application, and whether an application is subject to review by the Local Planning Agency and Planning and Zoning Board.

(B) If a development order application or request is not one of the types provided for in this Chapter, the Planning and Zoning Director shall determine the specific nature of the review based on the type of application most similar to the application or request.

Table 2-1: Review and Approval Required

| | Type of Approval Required | Local Planning Agency Review Required | Planning and Zoning Board Review Required |
|--|----------------------------------|--|--|
| Comprehensive Plan Map Amendment – Large and Small Scale | City Council | ✓ | |
| Comprehensive Plan Text Amendment | City Council | ✓ | |
| Conditional Use (Non-Residential) | City Council | | ✓ |
| Conditional Use (Residential) | City Council | | ✓ |
| Conditional Use Expansion – Large Scale | City Council | | ✓ |
| Conditional Use Expansion – Small Scale | Administrative | | |
| Development Order Modification that alters density or intensity by 10% or less | Administrative | | |

Table 2-1: Review and Approval Required

| | Type of Approval Required | Local Planning Agency Review Required | Planning and Zoning Board Review Required |
|--|--|--|--|
| | SID, if SID approved existing approval | | |
| Development Order Modification that alters density or intensity by more than 10% | Same approving entity as required for existing development order | | |
| Land Development Regulation Text Amendments | City Council | ✓ | |
| Landscape Permit | Administrative SID† | | |
| Master Sign Plan | City Council SID† | | |
| Plat (including Replat) | City Council SID | | |
| Plat Waiver | Administrative SID | | |
| Rezoning | City Council | ✓ | |
| Modification to Existing Permit/Approval (other than modification to Development Orders) | Same type(s) of approval as existing approval | | |
| Required Improvements Waiver | Administrative | | |
| Site Development Permit – General | Administrative SID | | |
| Site Development Permit – Lakes Outside of Pods | Administrative SID | | |
| Site Development Permit – Roads Outside of Pod | Administrative SID | | |

Table 2-1: Review and Approval Required

| | Type of Approval Required | Local Planning Agency Review Required | Planning and Zoning Board Review Required |
|---|--|--|--|
| Site Plan (Containing Non-Residential or Multifamily) | City Council SID† | | |
| Site Plan (Residential Only) | Administrative SID† | | |
| Temporary Signage | Administrative | | |
| Variance | Planning and Zoning Board | | |
| Waiver | Administrative or Council, as applicable | | |
| Zoning Confirmation | Administrative | | |
| SID = Seminole Improvement District SID† = Application will be reviewed by Seminole Improvement District only for conflicts with Seminole Improvement District facilities or rights. | | | |

(C) Table 2-2 shows the required contents of each type of application.

Table 2-2: Application Requirements for Approvals

| | Application | Project Description/ Justification Statement | Plat | Site Plan | Landscape Plan | Engineering Plan | Conceptual Lighting Plan | Non-Residential Photometric Lighting Plan | Residential Lighting Plan | Signage Plan | Survey (Abstracted) | Owner's Affidavit | Traffic Statement / Study | Legal Description | Concurrency Statement |
|--|-------------|--|------|-----------|----------------|------------------|-----------------------------|---|------------------------------|--------------|---------------------|-------------------|------------------------------|-------------------|--------------------------|
| Comprehensive Plan Map Amendment – Large and Small Scale | ✓ | ✓ | | | | | | | | | ✓ | ✓ | | ✓ | |
| Comprehensive Plan Text Amendment | ✓ | ✓ | | | | | | | | | | | | | |
| Conditional Use (Non- Residential) | ✓ | ✓ | | ○ | ○ | | ● | | | | ✓ | ✓ | | ✓ | |
| Conditional Use (Residential) | ✓ | ✓ | | ○ | ○ | | | | ● | | ✓ | ✓ | | ✓ | |
| Conditional Use Expansion – Large Scale | ✓ | ✓ | | ○ | ● | | ● | | ● | | ✓ | ✓ | | ✓ | |
| Conditional Use Expansion – Small Scale, Interior | ✓ | ✓ | | | | | | | | | ✓ | ✓ | | ✓ | |
| Conditional Use Expansion – Small Scale, Exterior | ✓ | ✓ | | ○ | ● | | ● | | ● | | ✓ | ✓ | | ✓ | |
| Development Order Modification that alters density or intensity by 10% or less | ✓ | ✓ | | ● | ● | ● | ● | ● | | ● | ● | ✓ | ● | ● | |
| Development Order Modification that alters density or intensity by more than 10% | ✓ | ✓ | | ● | ● | ● | ● | ● | | ● | ● | ✓ | ● | ● | |
| Land Development Regulation Text Amendments | ✓ | ✓ | | | | | | | | | | ✓ | | | |
| Landscape Permit | ✓ | | | | ✓ | | | | | | ✓ | | | | |
| Master Sign Plan | ✓ | ✓ | | | | | | | | ✓ | ✓ | | | | |

| | Application | Project Description/ Justification Statement | Plat | Site Plan | Landscape Plan | Engineering Plan | Conceptual Lighting Plan | Non-Residential Photometric Lighting Plan | Residential Lighting Plan | Signage Plan | Survey (Abstracted) | Owner's Affidavit | Traffic Statement / Study | Legal Description | Concurrency Statement |
|--|-------------|--|-----------------|---------------------|---------------------|------------------|-----------------------------|---|------------------------------|--------------|---------------------|-------------------|------------------------------|-------------------|--------------------------|
| Plat (including Replat) | ✓ | | ✓ | | | | | | | | ✓ | ✓ | | ✓ | |
| Plat Waiver | ✓ | ✓ | | | | | | | | | | ✓ | | ✓ | |
| Rezoning | ✓ | ✓ | | ○ | | | | | | | ✓ | ✓ | | ✓ | |
| Modification to Existing Permit/Approval (other than modification to Development Orders) | ✓ | ✓ | ● | ● | ● | ● | ● | ● | | ● | ● | ● | ● | ● | |
| Required Improvements Waiver | ✓ | ✓ | ✓ | Only if not platted | | | | | | | | | | | |
| Site Development Permit – General | ✓ | ✓ | ✓ | ✓ | Only for roads | ✓ | | ✓ | | | ✓ | ✓ | | ✓ | |
| Site Development Permit – Lakes Outside of Pods | ✓ | ✓ | Only if platted | ✓ | | ✓ | | | | | ✓ | ✓ | | ✓ | |
| Site Development Permit – Roads Outside of Pod | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | | ✓ | | | ✓ | ✓ | | ✓ | |
| Site Plan (Containing Non-Residential) | ✓ | ✓ | Only if platted | ✓ | ○ | ○ | ✓ | ● | | | ✓ | ✓ | ✓ | ✓ | ✓ |
| Site Plan (Residential Only) | ✓ | ✓ | ✓ | ✓ | ○ Only for roads | ○ | | ● | | | ✓ | ✓ | ✓ | ✓ | ✓ |
| Temporary Signage | | | | | | | | | | ✓ | | | | | |
| Variance | ✓ | ✓ | | ● | ● | ● | ● | ● | | | ✓ | ✓ | | ✓ | |
| Waiver | ✓ | ✓ | | ● | ● | ● | ● | ● | | | ✓ | ✓ | | ✓ | |
| Zoning Confirmation | ✓ | ✓ | | | | | | | | | | | | ✓ | |

- ✓ = Required submittal document
- = Only preliminary plans required
- = Required only if applicant is requesting change that will impact the subject of that submittal document

- (D) **Additional Information.** The following additional information applies to the documents required in Table 2-2: Application Requirements, above.
- (1) **Applications.** Complete signed application forms as provided by the City and all required fees and costs.
 - (2) **Project Description/Justification Statement.** The Project Description/Justification Statement should describe the desired outcome of the application.
 - (a) The Project Description/Justification Statement must contain the following:
 - (i) Description of the property history and site conditions;
 - (ii) History of approvals on the property;
 - (iii) Statements addressing the special standards and criteria that may be required for the particular application
 - (iv) Statement of consistency with the Comprehensive Plan; and
 - (v) Statements concerning compliance with applicable LDRs.
 - (b) The Project Description/Justification Statement may also contain aerial photographs.
 - (c) The Project Description/Justification Statement for applications for development orders must identify any cultural, historic, and natural resources that may be impacted by the development.
 - (d) If an applicant is seeking approval for bonus housing units, the applicant must submit the following information as part of site plan application:
 - (i) Number and location of affordable or workforce bonus housing units.
 - (ii) Structure type and dwelling unit sizes of affordable or workforce bonus housing units.
 - (iii) Identification of whether bonus housing units will be for sale or for rent.
 - (iv) Proposed sale or rent price of affordable or workforce bonus housing units.
 - (e) Consistency with level of service standards as required by the Comprehensive Plan.
 - (3) **Plat.** The requirement to submit a plat may be filled by submittal of an approved plat, even if such plat has not yet been recorded, or by submittal of a plat waiver. When applying for a plat, this requirement is filled by submittal of the proposed plat. When applying for a replat, both the existing plat and the proposed plat must be submitted.
 - (4) **Site Plan.** A site plan containing the title of the project and names of the architect, engineer, project planner and/or developer, date, and north arrow, and based on an exact survey of the property drawn to a scale of sufficient size to show:
 - (a) Boundaries of the project, any existing streets, buildings, watercourses, easements, section lines, and water, sewer and reuse water facilities, and other existing important physical features on the site and on property adjacent to the site.
 - (b) Tabular project data, including but not limited to dwelling units, square footage, bed, and waivers from zoning district requirements.
 - (i) Project information on beds, employees, seating, etc. as necessary depending on the type of development.
 - (c) Site data and setbacks.
 - (d) Plans and location for recreation facilities, if any, including buildings and structures for such use.
 - (e) All mechanical equipment and dumpster locations, screens and buffers.
 - (f) Refuse collection and service areas.

- (g) Access to utilities and points of utilities hookups and location of all fire hydrants close enough for fire protection.
- (h) Proposed plans for signage including size, location and orientation.
- (i) Location of exterior lighting of all parking areas, non-residential buildings, and the overall site.
- (j) Proposed topographic considerations including natural vegetation, berms, retaining walls, privacy walls, and fences.
- (k) Required floodplain management data including Flood zone designation and Base flood elevation consistent with Chapter 5.
- (l) Traffic Circulation.
- (m) The application must contain architectural elevations to demonstrate the style and theme of the project, including representative color for illustrative purposes only. Improvements must be constructed reasonably be in accordance with submitted architectural style and theme.
- (n) The application must contain an aerial photograph of the appropriate section, township and range of the City, outlining the subject property, and delineating all contiguous zoning districts.
- (o) The application must contain an area location map. Vicinity map of the area within one mile surrounding the site, including the following:
 - (i) Principal roadway network, including mass transit routes;
 - (ii) Major public facilities such as public schools, city and county parks and recreation areas, hospitals, public buildings, utilities, shopping areas, etc.;
 - (iii) Municipal boundary lines; and
 - (iv) Important physical features in and adjoining the site.
- (p) Residential site plans must include a school impact statement specifying the anticipated impact on public schools and the need for public school sites in the general area of the proposed development.
- (q) Statement acknowledging that applicant is required to submit application Palm Beach County Fire Rescue for review. Applicant is responsible for submitting application to Palm Beach County Fire Rescue. Approval by Palm Beach County Fire Rescue pursuant to their adopted standards is required for site plan approval.
- (r) Service Availability. Written confirmation from the applicable service providers of the availability of all necessary facilities and systems, as indicated below, for stormwater management, potable water, sanitary sewer, solid waste disposal, and county road capacity.
 - (i) A statement from SID, or other lawful service provider, that the proposed development will be able to connect to the system and that there is sufficient capacity available to meet adopted levels of service for potable water and sanitary sewer.
 - (ii) A drainage statement by the applicant's engineer that the site drainage system will be designed to meet the stormwater management requirements of the SFWMD and these LDRs. The statement also will demonstrate the provision of legal positive outfall

meeting the adopted level of service. A statement from SID attesting that the proposed drainage is sufficient will satisfy this requirement.

(iii) A statement from the Solid Waste Authority of Palm Beach County that the proposed project will not exceed the adopted levels of service standards for solid waste disposal. This requirement may be waived if the Solid Waste Authority provides the city with an annual statement that solid waste capacity is available.

(s) **Master Site Plan.** A master site plan will be required when a project will be developed in phases. The master site plan must show:

1. Authority and ownership of land to be developed.
2. Proposed phases of the development.
 - a. Proposed number of project phases, including total acreage in each phase, and gross nonresidential intensity (square feet) and gross residential density of each phase.
 - b. Sequencing of phasing for purposes of determining service availability.
3. Total land area, and approximate location and amount of open space or lake maintenance easements included in each residential, nonresidential, or mixed-use area, and a summary of the form of organization proposed to own and maintain such areas.
4. Circulation information, including:
 - a. Approximate location and ultimate right of way widths of proposed and existing roads, pedestrian, and bicycle routes, including interconnections between phases.
 - b. Locations, centerlines and ultimate widths of rights-of-way for existing roads, streets, intersections, and canals within the proposed project.
5. Information on all easements, including:
 - a. Location and width of proposed and existing utility, drainage, access, electric, and similar easements, provided, however, only general location and widths are required for proposed easements.
 - b. Location, if known, of proposed landscape buffers, open space, and preserve areas.

(5) **Landscape Plan.** A landscaping plan consistent with the requirements of Chapter 4, which includes the location of landscape buffers, landscape plans for entrance features, common areas, parking, and vehicular use areas. The plan should be sufficient to identify potential conflicts and inconsistencies with proposed lighting, hardscape, and utilities and electrical infrastructure.

(a) Preliminary landscape plans must include the location of landscape buffers, landscape plans for entrance features, common areas, parking, and vehicular use areas. The plan should be sufficient to identify potential conflicts and inconsistencies with proposed lighting, hardscape, and utilities and electrical infrastructure. Additional details may be required for the final landscape plan associated with the landscape permit.

- (b) Prior to the issuance of the certificate of occupancy for single-family residential lots and single family attached residential structures with 3 units or less the builder shall submit a certification by a Landscape Architect to the City stipulating that the required minimum landscaping has been installed consistent with the requirements of Chapter 4 (Landscaping and Buffers). All common area landscaping, open space landscaping, buffering, streetscape plantings (all plantings within a ROW) shall be certified by the Landscape Architect of record prior to the last certificate of occupancy for a residential pod.
- (6) **Engineering Plan.** Engineering plans include paving plans and site utilization calculations. If the city determines that the plans require independent review for items within the City's jurisdiction, the applicant shall pay for such review by an independent engineer.
- (a) The engineering plan should contain conceptual utility plan indicating the proposed location of potable water, sanitary sewage, and storm drainage plans for review by SID. The plan shall contain plans for the extraction of fill and mineral resources and alterations or modifications to the slope, elevation, drainage pattern, natural vegetation, and accessibility of the development, for SID review. Utility plans should be sufficient to identify potential conflicts and inconsistencies with proposed landscape, hardscape, lighting, and electrical infrastructure.
- (7) **Conceptual Lighting Plan.** Conceptual lighting plans must contain general locations and types of proposed lighting facilities, but are not required to contain photometric data or product specifications. The plan should be sufficient to identify potential conflicts and inconsistencies with proposed landscape, hardscape, and utilities and electrical infrastructure.
- (8) **Non-Residential Photometric Lighting Plan.** In addition to the requirements of the conceptual lighting plan, the photometric lighting plan must illustrate the height and intensity (photometric data) of the proposed lighting facilities.
- (9) **Residential Lighting Plan.** A plan indicating the general location and lumens of lighting to be used in a residential development. Residential lighting plans are not required to contain photometric data. The plan should be sufficient to identify potential conflicts and inconsistencies with proposed landscape, hardscape, and utilities and electrical infrastructure.
- (10) **Signage Plan.** A signage plan demonstrating consistency with the requirements of Chapter 6, or a proposed Master Sign plan meeting the requirements of Chapter 6. The signage plan should include architectural elevations of all signs indicating the location; size; landscaping; and for illustrative purposes, lettering design, material types, colors, and other features.
- (11) **Survey (Abstracted).** A certified boundary survey by a surveyor licensed by the State of Florida meeting the requirements for surveys established by the Minimum Technical Standards set forth by the Florida Board of Professional Land Surveyors in Chapter 5J-17, F.A.C., pursuant to Sec. 472.027, Florida Statutes. The survey shall have been completed within one year of the date the application is submitted. Where allowed by Chapter 2 or Chapter 5, a certified sketch and legal description may be submitted instead of a survey. The survey shall be prepared at a scale of not less than one-inch equals 200 feet containing the following:
- (a) A legal description of the property;
- (b) A computation of the total acreage of the parcel to the nearest tenth of an acre;
- (c) Depictions of existing streets and roadway improvements, existing structures within 100 feet of project boundary, existing utilities, existing easements, and existing trees identified by caliper and species.
- (12) **Owner's Affidavit.** A statement of the applicant's interest in the property and:

- (a) If joint and several ownership, a written consent to petition by all owners of record, or written authorization by the master association;
 - (b) If a contract purchase, written consent of the seller or owner;
 - (c) If an authorized agent, a copy of the agent’s authorized agreement or written consent of the owner;
 - (d) If a lessee, a copy of the lease agreement and written consent of the owner;
 - (e) If a corporation, partnership, or other business entity, the name of the officer or person responsible for the application and written proof that the representative has authority to represent the corporation, partnership, or business entity or, in lieu thereof, written proof that such person is in fact an officer of the corporation;
 - (f) If a group of contiguous property owners are requesting an individual amendment only affecting their specific lots and not impacting property owned by the master association, all the owners of the property described in the petition must provide written consent; or
 - (g) Unity of Title, warranty deed or purchase contract of the subject site.
- (13)**Traffic Statement / Study.** A traffic statement or traffic study consistent with the requirements of Chapter 7.
- (14)**Drainage Statement.** A statement describing the proposed stormwater management for the proposed project, consistent with the requirements of Chapter 5 and any applicable SID requirements.
- (15)**Legal Description.** A formal description of land containing sufficient information to permit the identification of the property to the exclusion of all others, which may be – but is not required to be – accomplished through a description by metes and bounds.
- (E) Applicants may submit additional documents or professional studies in support of an application to assist in satisfactory review of a development order application consistent with the requirements of these LDRs.

Section 4: Fees waived for applications by the City and SID. Any fee required for an application made pursuant to this Article is hereby waived for all applications made by the City or SID.

ARTICLE 2.2 ADDITIONAL PROVISIONS

Section 1: Life of Approvals.

- (A) **In General.** Unless otherwise specified, all approvals subject to these LDRs shall be valid for 5 years from the date of approval.
- (B) **Specific Approvals.**
 - (1) **Site Plans.** Approved site plans shall be valid for 5 years from the date of approval.
 - (2) **Conditional Uses.** Conditional uses shall expire 12 months after the date of approval of such conditional use unless a longer time period is provided for in the approval, or unless a building permit based upon and incorporating the conditional use is issued within the 12-month period, or, if a building permit is not required, the expiration date shall be 12 months from the date of approval if by that date the use for which the conditional use was granted has not been commenced. An approved conditional use which ceases operation for a period of 12 months shall expire.
 - (3) **PDs.** PDs shall have a build out date established in the development order.
 - (4) **Rezoning.** Rezoning do not have an expiration date.
 - (5) **Comprehensive Plan Amendments.** Comprehensive Plan Amendments do not have an expiration date.
 - (6) **Plats.** Plats must be recorded within 18 months of the date of approval to remain valid. If a plat is not recorded within 18 months of the date of approval, the plat is no longer valid.
- (C) **Extensions.** All development orders may be extended at the discretion of the City.

- (1) Applications for extensions of 30 days or less may be approved by the Planning and Zoning Director.
- (2) Applications for extensions over 30 days but less than 90 may be reviewed by the Planning and Zoning Director, who will make a recommendation to the City Council.
- (3) Applications for extensions of more than 90 days require the same type of approval as the original application.

Section 2: *Special Applications*

(A) Small Scale Plan Amendments

- (1) Comprehensive Plan amendment applications that meet the following criteria will be processed as Small-Scale Plan Amendments. In order to be processed as a Small-Scale Plan Amendment:
 - (a) The proposed amendment relates to a parcel that is less than 10 acres in size;
 - (b) The proposed amendment is only for a site-specific small scale development activity;
 - (c) The parcel that is the subject of the proposed amendment is not located within an area of critical state concern;
 - (d) The City must not have approved more than 120 acres of small scale amendments in the calendar year in which the application is submitted; and
 - (e) Text amendments associated with the Small-Scale Plan Amendment to the Future Land Use Map (“Small Scale Map Amendment”) are directly related to and will be adopted simultaneously with the Small Scale Map Amendment.

(B) Variances

- (1) The purpose of a variance is to allow reasonable relief from strict application of one or more land development regulations, when such regulation(s) create an undue burden or a practical difficulty for reasonable development of a property. Variances will be granted on a case-by-case basis.
- (2) Applications for a variance must demonstrate that:
 - (a) Strict application of the LDRs creates an undue burden or a practical difficulty on the development of applicant’s lot(s) or parcels, and was not created by the actions of the applicant.
 - (b) Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
 - (c) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
 - (d) No negative impacts are or will be generated by the variance, and/or that any impacts caused by the variance can be adequately mitigated.
 - (e) The grant of a variance will not confer upon the applicant any special privilege denied to any other owner of land, buildings, or structures located in the same zoning district.
 - (f) The variance granted is the minimum variance that will make possible the use of the land, building, or structure.
 - (g) The grant of the variance will be in harmony with the general intent and purpose of this chapter and land development regulations.
 - (h) Financial hardship is not to be considered as sufficient evidence of a hardship in granting a variance.

- (i) The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
 - (3) In granting any variance, the Planning and Zoning Board may approve such conditions and safeguards deemed necessary to conform to the intent and purpose of this chapter. Violations of such conditions shall be deemed a violation of this chapter. The Planning and Zoning Board may also prescribe a reasonable time limit to initiate the action granted by the variance and to complete such action.
 - (4) The Planning and Zoning Board, unless specifically authorized by this chapter, shall not grant a variance to establish a use not allowed as a permitted use or conditional use in any overlay or zoning district. Evidence of nonconforming uses of neighboring lands, structures, or buildings in same zoning district or the permitted use of lands, structures, or buildings in other zoning districts shall not be considered grounds for the authorization of a variance.
 - (5) Denials of applications for variances may be appealed to the City Council.
- (C) Waivers (Other than Plat Waiver)**
- (1) In order to allow for innovative design or unique site conditions, the City Manager may grant, at his or her sole discretion, waivers to allow for minor deviations from the requirements of these LDRs pursuant to the following criteria:
 - (a) The proposed waiver is consistent with the Comprehensive Plan; and
 - (b) The applicant provides alternative standards to the specific land development sections subject to the waiver that meet the intent of the waived regulation.
 - (c) The proposed waiver will not negatively impact the health, safety, and welfare of the residents of the City.
 - (2) Waivers may not be permitted to deviate from the allowable density, intensity, permitted uses, setbacks, or building height within a zoning district.
 - (3) Waivers shall be effectuated through written approval by the City Manager or designee.
- (D) Plat Waiver.**
- (1) Plat waivers must meet the requirements of Chapter 5.
 - (2) Plat waivers shall require a certified boundary survey. The City Engineer, and if applicable the SID Engineer, may accept a certified sketch and legal description in lieu of a certified boundary survey. The certified sketch and legal description shall meet the requirements for certified sketches and descriptions set forth by Chapter 5J-17, F.A.C., pursuant to Sec. 472.027, Fla. Stat. and the applicable City and SID requirements. The certified boundary survey or sketch and legal description shall not require approval of the Council prior to recordation.
- (E) Site Development Permit.**
- (1) Except for those required improvements which have been specifically waived, construction plans and supporting design information for all the required improvements shall be submitted for each residential development parcel. Construction plans and required engineering reports shall comply with the requirements of Chapter 5.
 - (2) The developer's engineer shall prepare and submit a certified opinion of cost, which shall include the cost of installing all required improvements required pursuant to Chapter 5. In the alternative, the City Engineer and SID may, at their sole discretion, accept the contract price received by the developer for the construction of the required improvements.
 - (3) Submittal of supplementary documentation deemed necessary by the City and SID, such as deeds, easements, covenants and other recorded instruments creating rights or obligations for access, drainage, or utility services, which rights or obligations could not be established through dedications or reservations on the plat may be required.

- (4) The application shall indicate whether the required improvements are to be constructed prior to recordation or after recordation of the plat or certified sketch and description. When the required improvements are to be constructed after recordation, the Developer shall submit a statement acknowledging responsibility for completion of said required improvements. The statement shall be in the form acceptable to the City Attorney and SID Attorney, and shall be executed by all owners shown on the applicable plat. The statement shall be accompanied by a guarantee for completion of required improvements, pursuant to Chapter 5.
- (5) The application must contain a conceptual utility plan indicating the proposed location of potable water and sanitary sewage plans for review by SID. If the City determines that the plans require independent review for areas within the City's jurisdiction, the applicant shall pay for such review by an independent engineer. Plans for the extraction of fill and mineral resources and alterations or modifications to the slope, elevation, drainage pattern, natural vegetation, and accessibility of the development require SID review. Utility plans should be sufficient to identify potential conflicts and inconsistencies with proposed landscape, hardscape, lighting, and electrical infrastructure.
- (6) When applicable, applications shall include an environmental assessment addressing the requirements of all applicable environmental ordinances.
- (F) **Land Development Regulation Text Amendments.** Applications for an amendment to the text of the city's land development regulations shall be prepared in detailed narrative form, and shall include:
- (1) The specific text amendment that is requested, including language to be added and language to be deleted;
 - (2) The reasons for requesting the amendment; and
 - (3) Any material or supporting documentation in support of the request for a text amendment.
- (G) **Conditional Uses**
- (1) **Conditional use general:**
 - (a) **Conditional use defined.** A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district, but which may be, if controlled as to number, area, location and/or relation to other development.
 - (b) **Applicability.** This subparagraph applies to all conditional uses.
 - (i) All initial requests for conditional uses, along with their related accessory uses, shall be subject to the requirements of this subsection.
 - (ii) In addition, any modification to the use of a previously granted conditional use, except for a modification that changes said use to a permitted use as listed in this chapter, shall be subject to the requirements of this subsection. Requests to expand, enlarge or revise the site of an existing conditional use shall be classified and processed pursuant to the following three categories:
 1. Small scale, interior – interior expansion enlargement or revision of less than ten percent (10%) of the originally approved conditional use site square footage once within any eighteen month period (this category contemplates uses located in existing shopping centers or similar structures, where no change to the overall building footprint is required).

2. Small scale, exterior – exterior expansion, enlargement or revision of less than ten percent (10 %) of the originally approved conditional use site square footage once within any eighteen month period (this category contemplates a change to the existing structure’s footprint, and other site related revisions that flow therefrom).
 3. Large scale – any expansion, enlargement or revision to the site of an existing conditional use that does not qualify as either small scale interior or small scale exterior. Such expansion, enlargement or revision is subject to standards for approval of conditional use in this subsection.
- (c) **Conformance with approved plans.** A conditional use, as approved by the City Council, may be expanded unless specifically conditioned otherwise, and permitted uses may be added to the parcel or lot, as long as all expansions meet the requirements of these LDRs and do not expand the parcel or lot as described in the resolution approved by the City Council for the conditional use. In addition, the City must determine, after a review of the guidelines and standards listed in subsection (d) of this section, that no changes are being made to the site plan which would adversely affect the development project or surrounding neighborhood.
- (i) For uses which are not dependent upon the issuance of a building permit, a conditional use is valid for the applicant only. An approved conditional use may be revoked at any time by City Council under the guidelines of subparagraph (d) of this section, upon making a finding that the operation of the conditional use has resulted in the violation of City ordinance or in the violation of the conditions of approval of the conditional use.
- (d) **Standard for approval.** A development order application for conditional use approval shall demonstrate compliance with the criteria listed below:
- (i) **Comprehensive plan.** The proposed use is consistent with the comprehensive plan.
 - (ii) **Chapter requirements.** The proposed use is consistent with all applicable requirements of this Chapter.
 - (iii) **Zoning District Standards.** The proposed use is consistent with the zoning district standards for such use as provided in Chapter 3.
 - (iv) **Public Welfare.** The proposed use provides for the public health, safety, and welfare by:
 1. Providing for a safe and effective means of pedestrian access;
 2. Providing for a safe and effective means of vehicular ingress and egress;
 3. Providing for an adequate roadway system adjacent to and in front of the site;
 4. Providing for safe and efficient onsite traffic circulation, parking, and overall control; and
 5. Providing adequate access for public safety purposes, including fire and police protection.

- (v) **Screening and buffering.** The proposed use utilizes such techniques as landscaping, screening, buffering, site or building design, or business operation procedures to mitigate impacts on surrounding properties, including such impacts as:
 1. Noise; glare; odor; ground-, wall-, or roof-mounted mechanical equipment; perimeter, interior, and security lighting;
 2. Signs;
 3. Solid waste disposal and recycling;
 4. Outdoor storage of merchandise and vehicles;
 5. Visual impact negatively impacting use of adjacent property; and
 6. Hours of operation.
- (vi) **Patterns of Development.** The proposed use will result in logical, timely, and orderly development patterns.
- (vii) **Purpose and Intent.** The proposed use will be in harmony with the general purpose and intent of this chapter and the goals, objectives, and policies of the City.
- (viii) **Compatibility.** The overall compatibility of the proposed development with adjacent uses, based on the following standards:
 1. **Adverse Visual Impact:** The design of the proposed use and structures will minimize any adverse visual impacts or impacts caused by the intensity of the use.
 2. **Environmental impact.** The design of the proposed use minimizes any adverse impacts that may be created, including impacts on environmental and natural resources including air, water, stormwater management, wildlife, vegetation, and wetlands.
 3. **Other Negative Impacts.** Noise; glare; odor; ground-, wall-, or roof-mounted mechanical equipment; perimeter, interior, and security lighting are adequately screened, buffered, or otherwise mitigated.

(2) Application Requirements.

- (i) The justification statement must state the grounds on which the conditional use is being met, and cite the criteria in this subsection (H).
- (ii) The application must contain a conceptual plan on one or more sheets of paper measuring not more than 24 by 36 inches and drawn to a scale not smaller than 100 feet to the inch that provides the following:
 1. Scale, date, north arrow, vicinity sketch, title of the project and total gross acreage
 2. The boundaries and dimensions of the property and its relationship to the surrounding road system, including the width of the existing road (pavement)
 3. The location and dimension of existing manmade features such as easements, existing roads and structures, with indication as to which are to be removed, renovated or altered
 4. Identification of surrounding land use, zoning and existing buildings within 100 feet of the petitioned site, as well as the zoning of the petitioned site.

5. A layout of the proposed lots and/or building sites including the following site data.
 - a. Finished floor elevation.
 - b. Common open area.
 - c. Generalized landscaping and buffer areas.
 - d. Internal circulation patterns including off-street parking and loading facilities.
 - e. Total project density.
 - f. The shape, size, location and height of all structures.

(iii) Proposed phasing of project, if applicable.

(iv) Aerial photographs

(v) For non-residential uses:

1. Proposed hours of operation
2. the estimated square footage of the structure, the number of employees, the estimated seating, and the estimated number of users of the facility, such as members, students and patients

(vi) Any additional information that will demonstrate that the grant of the conditional use will be in harmony with the general intent and purpose of this chapter.

(3) **Enforcement.** Conditional uses are subject to the enforcement proceedings below.

(a) In addition to the provisions of Code Compliance Chapter of the City Code, conditional uses are subject to the enforcement procedures listed below.

(i) **Revocation.** The City Council shall have the power to revoke conditional uses for noncompliance with conditions of development approval.

(ii) **Inspections.** The planning and zoning department shall review and inspect all conditional uses to ensure compliance with conditions of approval.

(b) All conditional uses which fail to comply with any or all conditions of approval shall be reported to the planning and zoning director. The report shall specify the manner in which the landowner is not complying with one or more conditions of approval. The planning and zoning director may:

(i) Request timely compliance with the conditions of approval;

(ii) Direct initiation of code enforcement proceedings pursuant to Code Compliance Chapter of the City Code; or

(iii) Initiate the legal action and procedures necessary to revoke the conditional use.

(c) All conditional uses which fail to comply with any or all conditions of approval shall be reported in writing to the City Council. The report shall specify the manner in which the landowner is not complying with one or more conditions of approval. The City Council, upon receipt of the written report, may:

(i) Request timely compliance with the conditions of approval;

- (ii) Direct initiation of code enforcement proceedings pursuant to Code Compliance Chapter of the City Code; or
- (iii) Initiate procedures to revoke the conditional use. If the City Council initiates procedures to revoke the conditional use, a hearing on the report shall be scheduled within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner. If the City Council finds that the facts alleged in the report are true, and that the landowner has not taken the steps necessary to fully comply with the conditions between the date of the report and the date of the hearing, the City Council may authorize the City Manager to revoke the conditional use. The City Council also may authorize the City Manager and take the necessary legal action to terminate the conditional use and all uses authorized by that approval.

(4) **Prior conditional uses.** Any land use which was legally established prior to the date of adoption of this ordinance, and thereafter is classified by this chapter as a conditional use, will be considered a legal nonconforming use.

Section 3: *Concurrency.* All site plan approvals must meet concurrency requirements for sanitary sewer, solid waste, drainage, and potable water established in the Comprehensive Plan. The City may require, as a condition of a development order or permit, that the necessary public facilities (excluding transportation facilities) are in place or are guaranteed in an enforceable development agreement prior to issuance of a certificate of occupancy or its functional equivalent. SID shall have exclusive authority to make concurrency determinations regarding capacity and ability to serve a development for sanitary sewer, drainage, and potable water for the concurrency review. Concurrency becomes reserved upon approval of a site plan.

Section 4: *Concurrency Availability.* An applicant may request a concurrency availability determination from the Planning and Zoning Director.

- (A) The request must identify the particular lot(s) or parcel(s) for which the determination is requested. If applicable, the applicant may be required to submit a drainage statement along with the request.
- (B) The Planning and Zoning Director shall acknowledge receipt of and coordinate with SID to respond to any request within a reasonable amount of time, but no later than 30 days from receipt of the request.

Section 5: *Notice.* Notice of all public hearings required by these LDRs shall be consistent with Florida Statutes. If the City initiates an amendment to the Comprehensive Plan, LDRs or Zoning Map, it shall notify by mail each real property owner whose land will be the subject of the amendment.

- (A) ***Posting of Property.*** Property affected by a future land use map amendment, rezoning ordinance, conditional use, and variance applications shall be posted as provided below, if required.
 - (1) ***Signs.*** Signs shall be provided by the applicant, subject to criteria for size, contents, and visibility approval by the Planning & Zoning Director.
 - (2) ***Posting.*** Property shall be posted by the applicant.
 - (3) ***Installation.*** Signs shall be posted in a workmanlike manner, able to withstand normal weather events.
 - (4) ***Minimum posting requirements.*** Privately-initiated applications require that at least one sign be posted per 500 lineal feet of all property located along a public right-of-way, with a minimum of one sign per frontage, or as otherwise required by the Planning & Zoning

Director. In the event of unique circumstances affecting a property, additional signs shall be posted as required by Planning & Zoning Director. City-initiated applications require that one sign be posted per frontage along a public right-of-way, except that city-initiated land use map changes for the creation of an overlay shall not require posting for the city council hearings.

- (5) *Deadline.* Signs, if required, shall be posted at least 15 days prior to a public hearing.
- (6) *Affidavit.* An affidavit, including photographs, attesting to the date of installation and number of signs installed shall be provided at least five days prior to the required public hearing.
- (7) *Public Notice.* Public notice, including mailing, publication in a newspaper, and posting of property, shall be provided as required below in Table 2-3 and consistent with the city charter and Florida Statutes.
 - (a) *Publication.*
 - (i) For applications that require publication pursuant to Table 2-3 and for which Florida Statutes require publication, publication must meet the requirements of all applicable statutes including Sections 166.041, 163.3187, and 163.3184, Florida Statutes, as they apply.
 - (ii) For applications that are not required to be published pursuant to Florida Statutes, but are required to be published pursuant to Table 2-3, the publication shall be published in a newspaper of general paid circulation and of general interest and readership in the jurisdiction. The advertisement shall appear in a newspaper published at least five times per week.
 - (b) *Mail notice.* Required mail notice shall be provided as indicated below:
 - (i) *Contents.* Unless otherwise provided herein, mail notice shall contain the following information:
 1. The title and substance of the proposed ordinance or development order;
 2. The time, date, and location of the public hearing for the applicable Planning and Zoning Board or Local Planning Agency hearing;
 3. The time, date, and location of the public hearing for the City Council;
 4. The location of the property affected by the application with reference to the nearest intersection of two or more streets;
 5. The name, address, and telephone number of the office where additional information can be obtained;
 6. The times and place where the proposed ordinance or development order application may be inspected by the public;
 7. A notice that interested parties may appear at the meeting or public hearing and be heard with respect to the proposed ordinance or development order application; and
 8. An area map, indicating location of the affected property, may be provided.
 - (ii) *Class of mail.* Mail notice shall be provided by first-class mail.
 - (iii) *Postmark.* Mail notice shall be postmarked no later than the minimum number of calendar days as required in Table 2-3 or as otherwise required by Sections 166.041, 163.3187, and 163.3184, Florida Statutes, as amended.

- (iv) *Property owners notified.* Mail notice for applications shall be provided to all property owners, excluding property owned by the applicant, within 300 feet of the site affected by the application.
- (v) *Property owners list.* To the extent permitted by law, the City will provide the applicant with a list of addresses for which applicant must generate mailing labels. The City shall generate any mailing labels for properties which the City may not legally disclose the address but shall not provide such labels to applicant. Applicants who create mailing labels for all addresses provided to the applicant by the City shall be deemed to have complied with this section.
- (vi) *Costs.* The applicant shall provide envelopes with affixed postage and complete mailing labels appropriate to the type of mail service utilized. In the event additional mail notice is required, the applicant shall be responsible for postage, envelopes, and mailing labels.
- (vii) *Procedure.* The City shall be responsible for delivery of mailed notices to the post office.

Table 2-3: Notice Requirements

| Application | Mail Prior to City Council Meeting/Hearing | Publication Prior to City Council Meeting/Hearing | Post Prior to City Council Meeting/Hearing | Additional Requirements Prior to Local Planning Agency/P&Z |
|--|---|--|---|---|
| Comprehensive Plan Map Amendment – Large Scale | 14 days | 14 days prior to ordinance adoption and as required by state law | 15 days | <i>Prior to Local Planning Agency:</i> <u>Mail:</u> 10 days <u>Publish:</u> 10 days <u>Post:</u> 15 days |
| Comprehensive Plan Map Amendment –Small Scale | N/A | 14 days prior to ordinance adoption | 15 days | <i>Prior to Local Planning Agency:</i> <u>Mail:</u> N/A <u>Publish:</u> 10 days <u>Post:</u> 14 days |
| Comprehensive Plan Text Amendment | N/A | 14 days prior to ordinance adoption and as required by state law | N/A | <i>Prior to Local Planning Agency:</i> <u>Mail:</u> N/A <u>Publish:</u> 10 days <u>Post:</u> N/A |
| Conditional Use (Non-Residential) | 14 days | 14 days | 15 days | <i>Prior to P&Z:</i> <u>Mail:</u> 10 days <u>Publish:</u> 10 days |

Table 2-3: Notice Requirements

| Application | Mail Prior to City Council Meeting/Hearing | Publication Prior to City Council Meeting/Hearing | Post Prior to City Council Meeting/Hearing | Additional Requirements Prior to Local Planning Agency/P&Z |
|--|---|--|---|--|
| | | | | <u>Post</u> : 15 days |
| Conditional Use (Residential) | 14 days | 14 days | 15 days | <i>Prior to P&Z:</i> <u>Mail</u> : 10 days <u>Publish</u> : 10 days <u>Post</u> : 15 days |
| Conditional Use Expansion – Large Scale | 14 days | 14 days | 15 days | <i>Prior to P&Z:</i> <u>Mail</u> : 10 days <u>Publish</u> : 10 days <u>Post</u> : 15 days |
| Development Order Modification that alters density or intensity by more than 10% | Same as was required for original approval | Same as was required for original approval | Same as was required for original approval | Same as was required for original approval |
| Land Development Regulation Text Amendments | N/A | 14 days prior to adoption ordinance | N/A | <i>Prior to Local Planning Agency</i> <u>Mail</u> : N/A <u>Publish</u> : 10 days <u>Post</u> : none |
| Rezoning | 14 days | 14 days prior to ordinance | 15 days | <i>Prior to Local Planning Agency:</i> <u>Mail</u> : 10 days <u>Publish</u> : 10 days <u>Post</u> : 15 days |
| Site Plan (Containing Non-Residential) | N/A | 10 days | N/A | N/A |
| Site Plan (Residential Only) | N/A | 10 days | N/A | N/A |
| Variance | N/A | N/A | N/A | <i>Prior to P&Z</i> <u>Mail</u> : 10 days <u>Publish</u> : 10 days <u>Post</u> : 15 days |

ARTICLE 2.3 PROCEDURES

Section 1: *Pre-application Meeting.* Before submitting an application, applicants may meet with the City concerning the application, procedures for review, applicable LDR provisions, and/or applicable Comprehensive Plan goals, objectives, and policies as a pre-application meeting. Planning and Zoning Director may require a pre-application meeting.

Section 2: *Applications.* Table 2-2 lists all required supporting documents. All applications for development order approval shall be submitted to the Planning and Zoning Department. All applications shall be filed on forms provided for that purpose by the Planning and Zoning Department. All applications shall be accompanied by such supporting documentation as required by these LDRs.

(A) Sufficiency review. Within seven (7) business days, excluding holidays, after receipt of an application, the planning and zoning department shall determine whether the application is complete or incomplete.

(B) Complete application. The planning and zoning director shall notify an applicant in writing if the application is determined to be complete. A complete application includes the following:

- (1) All information required to accompany the application;
- (2) All information required is complete, prepared in accordance with professionally acceptable standards, and is consistent with the development order application;
- (3) All fees required by the city and Seminole Improvement District; and
- (4) The required number of copies.

(C) Incomplete application. If the application is not complete, it shall not be subject to further review until all identified deficiencies have been remedied. The applicant shall be notified in writing that the application is incomplete, and the specific deficiencies that have been identified. Within 30 days of the date of the notification, the applicant shall submit all information necessary to remedy the deficiencies. The director may waive the 30-day requirement if reasonable progress is being made to remedy the application. An application shall not be subject to further review until all deficiencies are remedied. Failure of an applicant to respond within the 30 days to a notice of deficiency shall void the application.

(D) Applications that require both City and SID approval may be submitted to the City.

Section 3: *Concurrent Processing.* Notwithstanding any other provision in this code, an application for any approval may be processed concurrently with any other application.

(A) A pre-application meeting is required before submittal of concurrent applications.

(B) Additional fees may be required to address additional staff review time.

(C) All applications to be considered for concurrent review must be submitted on the same day.

(D) All applications must be deemed sufficient before concurrent review process for any application will begin.

- (1) In order for an application to be deemed sufficient, the application must include the required statement of consistency with the Comprehensive Plan, which must address the application of the compatibility table in Comprehensive Plan Policy 1.6.5 and explanation LOS standard compliance.

(E) If at any time during the concurrent processing, an applicant fails to satisfy any of the criteria of this section, such as the filing of an objection with the City, then concurrent processing shall immediately cease. The applicant is responsible at all times to comply with the requirements and criteria for concurrent processing and bears all risks for failure of an application to proceed in a timely fashion.

Section 4: *Distribution.* Within five business days of receipt of a complete application, the City shall distribute copies of the appropriate application documents to appropriate departments and agencies including, when required, SID and Palm Beach County Fire Rescue.

Section 5: *Administrative Review.* Upon determination the application is sufficient, the Planning and Zoning Director will coordinate review of the application for consistency with the Comprehensive Plan and these LDRs. Reviewing entities will provide written comments regarding conformance of the application with the requirements of their respective regulations and program responsibilities. After review of the application, the Planning and Zoning Director will:

- (1) Provide a request for additional information to the applicant with deadlines for resubmittal;
- (2) Approve the application (for applications requiring only administrative approval); or
- (3) Place the application on the agenda of the next available Local Planning Agency or Planning and Zoning Board hearing or City Council hearing as required by Table 2-1, with a staff recommendation.

Section 6: *Considerations.* Decisions on applications subject to these LDRs made administratively or by City Council shall only be based on the application and documentation supporting the application, public comment, and applicable Comprehensive Plan and LDR provisions. State law governing municipal review of development permits applies.

Section 7: *Limitation on Review of Resubmittals.* The City's review of any resubmitted application should be limited to those items that have not been reviewed by the City, including items that changed between the initial application and the resubmittal application, items that were submitted after the initial application, and items identified by the City as those that could not reasonably be reviewed prior to the resubmittal or without additional information.

Section 8: *Review Period.*

- (1) For applications requiring only administrative approval, the City will have 90 days from the date of the original submittal to approve or deny the application.
- (2) For applications requiring Local Planning Agency review or City Council approval, the City will have 90 days to place the application on the agenda of the next regularly scheduled Local Planning Agency, Planning and Zoning Board or City Council meeting, as required by Table 2-1.

Section 9: *Inactivity.* If the City has notified an applicant that some action on an application is required, and applicant does not take any action on the application for 30 days, the application is deemed inactive and will be administratively withdrawn. The Planning and Zoning Director shall notify an applicant in writing five (5) days prior to administratively withdrawing an application. The applicant will have five (5) days after receipt of this notice to take the required action necessary to avoid the administrative withdrawal.

Section 10: *Conceptual Presentation of Developments.* In order to provide preliminary comments regarding potential applications for large scale development prior to the formal development review process, an applicant may request to present preliminary plans for such projects to the City Council at one or more workshop meetings. The workshop meetings shall be utilized by the City Council to provide nonbinding comments to an applicant as a means to reduce the amount of resources expended in preparation of plans and formal applications for the City's development review process. Conceptual Presentation review meetings are to be scheduled only at the request of the applicant and shall be at the risk of the applicant.

- (1) Requests for preliminary review shall be based upon the requirements provided herein.
 - (a) **Minimum threshold.** The potential application must be of a size that is at or above 5 acres. A potential application must be presented in a conceptual or preliminary design phase.

- (b) **Request for review.** A request for review of the conceptual presentation shall comply with the standards listed below.
 - (i) The request for review of a conceptual presentation shall be submitted to the planning and zoning department in writing.
 - (ii) The request for review of a conceptual presentation shall be accompanied by such fees as approved by the city council.
 - (iii) A request for review of a conceptual presentation shall include a pre-application conference, prior to any city council workshop.
- (c) **Staff analysis.** Staff analysis of a request for preliminary review shall be limited to a summary of the application. The analysis shall not include any determination of consistency with the comprehensive plan, land development regulations, or level of service requirements. The preliminary report shall not include any proposed recommendations or conditions of approval.

Section 11: Applications requiring action by Planning and Zoning Board or Local Planning Agency. The following procedures apply to applications requiring recommendation of approval by the Planning and Zoning Board or Local Planning Agency.

- (A) Administrative recommendation for proceeding to the Planning and Zoning Board or Local Planning Agency will be effectuated as follows:
 - (1) The Planning and Zoning Director will send a letter to the applicant with notice of the date and time of the Planning and Zoning Board or Local Planning Agency public hearing, and a copy of the staff report sent by the Planning and Zoning Director to the Planning and Zoning Board or Local Planning Agency members.
 - (2) If the Planning and Zoning Director recommends denial of the application, the Planning and Zoning Director must specifically state the provisions of the Comprehensive Plan, LDRs, or statutes that serve as the basis for the recommendation of denial in the staff report.
- (B) The application will be considered by the Planning and Zoning Board or Local Planning Agency at a duly noticed public hearing. The public will be provided an opportunity to comment on applications before the Planning and Zoning Board or Local Planning Agency. Applicants will be afforded at least 10 minutes at the Planning and Zoning Board or Local Planning Agency hearing to present their application. The applicant will be provided additional time to respond to any public comment on the application.
- (C) At the Planning and Zoning Board or Local Planning Agency hearing at which the Planning and Zoning Board or Local Planning Agency makes a recommendation, the Planning and Zoning Board or Local Planning Agency shall make a recommendation to the City Council of approval, approval with conditions, or denial of the application. If the Planning and Zoning Board or Local Planning Agency recommends denial of the application, it must specifically state the provisions of the Comprehensive Plan, LDRs, or statutes that serve as the basis for the recommendation of denial.
- (D) After the Planning and Zoning Board or Local Planning Agency hearing on an application that requires City Council approval, the application will be placed on the agenda of the City Council at its next regularly scheduled public meeting where a duly noticed public hearing on the application will be held.
- (E) If the Planning and Zoning Board denies an application for a variance, the Planning and Zoning Board shall cite the legal authority for the denial of the application at the hearing, and shall, within 5 days of the hearing, give written notice to the applicant of the denial.

Section 12: Applications requiring City Council Approvals

- (A) **Small Scale Plan Amendments.** Small Scale Plan Amendments and in cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less

than 10 contiguous acres may be adopted at a single duly noticed public hearing before the City Council. The notice shall meet all applicable state statutory requirements.

- (B) **Other Comprehensive Plan Amendments, LDR Amendments, Rezonings.** Amendments to the Comprehensive Plan (other than Small Scale Plan Amendments), the LDRs, and rezonings (other than the rezoning map changes described in Subsection 2.3.12(F)) must be adopted by ordinance at an initial hearing (which may be a transmittal hearing) and an adoption hearing, which must take place on two separate days as follows:
- (1) The initial (transmittal) hearing and the first reading of the ordinance will take place on a weekday at a duly noticed public hearing held at least 7 days after the day that the advertisement of the hearing is published in a newspaper of general circulation within the City. The notice shall meet all applicable state statutory requirements.
 - (2) The adoption hearing and the second reading of the ordinance will take place on a weekday at a duly noticed public hearing held at least 5 days after the day that the advertisement of the hearing is published in a newspaper of general circulation in the City. The notice shall meet all applicable state statutory requirements.
- (C) The public will be provided an opportunity to comment on all applications presented to the City Council. When an application is before the City Council for consideration, applicants will be afforded at least 10 minutes at the City Council hearing to present its application. The applicant will be provided additional time to respond to any public comment on its application.
- (D) The City Council shall render a decision on any application before it at the hearing. The City Council may approve, deny, or approve with conditions an application. If the City Council denies an application, the City Council shall cite the legal authority for the denial of the application at the hearing, and shall, within 5 days of the hearing, give written notice to the applicant of the denial. The written notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority cited by the City Council for the denial.
- (E) The applicant may request that its application be tabled or continued at any time during any public hearing before the City Council, which request shall be granted by right at least once.
- (F) Denial of any application by the City Council shall constitute final agency action appealable in the Division of Administrative Hearings or the applicable court of law. The date of the denial shall be the date of the written notice of denial.

Section 13: Appeals.

- (A) Appeals of Final City Action. Appeals from a final decision of the Planning and Zoning Director or City Council shall be made in the Division of Administrative Hearings or the applicable court of law within 30 calendar days of the date such decision is rendered, or as provided by operative statute.
- (B) Appeals of Planning and Zoning Board Decisions. Appeals to the City Council of Planning and Zoning Board decisions shall be made by filing a written appeal with the City Clerk within 30 calendar days of the date such decision is rendered.
- (1) The City Council may reverse or affirm, wholly or partly, or may modify the decision made by the Planning and Zoning Board pursuant to these LDRs.
 - (2) The decision of the Planning and Zoning Board shall be presumed to be correct and the applicant shall have the burden to demonstrate the error which must be proved by a preponderance of the evidence, and such evidence must be competent and substantial.
 - (3) Appeals of decisions of the Planning and Zoning Board shall be heard within 45 days of the day the appeal is filed with the City Clerk.
 - (4) All decisions of the City Council on appeal from a decision of the Planning and Zoning Board shall be final City action.

Section 14: Reconsideration.

- (A) **Variances, conditional uses, and rezonings.** Any application for a variance, conditional use, or rezoning on a parcel or lot that is substantially the same as a previous application on the same parcel or lot for a variance, conditional use, or rezoning which has been denied shall not be eligible for reconsideration for one year from the date such application was denied, unless there has been a material change to the application as determined by the Planning and Zoning Director.

ARTICLE 2.4 HEARING OFFICER; APPEALS

Section 1: Scope and Authority: The Hearing Officer shall be appointed by the City Council shall have the authority to hear and decide appeals of an interpretation of the LDRs pursuant to the process as set forth herein.

Section 2: Appointment, Removal and Qualifications; -

(A) **Appointment.** The City Council may appoint one or more Hearing Officers who shall have the powers and authority to hold hearings as set forth herein.

(B) **Recommendation.** The City manager shall, upon the recommendation and advice of the City Attorney, bi-annually recruit qualified attorneys and retired judges to serve as Hearing Officers. Upon being provided two recommended attorneys and/or retired judges by the City Manager and City Attorney, the City Council shall appoint, by resolution, at least one Hearing Officer and one alternate Hearing Officer.

(C) **Qualification.** Applicants for the Hearing Officer position must:

- (1) Be a resident of the State of Florida
- (2) Be a retired Florida Judge or be an attorney who has been a member in good standing with the Florida Bar for at least seven; and
- (3) Possess experience and expertise in land use and local government law and a working familiarity with real estate and administrative law.

(D) **Term.** Each Hearing Officer shall have the term of two (2) years. Hearing Officers may be appointed for consecutive two (2) year terms. Hearing Officers are subject to removal, with or without cause, from their positions at any time by the City Council in its sole discretion.

(E) **Not City Employees.** Hearing Officers should not be considered City Employees. However, subject to compliance with documentation required by the City Manager or his or her designee, a Hearing Officer may be compensated at a rate to be determined by the City Manager. Hearing Officers shall serve in an ex officio capacity if the appointed Hearing Officer serves other local governments as a special magistrate. Such service to other local governments does not create duties inconsistent with serving as Hearing Officer to the City of Westlake.

(F) **Jurisdiction.** Hearing Officers shall have the jurisdiction and authority to decide cases appealing the interpretations of the City's Land Development Regulations made by the Planning and Zoning Director, as confirmed by the City Attorney, pursuant to the process set forth in Chapter 1 of these Land Development Regulations.

(G) **Powers.** The Hearing Officers shall have the power to:

- (1) Adopt rules for the conduct of its hearings;
- (2) Take testimony under oath;
- (3) Issues orders interpreting the Land Development Regulations as set forth in this Section.

Section 3: Procedures – In the event that an Applicant has sought an interpretation of these Land Development Regulations pursuant to the process set forth in Chapter 1, and thereafter wishes to appeal such interpretation issued by the Planning and Zoning Director as confirmed by the City Attorney to the Hearing Officer, the following procedures shall apply.

(A) **Fees and Costs.** Applicants shall be responsible for fees and costs associated with Appeals pursuant to this Chapter. The City Manager shall establish the appropriate schedule of fees, charges, and expenses related to Appeals pursuant to this Chapter Article.

(B) Application Requirements; Standing.

- (1) Applications governed by this section may be submitted on any day during normal business hours and must be submitted within 30 days of the date of the City's issuance of its written order, requirement, decision or determination from which an appeal is being requested..
- (2) Applications for appeal must state the specific code provisions at issue and the specific error in interpretation or application alleged by the applicant. The Application should include citations to all relevant the legal authority supporting the applicants appeal.
- (3) Only aggrieved parties who have pending applications before the City or who will otherwise be adversely impacted by an interpretation or application of these Land Development Regulations may file an Appeal pursuant to this Section.

(C) Scheduling; Notice.

- (1) The City Attorney shall have 10 business days from submittal to forward the application for appeal to the Hearing Officer for review.
- (2) The City Attorney shall schedule the appeal hearing before the Hearing Officer within a reasonable time from the date that the City receives the application for appeal, said date not to exceed 60 days. The applicant who filed the appeal shall be notified in writing of the date, time and location of the appeal hearing.
- (3) Notice of all such Appeal Hearings shall be published in a general circulation newspaper pursuant to the requirements for publication set forth elsewhere in this Chapter 2.

(D) Format of Hearing.

- (1) Applicants must submit all supporting written materials with its application for appeal to the Hearing Officer.
- (2) The City shall provide any materials supporting its position to the Hearing Officer with copies to the applicant no later than 10 days before the hearing. The Applicant may submit rebuttal materials to the Hearing Officer with copies to the City no later than 5 days before the Hearing.
- (3) At the hearing, the Hearing Officer shall provide the Applicant and City staff a reasonable opportunity (no less than 15 minutes) to be heard on any matter or issue that is relevant to the proceeding. Either party may appear at the hearing in person or through an attorney or other designated representative. Failure of any person to appear at a scheduled hearing in accordance with this Chapter shall constitute a waiver of that person's right to a hearing, unless the Hearing Officer determines, in its sole discretion, that the person's failure to appear was justified.
- (4) The Applicant and City staff may present relevant testimony and exhibits. All testimony shall be under oath and shall be recorded. The formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.

(E) Ruling.

- (1) Upon consideration of all the relevant testimony and evidence presented by the Applicant and City staff at the hearing, the Hearing Officer may approve an appeal upon his or her conclusions of law that an error in the interpretation or application of these Land Development Regulations was made by the City.
- (2) The Hearing Officer shall provide written notice of its decision within 20 days of the hearing. If the decision is denial, the written decision must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority serving as the basis for the denial.

- (3) The written decision of the Hearing Officer shall constitute final agency action and the applicant may appeal the decision of the Hearing Officer in the Division of Administrative Hearings or the applicable court of law.

Section 4: Severability. Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

Section 5: Codification. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Westlake, Florida, and the sections of this ordinance may be re-numbered or re-lettered to accomplish such intentions, and the word 'ordinance' shall be changed to "section" or other appropriate word.

Section 6: Effective Date: This ordinance shall be effective upon adoption on second reading.

PASSED this 7th day of October, 2019, on first reading.

PASSED AND ADOPTED this 28rd day of October, 2019, on second reading.

City of Westlake
Roger Manning, Mayor

Sandra Demarco, City Clerk

Approved as to Form and Sufficiency

Pam E. Booker, City Attorney

Twelfth Order of Business

ORDINANCE NO. 2019- 2

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, ESTABLISHING REGULATIONS FOR THE SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES WITHIN THE CITY OF WESTLAKE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR CLASSIFICATION OF VENDORS AND DISTRIBUTORS; PROVIDING FOR LICENSING OF NON-RESTAURANT RETAIL BEVERAGE STORES AND RETAIL LIQUOR STORES; PROVIDING THE OPERATING HOURS OF RETAIL PACKAGE STORES, RETAIL BEVERAGE STORES, RETAIL LIQUOR STORES AND CLUB VENDORS; PROVIDES RESTRICTIONS AS TO PUBLIC CONSUMPTION IN A PUBLIC OR IN CERTAIN PRIVATE PLACES, WHICH SHALL BECOME PART OF THE CODE OF ORDINANCES, ENTITLED “ALCOHOLIC BEVERAGE CODE”, PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about May 3, 2018, the Florida Department of Economic Opportunity provided the City with notice of intent to find the City’s initial comprehensive plan in compliance, and the same is now the effective and controlling Comprehensive Plan for the City of Westlake (“Comprehensive Plan”); and

WHEREAS, the purpose of this ordinance is in the interest of the health, safety, peace and general welfare of the residents of the City, and under the authority of the City to regulate the sale and consumption of alcoholic beverages within the corporate limits of the City of Westlake; and

WHEREAS, the intent of the City Council is to establish reasonable and uniform regulations with regards to location and hours of operation that will protect the health, safety, property values, and general welfare of the people, businesses, and industries of the City; and

WHEREAS, this ordinance was written in accordance with Florida State Statutes Chapter’s 561, 562, 563, 564, 565, 567 and 568; and collectively referred to as “Florida Beverage Law”; and

WHEREAS, the Local Planning Agency has conducted a hearing on October 28, 2019, and made a recommendation to the City Council with respect to the adoption of the alcoholic beverages ordinance; and

WHEREAS, the City Council has conducted a public hearing on November 4, 2019, considered the recommendation of the Local Planning Agency Board, the City staff and comments from the public into consideration and has determined that the adoption of this alcoholic beverages ordinance is in the best interest, health, and welfare of the City of Westlake.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, as follows:

Section 1. Incorporation: The above recitals are confirmed, adopted and are incorporated herein and made a part hereof by this reference.

Section 2. Establishment of Alcoholic Beverages Code: The Code of Ordinances for the City of Westlake shall contain a chapter entitled “*Alcoholic Beverages*” which code shall contain the provisions as specifically set forth herein.

Chapter 19 Alcoholic Beverages

Article I

Section 19:1 Purpose and Intent:

The City Council for the City of Westlake finds, determines and declares that it is in the best interest of the health, safety and welfare of the City and its residents and visitors that it enact the following regulations governing the location of alcoholic beverage establishments within the City. The purpose of this chapter is to provide uniform operational regulations for all establishment in the City dealing directly or indirectly with the sale or consumption of alcoholic beverages.

Section 19:2 Definitions

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

Alcoholic beverage means any beverage containing one-half of one percent or more of alcohol by volume, as determined in accordance with F.S. § 561.01(4).

Alcoholic beverages shall have the meaning ascribed in, F.S. § 561.01, as it may be amended from time to time.

Beer or malt beverage shall have the meaning ascribed in F.S. § 563.01, as it may be amended from time to time.

Beverage law means F.S. chapters 561, 562, 563, 564, 565, 567, and 568.

Commercial establishment parking lot means any area appurtenant to commercial establishments used by the public for parking thereto.

Consumption off the premises only means deemed to permit only the sale of alcoholic beverages in their original sealed containers.

Container means any can, bottle, carton, or other vessel of alcoholic beverage.

Distributor means all persons selling the beverages herein referred to at wholesale in the manner prescribed by the Florida Beverage Law, F.S. chapters 561 et seq.

Intoxicating beverage and intoxicating liquor shall have the meaning ascribed in F.S. § 561.01, as it may from time to time be amended.

Liquor or distilled spirits includes all spirituous beverages created by distillation and by mixture of distilled beverages by what is commonly termed blending, shall have the meaning ascribed in F.S. 561.01, as it may be amended from time to time.

Manufacturer means all persons who make alcoholic beverages, except those who make beer or wine for personal or family consumption pursuant to F.S. § 562.165.

Motor vehicle means any land vehicle which is not powered by muscular power.

Night club means a restaurant, dining room, or other establishment where intoxicating liquor is sold, given away, or consumed on the premises, and where floor shows or other forms of entertainment, subject to the federal tax thereon, are provided for guests at any time between the hours of midnight and 7:00 a.m.

Premises or place of business means a room or group of rooms within a building connected by doorways not less than three and one-half feet in width and six feet eight inches in height; provided that the rooms shall be contiguous and have common walls.

Public or semi-public area open for vehicular travel means all public roads, streets, sidewalks, highways, lanes, parkways, parks, ball fields, City Hall, libraries, alleys, parking lots, and parking areas on which the public is expressly or implicitly invited to travel by motor vehicle or which is otherwise open for vehicular travel. It shall not include areas such as golf courses, go-cart tracks, motocross tracks, and similar areas, or private driveways and property serving a single dwelling unit.

Sale or sell means any transfer of an alcoholic beverage for a consideration, any gift of an alcoholic beverage in connection with, or as a part of, a transfer of property other than an alcoholic beverage for a consideration, or the serving of an alcoholic beverage by a licensed club, licensed under the Beverage Law.

Vendor means all persons selling the beverages herein referred to at retail in the city in any quantity.

Wine shall have the meaning ascribed in F.S., § 564.01, as it may be amended from time to time.

Section 19.3 Classification of Vendors:

For purposes of regulating the retail and wholesale sale and distribution of alcoholic beverages within the city, as specified in this Chapter, vendors are hereby classified as follows:

(1) **Package store.** A package store is a retail vendor of alcoholic beverages sold in sealed containers for consumption off premises only.

(2) **Retail store.** A retail store is a retail vendor of alcoholic beverages for consumption off the premises, which primarily offers for sale products others than alcoholic beverages. Retail stores include, without limitation, grocery stores, specialty stores, convenience stores, any gas stations/filling stations.

(3) **Consumption-on-premise vendors.** A consumption-on-premise vendor is a retail vendor of alcoholic beverages, with the corresponding state licensure, for consumption on premises.

(4) **Restaurant.** Restaurant is a business with full kitchen facilities, which primarily serves full meals and alcoholic beverages (through a corresponding state license) for consumption on premises;

(5) **Alcoholic beverage establishment.** Alcoholic beverage establishment is a business primarily devoted to serving alcoholic beverages for consumption on premises, including, without limitation, bars, pubs, tasting rooms, wine cafes and cigar bars.

(6) **Entertainment establishment.** Entertainment establishment is a business primarily devoted to serving alcoholic beverages and in which the service of food and/or entertainment is secondary to the consumption of alcoholic beverages. Entertainment establishments include, without limitation, dance halls, night clubs, adult entertainment venues, and any commercial establishment determined to meet the following factors:

(1) If the establishment regularly charges a cover charge, door charge, required contribution, or one-time membership fee which is paid at the door or has a minimum drink requirement;

(2) If none of the factors listed in subsection (1) above are present, then if four of the following conditions exist, then the establishment is an "entertainment establishment":

a. The establishment has a dance floor or other open area used by patrons for dancing or for viewing of entertainment (such dance floor or open space may be established by the removal or rearrangement of furniture or tables);

b. The hours of operations during which the use is open to the public include time between 11:00 a.m. and 2:00 a.m.; The maximum capacity for the establishment as set by the building and fire officials through fire, building, structure, and other relevant regulatory considerations is 100 or more persons. The fact that the facility may restrict its capacity to

some number shall not prevent the building official from applying Code provisions that determine a different and increased capacity. The building and fire officials may use various codes for this purpose (i.e., fire code provisions);

c. Alcohol is sold and consumed on the premises of the establishment at any time;

d. Advertisements for the establishment describe specific entertainment events or engagements (e.g. "House Party Saturday Night"; "DJ Saturday night"; "Live Music tonight"); or

e. The establishment features a platform or musical staging area used in connection with performances or entertainment. The presence of karaoke machines shall not be deemed entertainment for the purpose of this subsection. The presence of live entertainment provided by one person, not utilizing pre-recorded music, incidental to a restaurant or bar shall not be deemed entertainment for the purpose of this subsection.

(3) Business identified as entertainment venues, though they might meet factors in subsection (2) herein, shall not be deemed entertainment establishments.

(7) **Entertainment venues.** Entertainment venues are business or other locations primarily devoted to an entertainment purpose or use in which the serving of food and alcoholic beverages is secondary to the entertainment purpose or use. Entertainment venues including, without limitation, art galleries, theaters, state-chartered not-for-profit theaters with live performances, movie theaters, museums, banquet halls, bowling allies, billiard halls and other amusement facilities as determined by the planning and zoning director or his or her designee.

(8) **Manufacturer of alcoholic beverages.** A manufacturer of alcoholic beverages is a business engaged in the production of alcoholic beverages, including, without limitation, the fermentation of cider, beer, or other malted beverages, and/or wine, the distilling of spirits and/or liquors, or the blending of alcoholic beverages to make a derivative product, for the purpose of sale through an alcoholic beverage distributor or at retail, as regulated by state statute. A manufacturer of alcoholic beverages may sell alcoholic beverages in open containers for consumption on premises and in sealed containers for consumption off premises. Manufacturers of alcoholic beverages include, without limitation, breweries, distilleries, brewpubs, and/or similar uses as determined by the planning and zoning director or his or her designee.

(9) **Private club.** A private club is a charter or incorporated club or lodge, organized for lawful purposes and not for the purpose of evading beverage laws, vending alcoholic beverages and intoxicating liquors at retail to members and their guests only for consumption on the premises.

(10) **Alcoholic beverage distributor.** An alcoholic beverage distributor is a distributor and vendor, at wholesale only, of alcoholic beverages in sealed containers.

(11) **Hotels and motels.** Hotels and motels are businesses that provide temporary lodging on daily or short term basis and may sell alcoholic beverages to guests as part of food and beverage offerings. This food and beverage offerings, including alcoholic beverages, may be offered independent of any restaurant, alcoholic beverage establishment, and/or entertainment venues that may be located within the hotel or motel or on the same premises as the hotel or motel.

Article II

Section 19:4 Location of Establishment:

A. **Distance Limitations:** No premises shall be used for the sale of any alcoholic beverages, as defined herein, to be consumed on or off the premises where the structure or place of business intended for such use is located within 1,000 feet from another place of business for which there is already issued a license for the retail sale of door to door alcoholic beverages for consumption on or off the premises; such distance to be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the existing business for which there is already a license for the retail sale of alcoholic beverages for consumption on or off the premises.

B. **Measurements:** The 1,000 feet distance requirement shall be measured by following a straight line from the nearest portion of the structure of the place of business, to an existing place of business having a legally established alcoholic beverage use.

C. **Sketch indicating location:** For the purpose of establishing the distance between alcoholic beverage uses, and between such uses and churches, public parks or public schools, the applicant for such use shall furnish a certified sketch of survey from a registered engineer or surveyor. Such sketch shall indicate the distance between the proposed place of business and any existing alcoholic beverage establishment and any religious facility, public park or school within 1,000 feet. In case of dispute, the measurement scaled by the City Manager or the City Manager's designee shall govern.

Section 19.5 Exceptions from Distance Requirements:

A. **Downtown Mixed Use:** Cocktail lounges, breweries, bars and restaurants located in the mixed used downtown district which comply with the requirements of such districts and serve cooked, full course meals, daily prepared on the premises, or such other cocktail lounges, breweries, bars or restaurant where alcoholic beverages are sold only to persons seated at tables.

(1) Limited musical entertainment is permitted in restaurants having a seating capacity of not less than 50 seats.

(2) Such entertainment shall be strictly incidental to the restaurant use.

(3) Outdoor entertainment and speakers may be permitted when the minimum distance from a single family residential home is 1,500 feet, measured from property line to property line.

(4) Music that is plainly audible and/or creates a vibration at a distance of more than 150 feet from the premises shall constitute prima facie evidence of a violation of this chapter.

(5) No entertainment activity shall violate the City's noise ordinance.

(6) All entertainment activity shall cease at 2:00am.

B. **Cocktail, Lounge, Bars and Restaurants:** Restaurants which serve alcohol for on premise consumption only, utilizing the cocktail lounge, bar as an accessory use and which meet the following criteria:

(1) The restaurant shall occupy 2,000 square feet of gross floor space.

(2) The restaurant shall have accommodations for service of 100 or more seats.

(3) The restaurant shall prepare and serve fully cooked meals daily.

(4) The restaurant shall contain full kitchen facilities with commercial grade burners, ovens, range hoods and refrigeration units of such size and quantity to accommodate the occupancy content of the restaurant.

(5) The restaurant shall be prohibited from advertising itself as a bar, cocktail lounge/bar, saloon, nightclub or similar type of establishment.

(6) The restaurant shall not have a separate entrance for patrons to access the cocktail lounge, bar.

(7) The cocktail lounge, bar shall be no larger than 20% of the gross square footage of the restaurant.

C. Beer and Wine for Off Premise Consumption: The sale of beer and wine as a grocery item for consumption off the premises, from grocery stores, convenience stores and the meat markets within the hours of operation for those facilities.

D. Package Store in Shopping Center: Only one package store shall be permitted per shopping center. Package stores shall not exceed twenty-five thousand square feet.

E. Nightclubs in Hotels and Apartment Hotels: The hotel or apartment hotel and nightclub must be located under the same roof. The hotel or apartment hotel must have at least 150 guest rooms or apartment units under the same roof. The music, dancing or disc jockey must be approved by the City Council.

Section 19.6 Licensing Requirements:

(A) Any person or entity engaging in any business selling beer, wine or alcoholic beverages shall obtain a certificate of use for the premises and shall be subject to the business tax licensure requirements of the City, and all regulations and laws of the State of Florida as applicable to the particular business.

(B) All prerequisites for the use of the premises for the sale of alcoholic beverage must be complied with by the applicant.

(C) Certificate of Use must be established on the premises within thirty (30) days of the date of the issuance of a certificate of use, otherwise said certificate of use shall be null and void.

Section 19.7 Hours of Sale. Generally.

(1) No intoxicating liquors or intoxicating beverages, including all malt beverages and wine, consumed, or served or permitted to be served, or consumed, in any place located within the city holding a license under the laws of the state and the city, authorizing same, between the hours of 2:00 a.m. and 7:00 a.m.

(2) For New Year's Eve, December 31, the prohibited hours of sale shall be 5:00 a.m. to 7:00 a.m. on the following day, January 1.

Section 19.8 Limitation of Sales on Certain Premises, Places of Business

(A) It shall be unlawful for any vendor to sell, offer for sale, or serve, or permit to be consumed, any alcoholic beverages upon any premises or in any place or places of business which do not meet the definition of and requirements for premises or place of business as provided for and defined in section 19.3.

(B) Distance Limitation Between Vendors

No license for the sale of alcoholic beverages at retail, including malt and wine beverages, for consumption on or off the premises, shall be issued where the place of business designated in the application therefor is located within 1,000 feet from another place of business for which there is already issued a license for the retail sale of alcoholic beverages for consumption on or off the premises; such distance to be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the existing business for which there is already a license for the retail sale of alcoholic beverages for consumption on or off the premises.

(1) **Exception:** Such distance limitation shall not apply to the following:

(a) Vendors of alcoholic beverages, including malt and wine beverages, where the vendor is licensed by the city as a restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

(b) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is licensed by the city as a bona fide hotel or motel.

(c) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is a veterans or fraternal organization of national scope or is a group of persons associated together as a chartered or incorporated club, including incorporated social clubs which have been in continuous active existence and operation for a period of not less than one year in the city.

(C) **Between vendor and place of worship.** No license for the retail sale of alcoholic beverages, including malt and wine beverages, shall be issued to a vendor whose place of business is located within 1,000 feet of an established place of worship. The distance shall be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the place of worship.

(1) **Exception:** Such distance limitation shall not apply to the following:

(a) Vendors of alcoholic beverages, including malt and wine beverages, where the vendor is licensed by the city as a restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

(b) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is licensed by the city as a bona fide hotel, motel, or motor court.

(c) Vendors of alcoholic beverages, including malt and wine beverages, for consumption on the premises only where the vendor is a veterans or fraternal organization of national scope or is a group of persons associated together as a chartered or incorporated club, including incorporated social clubs which have been in continuous active existence and operation for a period of not less than one year in the city.

(D) **Between vendor and school.** No license for the retail sale of alcoholic beverages, including malt and wine beverages, shall be issued to a vendor whose place of business is located within 1,000 feet of an established public or private elementary school, middle school, or secondary school. The distance shall be the airline measurement taken from the center of the main entrance of the proposed business to the center of the main entrance of the school grounds.

(1) **Exception:** Such distance limitation shall not apply to vendors of alcoholic beverages, including malt and wine beverages, where the vendor is licensed by the city as a restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

(E) This section shall not be construed or held to affect the rights of any existing established business or its successors or assigns with respect to the location of the businesses.

(F) Whenever a business has been lawfully established and thereafter a place of worship or school is established within a distance otherwise prohibited by this section, the establishment of the place of worship or school shall not be cause for the revocation of the occupational license or otherwise prevent the continuation of the business.

Article III

Section 19.10 City Council Exceptions to Distance Limitations Between Vendors

The distance requirements set forth in this section are primarily intended to promote the safety, health, morals, and general welfare of the citizens of the city. The city council is of the opinion that certain businesses licensed by the state by special license to sell alcoholic beverages at retail may warrant an exception to the distance requirements above provided; these businesses are:

- (1) Vendors of alcoholic beverages, including wine and malt beverages, at retail for off-premises consumption only.
- (2) Vendors of alcoholic beverages, including wine and malt beverages, at retail for on-premises consumption only, where the sale thereof is the main function of the business.

Section 19.11 City Council Distance Exception:

The city council, and it alone, may upon written application for a miscellaneous petition by the vendors of alcoholic beverages, including malt and wine beverages, as defined in this section, by resolution, grant a variance to the distance requirements of the application shall be accompanied by appropriate survey material, maps, and site plan.

(A) No variance to the distance requirements shall be made until after a public hearing thereon is held, and a notice of the public hearing shall be published in a newspaper of general circulation in the city on a date no less than 15 days prior to the date set for the hearing.

(B) Further, no variance to the distance requirements shall be granted unless the city council finds the following requirements are met:

- (1) The established distance requirement of 1,000 feet from an established public or private elementary school, middle school, or secondary school is not violated. The distance shall be the airline measurement taken from the center of the main entrance of the school grounds.
- (2) In the opinion of the city council, the granting of the modification will not materially impair the safety, health, morals, or general welfare of the citizens of the city which this chapter is intended to promote.

Section 19.12 Vendors of Malt and Wine Beverages for Consumption Off Premises Only

The limitations provided in 19.4 shall not apply to vendors of malt and wine beverages for consumption off premises only.

Section 19.13 Drinking Intoxicating Liquors in Streets and Parks

(A) No person shall drink any spirituous, vinous, malt, or other intoxicating liquors in or upon any public street, avenue, alley, park, or other public way or place in the city. However, the city manager may authorize the consumption of alcoholic beverages in a city park pursuant to the regulations set forth in Chapter 16 (Parks & Recreation Chapter), of this Code.

(B) The City Manager shall not grant an authorization if in his opinion the public safety and peace may become impaired.

Section 19.14 Consumption, Possession of Alcoholic Beverages in Commercial Establishment Parking Lots or Motor Vehicles. Findings and declarations.

(1) The uncontrolled consumption of alcoholic beverages in and around commercial establishment parking lots contributes to lewd behavior, verbal harassment, intoxicated disorderly conduct, destruction of property, excessive noise, and litter.

(2) The uncontrolled consumption of alcoholic beverages in and around commercial establishment parking lots has led to an increase in the number of violent crimes committed on and near those commercial establishment parking lots.

(3) Individuals consuming alcoholic beverages in and around commercial establishment parking lots deter the public's use and enjoyment of these areas.

(4) No effective means exist to deter the violent, disorderly, destructive, or offensive conduct associated with the consumption of alcoholic beverages in and around uncontrolled commercial establishment parking lots other than to prohibit the consumption of alcohol in those areas.

(5) Consumption of alcoholic beverages or possession of open containers of alcoholic beverages while in or on motor vehicles leads to and encourages the operation and control of motor vehicles while impaired and distracting and disorderly conduct of passengers including, but not limited to, littering. The uncontrolled consumption of alcoholic beverages in and around commercial establishment parking lots and the consumption of alcohol in motor vehicles is detrimental to the health, safety, and general welfare of the public.

19.15 Prohibited acts. The following unlawful acts are prohibited:

(1) It shall be unlawful for any person to drink or consume any alcoholic beverage in or within 1,000 feet of a commercial establishment parking lot in the city, except in those areas in which such consumption is permitted pursuant to the beverage law; special or general act of the state legislature; the state administrative code; or city ordinance, resolution, or administrative approval. Nothing in this section shall prohibit consumption on private property within 1,000 feet of a commercial establishment parking lot. It shall be unlawful for any person to possess any alcoholic beverage in or within 1,000 feet of a commercial establishment parking lot in the city, except in those areas in which such possession is permitted pursuant to the beverage law; special or general act of the state legislature; the state administrative code; or city ordinance, resolution, or administrative approval unless the alcoholic beverage is in the original container with the seal unbroken.

(2) It shall be unlawful for any person to possess any container of alcoholic beverage, except an original container with the seal unbroken, or to consume any alcoholic beverage, in or on a motor vehicle being operated on a public or semipublic area open for vehicular travel.

(3) It shall be unlawful for any person, without the consent of the city manager or his/her designee, to drink alcoholic beverages in any public place in the city. It shall further be unlawful for any person to drink alcoholic beverages in or upon any automobile, truck, motorcycle or other vehicle, when such vehicle is parked upon any public place without the consent of the city manager or his designee. Such consent shall be given by the city manager or his designee upon a showing that there is compliance with the chapter pertaining to special events.

(4) It shall be unlawful for any person to consume any alcoholic beverage on private premises without the consent of the owner, tenant, or other person lawfully in possession of such private premises. It shall further be unlawful for any person to drink alcoholic beverages in or upon any automobile, truck, motorcycle or other vehicle, when such vehicle is parked upon any private premises without the consent of the owner, tenant, or other person lawfully in possession of such private premises.

Section 19.16 Exceptions. This section shall not apply to:

(1) Any person engaged in picking up empty beverage containers for the purpose of collecting the deposit or value of the bottle or can itself, nor to any person taking part in a litter control campaign.

(2) The possession of any open container by any licensed distributor or licensed vendor of alcoholic beverages provided that such alcoholic beverage is being transported solely for commercial purposes.

(3) The transportation of any open container of alcoholic beverage in or on any motor vehicle provided that such container is in a compartment of the vehicle not readily accessible to the driver or passengers, such as a locked (not merely latched) glove compartment, trunk, or other non-passenger or non-driver area of the motor vehicle.

(4) The transportation of any open container or consumption of alcoholic beverage in or on any motor vehicle duly licensed and operated for hire to transport passengers, such as charter buses, regularly scheduled buses, taxicabs, and the separate passenger compartments of limousines; provided the operator thereof is not in immediate possession of, or engaged in the consumption of, any alcoholic beverage or open container of alcoholic beverage.

(5) The operation, for a consideration, of any motor vehicle by an individual duly licensed and supplied by a chauffeur service, limousine service, taxicab company, or bus company provided the operator thereof is not in immediate possession of, or engaged in the consumption of, any alcoholic beverage or open container of alcoholic beverage, and is operating the vehicle while under, and in the scope of, the employment of a chauffeur service, limousine service, taxicab company, or bus company. The operator shall have in his/her possession evidence of employment by a bona fide chauffeur service, limousine service, taxicab company, or bus company.

Section 19.17 Application of zoning code

In all cases the location of any place of business for the sale of alcoholic beverages, including malt and wine beverages at retail, shall be in accordance with the permitted use provisions of the city zoning code.

Section 3. Severability: Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

Section 4. Codification: It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances for the City of Westlake, Florida and the sections of this ordinance may be re-numbered or re-lettered to accomplish such intentions, and the word "ordinance" shall be changed to "section" or other appropriate word.

Section 5. Effective Date: This ordinance shall be effective upon adoption on second reading.

PASSED this 28th day of October, 2019, on first reading.

PASSED AND ADOPTED this 9th day of December, 2019, on second reading.

City of Westlake
Roger Manning, Mayor

Sandra Demarco, City Clerk

Approved as to form and Sufficiency

Pam E. Booker, City Attorney

Thirteenth Order of Business

1st Reading November 4, 2019

2nd Reading December 9, 2019

ORDINANCE NO. 2019-04

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, ESTABLISHING REGULATIONS FOR PROPERTY MAINTENANCE WITHIN THE CITY OF WESTLAKE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESIDENTIAL AND COMMERCIAL PROPERTY MAINTENANCE STANDARDS; PROVIDING RESPONSIBILITIES FOR OWNERS AND OPERATORS TO MAINTAIN SAFE AND SANITARY CONDITIONS OF PROPERTY, ALL OF WHICH SHALL BECOME PART OF THE CODE OF ORDINANCES, ENTITLED "PROPERTY MAINTENANCE", PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERALABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about May 3, 2018, the Florida Department of Economic Opportunity provided the City with notice of intent to find the City's initial comprehensive plan in compliance and is now the effective and controlling Comprehensive Plan for the City of Westlake (Comprehensive Plan); and

WHEREAS, the purpose of this ordinance is to provide requirements and maintenance standards for vacant, residential and non-residential properties within the jurisdictional boundaries for the City of Westlake; and

WHEREAS, this ordinance seeks to preserve and improve the quality of life for residents and businesses within the city through the enforcement of the property maintenance codes and ordinances, which regulate the structural strength, stability, sanitation, adequate light and ventilation and safety of life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises; and

WHEREAS, there are structures which are used for human habitation which may become in the future, substandard with respect to structure, equipment or maintenance, and further, that such conditions, together with inadequate provisions for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions and overcrowding constitute a menace to the health, safety, welfare and reasonable comfort of its citizens, and;

WHEREAS, the existence of such conditions will if not remedied, create slum and blighted areas requiring large scale clearance, and such areas may create deterioration of social values, a curtailment of investment and tax revenues and an impairment of economic values, and

WHEREAS, the on-going residential and non-residential construction requires regulations for the site development, protection of abutting properties, protection of the drainage systems, and maintenance of adequate ingress and egress during construction, and;

WHEREAS, the City seeks to preserve the property values within the City by preventing accumulation of litter, prevention of nuisance(s), the elimination of abandoned property and inoperable vehicles, all of which contribute to a decrease in property values; and

WHEREAS, the Local Planning Agency has conducted a hearing on November 4, 2019, and made a recommendation to the City Council with respect to the adoption of the Property Maintenance code ordinance; and

WHEREAS, the City Council has conducted a public hearing on December 9, 2019, considered the recommendation of the Local Planning Agency Board, the City staff and comments from the public into consideration and has determined that the adoption of this Property Maintenance code ordinance is in the best interest of the public safety and welfare of the City of Westlake; and

WHEREAS, the intent of the City Council in adopting this code is to establish reasonable and uniform regulations that will protect the health, safety, property values, and general welfare of its residents, visitors, businesses, and industries of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, as follows:

Section 1. Incorporation. The above recitals are confirmed, adopted and are incorporated herein by reference.

Section 2. Property Maintenance. The code of ordinances for the City of Westlake shall contain a chapter entitled ***“Property Maintenance”*** which code shall contain the provisions as specifically set forth herein.

Chapter 22 Property Maintenance

Article I

Section 22.01 Purpose of Chapter.

The purpose of this Chapter is to establish minimum standards for the maintenance, upkeep and appearance of improved or unimproved premises; to minimize impacts of construction; and to provide a just, equitable and practicable method to preclude:

- (1) Residential and commercial buildings, structures and premises from causing and/or endangering the life, limb, health, property, safety or welfare of the general public or their occupants; or
- (2) Diminished property values; or
- (3) Detracting from the appropriate appearance of the residential area, by way of example:
 - (a) Failure to remove abandoned property, litter or debris; or
 - (b) Failure to cut and/or remove the accumulation of weeds, grass or uncultivated vegetation.

Section 22.02 General provisions.

(a) **Maintenance.** Equipment, systems, devices and safeguards required by this chapter or a prior code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. The requirements of this chapter are not intended to provide the basis for removal or abrogation of fire protection or safety systems and devices in existing structures. Except as otherwise specified herein, the owner shall be responsible for the maintenance of buildings, structures and premises.

(b) **Application of other codes.** Repairs, additions or alterations to a structure, or changes of occupancy, shall be performed in accordance with the procedures and provisions contained in the

land development regulations and of the Florida building code. Nothing in this chapter shall be construed to cancel, modify or set aside any provision of this chapter.

(c) **Existing remedies.** The provisions in this chapter shall not be construed to abolish or impair other remedies of any local, state or federal jurisdiction or its officers or agencies relating to the removal or demolition of any structure.

(d) **Requirements not covered by this chapter.** The building official shall determine requirements necessary for the strength, stability or proper operation and general conditions acceptable for an existing fixture, structure or equipment not specifically covered by this chapter.

(e) **Deviation from chapter.** Where practical difficulties are prohibitive in carrying out the provisions of this chapter, the building official has the authority to grant deviations for individual cases. The deviation shall be in compliance with the intent and purpose of this chapter and shall not lessen health, life and fire safety requirements. The basis for granting deviations shall be recorded and entered in the department files.

(f) **Compliance.** It shall be the duty of each and every owner and operator of improved or unimproved property within the city to comply with the requirements set forth in this chapter. No permit or certificate of occupancy shall be issued unless there is compliance with all applicable sections of this chapter. No premises or building, or combination, shall be used in a manner inconsistent with or in conflict with the requirements of this chapter.

(g) **Conflict with other codes.** The provisions of this chapter shall apply to all buildings, structures or premises in existence or built within the city limits or annexed therein. Where the provisions of this chapter impose a standard different than that set forth in any other ordinance of the city or under the laws of the state, the most restrictive standard shall prevail.

(h) **Parts.** Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit" or "story" are stated in this chapter they shall be construed as though they were followed by the words "or any part thereof."

Section 22.03 - Definitions.

The following definitions shall apply for purposes of this chapter:

- 1) **Abandoned property** means any wrecked, inoperative, derelict or partially dismantled property having little, if any, value other than nominal salvage value, which has been left unattended and unprotected from the elements, which shall include, but not be limited to, motor vehicles, trailers, boats, machinery, appliances such as refrigerators and washing machines, plumbing fixtures, furniture, and any other similar articles.
- 2) **Approved** means approved by the building official or the building official's designated representative.
- 3) **Building** means any structure, either temporary or permanent, having a roof, and used or built for shelter or enclosure of persons, animals, chattels or property of any kind. Building code and technical codes means the Florida Building Code and the technical codes adopted by the City Council.
- 4) **Commercial business** means any business or enterprise that offers for sale goods or services, or which in any manner conducts commerce.
- 5) **Condemn** means to judge unfit for occupancy.
- 6) **Contractor** means and includes owner, operator, owner-builder or licensed contractor.
- 7) **Demolition** means the deconstructing, destroying, raising, tearing down, or wrecking of any building, including its foundation. As used herein, the word "demolition" shall not apply to partial demolition associated with major or minor remodeling.

- 8) **Deterioration** means the condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, rusting, peeling paint or other evidence of physical decay, including the landscaping and the parking areas.
- 9) **Enclosed container** means, for purposes of this chapter, any physical structure which prevents materials from falling out, spilling, or coming out by other accidental means during storage or transport, and shall include, but not be limited to, garbage cans, boxes, truck bodies capable of being enclosed and any means sufficient to prevent the accidental scattering or leaking of said materials.
- 10) **Exterior property** means the open space on the premises outside of a building.
- 11) **Fire hazard (see "nuisance")** means any one thing or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than reasonable, or which may unreasonably obstruct, delay or hinder or may unreasonably become the cause of an obstruction, a delay, a hazard or an unreasonable hindrance to the prevention, suppression or extinguishment of fire.
- 12) **Food waste** means the animal or vegetable waste resulting from the handling, preparation, cooking or consumption of food.
- 13) **Imminent danger** means a condition that could cause serious or life-threatening injury or death at any time.
- 14) **Improved property** means real property which contains buildings or other structural improvements.
- 15) **Inert waste materials** means brick, block, concrete, rock, stone, earth, and sand, free from contamination or other types of waste and capable of serving as fill material without harm to, or pollution of, ground or surface waters.
- 16) **Infestation** means to spread or foster in a troublesome manner.
- 17) **Litter** means any discarded, used, unconsumed substances or wastes. Litter shall include, but shall not be limited to, garbage, solid waste, trash, refuse, debris, paper products (including newspapers and magazines), glass, metal, plastic or other containers, cloth, wood and wood products, sweepings, liquids (other than uncontaminated water), sludge, grass clippings, tree limbs, trunks and roots, undergrowth and materials produced by clearing and grubbing and other horticulture wastes, motor vehicle parts and tires, furniture, oil or grease, hazardous wastes (including gasoline, paint thinners and other similar types), the carcass of a dead animal, any obnoxious or offensive matter of any kind, and any object or condition of any unsightly nature, which may have been discarded, abandoned or otherwise disposed of improperly.
- 18) **Nuisance** means any one or combination of the following:
 - a. Any public nuisance known at common law or in equity jurisprudence, or as provided by the statutes of the state or the ordinances of the city;
 - b. Any condition, including an attractive nuisance, which may prove detrimental to human health or safety, whether in a building or on the premises;
 - c. Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists;
 - d. Unsanitary conditions or conditions that are dangerous to public health, well-being or the general welfare;
 - e. Fire hazards; and
 - f. Unsightly conditions.
- 19) **Occupant** means any individual living or sleeping in a building or having possession of a space within a building.
- 20) **Operator** means any person who has charge, care or control of premises or a part thereof.
- 21) **Owner** means any person, agent, operator, business, firm or corporation having a legal or equitable interest in the fee title to the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including

- the guardian of the estate of any such person, or the executor or administrator of the estate of such person if ordered to take possession of real property by a court.
- 22) **Parking lot** means any parcel of real property with an outdoor area or space, paved or unpaved, approved for motor vehicle parking or storage.
 - 23) **Permit** means approvals issued by building official, to include but not be limited to the construction site management plan approved by the building official.
 - 24) **Project site** means the area within the property line where lot clearing and grading, stockpiling of soil, demolition, excavation, construction, reconstruction, renovation, remodeling, and minor remodeling may occur.
 - 25) **Residential** means all single-family and multifamily buildings and structures.
 - 26) **Right-of-way** means land to which the state, county, special district or city holds fee simple title or an easement for transportation or utility use.
 - 27) **Rubbish** means combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, rubber, tree branches, yard trimmings, tin cans, metals, mineral matter, and glass and other similar materials.
 - 28) **Stop work order** means a notice signed by the building official or designee to cease work or other activity on any site for which a permit has been issued or is subject to issuance.
 - 29) **Storage of litter** means interim containment of litter in a manner approved by the city council, after generation of such litter and prior to proper and final disposal.
 - 30) **Street** means the paved or improved portion of the right-of-way which is intended for public use by vehicles, pedestrians, bicycles and others and which affords the principal means of access to abutting property.
 - 31) **Tenant** means a person, corporation, partnership or group who has the occupation or temporary possession of a dwelling unit or commercial premises but does not hold title to same.
 - 32) **Vacant lot** means a parcel of real property which contains no buildings or structures of a temporary or permanent nature, which is not under construction.
 - 33) **Vacant structure** means a structure, accessory or principal, that is not occupied.
 - 34) **Weeds** means all weeds, annual plants and uncultivated vegetation; however, this term shall not include trees, cultivated flowers, cultivated shrubs and gardens.

22.04 Vacant lot maintenance.

- (a) **Vegetation.** All vacant lots, including the area between the edge of pavement in the street and the lot line, shall be kept free from dry vegetation, accumulation of weeds, grass and uncultivated vegetation:
 - (1) Which present a visual blight upon neighborhoods; or
 - (2) Which may harbor insect or rodent infestations; or
 - (3) Which may likely become a fire hazard; or
 - (4) Which result in a condition which may threaten the health and safety or the economic welfare of abutting or adjacent property owners or occupants.
- (b) **General standards.**
 - (1) All vacant lots shall be free from potential fire hazards, to include but not be limited to dead trees, loose branches and palm fronds.
 - (2) All vacant lots shall comply with the following requirements:
 - a. They shall be covered in an amount of at least 90 percent, with grass or other living plant materials. All grasses or weeds, and uncultivated vegetation, shall not exceed eight inches in height, including the area between the edge of pavement in the street and the lot line, unless

there is an active building permit for construction on the property and the required construction fence is in place.

b. All debris, old pavement, shrubs and remains of previous improvements must be cleared from the site.

c. Docks, driveways, accessways, access aisles, fences and walls in good repair and free from cracks, holes, and weeds are permitted to remain on the site.

d. They shall be graded to avoid excessive water retention, unsafe conditions or excessive drainage on to neighboring properties.

e. If a lot has become vacant due to demolition, the lot shall be brought into compliance with this provision within 60 days after demolition is completed.

(3) Motor vehicles are prohibited from parking on or driving across any portion of a vacant lot, except for:

a. Areas designated and approved by the building official; and

b. Where the owner of the vacant lot has given written permission to the vehicle owner or operator.

(4) Nuisances are prohibited on all lots to include by way of example but not limitation: abandoned or broken equipment, discarded furniture, household appliances, trash, litter, debris, packing boxes, lumber, construction material, solid waste, horticulture debris, salvage materials and machinery.

22.05 - Residential and commercial property maintenance.

(a) All premises shall be maintained in compliance with the standards in this section. The allowing of debris, rubbish, trash, tin cans, papers, or stagnant water to accumulate, or a dense growth of trees, vines, underbrush, weeds, wild growth, on any lot, tract, or parcel of land in the city, to the extent and in the manner that it constitutes or may reasonably become a menace to life, property, the public health, or the public welfare; creates a fire hazard; or provides a nest or breeding ground for sandflies, mosquitoes, rats, mice, other rodents, snakes, and other types of pests and vermin, shall be unlawful and is prohibited and declared to be a public nuisance.

(b) Standards for improved property.

(1) **Foundation.** The building foundation system shall be adequately maintained and capable of supporting the load for which it was designed.

a. Wood supports shall be sound and free from insect infestation and rot.

b. Metal supports and connections shall be free from rust and the equivalent of new supports.

c. Skirting shall be maintained free from broken or missing sections, pieces or cross members. Skirting shall be securely attached and sized from the ground to the lower outside perimeter of the structure.

(2) **Exterior walls.** Exterior walls of buildings shall be:

a. Maintained free from holes, breaks, and loose or rotting materials; and

b. Maintained, weatherproofed and surfaces properly coated as needed to prevent deterioration. Decorative features such as cornices, belt courses, corbels, trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage. Any graffiti shall be removed or repainted to match existing surfaces.

(3) **Windows.**

a. Every window shall be maintained in sound working condition and good repair to be substantially weather-tight and rodent-proof.

b. Openings originally designed as windows shall be maintained as windows, unless approved by the building official for enclosure. The enclosure of a window shall be by either bricking the opening, blocking the opening with concrete blocks and stuccoing the exterior, or boarding the opening. When boarding is used, it shall be of trim fit, sealed to prevent water intrusion, and painted or stained to conform with the other exterior portions of the building. The boarding shall remain in place and be properly maintained.

- (4) **Shutters.** All shutters shall be maintained in good repair and securely attached to a structure. Peeling paint or preservatives is prohibited.
- (5) **Exterior doors.** Every exterior door and hatchway or garage door shall be kept in sound working condition and good repair.
- (6) **Exterior doorframes and storefronts.** Exterior doorframes and storefronts shall be maintained in good condition. All moldings shall be securely attached to the structure and maintained in good condition without splitting or deterioration.
- (7) **Exterior surface treatment.** All exterior surfaces, including by way of example and not limitation, doors and window frames, cornices, porches, decks, trim, balconies, fences and docks, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective treatment. Peeling paint is prohibited and surfaces shall be repainted. All metal surfaces shall be coated to inhibit rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated.
- (8) **Structural supports.** Every structural element of a dwelling shall be maintained in a structurally sound condition and shall not show evidence of deterioration that would make it incapable of carrying normal loads.
- (9) **Porches and balconies.** All exterior porches, balconies, stairs and fire escapes shall include banisters or railings properly designed and maintained to minimize the hazard of falling and installed to withstand the loads prescribed by the Florida Building Code. All exterior porches, landings, balconies, stairs and fire escapes shall be kept structurally sound, in good repair and free from defects. Paint and other finishes shall be in good condition.
- (10) **Stairs.** All stairs shall be maintained safe and free from tripping hazards. Treads shall be sound, without broken or chipped edges. Wooden stairs shall be free from decay or substantial wear that could cause a tripping hazard or have an unsightly appearance. Handrails and guardrails shall be maintained to withstand loads prescribed by the Florida Building Code.
- (11) **Roofs.** Roofs shall be maintained in a structurally sound and safe manner. Roofs shall be repaired using like materials to existing materials.
- (12) **Gutters and downspouts.** Gutters and downspouts shall be maintained in good repair and shall be neatly located and securely installed.
- (13) **Chimneys, flues, and vent attachments.** Chimneys, flues, and vent attachments shall be maintained in a structurally sound manner, free from defects to capably perform the functions for which they were designed.
- (14) **Overhang extensions.** All overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored to remain in sound condition. All exposed surfaces of metal or wood shall be protected from the elements, decay or rust.
- (15) **Insect screens.** All windows and other outside openings required for ventilation of food preparation areas, food service areas, or any areas where products utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved

tightly fitting screens of not less than 16 mesh (16 mesh per 25 mm). Every swinging door shall have a self-closing device in good working condition.

(16) **Commercial parking areas/walkways.** Holes, excavations, breaks, projections or obstructions on walks, driveways, parking lots and parking areas and other parts of commercial premises which are accessible to and used by persons on the premises are prohibited. Deficiencies shall be repaired, replaced or removed as appropriate. The building official shall set a time for performance for the owner to comply with this subsection. This subsection applies to occupied and unoccupied property. All surfaces, including those of parking lots, shall be maintained free of glass, loose shingles, loose wood, crumbling stone or brick, asphalt, concrete, stucco, loose or broken plastic or other similar hazardous conditions.

(17) **Accessory structures.** Garages, storage buildings and all other accessory structures shall be maintained and kept in good repair and sound structural condition.

(18) **Swimming pools.** All swimming pools, spas and architectural pools, ponds or bodies of water shall be properly maintained so as not to create a safety hazard or harbor insect infestation. Water shall not be allowed to stagnate or to become polluted. All pools shall be free from unsightly appearance.

(19) **Rodent harborage.** All structures and exterior premises shall be kept free from rodent harborage and infestation. Where rodents are found, the owner shall promptly exterminate rodents through a process which will not be injurious to human health.

(20) **Grass, weeds and uncultivated vegetation.** All grasses or weeds, and uncultivated vegetation, shall not exceed 8 inches in height on improved property, including the area between the edge of the pavement in the street and the lot line.

(21) **Shrubbery, plants, and ground cover.** All premises shall be maintained in a condition to prevent erosion of soil by:

- a. Landscaping with grass, trees, shrubs or other planted ground cover; or
- b. Such other suitable means as shall be approved by the building official, City Manager or designee.

(22) **Trees.** Trees shall be maintained or removed as follows:

a. **Hazardous trees.** Dead, dying, damaged or diseased trees are prohibited. A finding by a registered forester or certified arborist employed by the city that a tree is in danger of falling upon an adjacent lot or street due to death, disease or damage, including damage caused by weather conditions, is prima facie evidence of a violation of this section.

b. **Prohibited conditions.** The following conditions are prohibited:

1. Trees, plants, shrubs, vegetation, or parts thereof, which (i) overhang any sidewalk, street, alley or fire hydrant, and (ii) obstruct or impair the free and full use of the sidewalk, street, alley or fire hydrant by the public.
2. Grass, weeds, shrubs, bushes, trees or vegetation which constitute a fire hazard or a menace to public health, safety or welfare.

c. **Removal of obstruction.** The owner of any premises shall trim trees, plants, shrubs or vegetation, or any parts thereof as follows: (i) which overhang any sidewalk, alley or street as determined by the building official, and (ii) which interfere with the use of any sidewalk, alley, street, poles, wires, pipes, fixtures or any other part of any public utility situated in the right-of-way.

(23) **Exterior lighting.** All outdoor lighting shall be in compliance with the following:

- a. Nonvehicular light sources that shine into the eyes of drivers of vehicles or pedestrians which could impair safe traverse are prohibited.
- b. All lighting shall be shielded and aimed at the owner's premises or sidewalk and street abutting the premises.

(24) **Fences and walls.** Fences and walls shall be maintained in a safe and structurally sound condition, in good repair with the surface coated or painted. Fences shall be free from loose or rotting materials. Metal fencing shall be free from rust or deterioration.

(25) **Floors, interior walls and ceilings.** All floors, interior walls and ceilings of every structure shall be maintained in a structurally sound manner and in a condition consistent with its use.

(26) **Miscellaneous elements.** All existing miscellaneous elements on building walls, roofs and surrounding premises, to include by way of example empty electrical or other conduits, or unused sign brackets, shall be removed.

(27) **Landscape maintenance.** Where landscape plans have been specifically incorporated and approved in a development plan, the landscape areas shall be maintained in a manner equal to the original landscaping approval.

Article II

22.06 Litter.

(1) Storage of litter.

- a. All commercial businesses shall store litter in containers to eliminate wind- driven debris. The number and size of receptacles for each commercial business shall be that number required to maintain a clean, neat, and sanitary premises. Spillage and overflow of litter around containers is a violation.
- b. Commercial businesses shall provide and maintain litter containers adequate to contain litter generated from such business at its loading and unloading zones.
- c. Commercial businesses open to the public shall provide and maintain containers adequate to contain litter generated from such business.
- d. Every person in possession or in control of any place, public or private, where litter is accumulated or generated shall provide and maintain adequate and suitable containers capable of holding such litter until proper final disposal is accomplished.

(2) **Depositing litter.** To throw, discard, place, drop, or deposit litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way or body of water within the limits of the city, except in such containers specifically provided and designated for the disposal of litter, is a violation. Litter strewn by a pedestrian except at approved and permitted disposal sites is a violation. Litter ejected or discarded from a motor vehicle except at approved and permitted disposal sites is a violation. Weeds, rubbish and unsanitary conditions is a violation.

(3) **Accumulation of litter.** Any accumulation of litter in or upon any property, vacant or improved, is deemed a nuisance and is prohibited. Failure to remove the accumulation by the property owner, tenant, occupant, agent, manager or other person who owns, maintains, or controls any premises or portion thereof, whether improved or unimproved, is a violation. Weeds, rubbish and unsanitary conditions is a violation.

22.07 Accessory structures. Garages, storage buildings and all other accessory structures shall be maintained in good repair and sound structural condition. Structures, attached or unattached to the principal structure, which are found by the building official to be structurally deficient, shall be repaired or demolished within

the timeframe set by the building official. Maintenance of accessory structures shall comply with the following:

- (1) The exterior of the building and premises to include but not limited to parking areas and landscaped areas shall be maintained in a sound, clean and neat condition.
- (2) Signs shall be maintained in good condition. Where the sign structure remains, the sign faces are to be replaced with blank panels (permit required). The design and color is subject to approval by the building official, City Manager or designee.
- (3) All advertising structures, awnings and accompanying supporting members shall be maintained in good repair and shall not constitute a nuisance or safety hazard. Advertising structures or awnings not properly maintained in accordance with this subsection shall be removed. Awnings or marquees made of cloth, plastic or a similar material shall not show evidence of tearing, ripping or holes. Upon removal of an advertising structure or awning, all supporting members shall be removed. Nothing in this subsection shall be construed to authorize any encroachments on streets, sidewalks or other parts of the public right-of-way.
- (4) Where parking areas are to be barricaded to prohibit vehicular travel, it shall be accomplished by installation of parking bumpers pinned to the pavement.

22.08 Responsibilities of owner and operator.

(a) It shall be the duty and responsibility of the operator and the owner to ensure compliance with the following:

- (1) All parts of the premises under the control of the owner or operator shall be maintained in a safe and sanitary condition consistent with the business use.
- (2) The owner or operator shall not perform any acts:
 - a. Which render other parts of the premises unsafe or unsanitary; or
 - b. Which obstruct any adjacent owner or operator from performing any duty required or maintaining the premises in a safe and sanitary condition.
- (3) Every owner or operator shall eliminate infestation of rodents or insects in and on the premises subject to the owner's or operator's control.
- (4) Every owner or operator shall maintain all plumbing fixtures in a safe and sanitary condition.
- (5) No litter shall be stored or accumulated on the premises unless placed in a container in compliance with solid waste regulations.
- (6) Upon learning of a defect or inoperable status of any facility, utility or equipment required under this Chapter which is the owner's responsibility, the operator shall provide written notice to the owner.

22.09 General maintenance.

- (a) **Nuisances and hazards.** Premises shall be maintained free of nuisances and any hazards to the safety of the occupants, customers or persons utilizing the premises or to pedestrians passing by.
- (b) **Walls exposed as a result of demolition.** Where a wall of a building is exposed as a result of demolition, the owner of the building shall have the wall with its doors, windows, vents or other similar openings closed with material of the type composing the wall. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked, and weatherproofed, if necessary, based on construction material, to prevent deterioration of the wall.

(c) **Storage of flammable or combustible materials.** There shall be no storage or accumulation of flammable or combustible liquids or other materials on the premises unless approved for storage by the regulations or the codes, and only in such quantities prescribed by the regulations.

(d) **Abandoned curb cuts.** Where curb cuts are abandoned due to new construction or change of access by the owner, the curb cut shall be closed and replaced by the owner with a standard sidewalk, curb and gutter design, to match original.

(e) **Sidewalks or curbs damaged by delivery vehicles.** Damage to public sidewalks or curb and gutter located in the public right-of-way shall be repaired or replaced by the owner at no expense to the city when such damage is caused by vehicles making deliveries to the commercial premises.

22.10 Applicability of standards to vacant buildings; securing of vacant buildings.

The provisions of this chapter that apply to the exterior premises include vacant structures. Vacant structures are not required to comply with the interior requirements of this chapter. All vacant structures shall be secured to prevent the entry of unauthorized persons or the formation of nuisance conditions. Securing a vacant structure may include boarding of the building as determined by the building official. If required by the building official, windows and doors shall be boarded by the owner and the boarding shall be maintained to keep the building secured. The design and color of boarding is subject to approval by the building official and shall be designed so that the building does not appear to be abandoned.

22.11 Unsightly conditions.

The following conditions are hereby deemed to be unsightly conditions and are prohibited. The following conditions are prohibited on any premises in the city:

- (1) Structures that are:
 - a. Partially destroyed; or
 - b. Left in a state of disrepair; or
 - c. Left in a state of partial construction beyond the valid timeframe of the permit.
- (2) Abandoned or broken equipment; broken or discarded furniture and household appliances in visible yard areas.
- (3) Building exteriors in a condition of deterioration or disrepair such that the condition causes measurable diminution of surrounding property values.
- (4) Property exteriors with trash, litter, debris, packing boxes, lumber, construction material, solid waste, horticulture debris, salvage materials, appliances, machinery, equipment and any furniture, excluding furniture specifically designed for outdoor use. Failure to maintain the premises in a clean, safe and sanitary condition is a violation. The owner and operator shall keep that part of the exterior property subject to its control or occupancy in a clean and sanitary condition.
- (5) Clotheslines visible from the street.
- (6) Garbage and trash containers stored in a manner visible from the street.

Article III

22.30 Demolition of commercial and residential buildings.

(a) A building in any zoning district may be demolished by the owner provided that the following requirements are met:

- (1) A demolition permit from the city manager shall be obtained.

(2) All sewer, gas, water and similar taps or connections shall be properly closed and disconnected in compliance with the regulations of the appropriate utility.

(3) All debris and litter from the building shall be removed from the site. This requirement is for the removal of all debris that is above the street level of the building.

(4) The lot shall be graded to a smooth, even, finished grade, free from building materials, debris, holes and depressions. Where building debris such as foundations remain on the site below street level, the owner shall backfill the lot with 12 inches of clean fill, which shall be graded to a smooth, even, finished grade.

(5) Where walls of adjacent buildings or a portion of existing buildings become exposed as a result of the demolition, all doors, windows, vents or other similar openings in the remaining walls shall be closed with material of the type composing the wall. No protrusions or loose material shall remain. The exposed wall shall be painted, stuccoed or bricked and weather-proofed to prevent deterioration of the wall and in a manner compatible with the remaining building.

(b) Prior to issuance of a demolition permit for a building where commercial activity is a permitted use, a performance bond or equivalent security shall be filed with the city, payable to the city, in the amount defined in subsections (b)(1) and (2) of this section. The performance bond or equivalent security shall be in a form acceptable to the city's attorney and shall be in an amount which is 115 percent of the cost estimate. The performance bond or equivalent security amount shall be based upon a certification by the contractor of the following:

(1) Total demolition: The amount to demolish the building, and remove all debris from the site, and disposal cost for the debris and grading the lot in compliance with the land development code; or

(2) Partial demolition: The amount to demolish the building, and remove all debris from the site, and disposal cost for the debris, grading the lot and the cost of additional construction or reconstruction so the exterior of any partially demolished building or building abutting an adjacent building that results in repair or reconstruction is in compliance with subsection (a) above.

(c) Where buildings in any zoning district are destroyed by fire, disaster or other acts of God, the requirements of this section shall apply.

22.31 Construction site management.

(a) **Construction site management plan required.** No building permit shall be issued unless a construction site management plan has been submitted and approved by the building official. Persons who intend to make any of the following improvements: lot clearing, grading, stockpiling of soil, demolition, building construction or reconstruction, building alteration or addition, shall designate either a licensed contractor or owner-builder for the purposes of the construction site management requirements. These requirements set minimum standards for the operation of the project site to eliminate or minimize impacts to the site and to the neighborhood to include containment of sediment, surface water discharge, erosion of soil, vehicle parking and loading area, traffic control, fencing, placement of materials, safety, neatness and cleanliness.

(b) **Submittal requirements.** The contractor shall submit a construction site management plan with a building permit application which includes the following submittal requirements unless waived by the building official:

(1) Location of proposed demolition.

(2) Grading and drainage surface water management plan for street and project site, including:
 a. Drainage plan during construction in compliance with subsection (d) of this section.

b. Final grading and drainage plan upon completion of construction for the street and project site in compliance with section 16-114 and subsections (d)(4) and (5) of this section.

(3) Parking plan, including:

a. Location of on-site and adjacent unpaved portion of the right-of-way parking and the maximum number of vehicles that will be parked along the unpaved portion of the right-of-way.

b. Off-site parking plan in compliance with subsection (e)(4) of this section and the following:

1. A single access with dimensions;
2. Buffering for adjacent waterways and streets, as approved by the building official;
3. A temporary fence location, height and type of fence with screening;
4. Narrative describing restoration of the lot and hours of operation.

c. Copy of city right-of-way permit for parking in right-of-way.

(4) Fencing plan, showing location, height and type of fence with screening or evidence that proposed construction does not warrant a construction fence in compliance with subsection (h) of this section as determined by the building official.

(5) Location of construction trailers, loading/unloading area and material storage area.

(6) Location of chemical toilets.

(7) Location of dumpster.

(8) Traffic control plan, including access with dimensions, area to be stabilized and a written plan on staging of construction related traffic during final phase of project including adequate parking (both on and off-site) and plan for delivery of materials.

(9) Location of any trees located within the public right-of-way that will be removed. (Removal of trees owned by the city is prohibited unless written approval from the city manager is provided.

(10) Other activities, where special conditions are identified by the building official.

(c) Approval of plan; waivers. The building official shall review, approve or deny the construction site management plan. The building official is hereby authorized to grant waivers from submittal requirements and corresponding standards which shall be reflected on the construction site management plan:

- (1) If the requirement is unrelated to proposed development;
- (2) If the impact of the proposed development is negligible in that submittal requirement area; or
- (3) If unusual site conditions do not allow full compliance with this section.

(d) Grading plan; grading and surface water management standards.

(1) **Grading.** The site shall be graded and maintained during construction in accordance with SID's standards:

- a. To prevent erosion of soil; and
- b. To control surface water discharge so that no water in excess of pre-construction discharge flows onto abutting property; and
- c. To prevent accumulation of stagnant water for the duration of construction.

(2) **Sediment fence.** The contractor shall install a sediment fence to protect adjacent properties, including lakes, canals and all other waterways, from discharges of soil, sediment, or construction-related material from the site unless a waiver is obtained from the building official.

(3) **Maintenance.** The contractor shall inspect and maintain all erosion and sediment control practices until construction is complete and the construction site is stabilized. A fence installed to maintain sediment control shall remain in an upright condition until final electrical inspection.

(4) **Final grading.** Final grading of the site shall be in compliance with the construction site management plan. The design shall ensure that no surface water in excess of the pre-construction amount shall flow onto abutting or adjacent properties. The design shall also ensure that the discharge of surface waters shall be off-site into an approved stormwater system.

(5) **Surface water.** Surface waters, including dewatering, shall be directed into an on-site settling basin or otherwise filtered before discharged off-site. Off-site discharge shall be directed to an approved surface water management system during construction and upon final grading of the project site. The contractor shall be responsible for removal of any silt, debris, and dirt that accumulates within the SID's stormwater management system, including swales, stormwater retention lakes, ponds, canals and waterways. Discharges of sediment into waters in the State of Florida is a violation of water quality and may result in enforcement action by the South Florida Water Management District, the state department of environmental protection or the City. Discharge of water from swimming pools under construction or completed into ponds, lakes, canals and waterways is prohibited.

(e) Parking during development of project.

(1) **Parking on-site.** The owner or contractor shall provide for parking on the project site to the greatest degree possible. Alternative parking sites may include the abutting paved portion of the right-of-way, adjacent vacant lot or offsite parking lots in the immediate area as approved in the construction site management plan.

(2) **Access.** Use of the any right-of-way for access to and from the project site as shown on the construction site management plan shall be strictly managed by the contractor. The contractor shall maintain the public street adjacent to the project site free of dirt, sand or any other debris resulting from construction activities. The any right-of-way adjacent to the project site shall be broom swept on a regular basis keeping it free of dirt, sand and other debris. Failure to remove said material on the day of occurrence is a violation.

(3) **Temporary graveled or stabilized area for construction access and parking.** The contractor shall provide a graveled or stabilized area as shown in the construction site management plan. The stabilized area shall be located at points where vehicles enter and exit the construction site and the parking location. When a right-of-way area is used for parking, the contractor shall provide a graveled or stabilized area on the right-of-way. Upon completion of the project, the contractor shall restore the right-of-way to its original condition or better. The purpose of the graveled or stabilized area at the entrance to the project site is to eliminate and reduce tracking or flow of sand, mud, concrete wash or other related material onto the right-of-way.

(4) **Parking in the right-of-way.** If the construction site requires the placement of equipment or materials on the paved portion of a right-of-way at any time during the construction, City or SID right-of-way permit is required.

(5) **Deliveries.** A construction site supervisor must be present whenever deliveries occur in the paved portion of the right-of-way to ensure that vehicles do not unreasonably obstruct vehicular traffic. Delivery of material that obstructs a roadway shall be limited to one vehicle at a time. The owner and contractor shall assume responsibility for any damage to the public right-of-way, sidewalk, roadway, and trees and take steps to correct the damage immediately.

(6) **Off-site parking.** The building official may temporarily permit off-site parking on vacant lots other than the project site with the written permission of the owner of the lot where the vehicles are to be parked and in compliance with the following standards:

- a. Compliance with the construction site management plan.
- b. The lot shall be used for parking only.
- c. There shall be no storage of materials, trailers or construction equipment.
- d. There shall be no loading and unloading of materials or machinery.
- e. The lot shall remain free of debris or trash.
- f. A temporary six-foot chain link fence with a single color fabric, either black or green, or other screening materials as approved by the building official shall be located at the front, side, and rear lot line of the temporary parking area except where a lot line is located on the water. Where a lot line is along the water, the fence shall be placed no closer to the water than the yard setback line and shall not exceed three feet in height. The fence gate shall remain locked during non-working hours. The fencing shall remain on-site until the off-site parking is no longer needed to complete the project site and shall be removed prior to issuance of a certificate of occupancy for the project site.

(g) **Material storage.** Material associated with the project site, including, shall be neatly stored on the site (within the fenced area when applicable). The storage of material shall not obstruct access to the structure under construction or create a public safety hazard. All loading or unloading of materials and/or equipment is limited to the construction site and right-of-way in compliance with this chapter (section (o)).

(h) **Construction fencing.** A project site which requires clearing, grading, stockpiling of materials, demolition, or construction shall have a construction fence. This requirement shall not apply to single family residential development.

- (1) The fence shall be a six-foot chain link fence with a green or black fabric.
- (2) The fence shall remain in place, upright and in good repair, throughout the period of construction activity and shall be removed when construction is completed.
- (3) The fence shall be installed along the side and rear lot lines (and along one of the two front yards of corner lots).
- (4) For properties located in the residential, mixed use or commercial zoning districts, the fence shall be installed along the front, side and rear lot lines.
- (5) **Fence Removal.** Fencing may be removed upon final grading and landscaping of the site or upon installation of an approved permanent fence or wall.

(6) **Major remodeling.** Major remodeling shall mean an increase in the building volume of 10,000 cubic feet or more, an increase in the building footprint of 1,000 square feet or more or new construction with a building footprint of 1,000 square feet or more. A construction fence is required for major remodeling as follows:

- a. A lot located in the residential, mixed use or commercial zoning districts shall contain a fence on the front, side and rear lot lines. Fencing may be removed upon final grading and landscaping or upon replacement with a permanent fence or wall;
- b. All other lots shall contain a fence on the side and rear lot lines. Fencing may be removed upon final grading and landscaping or upon replacement with a permanent fence or wall.

(7) **Major alteration.** Major alteration shall mean a change of 50 percent or more of the gross square footage of an existing structure for reconstruction, rehabilitation, removal of walls, or other improvement excluding replacement of the roof. A construction fence is required for major alteration as follows:

- a. A lot located in the residential, mixed use or commercial zoning districts shall contain a fence on the front, side, and rear lot lines. Fencing may be removed upon final electrical inspection.
- b. All other lots shall contain a fence on the side and rear lot lines. Fencing may be removed upon final grading and landscaping or upon replacement with a permanent fence or wall.

(8) Exception from six-foot height requirement where a construction fence is required and the property line is located on the water in any residential zoning district, that portion of the construction fence along the water may be reduced to three feet in height within the required yard along the waterfront.

(9) **Exception to installation of construction fence.** Where a construction fence would be required for a residential lot pursuant to subsection (1)b., (2)b. or (3)b. above and the owner or contractor obtains a construction fence waiver from the owner of the property that abuts the project site, the building official may waive the requirement for all or a portion of the construction fence but retains the right to require a construction fence at any time. The three-foot sediment fence will still be required.

(10) **Installation.** Installation of a construction fence shall occur prior to any construction activity or material deliveries. The fence shall not be placed so as to create a public safety hazard. Where the project site is enclosed by a fence, the fence gate shall be locked during non-working hours.

(h) **Signs.** A 12-inch by 18-inch sign shall be posted by the contractor on the project site in the location approved on the construction site management plan which is readable from the street. The sign shall contain the street address of the property, phone number for the City of Westlake and the name and phone number of the general contractor. The sign is exempt from section 7.10(b). This sign shall be maintained in a readable condition until completion of construction.

(1) The sign shall be located on the project property and shall be removed upon completion of the project.

(i) **Site cleanliness.** The owner or contractor shall have the entire construction site clean and free of debris at all times. Clean for purposes of this section means, without limitation, removal and placement into a dumpster of scrap lumber, concrete remnants and roof tile from the project site. The project site shall be free of all loose debris such as cans, metal, plastic and paper.

(j) **Temporary trailers.** When a temporary construction trailer is proposed and a construction fence is required, it shall be located on the project site within the fence at the location shown on the construction site management plan. No other trailers shall be parked on the right-of-way during the time of day in which construction is not permitted, nor shall they be parked on the unpaved portion of a right-of-way so as to obstruct the line of sight at intersections.

(k) **Chemical toilets.** Chemical toilets shall be located inside the project fence and accessible for servicing. Where a fence is not required, the contractor shall locate the

chemical toilet facing towards the rear of the project site and no further than 15 feet from the structure under construction except where another location has been authorized by the building official due to the size of the lot and ease of access to the chemical toilet.

(l) **Landscaping.** Damage to any landscaping on an abutting or adjacent property as a result of the construction shall be replaced and restored at the contractor's expense to its original condition. Failure to replace and repair is a violation.

(m) **Dumpsters.** Construction site dumpsters shall be located inside the fence. Where a fence is not required, it shall be located on the project site. The dumpster shall be emptied in a timely fashion so there is no overflow of debris or litter. Prior to a certificate of occupancy being issued, the dumpster shall be removed from the site.

(n) **Permitted days and hours for construction work.** The erection (including excavation), demolition, alteration or repair of any building or delivery of materials other than at the following times is prohibited. Such work must be accomplished on Monday through Saturday. No work may be conducted on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day.

(1) In residential areas: 7:00 a.m. to 7:00 p.m.

(2) In nonresidential areas: 6:30 a.m. to 7:00 p.m.

a. **Special construction activities.** Pile driving and steel erection activity shall be limited to Monday through Friday, excluding federal holidays, during the hours between 8:00 a.m. in the morning until 4:00 p.m. in the evening. Demolition activity shall be limited to Monday through Friday, excluding federal holidays, during scheduled work hours between 8:00 a.m. in the morning and 6:00 p.m. in the evening. Auger cast and hydraulic boring are excluded from this limitation.

b. **Permit for work during prohibited hours.** Any person may apply to the City Manager for a permit to operate during the hours or days prohibited under this section. If the City Manager or his designee shall determine that substantial loss or substantial inconvenience would result to any party in interest, and that the public health and safety will not be impaired by such operation, a permit may be issued which would allow work to occur during hours or days otherwise prohibited by this subsection. Notice of permit approval shall be provided by the city to adjacent property owners. The permit shall not exceed three days in duration, but may be renewed from time to time for a like period so long as the circumstances described in this subsection exist.

c. **Emergency and special types of construction.** Where ordinary and necessary trade or engineering practices or an emergency require the continuous operation of pumps, well points, dredges, draglines and other machinery of a like nature during the otherwise prohibited hours, a permit shall be required and such operation shall not constitute a violation of this subsection. It is not the intent of this subsection to require poor or wasteful engineering or building practices in order to comply herewith.

(o) **Construction-related traffic control.** A contractor, owner, vehicle operator or any person associated with the project site who impedes or obstructs the any right-of-way; or who parks, loads, unloads, or carries on any related activity on the public right-of-way shall also be in violation of this section unless such actions are consistent with an exception contained in section 36-93 of this Code. The construction is subject to a stop

work order and the permit is subject to suspension or revocation, in addition to any other remedy and/or penalties available at law to the City.

(p) **Requirements during weather emergency.** It is the responsibility of the owner and contractor to have removed construction materials from the project site or secured construction materials at the project site at least 48 hours prior to the predicted landfall of a tropical storm or hurricane until the time set forth in subsection (7) below.

(1) **Applicability.** At least 48 hours prior to the predicted landfall of a tropical storm or hurricane for any portion of Palm Beach County Florida, as determined by the National Weather Service, National Hurricane Center or appropriate weather agency or as provided in the city's emergency plan; or upon order of the building official in anticipation of a storm emergency; all construction materials, including roof tiles, on all project sites within the city shall be secured and stored onsite in a safe manner or removed so that no material can become a safety hazard with hurricane or tropical storm force winds.

(2) **Notice.** Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of an approaching tropical storm or a hurricane is hereby deemed notice to the owner or contractor. The owner and contractor are responsible for the project site by securing on-site or removing from the site any construction materials or debris to protect against the effect of hurricane or tropical storm force winds. By holding a building permit during hurricane season, the contractor shall monitor the National Weather Service and the National Hurricane Center for weather emergencies.

(3) **Inspection.** A pre-storm inspection shall be required for all active construction sites involving exterior work and/or exterior storage of materials. The owner and contractor shall be responsible for insuring that the construction site has passed inspection prior to the issuance of a tropical storm warning or hurricane warning. The owner or contractor shall be available by phone until the site has passed the pre-storm inspection. Failure to properly secure a job site and pass inspection will be considered a violation of this ordinance. The city may recover as costs of repairs or compliance, the costs associated with securing job sites that have not complied with this section in addition to any fines imposed by the Special Magistrate. And such costs shall constitute a lien on the property.

(4) **Materials stockpiled on site.** Materials stockpiled on any construction site shall be handled as follows:

- a. Band construction materials together and fasten them to the structure in such a manner to prevent the material from becoming airborne during a tropical storm or hurricane; or
- b. Remove construction materials from the top of the structure and secure them to the ground; or
- c. Remove construction materials from the project site; or
- d. Store construction materials inside a structure if said structure is secure from tropical or hurricane force wind loads.

(5) The contents of construction site dumpsters must be removed or weighted and secured with rope, mesh or other durable, wind resistant material.

(6) Portable toilets shall be secured to the structure, dumpster or emptied and laid horizontal and secured to the ground.

(7) During the National Weather Service designated hurricane season, building or roofing materials shall not be loaded on a roof earlier than ten working days prior to the permanent installation of the materials.

(8) Material capable of becoming airborne. Construction materials, debris or any material capable of becoming airborne shall remain secured and stored on the project site or shall be removed from the project site until the National Weather Service, National Hurricane Center, or the city through local action has removed all persons of the city from those areas included in a tropical storm warning or hurricane warning. Contractors shall not resume construction on any construction site until the site is brought into compliance with the construction site management plan.

22.32 Designation of administrator; inspections; right of entry.

(a) It shall be the duty and responsibility of the building official to enforce this chapter and to proceed against each and every person found in violation of the requirements of this chapter.

(b) All inspections, regulations and enforcement of violations of the provisions of this chapter, unless expressly stated to the contrary, shall be under the direction and supervision of the building official.

(c) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter such building, structure or premises at all lawful times to inspect the same or to perform any duty imposed upon the building official by this chapter. If such building or premises are occupied, the building official shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

(d) When the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this chapter.

22.33 Violations; penalty.

(a) Penalty. Any person, firm, owner, contractor or agent who violates or fails to comply with any provision of this chapter shall be subject to the enforcement procedures and penalties set forth in Chapter 9, entitled Code Compliance.

(b) Stop work order; order to abate. Additionally, where a violation relates to any construction or condition for which a permit has been issued, or is subject to issuance, the violation may be enforced by the building official or designee through the issuance of a stop work order in accordance with the procedures set forth in the Florida Building Code; or an order to repair, restore or demolish the work, to vacate the premises, or otherwise to abate the violation enforceable.

(c) Nuisance. Any violation of this chapter is subject to abatement as a public nuisance.

(d) Chapter provisions. The provisions of this Chapter are cumulative with and in addition to any other remedy provided by law.

22.34 Pollution Control:

F.S. § 403.182 authorizes each municipality to administer and establish local pollution control programs in compliance with F.S. ch. 403 and provides among other things that the local pollution control programs must provide by ordinance requirements compatible with or stricter than those imposed by F.S. ch. 403, and the regulations issued thereunder.

(b) It is declared to be the public policy of the city and the purpose of this section to achieve and maintain the levels of air quality that will protect human health and safety, to the greatest degree practicable, prevent injury to plant and animal life, foster and protect the comfort and convenience of the people, promote the economic and social development of the community and facilitate the enjoyment of the natural attributes of this community.

22.35 - Prohibited on Public Streets and Sidewalks:

It shall be unlawful for the owner or occupant of any building, structure, or premises in the city to cause, allow or permit any smoke, dust, steam, odors, fumes, liquids, or other obnoxious matter or things to emanate therefrom over and upon any public street or sidewalk in the city, unless the same shall be so deflected away from persons using the streets or sidewalks as not to annoy, vex, irk, or bother persons in the use thereof.

(a) Any vents, exhaust fans, pipes, flues, or other appurtenances or parts of any building or structure, including those heretofore or hereafter installed or constructed, shall not be used or permitted to be used unless and until the same shall have been so remodeled, reconstructed, erected, or installed in a way that smoke, dust, steam, odors, fumes, fluids, or other obnoxious matters or things thereby discharged into the air and toward the ground shall be directed and deflected away from persons using the city's public streets and sidewalks in a manner as not to annoy, vex, irk, or bother.

Article IV**22.50 – Noise and Inoperable Vehicles****22.51 - Shouting and yelling.**

From 10:00 p.m. on each day from Sunday through Thursday through 7:00 a.m. on the next day, from 12:00 a.m. on Friday through 7:00 a.m. on Saturday, and from 12:00 a.m. on Saturday through 12:00 noon on Sunday, no person on property within a residential district or a conservation district within the city shall yell, shout, or otherwise verbally create noise, either individually or in concert with other persons at the same time and place, that can be heard at a distance of more than seventy-five feet from the boundary line of such property.

22.52 Loudspeakers, amplifiers, and sound trucks.

(a) No person shall, either as principal, agent, or employee, play, use, or operate for any purpose whatsoever, on or upon the public streets, alleys, parks, or thoroughfares in the city, any device known as a sound truck, loudspeaker, or sound amplifier, or any other electronic or mechanical device with a loudspeaker or sound amplifier, or any other instrument known as a calliope, which is attached to or located upon any vehicle or other device, equipment, or mechanism capable of moving or being moved upon the streets or public places of the city and which emits noise intended to be heard by persons other than those occupying the vehicle or other device, equipment, or mechanism on which such loudspeaker, sound amplifier, or other instrument is attached or located.

(b) An exception to the provisions of this section may be permitted for public or charitable purposes after written permission for same is granted by the city, provided that use shall not be permitted before 7:00

a.m. or after 7:00 p.m. and use shall not be permitted within 1/2 mile of any hospital nor within 1/2 mile of any school or church while it is in session.

22.53 Distribution restricted.

It shall be unlawful for any person to distribute or give out any handbills, tickets, samples, or merchandise or other kind of advertising matter, unless the person is a licensed billposting agency. However, this section shall not be construed to prevent persons from distributing advertisements of their own business through the United States mail.

22.54 Placement in automobiles, private yards, etc., prohibited.

It shall be unlawful for any person to give to another or attempt to give to another any handbill, ticket, sample, or other advertising matter upon any public street, alley, park, or other public way or place within the city, or to pass the same from private property to any person on any street, alley, park, or other public way or place, or to place the advertising matter in any automobile belonging to another within the corporate limits of the city, or to throw or leave the same in any private yard or upon private property so that the same may be blown or scattered upon private or public property.

- (1) **Litter Compliance Officers:** Pursuant to the provisions of Section 403.413, Florida Statutes, the "Florida Litter Law," the code compliance officers are designated as litter compliance officers of the City, for the purposes of enforcing Section 403.413, Florida Statutes. Such designated code compliance officers are appointed as litter enforcement officers.

22.55 Nuisance Declared.

The allowing of an inoperable motor vehicle to remain on private property outside of a garage or carport for a continuous period of fifteen days or more shall be declared a public nuisance. The only exceptions shall be when such vehicle is located on the premises of a duly licensed garage or repair facility and/or a junk yard which is in conformance with the zoning regulations. Prima facie evidence of such public nuisance shall be lack of display of the state current license plate on the vehicle, lack of engine in vehicle or parts missing therefrom and conditions causing vehicle to be inoperable; such as, vehicle damaged or flat tire.

22.56 Abandoned Property on Public Property

22.57 Duty of police; notification; prima fade evidence.

(a) When any personal property which is not covered by the procedure required in F.S. § 705.101 et seq. shall remain upon any public street or other public way, public park, or other public grounds of the city for a continuous period of 48 hours or more, that personal property shall be taken possession of by the City Manager, Code Compliance Officer, or their designee and stored at some convenient place. If the owner of the personal property is known, he shall at once be notified that the personal property is in the custody of the City and directed to repossess that personal property.

(b) The leaving of any personal property on any public street or other public way, park, or other public place within the city for a continuous period of 48 hours shall be prima facie evidence that the personal property has been abandoned.

22.58 Sale of property; certificate of sale.

(a) If the residence or address of the owner or any person holding a lien upon the personal property coming under this division cannot be ascertained, or if the owner or person holding a lien upon the personal property fails to take possession of the personal property within ten days after the mailing of notice hereinbefore provided for, the personal property shall be sold at public outcry by the City Manager at some place within the city, but, prior to the sale, a notice of the sale shall be posted in three conspicuous places in the city at least ten days prior to the date of sale. The notice shall give the time

and place of sale and describe the personal property to be sold. A copy of the notice shall be mailed to the owner and each person holding a lien on the personal property, if their address is known, at least ten days before the date of the sale. The city shall not guarantee title to the personal property or to deliver a title of ownership, but shall furnish the purchaser a certificate in substantially the following form.

Certificate No. _____

CERTIFICATE OF SALE
CITY OF WESTLAKE, FLORIDA

THIS IS TO CERTIFY that the following described personal property was abandoned in the City of Westlake, Florida, and was placed in the custody of the City Manager, where it was held for 20 days, after which time, it having been impossible to find the owner of the same, or found he failed to repossess same, this personal property was sold to the highest bidder after legal advertisement.

This Certificate of Sale is therefore issued to _____, residing at _____

DESCRIPTION OF PROPERTY _____

MAKE _____

YEAR _____

ENGINE NO. OR I.D. NO. _____

CHASSIS NO. _____

DATED AT WESTLAKE, FLORIDA, THIS _____ DAY OF _____, 20____

City Manager

This form to be in duplicate, the original given to the purchaser and the duplicate bound in a book.

22.59 Repossession by owner.

The owner or any person having a lien upon the personal property may take possession of same at any time prior to the sale, provided for in _____ but that person shall reimburse the city for all reasonable expenses for storage, advertising, or other expense incurred in connection therewith.

22.60 Disposition of proceeds of sale.

(a) If any personal property shall be sold as above provided, the proceeds of the sale after paying all the costs actually expended for advertising or otherwise in the sale shall be deposited in the general fund of the city. In addition to the expense actually incurred, the city shall be allowed five percent on the gross receipts of the sale as compensation for caring for the property and making the sale, which amount shall also be paid into the general fund of the city.

(b) The proceeds of any sale paid into the general fund shall not be expended or disbursed for 90 days after the date of the sale, and at any time during that period the owner or any person having an interest in the personal property may, upon making proof of the ownership or interest, recover back from the fund the proceeds of the sale, less five percent as provided by subsection (a) of this section plus all the expenses of caring for the personal property, advertising, and making the sale.

22.61 Penalty.

(a) In accordance with section and F.S. § 162.09, the code compliance board of the city is hereby granted jurisdiction for enforcement of section and shall have the power to impose a fine in the maximum sum of \$250.00 per day for a first violation and a maximum fine of \$400.00 per day for a repeat violation.

(b) Whoever violates any provisions of this Chapter for which another penalty is not already otherwise provided, shall be subject to the penalty provisions set forth in.

Section 3. Conflicts Clause:

Section 4. Severability: Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

Section 5. Codification: It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance, entitled "**Property Maintenance**" shall become and be made a part of the Code of Ordinances for the City of Westlake, Florida and the sections of this ordinance may be re-numbered or re-lettered to accomplish such intentions, and the word "ordinance" shall be changed to "section" or other appropriate word.

Section 6. Effective Date: This ordinance shall be effective upon adoption on second reading.

PASSED this 4th day of November 2019, on first reading.

PASSED AND ADOPTED this 9th day of December 2019, on second reading.

City of Westlake
Roger Manning, Mayor

Sandra Demarco, City Clerk

Approved as to form and Sufficiency

Pam E. Booker, City Attorney

Fourteenth Order of Business

November 4, 2019

RESOLUTION 2019-38

A RESOLUTION OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, APPROVING THE FINAL PLAT FOR CHRIST FELLOWSHIP CHURCH, INC. BEING DESCRIBED AS A REPLAT OF ALL OF OPEN SPACE TRACT #1, WATERS EDGE DRIVE, PLAT BOOK 128, PAGES 29 AND 30 AND A PORTION OF OPEN SPACE TRACT #1, ILEX WAY PHASE III, PLAT BOOK _____, PAGES _____ THROUGH _____ INCLUSIVE, BOTH IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, CITY OF WESTLAKE, PALM BEACH COUNTY, FLORIDA, AND PROVIDING FOR RECORDATION.

WHEREAS, Minto PBLH, LLC, a Florida Limited Liability Company, as the Applicant has requested approval for the Christ Fellowship Church, described by metes and bounds, a Replat of all of Open Space Tract #1, Waters Edge Drive, Plat Book 128, Pages 29 and 30 and a portion of Open Space Tract #1, Ilex Way Phase III, Plat Book _____, Pages _____ Through _____ inclusive, both in the Public Records of Palm Beach County, Florida, lying in Section 12, Township 43 South, Range 40 East, City of Westlake, Palm Beach County, Florida, as described in Exhibit "A", containing approximately 12.77 acres, attached hereto; and

WHEREAS, the City of Westlake has the exclusive jurisdiction to approve the plat pursuant to Florida Statutes, §177.071; and

WHEREAS, the application has been reviewed and approved by a Professional Surveyor and Mapper for the City of Westlake, and said Surveyor and Mapper has found the application to be consistent with the requirements under Florida Statutes, Chapter 177; and

WHEREAS, the Building staff, Engineering staff and Planning staff for the City of Westlake have reviewed the application, the final plat and the boundary survey, and the collective staff has recommended approval; and

WHEREAS, after careful review and consideration, the collective staff has determined that this application has complied with the Palm Beach County Unified Land Development Codes and Florida law.

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

- Section 1:** The above recitals are true and correct and are incorporated herein by this reference.
- Section 2:** The City Council for the City of Westlake hereby approves the final plat and boundary survey for the Christ Fellowship Church as described in the attached Exhibit "A" containing approximately 12.77 acres, which is located in the City of Westlake, and in Palm Beach County, Florida.
- Section 3.** The applicant shall provide a certified copy of the recorded plat and the applicant shall cover the costs of recording the plat in the public records in and for Palm Beach County Florida.

PASSED AND APPROVED by City Council for the City of Westlake, on this 4th day of November 2019.

City of Westlake
Roger Manning, Mayor

Sandra DeMarco, City Clerk

Approved as to Form and Sufficiency
Pam E. Booker, City Attorney

EXHIBIT 'A'
Legal Description
Christ Fellowship Church

A PARCEL OF LAND LYING IN SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, CITY OF WESTLAKE, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 40 EAST; THENCE S01°33'05"W ALONG THE EAST LINE OF SAID SECTION 1, A DISTANCE OF 250.33 FEET TO A POINT ON THE NORTH LINE OF THE 80 FOOT M-CANAL EASEMENT AS RECORDED IN DEED BOOK 1156, PAGE 58 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND AS SHOWN IN ROAD PLAT BOOK 6, PAGE 136 OF SAID RECORDS, AND AS MONUMENTED; THENCE S88°36'57"W ALONG SAID NORTH LINE OF THE 80 FOOT M-CANAL EASEMENT, A DISTANCE OF 3776.52 FEET TO A POINT ON THE EAST RIGHT OF WAY LINE OF SEMINOLE PRATT WHITNEY ROAD AS RECORDED IN OFFICIAL RECORD BOOK 1544, PAGE 378 AND OFFICIAL RECORD BOOK 1640, PAGE 1626 BOTH OF SAID PUBLIC RECORDS; THENCE S01°42'52"W ALONG SAID EAST RIGHT OF WAY LINE OF SEMINOLE PRATT WHITNEY ROAD, A DISTANCE OF 7849.61 FEET; THENCE DEPARTING SAID EAST RIGHT-OF-WAY LINE S88°17'08"E, DISTANCE OF 22.00 FEET TO THE POINT OF BEGINNING.

STARTING FROM SAID POINT OF BEGINNING THENCE S88°17'08"E, A DISTANCE OF 1,255.43 FEET; THENCE S01°42'52"W, A DISTANCE OF 80.85 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 1,000.00 FEET AND A CENTRAL ANGLE OF 01°09'20"; THENCE SOUTHERLY ALONG THE ARC A DISTANCE OF 20.17 FEET; THENCE S02°52'12"W, A DISTANCE OF 172.79 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 1,000.00 FEET AND A CENTRAL ANGLE OF 01°07'49"; THENCE SOUTHERLY ALONG THE ARC A DISTANCE OF 19.73 FEET; THENCE S01°44'23"W, A DISTANCE OF 106.52 FEET TO A POINT OF CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 89°58'29"; THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 78.52 FEET; THENCE N88°17'08"W, A DISTANCE OF 192.32 FEET; THENCE N75°52'41"W, A DISTANCE OF 51.20 FEET; THENCE N88°17'08"W, A DISTANCE OF 381.43 FEET; THENCE S46°42'52"W, A DISTANCE OF 15.56 FEET; THENCE N88°17'08"W, A DISTANCE OF 208.38 FEET; THENCE N74°47'23"W, A DISTANCE OF 51.42 FEET; THENCE N88°17'08"W, A DISTANCE OF 290.37 FEET; THENCE N43°17'08"W, A DISTANCE OF 42.43 FEET; THENCE N01°42'52"E, A DISTANCE OF 104.12 FEET; THENCE N15°09'54"E, A DISTANCE OF 51.59 FEET; THENCE N01°42'52"E, A DISTANCE OF 253.70 FEET TO THE POINT OF BEGINNING.

12.771 ACRES, MORE OR LESS

CHRIST FELLOWSHIP CHURCH, INC.

A SUBDIVISION BEING IN PART A REPLAT OF ALL OF O.S.T. #1, WATERS EDGE DRIVE, PLAT BOOK 128, PAGES 29 AND 30 AND A PORTION OF O.S.T.#1, ILEX WAY PHASE III, PLAT BOOK _____, PAGES _____ THROUGH _____ INCLUSIVE, BOTH IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA LYING IN SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, CITY OF WESTLAKE, PALM BEACH COUNTY, FLORIDA.

DEDICATION AND RESERVATIONS:

KNOW ALL MEN BY THESE PRESENTS THAT MINTO PBLH, LLC, A FLORIDA LIMITED LIABILITY COMPANY, OWNER(S) OF THE LAND SHOWN AND DESCRIBED HEREON AS CHRIST FELLOWSHIP CHURCH WEST CAMPUS, A SUBDIVISION BEING IN PART A REPLAT OF ALL OF O.S.T. #1, WATERS EDGE DRIVE, PLAT BOOK 128, PAGES 29 AND 30 AND A PORTION OF O.S.T.#1, ILEX WAY PHASE III, PLAT BOOK _____, PAGES _____ THROUGH _____ INCLUSIVE, BOTH IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND BEING IN PART A REPLAT OF ALL OF O.S.T. #1, WATERS EDGE DRIVE, PLAT BOOK 128, PAGES 29 AND 30 AND A PORTION OF O.S.T.#1, ILEX WAY PHASE III, PLAT BOOK _____, PAGES _____ THROUGH _____ INCLUSIVE, BOTH IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA, LYING IN SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, CITY OF WESTLAKE, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 43 SOUTH, RANGE 40 EAST; THENCE S01°33'05"W ALONG THE EAST LINE OF SAID SECTION 1, A DISTANCE OF 250.33 FEET TO A POINT ON THE NORTH LINE OF THE 60 FOOT M-CANAL EASEMENT AS RECORDED IN DEED BOOK 1156, PAGE 58 OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA AND AS SHOWN IN ROAD PLAT BOOK 6, PAGE 136 OF SAID RECORDS, AND AS MONUMENTED; THENCE S86°39'57"W ALONG SAID NORTH LINE OF THE 60 FOOT M-CANAL EASEMENT, A DISTANCE OF 3776.52 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SEMINOLE PRATT WHITNEY ROAD AS RECORDED IN OFFICIAL RECORD BOOK 1944, PAGE 378 AND OFFICIAL RECORD BOOK 1640, PAGE 1628 BOTH OF SAID PUBLIC RECORDS; THENCE S01°42'52"W ALONG SAID EAST RIGHT-OF-WAY LINE OF SEMINOLE PRATT WHITNEY ROAD, A DISTANCE OF 7849.60 FEET; THENCE DEPARTING SAID EAST RIGHT-OF-WAY LINE S88°17'08"E, A DISTANCE OF 22.00 FEET TO THE POINT OF BEGINNING.

STARTING FROM SAID POINT OF BEGINNING THENCE S68°17'08"E, A DISTANCE OF 1,555.43 FEET TO THE WEST RIGHT-OF-WAY LINE OF ILEX WAY AS SHOWN ON THE PLAT OF ILEX WAY PHASE III; THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING FIVE COURSES: S01°42'52"W, A DISTANCE OF 803.98 FEET TO A POINT OF CURVE, TO THE RIGHT, HAVING A RADIUS OF 1,000.00 FEET AND A CENTRAL ANGLE OF 01°02'05"; THENCE SOUTHERLY ALONG THE ARC A DISTANCE OF 201.7 FEET; THENCE S02°52'12"W, A DISTANCE OF 172.79 FEET TO A POINT OF CURVATURE OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,000.00 FEET AND A CENTRAL ANGLE OF 01°17'49"; THENCE SOUTHERLY ALONG THE ARC AND A DISTANCE OF 187.1 FEET; THENCE S01°42'52"W, A DISTANCE OF 64.89 FEET TO THE NORTH BOUNDARY OF THE PLAT OF WATERS EDGE DRIVE AS SHOWN ON SAID PLAT; THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE AND ALONG THE WEST AND NORTH RIGHT-OF-WAY LINES AS SHOWN ON SAID PLAT OF WATERS EDGE DRIVE OR THE FOLLOWING NINE COURSES: S01°44'21"W, A DISTANCE OF 41.83 FEET TO A POINT OF CURVATURE OF A CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET AND A CENTRAL ANGLE OF 69°38'29"; THENCE SOUTHWESTERLY ALONG THE ARC A DISTANCE OF 78.52 FEET; THENCE N89°17'08"W, A DISTANCE OF 192.32 FEET; THENCE N75°54'47"W, A DISTANCE OF 51.20 FEET; THENCE N89°17'08"W, A DISTANCE OF 381.43 FEET; THENCE S84°23'52"W, A DISTANCE OF 15.56 FEET; THENCE N89°17'08"W, A DISTANCE OF 208.38 FEET; THENCE N74°47'23"W, A DISTANCE OF 51.42 FEET; THENCE N89°17'08"W, A DISTANCE OF 290.37 FEET TO THE EAST RIGHT-OF-WAY LINE OF SEMINOLE PRATT WHITNEY ROAD; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE THE FOLLOWING FOUR COURSES: N43°17'08"W, A DISTANCE OF 42.43 FEET; THENCE N01°42'52"E, A DISTANCE OF 104.12 FEET; THENCE N15°09'54"E, A DISTANCE OF 51.59 FEET; THENCE N01°42'52"E, A DISTANCE OF 253.71 FEET TO THE POINT OF BEGINNING. CONTAINING 12.77 ACRES, MORE OR LESS.

HAS CAUSED THE SAME TO BE SURVEYED AND PLATED AS SHOWN HEREON AND DO HEREBY DEDICATE AND RESERVE AS FOLLOWS:

UTILITY EASEMENTS
ALL UTILITY EASEMENTS DESCRIBED ON THE PLAT ARE PRIVATE NON-EXCLUSIVE EASEMENTS UNLESS EXPRESSLY STATED OTHERWISE THEREIN. ALL UTILITY RIGHTS AND EASEMENTS ESTABLISHED BY OR RESERVED BY THIS PLAT ARE HEREBY RESERVED TO THE SEMINOLE IMPROVEMENT DISTRICT, (A LOCAL UNIT OF SPECIAL PURPOSE GOVERNMENT ESTABLISHED PURSUANT TO CHAPTERS 189 AND 298, FLORIDA STATUTES, AS A PUBLIC UTILITY PROVIDER OF WATER, SEWER AND RECLAIMED WATER), ITS SUCCESSORS AND ASSIGNS, SUBJECT TO THOSE CERTAIN RESTRICTIONS OF RIGHTS, COVENANTS AND DEDICATIONS AS MAY HEREAFTER BE IMPOSED BY GRANTOR, PROVIDED FURTHER SAID GRANTS OR ASSIGNMENTS SHALL NOT BE DEEMED A PUBLIC DEDICATION OF SAID RIGHTS OR EASEMENTS. THE SEMINOLE IMPROVEMENT DISTRICT SHALL HAVE THE RIGHT TO GRANT OTHER UTILITY PROVIDERS THE ABILITY TO USE THE EASEMENT, IN ITS SOLE DISCRETION.

IN FURTHERANCE OF THE FOREGOING, THERE IS HEREBY GRANTED TO FLORIDA POWER & LIGHT COMPANY, A FLORIDA CORPORATION, ITS AFFILIATES, LICENSEES, AGENTS, SUCCESSORS AND ASSIGNS (FPL), A NON EXCLUSIVE EASEMENT FOREVER OVER, UNDER, IN, ON, UPON AND ACROSS THE UTILITY EASEMENTS DESCRIBED ON THE PLAT, FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF UNDERGROUND ELECTRIC UTILITY FACILITIES (INCLUDING CABLES, CONDUITS, APPURTENANT EQUIPMENT, AND APPURTENANT ABOVE GROUND EQUIPMENT) TO BE INSTALLED FROM TIME TO TIME TOGETHER WITH THE RIGHT TO PERMIT FPL TO ATTACH OR PLACE WIRES TO OR WITHIN ANY FACILITIES HEREUNDER AND LAY CABLES AND CONDUITS WITHIN THE EASEMENT AREA AND TO OPERATE THE SAME FOR FPL'S COMMUNICATIONS PURPOSES IN CONNECTION WITH ELECTRIC SERVICE AND THE RIGHT OF INGRESS AND EGRESS TO THE UTILITY EASEMENTS AT ALL TIMES.

TRACT 1
TRACT 1, AS SHOWN HEREON, IS HEREBY RESERVED FOR MINTO PBLH, LLC, A FLORIDA LIMITED LIABILITY COMPANY, ITS SUCCESSORS AND ASSIGNS, FOR FUTURE DEVELOPMENT AND PURPOSES CONSISTENT WITH THE ZONING REGULATIONS OF THE CITY OF WESTLAKE, FLORIDA, AND ARE THE PERPETUAL MAINTENANCE OBLIGATION OF SAID MINTO PBLH, LLC, ITS SUCCESSORS AND ASSIGNS, WITHOUT RECOURSE TO THE CITY OF WESTLAKE.

IN WITNESS WHEREOF, MINTO PBLH, LLC, A FLORIDA LIMITED LIABILITY COMPANY, HAS CAUSED THESE PRESENTS TO BE SIGNED BY ITS MANAGER AND ITS COMPANY SEAL TO BE AFFIXED HERETO BY AND WITH THE AUTHORITY OF ITS MEMBERS THIS _____ DAY OF _____ 2019.

WITNESS: _____ **MINTO PBLH, LLC, A FLORIDA LIMITED LIABILITY COMPANY**
PRINT NAME: _____ **BY:** _____
_____ **JOHN F. CARTER, MANAGER**
PRINT NAME: _____

ACKNOWLEDGMENT:

STATE OF FLORIDA
COUNTY OF PALM BEACH
BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED JOHN F. CARTER, WELL KNOWN TO BE THE MANAGER OF MINTO PBLH, LLC, A FLORIDA LIMITED LIABILITY COMPANY, AND HE ACKNOWLEDGED THAT HE EXECUTED SUCH CERTIFICATE OF OWNERSHIP AND DEDICATION AS MANAGER OF SAID COMPANY AND THAT IT IS THE FREE ACT AND DEED OF SAID LIMITED LIABILITY COMPANY. HE IS PERSONALLY KNOWN TO ME OR HAS PRODUCED _____ AS IDENTIFICATION.

WITNESS MY HAND AND OFFICIAL SEAL THIS _____ DAY OF _____ 2019.

NOTARY PUBLIC STATE OF FLORIDA
PRINTED NAME: _____
COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

ACCEPTANCE OF RESERVATIONS

STATE OF FLORIDA
COUNTY OF PALM BEACH
SEMINOLE IMPROVEMENT DISTRICT, AN INDEPENDENT SPECIAL DISTRICT OF THE STATE OF FLORIDA, HEREBY ACCEPTS THE DEDICATIONS AND RESERVATIONS TO SAID DISTRICT AS STATED AND SHOWN HEREON, AND ITS MAINTENANCE OBLIGATIONS FOR SAME, AND HEREBY JOINS IN AND CONSENTS TO THE UTILITY EASEMENTS DEDICATION DATED THIS _____ DAY OF _____ 2019.

WITNESS: _____ **SEMINOLE IMPROVEMENT DISTRICT, AN INDEPENDENT SPECIAL DISTRICT OF THE STATE OF FLORIDA**
PRINT NAME: _____
WITNESS: _____ **BY:** _____
_____ **SCOTT MASSEY, PRESIDENT**

ACKNOWLEDGMENT:

STATE OF FLORIDA
COUNTY OF _____
BEFORE ME PERSONALLY APPEARED SCOTT MASSEY WHO IS PERSONALLY KNOWN TO ME, OR HAS PRODUCED _____ AS IDENTIFICATION, AND WHO EXECUTED THE FOREGOING INSTRUMENT AS PRESIDENT OF SEMINOLE IMPROVEMENT DISTRICT, AND SEVERALLY ACKNOWLEDGED TO AND BEFORE ME THAT HE EXECUTED SUCH INSTRUMENT AS SUCH OFFICER OF SAID DISTRICT, AND THAT THE SEAL AFFIXED TO THE FOREGOING INSTRUMENT IS THE DISTRICT SEAL OF SAID DISTRICT AND THAT IT WAS AFFIXED TO SAID INSTRUMENT BY DUE AND REGULAR STATUTORY AUTHORITY, AND THAT SAID INSTRUMENT IS THE FREE ACT AND DEED OF SAID DISTRICT.

WITNESS MY HAND AND OFFICIAL SEAL THIS _____ DAY OF _____ 2019.

NOTARY PUBLIC STATE OF FLORIDA
PRINTED NAME: _____
COMMISSION NUMBER: _____
MY COMMISSION EXPIRES: _____

TITLE CERTIFICATION

STATE OF FLORIDA
COUNTY OF BROWARD
WE, FOUNDERS TITLE, A TITLE INSURANCE COMPANY, AS DULY AUTHORIZED TO DO BUSINESS IN THE STATE OF FLORIDA DO HEREBY CERTIFY THAT WE HAVE EXAMINED THE TITLE TO THE HEREON DESCRIBED PROPERTY, THAT WE FIND THE TITLE TO THE PROPERTY IS VESTED IN MINTO PBLH, LLC, THAT THE CURRENT TAXES HAVE BEEN PAID, AND THAT ALL PALM BEACH COUNTY SPECIAL ASSESSMENT ITEMS, AND ALL OTHER ITEMS HELD AGAINST SAID LANDS HAVE BEEN SATISFIED, THAT ALL MORTGAGES NOT SATISFIED OR RELEASED OF RECORD NOR OTHERWISE TERMINATED BY LAW ARE SHOWN HEREON, AND THAT THERE ARE ENCUMBRANCES OF RECORD BUT THOSE ENCUMBRANCES DO NOT PROHIBIT THE CREATION OF THE SUBDIVISION DEPICTED BY THIS PLAT.

BY: _____ **HARRY BINHE**
PRESIDENT, FOUNDERS TITLE
DATED THIS _____ DAY OF _____ 2019.

CITY OF WESTLAKE'S APPROVAL

THIS CERTIFIES THAT THIS PLAT HAS BEEN ACCEPTED AND APPROVED BY THE CITY COUNCIL FOR THE CITY OF WESTLAKE BY A RESOLUTION DULY ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____ 2019, IN ACCORDANCE WITH CHAPTER 177, F.S., AND HAS BEEN REVIEWED BY A PROFESSIONAL SURVEYOR & MAPPER EMPLOYED BY THE CITY OF WESTLAKE IN ACCORDANCE WITH CHAPTER 177, F.S.

BY: _____ **BY:** _____
KEN CASSEL, CITY MANAGER _____ **ROGER MANNING, CITY MAYOR**

| | | | |
|--|---------------------------|-------------------------------|----------|
| MINTO PBLH, LLC, A FLORIDA LIMITED LIABILITY COMPANY | CITY OF WESTLAKE APPROVAL | SEMINOLE IMPROVEMENT DISTRICT | SURVEYOR |
| | | | |



SURVEYORS' NOTES

1. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.
2. BEARINGS SHOWN HEREON ARE BASED ON THE NORTH BOUNDARY OF SECTION 6, TOWNSHIP 43 SOUTH, RANGE 41 EAST, HAVING A GRID BEARING OF S38°44'52"E. BEARINGS SHOWN HEREON, REFER TO THE STATE PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983 (NAD 83 / 07) FOR THE EAST ZONE OF FLORIDA. SAID BASIS OF BEARING IS THE SAME IN THE NORTH AMERICAN DATUM OF 1983 (NAD 83 / 90).
3. NO BUILDING OR ANY KIND OF CONSTRUCTION OR IMPROVEMENTS SHALL BE PLACED ON ANY EASEMENT WITHOUT WRITTEN CONSENT OF ALL EASEMENT BENEFICIARIES, AND ALL APPLICABLE CITY OR SEMINOLE IMPROVEMENT DISTRICT APPROVALS OR PERMITS AS REQUIRED FOR SUCH ENCROACHMENTS. THERE WILL BE NO ABOVE GROUND ENCROACHMENTS WHERE LAKE MAINTENANCE EASEMENTS AND UTILITY EASEMENTS OVERLAP.
4. NOTICE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREON AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF PALM BEACH COUNTY.
5. IN THOSE CASES WHERE EASEMENTS OF DIFFERENT TYPES CROSS OR OTHERWISE COINCIDE, DRAINAGE EASEMENTS SHALL HAVE FIRST PRIORITY, UTILITY EASEMENTS SHALL HAVE SECOND PRIORITY, ACCESS EASEMENTS SHALL HAVE THIRD PRIORITY, AND ALL OTHER EASEMENTS SHALL BE SUBORDINATE TO THESE WITH THEIR PRIORITIES BEING DETERMINED BY USE RIGHTS GRANTED.
6. COORDINATES SHOWN HEREON ARE FLORIDA STATE PLANE GRID DATUM = NAD83 2007 ADJUSTMENT
ZONE = FLORIDA EAST
LINEAR UNITS = US SURVEY FEET
COORDINATE SYSTEM = 1983 STATE PLANE
PROJECTION = TRANSVERSE MERCATOR
ALL DISTANCES ARE GROUND
SCALE FACTOR = 1.0000
GROUND DISTANCE X SCALE FACTOR = GRID DISTANCE
PLAT BEARING = GRID BEARING
NO ROTATION
ALL TIES TO SECTION CORNERS AND QUARTER CORNERS ARE GENERATED FROM MEASURED VALUES

LEGEND

- | | |
|--|---|
| P.O.C. POINT OF COMMENCEMENT | □ INDICATES (P.R.M.) PERMANENT REFERENCE MONUMENT |
| F.O.B. POINT OF BEGINNING | STAMPED "P.R.M. 6098" UNLESS OTHERWISE NOTED |
| F.L.B. FLORIDA BOARD OF PROFESSIONAL ENGINEERS | |
| L.B. LICENSED BUSINESS | |
| P.R.M. PERMANENT REFERENCE MONUMENT | |
| C.N. CONCRETE MONUMENT | |
| U.E. UTILITY EASEMENT | |
| L. CURVE LENGTH | |
| R. RADIUS | |
| Δ/D. CURVE CENTRAL ANGLE/DELTA | |

SURVEYOR & MAPPER'S CERTIFICATE

THIS IS TO CERTIFY THAT THE PLAT SHOWN HEREON IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY MADE UNDER MY RESPONSIBLE DIRECTION AND SUPERVISION; THAT SAID SURVEY IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT PERMANENT REFERENCE MONUMENTS ("P.R.M.'S") HAVE BEEN PLACED AS REQUIRED BY LAW, AND THAT MONUMENTS, ACCORDING TO SEC. 177.001(9), F.S., WILL BE SET UNDER THE GUARANTEES POSTED WITH THE CITY OF WESTLAKE FOR THE REQUIRED APPROXIMATES; AND, FURTHER, THAT THE SURVEY DATA COMPLIES WITH ALL THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES, AS AMENDED, AND THE ORDINANCES OF CITY OF WESTLAKE, FLORIDA.

MICHAEL T. OWEN
FLORIDA SURVEYOR AND MAPPER
FLORIDA REGISTRATION NO. 5555

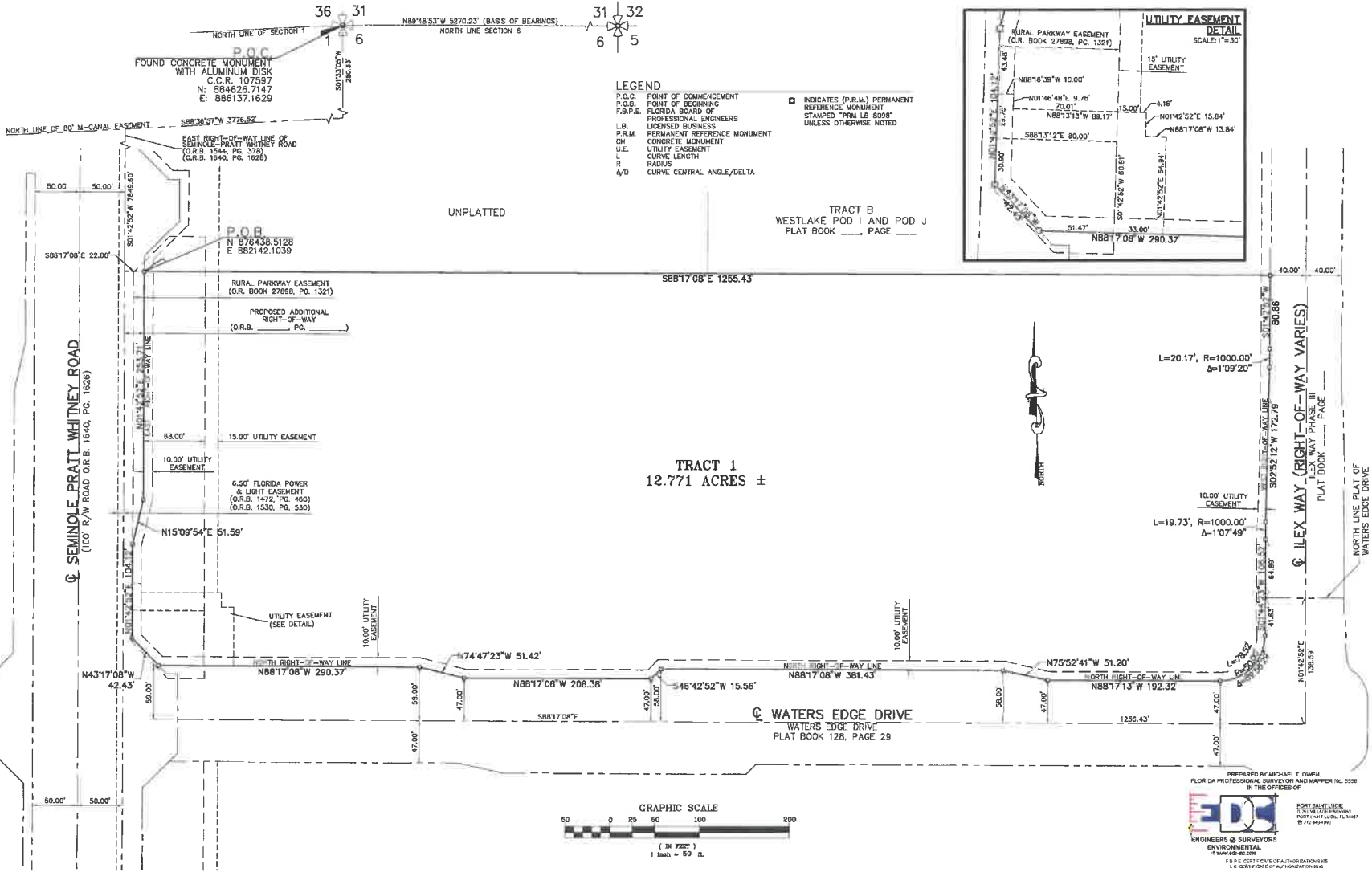
PREPARED BY MICHAEL T. OWEN,
FLORIDA PROFESSIONAL SURVEYOR AND MAPPER NO. 5555
IN THE OFFICE OF:

MICHAEL T. OWEN
1020 S. PALM BLVD., SUITE 100
WEST PALM BEACH, FL 33411
TEL: 561-840-4400
FAX: 561-840-4400

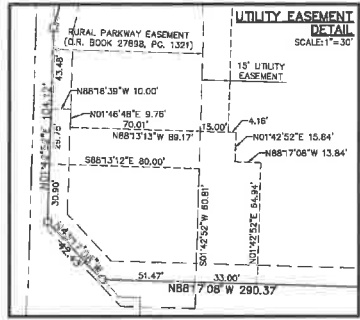
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ENVIRONMENTAL
www.mto.com
F.S.P.E. CERTIFICATE OF REGISTRATION #511
I.S.P.E. CERTIFICATE OF REGISTRATION #0000000000

CHRIST FELLOWSHIP CHURCH, INC.

A SUBDIVISION BEING IN PART A REPLAT OF ALL OF O.S.T. #1, WATERS EDGE DRIVE, PLAT BOOK 128, PAGES 29 AND 30 AND A PORTION OF O.S.T.#1, ILEX WAY PHASE III, PLAT BOOK _____, PAGES _____ THROUGH _____ INCLUSIVE, BOTH IN THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA LYING IN SECTION 12, TOWNSHIP 43 SOUTH, RANGE 40 EAST, CITY OF WESTLAKE, PALM BEACH COUNTY, FLORIDA.



- LEGEND**
- P.O.C. POINT OF COMMENCEMENT
 - P.O.B. POINT OF BEGINNING
 - F.B.P. FLORIDA BOARD OF PROFESSIONAL ENGINEERS LICENSED BUSINESS PERMANENT REFERENCE MONUMENT CONCRETE MONUMENT
 - L.B. LICENSED BUSINESS PERMANENT REFERENCE MONUMENT
 - CM CONCRETE MONUMENT
 - U.E. UTILITY EASEMENT
 - C CURVE LENGTH
 - R RADIUS
 - Δ/D CURVE CENTRAL ANGLE/DELTA
- INDICATES (P.R.M.) PERMANENT REFERENCE MONUMENT STAMPED "PRM LB 8098" UNLESS OTHERWISE NOTED



PREPARED BY MICHAEL T. OWEN,
 FLORIDA PROFESSIONAL SURVEYOR AND MAPPER NO. 5556
 IN THE OFFICES OF

ENGINEERS & SURVEYORS
 ENVIRONMENTAL
 1100 S. W. 10th St.
 Ft. Lauderdale, FL 33304
 (954) 572-3300



CITY OF WESTLAKE
Engineering Department
4001 Seminole Pratt Whitney Road
Westlake, Florida 33470
Phone: (561) 530-5880
www.westlakegov.com

-
- 1. DATE:** 10/15/2019
2. PETITION NUMBER: ENG-2019-23
3. DESCRIPTION: Christ Fellowship Church, West Campus - Plat
APPLICANT: Cotleur & Hearing
OWNER: Minto PBLH, LLC
REQUEST: Plat & Boundary Survey Review
LOCATION: Westlake, Florida

4. STAFF REVIEW: APPROVAL LETTER

The Engineering Department approves the plans with the following notes:

Ilex Way Phase III must be recorded prior to this plat. This plat has recording fill-in blanks that must be replaced prior to recording. Please provide a submittal for review prior to mylar with this completed.

This letter has been prepared by the following individual, in association with their consultants and subconsultants:

A handwritten signature in blue ink, appearing to read "S. Dombrowski".

Suzanne Dombrowski, P.E.
Chen Moore and Associates
Tel: 561.746.6900 x 1035
Email: sdombrowski@chenmoore.com