



AGENDA

Regular City Commission Meeting

6:00 PM - Thursday, November 21, 2019 - City Hall

INVOCATION

PLEDGE OF ALLEGIANCE: COMMISSIONER LEE

CALL TO ORDER

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

1. AGENDA UPDATE

2. APPOINTMENTS

2.1 Appointment to the Downtown and East Town Redevelopment Agency Board (CRA Board) - Representative from the portion of the CRA west of Center Street - Evan Contorakes

[Staff Report #19-0275 - Html](#)

[Staff Report Appoint Evan Contorakes to CRA](#)

3. AUDIENCE TO BE HEARD

4. CONSENT AGENDA

4.1 Resolution Number 19-104: Release of Lien with Conditions - 1300 South Dewey Street

[Staff Report #19-0274 - Html](#)

[Staff Report Res. No. 19-104](#)

[Resolution No. 19-104](#)

4.2 Resolution Number 19-105: Appointing City representative to Lake Sumter MPO Governing Board

[Staff Report #19-0266 - Html](#)

[Resolution No. 19-105 - Lake Sumter MPO](#)

4.3 Resolution Number 19-107: Approval of purchase in excess of \$25,000 for a new 2019 Ford F-550 Altec Bucket Truck

[Staff Report #19-0267 - Html](#)

[Resolution No. 19-107](#)

4.4 Resolution Number 19-108: Approval of purchase in excess of \$25,000 for a Wheel Loader

[Staff Report #19-0268 - Html](#)

[Resolution No. 19-108](#)

5. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS

SECOND READING

- 5.1 Ordinance Number 19-30: Amending Chapter 34 to prohibit littering and dumping of waste, authorizing placement of signs and surveillance cameras and authorizing imposition of fines

[Staff Report #19-0261 - Html](#)

[Staff Report - Ordinance 19-30](#)

[Ordinance No. 19-30](#)

- 5.2 Ordinance Number 19-31: Authorizing the assessment of late fees on delinquent Fire Inspection accounts

[Staff Report #19-0255 - Html](#)

[Staff Report - Ord 19-31](#)

[Ordinance No 19-31 Late Fee Fire Inspections](#)

FIRST READING

- 5.3 Ordinance Number 19-32: Voluntary Annexation of property located at 2303 E. Orange Avenue

Ordinance Number 19-33: Comprehensive Plan amendment assigning Future Land Use designation to property located at 2303 E. Orange Avenue

Ordinance Number 19-34: Assigning Design District designation to property located at 2303 E. Orange Avenue

[Staff Report #19-0272 - Html](#)

[Staff Report - Ordinance Numbers 19-32 19-33 and 19-34](#)

[EXHIBIT A](#)

[ADA Ord 19-32 2303 Orange Annex](#)

[ADA Ord. 19-33 2303 ORange - FLUM](#)

[ADA Ord. No. 19-34 2303 Orange Design District](#)

- 5.4 Ordinance Number 19-35: Voluntary Annexation of property located on northwest corner of Washington Avenue and Ohio Street

Ordinance Number 19-36: Comprehensive Plan amendment assigning Future Land Use designation

Ordinance Number 19-37: Assigning Design District designation

[Staff Report #19-0273 - Html](#)

[Staff Report Ord. Nos. 19-35 19-36 and 19-37](#)

[EXHIBIT A](#)

[ADA Ord 19-35 Washington Annex](#)

[Ordinance 19-36](#)

[Ordinance 19-37](#)

- 5.5 Ordinance Number 19-38: Amendments to Chapter 82, Code of Ordinances

[Staff Report #19-0278 - Html](#)

[Staff Report Ord 19-38](#)

[Ordinance Number 19-38](#)

6. OTHER BUSINESS

- 6.1 Discussion regarding vacant Commercial buildings

[Staff Report #19-0270 - Html](#)
[01-18-2018 CC MIN](#)
[Martin and Schroth emails re vacant buildings 2018](#)
[Miami Beach ordinance re vacant storefronts](#)
[Eustis Code Sec 38-91 regarding fire inspections](#)

7. FUTURE AGENDA ITEMS

8. COMMENTS

8.1 City Commission

8.2 City Manager

Verbal report on estimated cost of financial feasibility study for community building/conference center/sailing facility

8.3 City Attorney

8.4 Mayor

9. ADJOURNMENT

This Agenda is provided to the Commission only as a guide, and in no way limits their consideration to the items contained hereon. The Commission has the sole right to determine those items they will discuss, consider, act upon, or fail to act upon. Changes or amendments to this Agenda may occur at any time prior to, or during the scheduled meeting. It is recommended that if you have an interest in the meeting, you make every attempt to attend the meeting. This Agenda is provided only as a courtesy, and such provision in no way infers or conveys that the Agenda appearing here is, or will be the Agenda considered at the meeting.

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Florida Statutes, 286.0105). In accordance with the Americans with Disabilities Act of 1990, persons needing a special accommodation to participate in this proceeding should contact the City Clerk 48 hours prior to any meeting so arrangements can be made. Telephone (352) 483-5430 for assistance.

"Any invocation that may be offered before the official start of the Commission meeting shall be the voluntary offering of a private citizen, to and for the benefit of the Commission and the public. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the Commission, and the Commission is not allowed by law to endorse the religious beliefs or views of this, or any other speaker.



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: APPOINTMENT TO THE DOWNTOWN AND EAST TOWN
REDEVELOPMENT AGENCY BOARD (CRA BOARD) - REPRESENTATIVE
FROM THE PORTION OF THE CRA WEST OF CENTER STREET - EVAN
CONTORAKES

Introduction:

This item proposes the appointment of Evan Contorakes to the CRA Board as the representative of the portion of the CRA district west of Center Street. If approved this appointment will be for a partial term to expire the first of 2021.

Attachments:

[Staff Report Appoint Evan Contorakes to CRA](#)

Reviewed by:

Ronald Neibert, City Manager
Mary Montez, City Clerk

Approved - 15 Nov 2019
Approved - 15 Nov 2019



City of Eustis

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TO: EUSTIS CITY COMMISSION

FROM: RONALD L. NEIBERT, CITY MANAGER

DATE: NOVEMBER 21, 2019

RE: APPOINTMENT TO THE DOWNTOWN AND EAST TOWN
REDEVELOPMENT AGENCY BOARD (CRA BOARD) –
REPRESENTATIVE FROM THE PORTION OF THE CRA WEST OF
CENTER STREET – EVAN CONTORAKES

Summary:

On August 14, 2019, due to other responsibilities, Daniel Kelsey resigned as the representative for the western portion of the CRA. As a prior applicant for the position, Evan Contorakes expressed interest and submitted a new application for consideration.

Background:

Resolution Number 18-47 created two additional positions on the CRA Board with the following criteria:

- A. Per Florida Statute 163.356, the new members must reside or be engaged in business in the Community Redevelopment Area.
- B. Per Florida Statute 163.357, the terms of office for the additional members shall be for four years, except that the first person appointed shall initially serve a term of two years.
- C. The two additional persons will engage in CRA matters, but will serve as non-voting members.
- D. The advertising and appointment process will be consistent with the advertising and appointment process for other City of Eustis boards and committees.
- E. The new members will represent geographic areas of the CRA. One member will represent the portion of the CRA east of Center Street and Center Street extended. The other member will represent the portion of the CRA west of Center Street and Center Street extended.
- F. In order to qualify to serve, the new members will have educational or professional experience in architecture, finance, construction, land-use, sustainability, and/or community redevelopment. Alternatively, the new members will also qualify to serve with professional and/or residential experience in affordable housing.

G. All members, including new members, are encouraged to engage in continuing education related to community redevelopment.

While Mr. Contorakes does live in Eustis, he does not live in the CRA. However, he does qualify to serve on the CRA Board as he is “engaged in business” as part of the Evans Group at 11 North Grove Street, which is in the CRA.

Staff is recommending that the City Commission appoint Evan Contorakes to the CRA Board as the representative for the area west of Center Street. This appointment is for the remainder of Daniel Kelsey’s term, which expires at the beginning of 2021.

Community Input:

There will be an opportunity for community input when Eustis City Commission considers this item on November 21, 2019.

Budget and Staffing Impact:

Other than staff time, there are no anticipated costs as part of this item.

Prepared by:

Tom Carrino, Economic Development Director

Available upon request:

CRA Board Application from Evan Contorakes



City of Eustis

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Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: RESOLUTION NUMBER 19-104: RELEASE OF LIEN WITH CONDITIONS -
1300 SOUTH DEWEY STREET

Introduction:

Resolution Number 19-104 approves a Release of Lien for the code enforcement liens recorded against 1300 South Dewey Street once the future owner obtains required permits and completes all work necessary to bring the property into full compliance with the City's Housing Code, and the City's \$1,700 administrative costs are paid in full.

Background:

See attached Staff Report.

Recommended Action:

The administration recommends approval of Resolution Number 19-104.

Alternatives:

1. Approve Resolution Number 19-104
1. Deny Resolution Number 19-104

Attachments:

[Staff Report Res. No. 19-104](#)

[Resolution No. 19-104](#)

Reviewed by:

Ronald Neibert, City Manager
Mary Montez, City Clerk

Approved - 15 Nov 2019
Approved - 15 Nov 2019



City of Eustis

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TO: EUSTIS CITY COMMISSION

FROM: RONALD R. NEIBERT, CITY MANAGER

DATE: NOVEMBER 21, 2019

RE: RESOLUTION NUMBER 19-104
RELEASE OF LIEN 1300 S DEWEY ST

Introduction

Resolution Number 19-104 approves a Release of Lien for the code enforcement liens recorded against 1300 South Dewey Street once the future owner obtains required permits and completes all work necessary to bring the property into full compliance with the City's Housing Code, and the City's \$1,700 administrative costs are paid in full.

Recommended Action

The administration recommends approval of Resolution Number 19-104.

Background

The City of Eustis has three code enforcement liens recorded against 1300 South Dewey Street for code violation cases #17-00274, #17-00275 and #18-00828 totaling \$52,350 because of the current property owner has failed to maintain the property in compliance with City Code.

On April 8, 2019, the Special Magistrate reviewed a fine reduction application submitted by the property owner requesting that the accrued fines be reduced to \$0. The Magistrate denied the request, but agreed to reduce all three fines to \$5,235 with the following conditions:

- 1) The property remains in compliance with City Code for 90 days, up to July 7, 2019; and
- 2) The City Commission approves the fine reduction.

On July 1, 2019, the following new code violations were identified on the property:

- 1) Unsecured or abandoned structure is an attractive nuisance to children, a harbor for vagrants, criminals or immoral persons, or enable persons to resort to the building or structure for committing a nuisance or an unlawful act and has not

been condemned pursuant to the provisions of the International Property Maintenance Code.

- 2) The single-family residential dwelling has not been maintained in accordance with the International Property Maintenance Code and is unsafe and unfit for human occupancy.

On July 8, 2019, the Code Enforcement Board rescinded the fine reductions and authorized the City Attorney to foreclose on the unpaid liens if the structure is not properly secured, yard trash located at the southeast corner of the property is not removed by July 13, 2019, and if a permit to repair and rehabilitate or demolish the structure is not obtained by October 6, 2019.

On September 11, 2019, the property owner notified the Code Enforcement Department that he has advertised the property for sale and that he had potential buyers expressing interest in the property. However, they want the property to have clear title before moving forward.

In response the Code Enforcement Supervisor communicated the City's process for requesting a full release of lien, but that it would be contingent on the property being brought into full compliance with City Code. He informed the property owner of the City's administrative costs totaling \$1,700 for processing the three code violation case, which he agreed to pay.

On October 25, 2019, a Representative of MAF Property Group, LLC contacted the Supervisor to inform him they were under contract to purchase the property and would bring it up to code compliance once purchased, but would like assurance that the City would be willing to dismiss the liens once the work is complete.

Alternatives:

1. Approve Resolution Number 19-104 to release the City's liens against the property once conditions are met.
2. Deny Resolution Number 19-104 and maintain the unpaid liens against the subject property.

Discussion of Alternatives:

Alternative 1

Approves Resolution Number 19-104 and releases the code enforcement liens against the subject property once all conditions are met.

Advantages:

- The action formalizes the City's intent to release the liens once conditions are met.
- The action could assist the current owner in selling the property.
- The action would allow for the repair and rehabilitation of an unsafe structure.
- The action would recover the City's administrative costs, totaling \$1,700

Disadvantages:

- The City would lose the possibility of collecting the full \$52,350 in fines.

Alternative 2

Denies Resolution Number 19-104 and maintains the unpaid liens against the subject property.

Advantages:

- The City could collect the full \$52,350 in fines.
- There would be no assurance for prospective buyers that the City has intent to release the liens, which could prevent the sale of the property.

Disadvantages:

- The current owner would bear the financial burden of paying the fines.
- The current owner could not sell the property without paying the fines.
- The current owner could abandon the property resulting in foreclosure of the liens.
- The action would discourage future investors from purchasing distressed properties.
- The City would incur substantial attorney fees enforcing the liens against the property.
-

Community Input

No adjacent property owners attended the Code Enforcement Hearings, but the violations were a direct result of citizen complaints.

Budget / Staff Impact:

If the Resolution is approved, the City would not receive any portion of the accrued fines if all conditions are met, which includes payment of the City's \$1,700 in administrative costs.

Reviewed By:

Lori Barnes, ACIP, Development Services Director

Prepared By:

Eric Martin, Code Enforcement Supervisor

Attachments

- Resolution Number 19-104

Documents available upon request:

- Copy of Code Enforcement liens
- Request for release of liens
- Residential Contract for Sale and Purchase

RESOLUTION NUMBER 19-104

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA; PROVIDING FOR THE RELEASE OF CODE ENFORCEMENT LIENS RECORDED AGAINST 1300 SOUTH DEWEY STREET UPON SATISFACTION OF CONDITIONS.

WHEREAS, the City of Eustis, Florida established code enforcement fines against the following described property under Case No. 17-00274, 17-00275 and 18-00828 against Arif K. Mohammed, property owner, for failing to comply with City Ordinances:

EUSTIS, BISHOP'S SUB LOTS 1, 2 BLK 18 & S 1/2 OF CLOSED ST PB 2 PG 4 ORB 4747 PG 884; and

WHEREAS, the City of Eustis, Florida, a Florida municipal corporation, has recorded three Code Enforcement Liens against the subject property, totaling \$52,350; and

WHEREAS, the code violations that resulted in the fines have been corrected; and

WHEREAS, on July 1, 2019, the structure located on the property was posted unsafe and unfit for human occupancy; and

WHEREAS, the property owner obtained bids to repair and rehabilitate the structure, that came in between \$35,000 and \$40,000; and

WHEREAS, the property owner is selling the property because he is not in a financial position to pay for the needed repairs; and

WHEREAS, on October 25, 2019, a representative of MAF Property Group submitted a request for assurance the City will release its code enforcement liens once they bring the property into full compliance with City Code; and

WHEREAS, the current property owner has agreed to pay the City's administrative costs totaling \$1,700.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Eustis, Florida, as follows:

That the City Clerk is hereby authorized to execute a Release of Lien for the code enforcement liens recorded against the following described property once the future owner obtains required permits and completes all work necessary to bring the property into full compliance with the City's Housing Code, and the City's \$1,700 administrative costs are paid in full.

EUSTIS, BISHOP'S SUB LOTS 1, 2 BLK 18 & S 1/2 OF CLOSED ST PB 2 PG 4 ORB 4747 PG 884

DONE AND RESOLVED this 21st day of November, 2019, in regular session of the City Commission of the City of Eustis, Florida.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 22nd day of November, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Resolution Number 19-104 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: RESOLUTION NUMBER 19-105: APPOINTING CITY REPRESENTATIVE TO LAKE SUMTER MPO GOVERNING BOARD

Introduction:

Resolution Number 19-105 appoints Commissioner Robert Morin as the City of Eustis new representative to the Lake Sumter MPO Governing Board.

Background:

On January 3, 2019, the City Commission approved Resolution Number 19-102 appointing Commissioners and staff boards to various boards and committees as the City's designated representative. At that time, Commissioner Aliberti was appointed as the City's representative to the Lake Sumter MPO Governing Board with Vice Mayor LeHeup-Smith appointed as the alternate.

Unfortunately, conflicts have prevented Commissioner Aliberti and Vice Mayor LeHeup-Smith from routinely attending these meetings. Therefore, they have agreed to step aside and Commissioner Robert Morin as volunteered to serve in their stead.

Recommended Action:

Staff recommends approval of the appointment of Commissioner Morin as the City's representative to the Lake Sumter MPO.

Policy Implications:

None

Budget Impact:

None

Attachments:

[Resolution No. 19-105 - Lake Sumter MPO](#)

Reviewed by:

Ronald Neibert, City Manager
Mary Montez, City Clerk

Approved - 15 Nov 2019
Approved - 15 Nov 2019

RESOLUTION NO. 19-105

A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA, APPOINTING A NEW CITY REPRESENTATIVE TO THE LAKE SUMTER MPO GOVERNING BOARD.

WHEREAS, the City Commission has determined the need to appoint a new representative to the Lake Sumter MPO Governing Board; and

WHEREAS, Commissioner Robert Morin has volunteered to serve in the capacity of City representative to the Lake Sumter MPO;

NOW, THEREFORE, the City Commission hereby appoints Commissioner Robert Morin to serve as the City of Eustis representative to the Lake Sumter MPO Governing Board.

DONE AND RESOLVED, this 21st day of November, 2019, in regular session of the City Commission of the City of Eustis, Lake County, Florida.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 22nd day of November, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office

Date

CERTIFICATE OF POSTING

The foregoing Resolution Number 19-105 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk



City of Eustis

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Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: RESOLUTION NUMBER 19-107: APPROVAL OF PURCHASE IN EXCESS OF \$25,000 FOR A NEW 2019 FORD F-550 ALTEC BUCKET TRUCK

Introduction:

Resolution Number 19-107 authorizes a purchase in excess of \$25,000 for a new 2019 Ford F-550 Altec Bucket Truck.

Background:

The Public Works Department requires the purchase of a new bucket truck to perform their aerial duties involving heights such as building and roof maintenance, tree maintenance, lights on poles maintenance, hanging and removing event signs and banners, hanging and removing Christmas lights, etc. This is a replacement vehicle for the current bucket truck, which is continually breaking down and requiring multiple repairs.

The Eustis Purchasing Department has researched this purchase in accordance with City Purchasing Ordinance requirements. Altec Industries, Inc. is a "Direct Sales Manufacturer", which means they do not have any distributors for their Altec Model AT200A telescoping hydraulic aerial device. Their pricing is based on the Sourcewell Contract #012418-alt. Purchasing has verified that the quote matches the contract price list of \$82,270.

A new bucket truck purchase was included in the approved budget for this fiscal year 2019-20 (Account #010-8600-541-60-26).

The City Purchasing Ordinance states that any purchase in excess of \$25,000 requires the Commission's approval.

Recommended Action:

Staff recommends approval of this resolution.

Policy Implications:

None

Alternatives:

Alternatives:

1. Approve the Resolution.
2. Defeat or defer the Resolution.

Discussion of Alternatives:

1. Alternative 1 approves Resolution Number 19-107 and authorizes the expenditure for the purchase listed above.

Advantages:

- The City will have dependable equipment to maintain aerial duties throughout the City.

Disadvantages:

The City would expend \$82,270 of budgeted funds.

2. Alternative 2 defeats Resolution Number 19-107

Advantages:

- There is no advantage to denying this resolution since the purchase of an aerial bucket truck is required as part of the operation to maintain City properties.

Disadvantages:

- The cost to rent bucket truck services as needed would be unreasonably exorbitant and well over budget.

Attachment: 2019 Ford F-550 Altec Bucket Truck Quote (available upon request)

Prepared by Sally Mayer, Administrative Assistant - Public Utilities

Reviewed by Rick Gierok, P.E. - Director of Public Works

Budget Impact:

The funds for the proposed purchase have been included in the approved Fiscal Year 2019-2020 budget.

Attachments:

[Resolution No. 19-107](#)

Reviewed by:

Ronald Neibert, City Manager	None
Mary Montez, City Clerk	None

RESOLUTION NUMBER 19-107

**A RESOLUTION BY THE CITY COMMISSION OF THE CITY OF EUSTIS,
LAKE COUNTY, FLORIDA, AUTHORIZING A PURCHASE IN EXCESS
OF \$25,000 TO PROCURE A 2019 FORD F-550 ALTEC BUCKET TRUCK**

WHEREAS, the Public Works Department's current bucket truck is in disrepair and has been scheduled for replacement; and

WHEREAS, the City's approved FY 2019-2020 Budget includes the purchase of a replacement bucket truck; and

WHEREAS, Altec Industries, Inc. is a "Direct Sales Manufacturer" of their hydraulic aerial device; and

WHEREAS, the Purchasing Department has verified that the Altec Industries quote matches the contract price listing of Sourcewell Contract #012418-alt; and

WHEREAS, the City of Eustis Purchasing Ordinance requires that City Commission approve any purchase exceeding \$25,000.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Eustis, Lake County, Florida, that:

- (1) The Purchasing Department is hereby authorized complete the transaction in accordance with this resolution.
- (2) The City Manager is hereby authorized to approve a purchase in excess of \$25,000 for the procurement of a 2019 Ford F-550 Altec Bucket Truck in the amount of \$82,270.00.

DONE AND RESOLVED, this 21st day of November, 2019, in regular session of the City Commission of the City of Eustis, Lake County, Florida.

**CITY COMMISSION OF THE
CITY OF EUSTIS, FLORIDA**

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 21st day of November, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Resolution Number 19-107 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: RESOLUTION NUMBER 19-108: APPROVAL OF PURCHASE IN EXCESS OF \$25,000 FOR A WHEEL LOADER

Introduction:

Resolution Number 19-108 approves an expenditure in excess of \$25,000 and authorizes the City Manager to execute an agreement with Ring Power Corporation for the purchase of a Caterpillar 950-GC Wheel Loader.

Background:

The Public Works Department's wheel loader is due for replacement. The approved FY 2019-20 Capital Budget includes an allocation for the purchase of a new one. Staff shopped government contracts and received the best price from Ring Power Corporation of St. Augustine, Florida, based on piggybacking the current Florida Sheriffs Association Contract #FSA18-VEH16.0 Specification #33, at a cost of \$223,069.

This item is one of the most utilized pieces of equipment in the Public Works collection. It is primarily used to load loose materials with a front-mounted bucket using a lift-arm assembly, which raises and lowers the bucket. The wheel loader is essential in road construction, sidewalk construction, debris pick-up, earth moving and much more.

The approved 2019-2020 Capital Improvement Plan has \$230,000 programmed for this purchase in Account #042-8600-535-66-74. The City Purchasing Ordinance requires that the Commission approve any purchase that exceeds \$25,000.

Recommended Action:

Staff recommends approval of Resolution Number 19-108.

Policy Implications:

None

Alternatives:

Alternatives:

1. Approve Resolution No. 19-108
2. Reject Resolution No. 19-108

Discussion of Alternatives:

1. Alternative 1 would approve Resolution No. 19-108.

Advantages:

- The City would have new, reliable equipment available for general operations and emergencies.
- The action is consistent with the approved budget.

Disadvantages:

- The action approves an expenditure of \$223,069.
2. Alternative 2 would reject Resolution Number 19-108

Advantages:

- There are no advantages to rejecting this action.

Disadvantages:

- The City would not have this type of equipment available to utilize for construction, maintenance and emergency operations.

Prepared by Sally Mayer, Administrative Assistant - Public Utilities

Reviewed By Rick Gierok, P.E., Director of Public Works

Quotes available upon request.

Budget Impact:

The funds for the proposed purchase have been included in the approved Fiscal Year 2019/2020 CIP budget, Account #042-8600-535-66-74.

Attachments:

[Resolution No. 19-108](#)

Reviewed by:

Ronald Neibert, City Manager	None
Mary Montez, City Clerk	None

RESOLUTION NUMBER 19-108

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA, APPROVING AN EXPENDITURE IN EXCESS OF \$25,000 FOR A CATERPILLAR 950-GC WHEEL LOADER.

WHEREAS, the City of Eustis Public Works Department's wheel loader is due for replacement; and

WHEREAS, the City has sufficient funding for this equipment within the FY 2019/20 Capital Improvement Budget; and

WHEREAS, Staff reviewed a number of government contracts and the Florida Sheriffs Association Contract offered the best price through Ring Power Corporation; and

WHEREAS, City of Eustis Purchasing Ordinance requires that the City Commission approve any purchase in excess of \$25,000.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Eustis, Lake County, Florida, as follows:

- (1) That the City Commission hereby authorizes a purchase in excess of \$25,000 to purchase a Caterpillar 950-GC Wheel Loader from Ring Power Corporation; and
- (2) That the City Commission hereby authorizes the City Manager to execute all agreements and contracts associated with the approved purchase.

DONE AND RESOLVED this 21st day of November 2019, in regular session of the City Commission of the City of Eustis, Florida.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 21st day of November, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office

Date

CERTIFICATE OF POSTING

The foregoing Resolution Number 19-108 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: ORDINANCE NUMBER 19-30: AMENDING CHAPTER 34 TO PROHIBIT LITTERING AND DUMPING OF WASTE, AUTHORIZING PLACEMENT OF SIGNS AND SURVEILLANCE CAMERAS AND AUTHORIZING IMPOSITION OF FINES

Introduction:

Ordinance Number 19-30 prohibits littering or dumping of material items within the City of Eustis, authorizes the installation of signs and surveillance cameras and the imposition of fines.

Background:

At the request of a resident, the City Commission discussed the issue of littering specifically in and around waterways. Following that discussion, the Commission directed staff to draft an ordinance prohibiting littering and dumping and authorizing staff to install warning signs and surveillance cameras and assessing fines for any littering or dumping.

Recommended Action:

Staff recommends approval of Ordinance Number 19-30.

Attachments:

[Staff Report - Ordinance 19-30](#)

[Ordinance No. 19-30](#)

Reviewed by:

Ronald Neibert, City Manager

Mary Montez, City Clerk

Approved - 01 Nov 2019

Approved - 01 Nov 2019



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

TO:

EUSTIS CITY COMMISSION

FROM: RONALD R. NEIBERT, CITY MANAGER

DATE: OCTOBER 30, 2019

RE: ORDINANCE NUMBER 19-30
AMENDING CHAPTER 34 TO PROHIBIT LITTERING AND DUMPING OF
WASTE, AUTHORIZING PLACEMENT OF SIGNS AND SURVEILLANCE
CAMERAS, AND AUTHORIZING IMPOSITION OF FINES

Introduction:

Ordinance Number 19-30 prohibits littering or dumping of material items within the City of Eustis, authorizes the installation of signs and surveillance cameras and the imposition of fines.

Recommended Action:

Staff recommends approval of Ordinance Number 19-30.

Background:

It seems as though we are seeing an increase in littering here in the city. In an effort to curtail some of this activity, an increase in fines for this violation will be implemented with this ordinance. Additional signage posting these increased fines should act as a deterrent for such activity. In addition, our goal is to install cameras in some problem areas to also act as a deterrent and aid in detection of those responsible.

Budget /Staff Impact:

Budget impact is the cost of producing proper signage which can be done in-house. We are in the process of getting quotes on the cost of installing cameras.

Community Input:

The public will have an opportunity to comment on this issue during the City Commission meeting.

Prepared by:

Gary T. Calhoun, Chief of Police

ORDINANCE NO. 19-30

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA; AMENDING CHAPTER 34, SECTIONS 34-31 THROUGH 34-55 OF THE CODE OF ORDINANCES; PROHIBITING THE LITTERING, DUMPING, LEAVING, PLACING, OR DISPOSING OF WASTE AND RELATED OFFENSES; ADDING AND CHANGING CURRENT DEFINITIONS; REPEALING ALL PRIOR EUSTIS ORDINANCES INCONSISTENT HERewith; PROVIDING PENALTIES; AUTHORIZING THE PLACEMENT OF SIGNS AND CAMERAS; PROVIDING FOR RENUMBERING SUBSEQUENT SECTIONS ACCORDINGLY; PROVIDING FOR CONFLICT WITH EXISTING ORDINANCES, AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Eustis City Commission strives to provide appropriate legislation to protect the quality of life for the residents of Eustis; and

WHEREAS, the Eustis City Commission has determined there is a necessity in the City of Eustis to establish parameters for littering and to establish appropriate penalties for the violation of such parameters;

WHEREAS, the following sections will be included in the Code of Ordinances, Chapter 34, Article II Sections 34-31 through 34-55, which the Eustis City Commission has reserved for the enactment of litter laws.

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS THE FOLLOWING:

SECTION 1. Purpose.

- a. It is hereby declared that the disposal of waste in the City of Eustis and the failure to maintain clean and sanitary conditions on property in the City, threatens the health, safety and welfare of the citizens because of the potential for breeding disease, blight of the landscape and waterways, degradation of the city's natural resources, and increased taxpayer burdens.
- b. It is the intent of this legislation to keep the city of Eustis a clean, safe and beautiful place to live and visit; to provide direction to the people in Eustis for the proper disposal of waste; and to provide city officials and law enforcement personnel with the means to enforce the purpose of this Ordinance.

SECTION 2. Definitions.

- a. Dump means to dump, throw, discard, place, deposit or dispose of.
- b. Litter means any garbage, waste, rubbish, trash, refuse, can, bottle, box, container, plastic, paper, tobacco product, tire, appliance, mechanical equipment

or part, building or construction material, tool, machinery, wood, motor vehicle or motor vehicle part, electronics, televisions, tires, outboard motors, vessel, aircraft, farm machinery or equipment, sludge for a waste treatment facility, water supply treatment plant or air pollution control facility, or substance in any form resulting from domestic, industrial, commercial, mining, seafood, agricultural or governmental operations, or any similar substance.

- c. Waterway means any water, lakes, canals, streams, lagoons or connecting waters, whether natural or man-made, partially or wholly within the boundaries of the city.

SECTION 3. Dumping of Litter Prohibited.

- a. Dumping of litter is prohibited in or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided.
- b. Dumping of litter is prohibited in or on any waterway.

SECTION 4. Penalty and Enforcement.

- a. Any person who violates any provision of this Ordinance for the first time is guilty of a noncriminal infraction, punishable by a fine up to five hundred dollars (\$500.00), plus court costs.
- b. Any person who violates any provision of this Ordinance a second time is guilty of a misdemeanor of the second degree, punishable as provided in F.S. §§ 775.082 and 775.083, with a fine up to five hundred dollars (\$500.00).
- c. Any person who violates any provision of this Ordinance for the third time is guilty of a misdemeanor of the first degree, punishable as provided in F.S. §§ 775.082 and 775.083, with a fine up to one thousand dollars (\$1,000.00).
- d. Any person who violates any provision of this Ordinance for the fourth, or subsequent time, is guilty of a felony of the third degree, punishable as provided in F.S. §§ 775.082 and 775.083, with a fine up to five thousand dollars (\$5,000.00).
- e. A court may enjoin a violation of this Ordinance.
- f. The penalties provided by this Ordinance are cumulative.

SECTION 5. Posting of Signs.

The City of Eustis is authorized to place signs within the City's limits, at such appropriate locations, indicating a fine will be imposed upon any person who violates this Ordinance. A sign within the immediate area is not required for the imposition of any fine under this Ordinance.

SECTION 6. Surveillance of Waterways.

The City of Eustis is authorized to place cameras within the City, at such appropriate locations, including around waterways. The presence of cameras shall serve to prevent violations of this Ordinance and assist law enforcement in the event a violation of this Ordinance occurs. Video footage of a violation is not required to prove a violation.

SECTION 7. Enforcement of Other Regulations.

This section does not limit the authority of any state or local agency to enforce other laws, rules or ordinances relating to litter or solid waste management.

SECTION 8. Severability

If any part of this Ordinance is for any reason held invalid, such part shall be deemed a separate and distinct provision and shall not affect the validity of the remaining portions of this Ordinance.

SECTION 9. Effective Date.

This Ordinance shall take effect immediately upon passing.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Lake County, Florida, this 21st day of November, 2019.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 22nd day of November, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 19-30 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: ORDINANCE NUMBER 19-31: AUTHORIZING THE ASSESSMENT OF
LATE FEES ON DELINQUENT FIRE INSPECTION ACCOUNTS

Attachments:

[Staff Report - Ord 19-31](#)

[Ordinance No 19-31 Late Fee Fire Inspections](#)

Reviewed by:

Ronald Neibert, City Manager
Mary Montez, City Clerk

Approved - 01 Nov 2019
Approved - 01 Nov 2019



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

TO: EUSTIS CITY COMMISSION
FROM: RONALD R. NEIBERT, CITY MANAGER
DATE: NOVEMBER 7, 2019
RE: ORDINANCE NUMBER 19-31
AUTHORIZING THE ASSESSMENT OF LATE FEES ON DELINQUENT
FIRE INSPECTION ACCOUNTS

Introduction

Ordinance Number 19-31 authorizes staff to assess late fees on delinquent fire inspection accounts.

Recommended Action

Staff recommends approval of Ordinance Number 19-31.

Background

The major purpose for fire inspections is safety: to safeguard lives and property from the hazards of fire. Regular inspection, testing, and maintenance of commercial buildings ensures the safety of residents, properties, and City employees. Per Florida Statutes and the City's Code of Ordinances, fire inspections of commercial buildings are required.

Fire inspections are part of the Fire Department's ISO rating which has the potential to affect insurance ratings within the City. Currently, the City has 100% compliance in regard to the "City Wide" inspections criteria of the Community Risk Reduction form. The City of Eustis enjoys an ISO rating of 2 (1 being the highest), putting the city in the top 3% of ISO rankings.

Some of the duties of the City's two fire inspectors include inspecting buildings and structures to identify potential fire hazards, ensure buildings are equipped with fire control equipment, including fire extinguishers, identify fire code violations, and recommend actions to bring properties into compliance.

The City's Code of Ordinances, Section 38-92 requires all commercial buildings within the city limits to have an annual fire inspection. Fire inspections will result in one of the following outcomes: inspection passed, violations found, or notice of a hazard. In the case of violations and notice of a hazard, re-inspections will occur. Code enforcement actions may occur to encourage compliance.

The fire inspection fees vary based on square footage. The City currently assesses \$50 for buildings less than 7,500 square feet, \$100 for buildings with square footage between 7,500 and 14,999. Buildings larger than 15,000 are assessed an inspection fee of \$150. A re-inspection fee is \$25, regardless of the building size.

The City recently changed the fire inspection billing process allowing the fire inspectors to focus on inspections rather than administrative functions. The fire inspectors handle approximately 1,000 inspections per year. The City currently reflects \$5,955 in delinquent accounts. To enhance compliance with fire prevention and protection efforts, staff is recommending a one-time \$10 penalty be assessed on accounts that are 90 days past due. Staff is also considering code enforcement and collection options for accounts consistently delinquent.

The late fee will assist in offsetting administrative costs and reinforce the City's focus on public safety.

Alternatives

1. Approve Ordinance Number 19-31
2. Deny Ordinance Number 19-31 and provide direction to staff on how they would like to proceed.

Discussion of Alternatives

1. Alternative 1 approves Ordinance Number 19-31.
 - a. Advantages
 - i. Provides prudent management of City resources.
 - ii. Enhances the City's focus on public safety efforts.
 - iii. Offsets the administrative costs for delinquent accounts.
 - b. Disadvantages
 - i. Minimal effort to add a penalty fee to delinquent accounts
2. Alternative 2 denies Ordinance Number 19-31.
 - a. Advantages
 - i. No additional effort is required to administer a penalty fee.
 - b. Disadvantages
 - i. None.

Prepared By:

Colleen J. Scott, Finance Director

ORDINANCE NUMBER 19-31

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA; AMENDING CHAPTER 38 - "FIRE PREVENTION AND PROTECTION", ADDING SECTION 38-94 "LATE FEES FOR DELINQUENT FIRE INSPECTION ACCOUNTS" TO THE CODE OF ORDINANCES FOR THE CITY OF EUSTIS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide municipalities with the authority to establish and operate a fire prevention and protection bureau; and

WHEREAS, the City of Eustis has in effect Chapter 38-59 authorizing the Fire Chief or his designee to inspect any building or premises within City limits; and

WHEREAS, the City of Eustis has in effect Chapter 38-92 requiring all commercial buildings within the city limits of the city to have an annual inspection by the fire department, fire prevention bureau; and

WHEREAS, the City of Eustis fire inspections provide a critical service to ensure the safety of lives and property; and

WHEREAS, the City of Eustis is facing an increase in delinquent fire assessment accounts; and

WHEREAS, the City Commission finds it in the best interest of the City to establish a late fee for delinquent fire assessment accounts.

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

SECTION 1

Section 38-94 is added providing late fees for delinquent fire assessment accounts as follows:

Section 38-94 Late Fees for Delinquent Fire Assessment Accounts.

The late fees in the amount of \$10.00, which shall be kept on file in the city clerk's office, shall be imposed on all delinquent fire assessment accounts. The amount of said late fee may be amended in the future by resolution.

SECTION 2

All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3

The provisions of this Ordinance are 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, or phrases of this Ordinance, but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 4

The City Commission of the City of Eustis intends that the provision of this Ordinance shall become and be made part of the City of Eustis Code of Ordinances and that the section of the Ordinance may be re-numbered or re-lettered and the word "Ordinance" may be changed to "Section", "Article" or such other appropriate work of phrase to accomplish such intentions.

SECTION 5

This ordinance shall become effective immediately on passing.

SECTION 6

This ordinance shall be published in accordance with the requirements of law.

PASSED, ORDAINED, AND APPROVED in regular session of the City Commission of the City of Eustis, Lake County, Florida. This 7th day of November, 2019.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA

COUNTY OF LAKE

The foregoing instrument was acknowledged before me this 8th day of November, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office

Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 19-31 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: ORDINANCE NUMBER 19-32: VOLUNTARY ANNEXATION OF PROPERTY
LOCATED AT 2303 E. ORANGE AVENUE
ORDINANCE NUMBER 19-33: COMPREHENSIVE PLAN AMENDMENT
ASSIGNING FUTURE LAND USE DESIGNATION TO PROPERTY
LOCATED AT 2303 E. ORANGE AVENUE
ORDINANCE NUMBER 19-34: ASSIGNING DESIGN DISTRICT
DESIGNATION TO PROPERTY LOCATED AT 2303 E. ORANGE AVENUE

Introduction:

Ordinance 19-32 provides for voluntary annexation of approximately 13.82 acres located at 2303 E. Orange Avenue. If Ordinance 19-32 is approved, Ordinance 19-33 would change the future land use designation from Urban Medium in Lake County to Residential Office Transitional (RT) in the City, and Ordinance 19-34 would assign a design district designation of Suburban Corridor.

Background:

See attached Staff Report

Recommended Action:

Staff recommends approval of Ordinance Numbers 19-32, 19-33, and 19-34.

Policy Implications:

None

Alternatives:

1. Approve Ordinance Numbers 19-32, 19-33 and 19-34
2. Deny Approve Ordinance Numbers 19-32, 19-33 and 19-34

Attachments:

[Staff Report - Ordinance Numbers 19-32 19-33 and 19-34](#)
[EXHIBIT A](#)

[ADA Ord 19-32 2303 Orange Annex](#)
[ADA Ord. 19-33 2303 ORange - FLUM](#)
[ADA Ord. No. 19-34 2303 Orange Design District](#)

Reviewed by:

Lori Barnes, Director

Approved - 15 Nov 2019

Ronald Neibert, City Manager

Approved - 15 Nov 2019



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

TO: EUSTIS CITY COMMISSION

FROM: RONALD R. NEIBERT, CITY MANAGER

DATE: NOVEMBER 21, 2019

RE: EXPLANATION OF ORDINANCES FOR PROPERTY LOCATED AT
2303 E. ORANGE AVE.
Ordinance Number 19-32 – Voluntary Annexation
Ordinance Number 19-33 – Comprehensive Plan Amendment
Ordinance Number 19-34 – Design District Assignment

Introduction

Ordinance Number 19-32 provides for the voluntary annexation of approximately 13.82 acres located at 2303 E. Orange Avenue. Provided the City Commission approves annexation of the subject property, Ordinance Number 19-33 would change the future land use designation from Urban Medium in Lake County to Residential/Office Transitional (RT) in the City of Eustis, and Ordinance Number 19-34 would assign the subject property a design district designation of Suburban Corridor. If the City Commission denies Ordinance Number 19-32, then there can be no consideration of Ordinance Numbers 19-33 and 19-34.

Recommended Action

The administration recommends approval of Ordinance Numbers 19-32, 19-33, and 19-34.

Background/Pertinent Site Information

1. The site contains approximately 13.82 acres (10.82 acre upland) located on the 2303 E. Orange Avenue and is within the Eustis Joint Planning Area. The majority of the site is vacant; one single-family structure exists onsite. The Lake County Property Appraiser has classified the property as vacant residential.
2. The site is contiguous to the City on all boundaries. (Orange Avenue is in the city limits; there is small enclave of unincorporated land south of Orange Avenue).
3. The site has a Lake County land use designation of Urban Medium, but approval of Ordinance Number 19-33 would change the land use designation to Residential/Office Transitional in the City of Eustis.

Applicant's Request

The applicant, 2303 East Orange LLC, submitted an application for annexation and assignment of a Eustis future land use designation and design district.

The current Lake County the land use designation is Urban Medium and the zoning designation is Residential Professional. The Lake County zoning and land use designations allow for multi-family up to 7 du/acre, professional services and limited commercial. The property owner has requested the Residential Office Transitional (RT)

land use designation within the City of Eustis. The RT land use provides for multi-family up to 12 du/acre and professional offices and services; most commercial uses require a conditional use approval by City Commission. The requested RT designation is consistent with the land use designation of adjacent properties.

Analysis of Annexation Request (Ord. Number 19-32)

1. Resolution Number 87-34 – Joint Planning Area Agreement with Lake County:
“The City and the County agree that the unincorporated areas adjacent to the City might be appropriately served by urban services provided by the City, and might therefore be annexed into the City in accordance with State law.....The City agrees to annex property in accordance with State law and provide adequate urban services and facilities to serve those areas within the Joint Planning Area.”

The subject property is located within the Joint Planning Area. Urban services of adequate capacity are available to serve future development, consistent with the requested RT future land use designation. (See public facilities and services analysis under item 5 below).

2. Florida Statutes Voluntary Annexation - Chapter 171.044(1):
“The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality.”

The Joint Planning Area boundaries define the reasonably compact area where the City could provide services effectively and efficiently. The subject property lies within that planning area; it is contiguous to the City limits on all boundaries; and the owner petitioned for annexation.

3. Florida Statutes Voluntary Annexation - Chapter 171.044(2):
“...Said ordinance shall be passed after notice of the annexation has been published at least once each week for 2 consecutive weeks in some newspaper in such city or town...”

The department published notice of this annexation in the Daily Commercial in accordance with the requirements on November 14, 2019 and November 21, 2019.

4. Florida Statutes Voluntary Annexation - Chapter 171.044(5):
“Land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves.”

The subject property is already an enclave. The annexation will reduce the enclave by 98%.

5. Florida Statutes Voluntary Annexation - Chapter 171.044(6):
“Not fewer than 10 days prior to publishing or posting the ordinance notice required under subsection (2), the governing body of the municipality must provide a copy of the notice, via certified mail, to the board of the county commissioners of the county wherein the municipality is located...”

The department provided notice to the Lake County Board of County Commissioners on November 4, 2019.

Analysis of Comprehensive Plan/Future Land Use Request (Ord. Number 19-33)

In Accordance with Florida Statutes Chapter 163.3177.9.:

Discourage Urban Sprawl:

Primary Indicators of Sprawl:

The future land use element and any amendment to the future land use element shall discourage the proliferation of urban sprawl. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:

Review of Indicators

1. Low Intensity Development:

Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.

This indicator does not apply. The requested RT future land use designation will provide for a multi-family up to 12 du/acre or office development of medium density/intensity up to 1.0 FAR.

2. Urban Development in Rural Areas:

Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.

This indicator does not apply. The requested designation in this geographic area will provide for development of a suburban nature within 1.2-miles of the City's urban core. The property is a mostly vacant enclave surrounded by urban development.

3. Strip or Isolated Development:

Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.

This indicator does not apply. The requested future land use does not designate urban development in a radial, strip, isolated or ribbon pattern emanating from existing urban development. The site is located approximately 1.2 miles from the City's downtown

core. The property fronts on a minor arterial roadway (Orange Avenue) in an area where surrounding properties have RT, Suburban Residential (SR) and Urban Medium (County) future land use designations. The proposed designation is consistent with the character of the surrounding area.

4. Natural Resources Protection:

Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.

The site contains gopher tortoises and meets the definition of sand skink habitat, although no lizards were found onsite. The property fronts Lake Willie, which contains a narrow wetland fringe. However, the Comprehensive Plan and the Land Development Regulations include standards for protection of environmentally sensitive lands that would apply should conditions at time of development warrant such protection.

5. Agricultural Area Protection:

Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.

This indicator does not apply. This site and adjacent areas do not support active agricultural or silvicultural activities. The site is not prime farmland and has no unique soils.

6. Public Facilities:

Fails to maximize use of existing public facilities and services.

This indicator does not apply. City water and wastewater services are available to the site along E. Orange Avenue and Cricket Hollow Lane. Adequate capacity is available to serve future development consistent with the requested RT future land use designation. Orange Avenue has sufficient capacity to serve any allowable development on this site. Upon annexation, the City will also provide other services such as fire and police protection, library services, parks, and recreation. The City provides these services to other properties in the area, so

efficiency will improve. In addition to public services that are already available and serving other properties in the area, public facilities/services include: Eustis' Fire Station Number 22 within 2.1 mile and Lake County FS 27 within 1.85 miles of future development on this parcel. A LakeExpress bus stop 10 is within 0.19 miles of future development on this parcel

7. Cost Effectiveness and Efficiency of Public Facilities:
Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.

This indicator does not apply. Adequate capacity is available to serve future development consistent with the requested RT future land use designation. The City provides these services to other properties in the area, so efficiency will improve.

8. Separation of Urban and Rural:
Fails to provide a clear separation between rural and urban uses.

This indicator does not apply. The property is an undeveloped enclave; surrounded by suburban uses. Development of this property fills in a major gap in the transition between urban and rural.

9. Infill and Redevelopment:
Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.

This indicator does not apply. The property is completely surrounded by suburban development. This is infill development.

10. Functional Mix of Uses:
Fails to encourage a functional mix of uses.

This indicator does not apply. By virtue of the requested RT future land use designation, mixed uses will be permitted and encouraged.

11. Accessibility among Uses:
Results in poor accessibility among linked or related land uses.

This indicator does not apply. The Land Development Regulations include provisions to provide adequate accessibility and linkages between related uses. Development Services will ensure compliance with these standards at time of site plan review.

12. Open Space:

Results in the loss of significant amounts of functional open space.

This indicator does not apply. The property, as it exists, does not provide functional open space, so any future development will not result in a loss. Future development under the RT land use will include dedicated open space, consistent with the LDR and Comprehensive Plan requirements.

13. Urban Sprawl:

The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:

a. Direction of Growth:

Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

The site is located approximately 1.2 miles from the City's downtown core; fronts on a minor arterial roadway and is located in a geographic area where surrounding properties already have been approved for suburban development. The Comprehensive Plan and the Land Development Regulations include standards for protection of environmentally sensitive lands that would apply should conditions at time of development warrant such protection.

b. Efficient and Cost-Effective Services:

Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

City water and wastewater services are available to the site along Orange Avenue and Cricket Hollow Lane. Adequate capacity is available to serve future development consistent with the requested RT future land use designation. The transportation network has sufficient capacity to serve a development, up to and including the

maximum development potential, on this site. Upon annexation, the City will also provide other services such as fire and police protection, library services, parks, and recreation. The City provides these services to other properties in the area, so efficiency will improve.

c. Walkable and Connected Communities:

Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

The RT future land use designation, coupled with a Suburban Corridor design district, provides for housing choices including single and multi-family residential dwellings up to a maximum density of 12 dwelling units per acre. A mix of uses including residential, civic and office (maximum intensity of 1.0 floor area ratio) would be permitted. Commercial uses are only possible with a conditional use approval by the City Commission. The Land Development Regulations include pedestrian network standards and block structure to ensure compact development. The County's revised transit route includes a LakeExpress bus stop within 0.19 mile of the subject property.

d. Water and Energy Conservation:

Promotes conservation of water and energy.

Future design of the project may include water and energy conservation measures; however, those details are not available at this time.

e. Agricultural Preservation:

Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

Not applicable; this site does not support active agricultural or silvicultural activities.

f. Open Space:

Preserves open space and natural lands and provides for public open space and recreation needs.

The Land Development Regulations (LDRs) require that all development include dedicated open space consistent with the LDR and

Comprehensive Plan requirements. New residential subdivisions incorporate park area within the subdivision for the residents of the development.

g. Balance of Land Uses:

Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.

Mixed-use development in this area of the City could provide convenient commercial and professional services to serve the current and future residents of northeast Eustis

h. Urban Form Densities and Intensities:

Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.

Not applicable.

In Accordance with Comprehensive Plan Future Land Use Element Appendix:

All applications for a Plan amendment relating to the development patterns described and supported within the Plan including, but not limited to, site specific applications for changes in land use designations, are presumed to involve a legislative function of local government which, if approved, would be by legislative act of the City and shall, therefore, be evaluated based upon the numerous generally acceptable planning, timing, compatibility, and public facility considerations detailed or inferred in the policies of the Plan. Each application for an amendment to the Map #1: 2035 Future Land Use Map by changing the land use designation assigned to a parcel of property shall also be reviewed to determine and assess any significant impacts to the policy structure on the Comprehensive Plan of the proposed amendment including, but not limited to, the effect of the land use change on either the internal consistency or fiscal structure of the Plan.

Major Categories of Plan Policies:

This Plan amendment application review and evaluation process will be prepared and presented in a format consistent with the major categories of Plan policies as follows:

1. General Public Facilities/Services:

Since the Plan policies address the continuance, expansion and initiation of new government service and facility programs, including, but not limited to, capital facility construction, each application for a land use designation amendment shall include a description and evaluation of any Plan programs (such as the effect on the timing/financing of these programs) that will be affected by the amendment if approved. This analysis shall include the availability of, and actual and anticipated demand on, facilities and services serving or proposed to serve the subject property. The facilities and services required for analysis include emergency services, parks and recreation, potable water, public transportation if

and when available, sanitary sewer, schools, solid waste, stormwater, and the transportation network.

- a. *Emergency Services Analysis:*
The subject property is located approximately 1.2 miles from the downtown core. Eustis and County emergency services already provide emergency response to other properties in the area. Additionally, fire service is approximately 2 miles from the subject property. Any development consistent with the RT future land use designation would have no significant impact on the operations of Eustis emergency services.
- b. *Parks & Recreation:*
In 2010, the City prepared a Park Inventory and Level of Service Demand and Capacity analysis as part of the Comprehensive Plan Evaluation and Appraisal Report. The results show that a surplus of park area exists up to and beyond the City's population reaching 20,015.

Parks Level of Service Demand and Capacity

Year	Population	LOS Required acreage	Existing Acreage	Surplus/ (Deficiency)
2009/10	18,538	55.61	453.76	398.15
2010/11	18,760	56.28	453.76	397.48
2011/12	18,985	56.96	453.76	396.81
2012/13	19,213	57.64	453.76	396.12
2013/14	19,443	58.33	453.76	395.43
2014/15	20,015	60.05	453.76	393.72

Furthermore, the Land Development Regulations require that all new residential subdivisions incorporate parks for the residents of the development to ensure that the City maintains this level of service.

- c. *Potable Water & Sanitary Sewer:*
Water and sewer are available to the subject property. The following outlines the water and wastewater demand based on a maximum residential development potential scenario.

Utility	LOS	FAR/Density	Demand
Water	140 gcd	129 du x 2.51 phh	40,150 g/d
Sewer	120 gcd	129 du x 2.51 phh	38,854 g/d
Parks	1 ac/1,000 people	129 du x 2.51 phh	0.32 acres
Solid Waste	7 lbs/c/d	129 du x 2.51 phh	2,267 lbs/d

According to the City of Eustis Public Works Department, water and wastewater capacity is available to serve up to and including the maximum development potential.

d. **Schools:**
The proposed change will not negatively impact schools. See attached Lake County Public Schools Growth Impact Report.

e. **Solid Waste:**
The City contracts with Waste Management for hauling of solid waste. The company already services properties in the general area of the subject property. Serving this property will increase efficiency in delivery of services.

f. **Stormwater:**
The Comprehensive Plan and Land Development Regulations include level of service standards to which new development must adhere. Projects designed to meet these standards will not negatively affect the existing facilities and services.

g. **Transportation Network Analysis:**
(Institute of Traffic Engineers Trip Generation Manual, 10th Edition). The following estimates are based on possible maximum development scenarios. Actual build-out conditions will be determined by residential compatibility, minimum open space requirements and maximum impervious surface area requirements.

Lake Sumter MPO traffic segment analyses already account for existing land uses along the roadways. So, in preparing this analysis, staff used the difference between the maximum number of dwelling units, and the maximum office square footage currently allowable under the Lake County designation versus what could be allowed with a Eustis RT future land use. (See item 5.C. for full comparison):

1) Trip Generation for Residential Component of RT

As the future development housing type is yet to be determined, staff utilized Land Use [ITE 221], Multi-family Housing (Mid-Rise) for purposes of estimating the general trips for the residential component of the proposed RT parcel. Land Use 221: Mid-rise multifamily housing includes apartments, townhouses, and condominiums located within the same building with at least three other dwelling units and that have between three and 10 levels (floors)

- Road Type: Orange Ave: Minor Arterial, County
- ITE: 221 – MF Housing (Mid-rise)
 - City Estimated trips
 - DU/Weekday; 50/50, Ave = 5.44 trips/du x 129 du = 702
 - DU/weekday; 27/73 AM Peak generator – 0.32 x 129 = 41
 - DU/weekday; 60/40 PM peak generator – 0.41 x 129 = 53
 - County Estimated Trips
 - DU/Weekday; 50/50, Ave = 5.44 trips/du x 86 du = 468
 - DU/weekday; 27/73 AM Peak generator – 0.32 x 86 = 28
 - DU/weekday; 60/40 PM peak generator – 0.41 x 86 = 35

Estimated Additional Dwelling Units: 43

PM Peak Hour @ $0.41 \times 43 = 18$

40% WB/SB: 7.2

60% EB/NB: 10.8

2) Trip Generation for Commercial Component of RT

Land Use 710: General Office Building: A general office building houses multiple tenants; it is a location where affairs of businesses, commercial or industrial organizations, or professional persons or firms are conducted. An office building or buildings may contain a mixture of tenants including professional services, insurance companies, investment brokers, and tenant services, such as a bank.

- ITE: 710 – General Office Building
 - $10.82 \text{ acres} \times 43560 = 471,319 \text{ sf} \times 1.0 \text{ FAR} = 471,319 \text{ sf} / 1,000 = 471.319$
 - City Estimated trips
 - DU/Weekday; 50/50, Ave = $9.74 \times 471.319 = 4,591$
 - DU/weekday; 27/73 AM Peak generator – $1.47 \times 471.319 = 693$
 - DU/weekday; 60/40 PM peak generator – $1.42 \times 471.319 = 669$
 - County Estimated Trips
 - $471,319 \times 0.35 \text{ FAR} = 165,497 / 1,000 = 165.497$
 - DU/Weekday; 50/50, Ave = $9.74 \times 165.497 = 1,612$
 - DU/weekday; 27/73 AM Peak generator – $1.47 \times 165.497 = 243$
 - DU/weekday; 60/40 PM peak generator – $1.42 \times 165.497 = 235$

Estimated Additional Office Square Footage: 305,822

PM Peak Hour @ $305,822/1000 \times 1.42 = 434$

40% WB/SB: 173.6

60% EB/NB: 260.4

3) The adopted LOS for Orange Avenue from Hasselton St. to SR 44 is D. The segment analysis is as follows for a residential development:

Adopted LOS Standard	LOS Capacity	Existing EB/NB Trips	Plus Proposed Additional EB/NB Trips	Existing WB/SB Trips	Plus Proposed Additional WB/SB Trips
D	880	561	572	501	508

4) The segment analysis is as follows for an office development:

Adopted LOS Standard	LOS Capacity	Existing EB/NB Trips	Plus Proposed Additional EB/NB Trips	Existing WB/SB Trips	Plus Proposed Additional WB/SB Trips
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Adopted LOS Standard	LOS Capacity	Existing EB/NB Trips	Plus Proposed Additional EB/NB Trips	Existing WB/SB Trips	Plus Proposed Additional WB/SB Trips
D	880	561	821	501	674

At this time, the adjacent transportation network has the capacity to serve the proposed RT property, even at a maximum development standard, without negatively affecting the adopted level of service.

2. Natural Resources/Natural Features:

The policies of the Plan also contain general regulatory guidelines and requirements for managing growth and protecting the environment. These guidelines will be used to evaluate the overall consistency of the land use amendment with the Comprehensive Plan. Specifically each amendment will be evaluated to 1) determine the existence of groundwater recharge areas; 2) the existence of any historical or archaeological sites; 3) the location of flood zones and the demonstration that the land uses proposed in flood-prone areas are suitable to the continued natural functioning of flood plains; and 4) the suitability of the soil and topography to the development proposed.

a. Ground water recharge areas:

The subject property is located in a most effective recharge area; 6 inches per year.

b. Historical or archaeological sites:

The City does not have any record of Florida Master Site Files related to this property and no known historical or cultural resources exist. Should any historical sites or archaeological sites be uncovered during future development, work in the vicinity shall cease until the property authorities can be contacted and an evaluation is conducted.

c. Flood zones:

The subject property is not located in a flood zone, nor is it adjacent to other properties that lie substantially within a flood zone. This is due to the steepness of the property in relation to the lake.

d. Soil and topography:

Onsite soils include Lake Sand series. The soils are well drained to excessively drained. The water table is at a depth of more than 120 inches. Land ranges from nearly level to steep. According to Lake County's online Topography Map, the site elevations range from 155 ft to 110 above mean sea level. Future development type and foundations will be dependent on/determined by soil borings conducted as part of the project design process.

3. **Comprehensive Plan Review:**

Additional criteria and standards are also included in the Plan that describe when, where and how development is to occur. Plan development policies will be used to evaluate the appropriateness of the compatibility of the use, intensity, location, and timing of the proposed amendment.

The current Lake County zoning designation of the subject property is Residential Professional and the land use designation is Urban Medium. The property owner has requested the Residential Office (RT) land use designation within the City of Eustis. The evaluation below supports the requested designation.

a. *Review of Surrounding Properties*

The Eustis land use designation to the north, northwest and northeast is Suburban Residential (SR) with a maximum density of 5 dwelling units per acre. The SR designation is intended to provide for a mix of single-family detached, patio homes and townhouse-type dwellings in a suburban atmosphere.

The Eustis land use designations to the west and east are Residential Office Transitional. The RT Future Land use designation applies to older residential areas having residential character, which are located adjacent to nonresidential development. The purpose is to provide for establishment of business and professional offices and limited retail and service business while maintaining residential character or compatibility.

The County land use designation to the south is Urban Medium. This designation provides for a range of residential development up to 7 du/acre in addition to limited commercial and office uses. It is located on or in close proximity to major collectors and arterial roadways.

Source: Lake County GIS Zoning & FLU Codes – 5/15/14

b. *Comparison of Lake County Development Conditions*

The existing Lake County future land use designation of the parcel is Urban Medium, which provides for a range of residential development in addition to civic, commercial and office uses at an appropriate scale and intensity to serve this category. Allowable density and intensity in Urban Medium is a maximum of 7 dwelling units per acre and intensity of 0.35 to 0.50 floor area ratio.

At the maximum density/intensity with a mixed-use under Lake County designations, development on this 10.82 upland acre parcel at either 100% residential or 100% office has a potential for 75 du or 235,659 sq. ft. office would exist.

The proposed City of Eustis future land use designation of the parcel is Residential Office Transitional (RT), applies to older residential

areas having residential character, which are located adjacent to nonresidential development. The purpose is to provide for establishment of business and professional offices and limited retail and service business while maintaining residential character or compatibility. Residential densities in RT may not exceed 12 dwelling units per acre (subject to compatibility requirements based on adjacent densities) and the maximum intensity is 1.0 FAR.

Maximum Development Scenario:

With a Eustis RT designation, one possible maximum development scenario is as follows:

129 du or 471,319 sf of office at the maximum FAR of 1.0. These are maximum development scenarios and do not take into account parking, landscaping and stormwater requirements. There is a difference of 54 du or 235,660 sf of office.

c. Proposed Residential Land Uses.

The City shall limit these uses adjacent to incompatible commercial or industrial lands unless sufficient mitigation, such as buffering and setbacks is provided and available, which lessens the impact to the proposed residences.

d. Proposed Non-Residential Land Uses.

The City shall generally not permit new commercial or industrial uses to be located adjacent to existing or planned residentially designated areas without sufficient mitigation.

4. Transportation:

Each application for a land use designation amendment will be required to demonstrate consistency with the Transportation Element of the adopted Comprehensive Plan.

The proposed land use designation is consistent with the Transportation Element. The LOS on Orange Avenue can accommodate even the maximum development scenario on this parcel. The Land Development Regulations require pedestrian connectivity and a LakeExpress bus stop is within 0.19 mile of the subject property.

5. Water Supply:

Each application for a land use designation amendment will be required to demonstrate that adequate water supplies and associated public facilities are (or will be) available to meet the projected growth demands.

Public utilities and services are available. Refer to 5.A. above for more information. The City's adopted Water Supply Plan anticipated additional growth consistent with this development, so both supply and capacity are available.

In Accordance with Chapter 102-16(f), Land Development Regulations

Standards for Review:

In reviewing the application of a proposed amendment to the comprehensive plan, the local planning agency and the city commission shall consider:

- a. ***Consistent with Comprehensive Plan:***
Whether the proposed amendment is consistent with all expressed policies the comprehensive plan.
The proposed amendment is consistent with the Comprehensive Plan. See analysis above under item 5, A through D.
- b. ***In Conflict with Land Development Regulations:***
Whether the proposed amendment is in conflict with any applicable provisions of these land development regulations.
The proposed amendment is not in conflict with the Land Development Regulations. At the time of development there will be further review for compliance.
- c. ***Inconsistent with Surrounding Uses:***
Whether, and the extent to which, the proposed amendment is inconsistent with existing and proposed land uses.
The RT future land use designation is consistent with other land use designations along the CR 44 corridor because it is intended to provide for residential development combined with office development that has a character and scale that promotes compatibility with adjacent or nearby residential uses. See also Review of Surrounding Properties under item 5.C. above, which outlines the Orange Avenue designations and demonstrates that the RT future land use designation is consistent with other properties on this corridor.
- d. ***Changed Conditions:***
Whether there have been changed conditions that justify an amendment.
The applicant wishes to annex the property into the City limits of Eustis. Assignment of a City of Eustis future land use designation is required. Upon annexation, the subject property will have a full array of municipal services, including central water and wastewater. These changed conditions warrant a change in the land use designation.
- e. ***Demand on Public Facilities:***
Whether, and the extent to which, the proposed amendment would result in demands on public facilities, and whether, or to the extent to which, the proposed amendment would exceed the capacity of such public facilities, infrastructure and services, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities.
City water and wastewater services are available to the site along Orange Avenue. Adequate capacity is available to serve future development consistent with the requested RT future land use

designation. Orange Avenue has sufficient capacity to serve a mixed-use development on this site. Upon annexation, the City will also provide other services such as fire and police protection, library services, parks, and recreation. The City provides these services to other properties in the area, so efficiency will improve. See attached Lake County Public Schools Growth Impact Report, which indicates the change will not negatively impact schools.

f. Impact on Environment:

Whether, and the extent to which, the proposed amendment would result in significant impacts on the natural environment.

An environmental survey of the property that was included with the application indicated there are gopher tortoises on the site and the site meets the definition of sand skink habitat. The Comprehensive Plan and the Land Development Regulations include standards for protection of environmentally sensitive lands that would apply should conditions at time of development warrant such protection.

g. Orderly Development Pattern:

Whether, and the extent to which, the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern.

Future land use designations of properties within the City limits fronting on Orange Avenue include Residential Office Transitional, Mixed Commercial Residential, General Commercial and Suburban Residential. Lake County properties are designated Urban Low and Urban Medium. The requested RT future land use designation, coupled with a Suburban Corridor design district designation, provides for a consistent development transect along CR 44.

h. Public Interest and Intent of Regulations:

Whether the proposed amendment would be consistent with or advance the public interest, and in harmony with the purpose and intent of these land development regulations.

The purpose and intent of the Land Development Regulations is as follows:

“The general purpose of this Code is to establish procedures and standards for the development of land within the corporate boundaries and the planning area of the city, such procedures and standards being formulated in an effort to promote the public health, safety and welfare and enforce and implement the city's comprehensive plan, while permitting the orderly growth and development with the city and Eustis planning area consistent with its small town community character and life style”

The proposed RT future land use designation for the subject parcel will provide for orderly growth and development. This designation would advance the public interest by providing housing options and commercial services, and application of the LDRs to the future

development will ensure consistency with the community character and lifestyle.

i. Other Matters:

Any other matters that may be deemed appropriate by the local planning agency or the city commissioners, in review and consideration of the proposed amendment.

No other matters.

Analysis of Design District Request (Ord. Number 19-34):

Form-Based Code:

The City's Land Development Regulations are a form-based code. Design districts are unique to form-based codes. Lake County still uses traditional Euclidean zoning, so there are no design districts for parcels in unincorporated Lake County. When a parcel annexes into the City of Eustis, the City must assign a consistent design district that follows the urban, suburban and rural transect

1. Standard for Review:

The Land Development Regulations includes the following standards for review of an amendment to the Design District Map. In approving a change in the designation, the City Commission shall consider: Whether the amendment is in conflict with any applicable provisions of the Code.

a. Section 102-17(a) "...Section 109-3 Design Districts:

identifies the definition, structure and form of each design district. The assignment of design district must follow the district pattern and intent."

The requested amendment assigns a newly annexed parcel a designation that meets the district pattern and intent (Suburban Corridor). The Suburban development pattern and intent, and the Suburban Corridor definition, structure and form description are stated below. The assignment of a Suburban Corridor design district designation is appropriate due to the established and proposed development patterns in the area. The City of Eustis Design District Map shows the E CR 44 right-of-way as a Suburban Corridor. The majority of properties within the City limits fronting on CR 44 between Sunrise Lane and Diedrich Street are Suburban Corridor. The annexation property is between these terminuses of the corridor.

b. Sec. 109-3.4. Suburban development pattern intent statements:

Intent. Suburban development pattern...relies primarily on a pattern of residential development that provides the majority of property owners with substantial yards on their own property. The street layout, comprised of streets with fewer vehicular connections, helps to reduce cut-through traffic and establishes distinct boundaries for residential communities/subdivisions. **Nonresidential uses are primarily located on corridors**, districts and a mix of uses is prominent in centers. Each land use provides for pedestrian and bicycle connections.

Design districts

(4) Suburban corridor:

Definition. Linear concentrations of typically commercial uses, predominately auto-oriented uses. The parcel size ranges from large areas of depth to shallow in nature, compatible with the adjacent neighborhoods.

Structure. The street system is designed to accommodate the density, intensity, and form of suburban development and provides functional connections that link neighborhoods to shopping areas.

Form. Predominately single-use areas that may include a mix of uses, retail, and residential.

The Suburban development patterns statement above indicates that non-residential uses are primarily located on corridors. A Suburban Corridor designation follows the district pattern and intent outlined in the Land Development Regulations, and is consistent with the existing transect along Orange Avenue.

c. *Section 102-17(a)*

The following guidelines must be followed when proposing the reassignment of design district:

Compatible intensities should face across streets. Changes in design districts should occur along rear alleys or lanes or along conservation edges.

The property south of the site, across Orange Avenue, lies in unincorporated Lake County and Lake County does not have design districts. Creating a condition where like designations face across streets is not applicable in this case because much of the adjacent land is not in the City limits. The Design District Map, however, designates this portion of Orange Avenue as Suburban Corridor. Where new development will abut an existing or approved neighborhood, the new development should establish similar or compatible transect conditions. (Transect per LDRs Section 100, "The rural-urban transect describes the physical form and character of a place according to the density of its land use).

The requested Suburban Corridor designation would establish similar and compatible transect conditions. The majority of properties within the City limits fronting on CR 44 are Suburban Corridor and "suburban" is the appropriate transect condition between urban and rural.

d. ***Consistent with Comprehensive Plan:***

Whether the proposed amendment is consistent with all elements of the comprehensive plan.

The requested amendment is consistent with the Future Land Use element (including Policy FLU 1.2.4, Development Patterns and FLU 1.3.2. Maintain Residential Compatibility), as well as all other elements of the Comprehensive Plan.

e. Consistent with Surrounding Uses:

Whether, and the extent to which, the proposed design district is consistent with existing and proposed land uses.

The Suburban Corridor definition, structure and form are compatible with the existing uses and any proposed uses permitted under the Residential Office Transitional future land use designation.

f. Changed Conditions:

Whether there have been changed conditions that justify amending the design district.

The subject property is proposed for annexation and a design district assignment is necessary. The conditions have changed from land located in unincorporated Lake County without central services to a site within the City of Eustis with full municipal services.

g. Public Facilities.

Whether, and the extent to which, the proposed redistricting would result in demands on public facilities, and whether, or to the extent to which, the proposed change would exceed the capacity of such public facilities, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities.

This amendment will not change the demand on public facilities. The Future Land Use designation controls the density and intensity permitted on the site, so the Design District map amendment would not result in impacts beyond that already anticipated. Also see analysis of public facilities in above sections of this report.

h. Impact to Environment:

Whether, and the extent to which, the redistricting would result in significant impacts on the natural environment.

The proposed Design District designation for this property does not change the development potential of the parcel. Design Districts control the form and function of any development that does occur. The Future Land Use designation controls the density, intensity and minimum open space permitted on the site, so the Design District amendment would not result in additional impacts on the natural environment. Site plan review for any future development will include environmental review to assess impacts to flora, fauna and wetlands, and provide for protection of sensitive areas.

i. Property Values:

Whether, and the extent to which, the proposed redistricting would affect the property values in the area.

This request should not adversely affect property values, because the proposed Design District designation is consistent with the surrounding development patterns and design districts.

j. Orderly Development Pattern:

Whether, and the extent to which, the proposed redistricting would result in an orderly and logical development pattern.

The proposed Design District designation is consistent with the suburban development pattern identified in Section 109-5.5. Assignment of the requested designation will result in a more orderly and logical development pattern; making the designation consistent with the surrounding area designations and established development patterns.

k. Public Interest and Intent of Regulations:

Whether the proposed redistricting would be in conflict with the public interest, and in harmony with the purpose and intent of these regulations.

The proposed Design District is not in conflict with the public interest and reflects the purpose and intent of the regulations.

l. Other Matters:

Any other matters that may be deemed appropriate by the city commission, in review and consideration of the proposed redistricting.

The City's Land Development Regulations are a form-based code. The Design District designations define the development form, but not the types of land uses, densities, intensities or required open space. The districts, therefore, must be consistent and follow the urban, suburban and rural transect. This request assigns a designation to an annexation parcel.

Applicable Policies and Codes

1. Resolution Number 87-34

Joint Planning Area Agreement with Lake County: "The City and the County agree that the unincorporated areas adjacent to the City might be appropriately served by urban services provided by the City, and might therefore be annexed into the City in accordance with State law.....The City agrees to annex property in accordance with State law and provide adequate urban services and facilities to serve those areas within the Joint Planning Area."

2. Florida Statutes Chapter 171.044: Voluntary Annexation:

- a. "The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality."
- b. "Land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves."

3. Land Development Regulations Section 109-5.5(b)(4):

The Suburban Corridor Design District has "linear concentrations of typically commercial uses, predominately auto-oriented uses. The parcel size ranges from large areas of depth to shallow in nature, compatible with the adjacent neighborhoods."

4. Land Development Regulations Section 109-2.6:
Residential/office transitional district (RT). This land use designation applies to older residential areas having residential character, which are located adjacent to nonresidential development. The purpose is to provide for establishment of business and professional offices and limited retail and service business while maintaining residential character or compatibility.
5. Land Development Regulations Section 115-3.2:
Suburban residential compatibility.
 - (1) The maximum residential density permitted within any suburban design district shall be consistent with the maximum density of the applicable land use district assigned to each individual property.
 - (3) Transitions within a design district and adjacent to another design district. Edge condition standards. When any suburban design district abuts an existing development, whether residential or commercial, the following shall occur:
 - a. The new residential building lot typologies that are proposed adjacent to existing or platted residential lots may not be smaller than 85 percent of the lot width or intensity of the existing adjacent residential lot(s).
 - b. Nonresidential building lot typologies that are adjacent to existing residential may be permitted if utilizing the minimum lot requirements. If lot requirements exceed the minimum, a masonry wall and landscape shall be required or a street or alley may be sufficient in buffering. This determination shall be given during site plan review by the development services director.

Fiscal Impact:

The current taxable value of the subject property is \$351,075. Based on the current millage rate of 7.581, annexation of the property could increase annual operating revenues by as much as \$2,661 predevelopment.

Alternatives:

1. Approve Ordinance Numbers 19-32 (Annexation), 19-33 (Comp. Plan Amendment), and/or 19-35 (Design District Designation)
2. Deny Ordinance Numbers 19-32, 19-33 and 19-34.

Discussion of Alternatives:

Alternative 1 approves the Ordinances.

Advantages:

- The action would be consistent with the expansion plans for the City in accordance with the adopted Eustis Planning Area.
- Annexation would increase the tax base of the City and increase the annual operating revenues.
- The City would have a more compact service area for utilities, police, and fire to increase efficiency and level of service. A more compact service area can reduce the overall per capita cost of providing urban services.
- The applicant can move forward with planning a future development.
- The land use change and design district assignment are consistent with the proposed use of the property and the nature of the surrounding area.

- The action could encourage additional development and/or annexations in that area.

Disadvantages:

- The site would no longer be mostly vacant.

Alternative 2 denies the Ordinances.

(If Ordinance Number 19-32 is denied, the Commission cannot approve Ordinance Nos. 19-34 and 19-35.)

Advantages:

- The City would not have to provide services to the subject property.
- The Commission could consider a different Land Use or Design District designation for the property.

Disadvantages:

- Denying annexation would create a gap in the City's natural growth boundary as defined by the Eustis Planning Area.
- The action would eliminate the potential for increased operating revenue and the subject property would continue to receive the indirect benefits of City services that are provided to adjacent properties without paying City taxes.
- The City would continue to experience gaps in its service area causing service inefficiency and confusion regarding City boundaries.
- The property could remain underutilized.
- The City could lose an economic development opportunity.

Community Input

The department has notified surrounding property owners within 500 feet of the site; placed the proper legal advertisements in the newspaper; and posted the site. Since November 13, 2019 the department has not received any additional response from residents or adjacent property owners.

Budget / Staff Impact:

Based on the current assessment and millage rate, the City can anticipate approximately \$2,661 annually in additional operating revenue, predevelopment. There would be no direct costs to the City beyond the normal City services. There would be no additional staff time beyond the normal review process.

Reviewed By:

Lori Barnes, AICP, Development Services Director

Prepared By:

Roland D. Magyar, AICP, Senior Planner

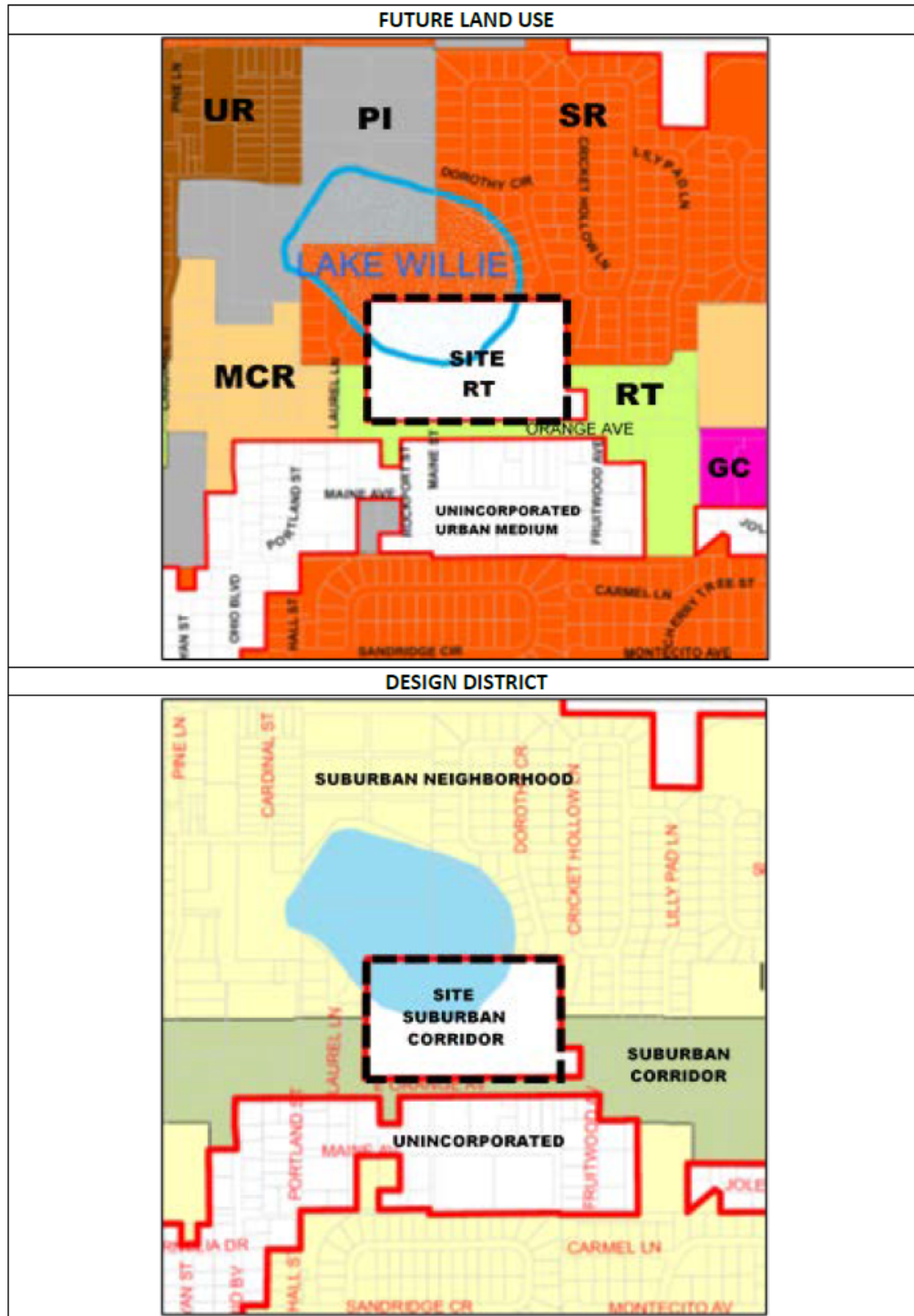
Attachments:

Ordinance Number 19-32, Ordinance Number 19-34, Ordinance Number 19-35
Exhibit A

To be provided on request:

Surrounding Property Owner Notice of Hearing
Legal Advertisement of Ordinances
School Growth Impact Report

**EXHIBIT A
FUTURE LAND USE AND DESIGN DISTRICT MAPS**



ORDINANCE NO. 19-32

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA; VOLUNTARILY ANNEXING APPROXIMATELY 13.82 ACRES OF REAL PROPERTY LOCATED AT 2303 E. ORANGE AVENUE.

WHEREAS, the 2303 Orange Avenue LLC, the legal owners of record, have made application for voluntary annexation of approximately 13.82 acres of real property located at 2303 E. Orange Avenue more particularly described as:

Tax ID: 12-19-26-0001-000-10000

BEG AT NW COR OF E 1/2 OF NW 1/4 OF SE 1/4 OF NE 1/4 OF SEC 12-19-26, RUN N 89-32-38 E 995.4 FT TO E LINE OF SEC, S 02-16-53 W 608.63 FT TO N R/W LINE OF SR 44, S 89-08-44 W 974.24 FT, N 0-16-43 E 614.75 FT TO POB, ALSO DESCRIBED AS: E 1/2 OF NW 1/4 OF SE 1/4 OF NE 1/4, NE 1/4 OF SE 1/4 OF NE 1/4--LESS ANY PORTION LYING WITHIN R/W OF SR 44-- ORB 5333 PG 2119

WHEREAS, the subject property is reasonably compact and contiguous to the City of Eustis boundary; and

WHEREAS, the annexation of this property will not result in the creation of enclaves; and

WHEREAS, the subject property is located within the City of Eustis Planning Area and City services are available; and

WHEREAS, on November 21, 2019 the City Commission held the 1st Public Hearing to consider the voluntary annexation of the property contained herein; and

WHEREAS, on February 20, 2020, the City Commission held the 2nd Public Hearing to consider the voluntary annexation of the property contained herein

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

SECTION 1.

That pursuant to, and under the authority of, Florida Statute 171.044, the City of Eustis, Lake County, Florida, does hereby annex and amend the municipal boundaries to include approximately 13.82 acres of real property located at 2303 E. Orange Avenue, as described above.

A map depicting the location of the annexed property described above is attached hereto as Exhibit "A".

SECTION 2.

That the Director of Development Services shall be authorized to amend the City of Eustis Boundary Map to incorporate the change described in Section 1.

Ordinance No. 19-32
2303 E. Orange Ave.
Page 1 of 4

SECTION 3.

That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 4.

That upon final passage and adoption, the City Clerk is hereby directed to file a copy hereof with the Clerk of the Circuit Court, the County Manager for Lake County, Florida, and the Department of State for the State of Florida within 7 days after the adoption of such ordinances.

SECTION 5.

That should any section, phrase, sentence, provision or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 6.

That this Ordinance shall become effective upon passing.

SECTION 7.

That the property annexed in this Ordinance is subject to the Future Land Use Element of the Lake County Comprehensive Plan until the City adopts the Comprehensive Plan Amendment to include the annexed parcel in the City Comprehensive Plan.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this _____ day of February, 2020.

CITY OF EUSTIS, FLORIDA

Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA

COUNTY OF LAKE

The foregoing instrument was acknowledged before me this ____ day of February, 2020, by, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Ordinance No. 19-32
2303 E. Orange Ave.
Page 2 of 4

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

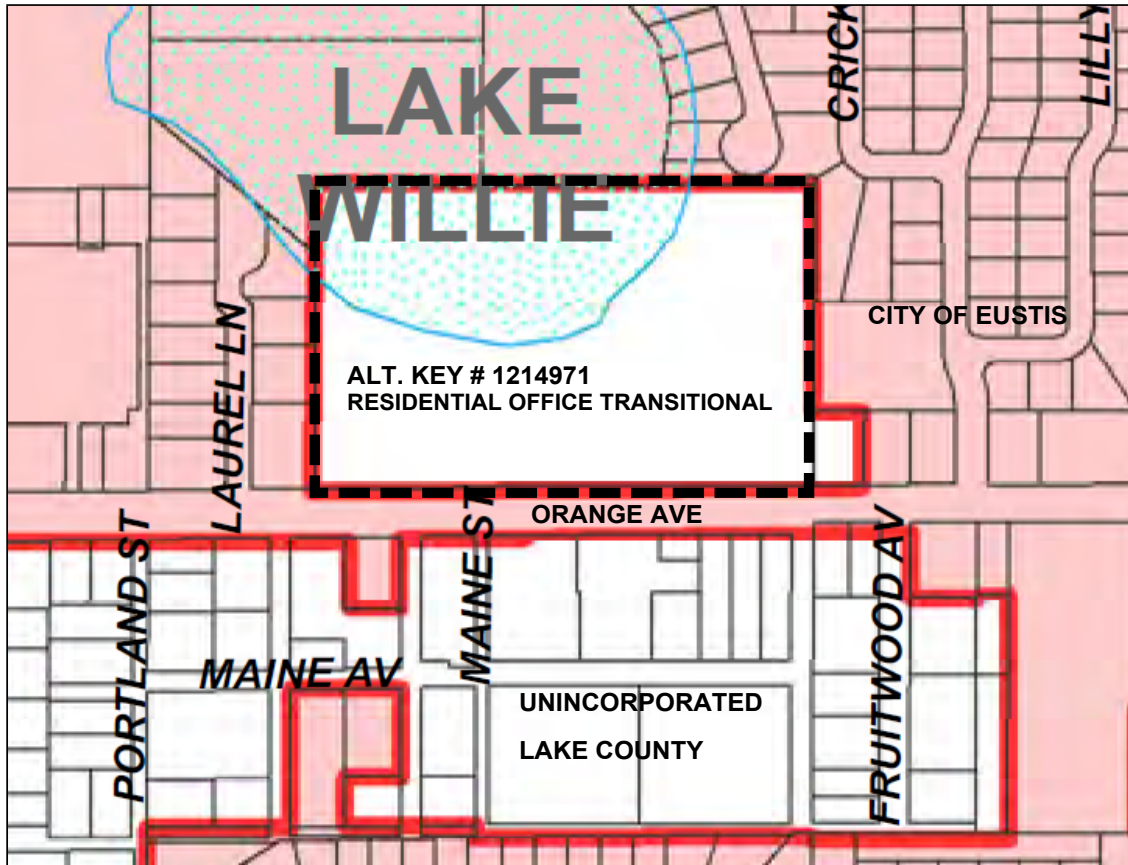
City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 19-32 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk

EXHIBIT A



ORDINANCE NUMBER 19-33

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA, AMENDING THE CITY OF EUSTIS COMPREHENSIVE PLAN PURSUANT TO 163.3187(1) F.S.; CHANGING THE FUTURE LAND USE DESIGNATION OF APPROXIMATELY 13.82 ACRES OF RECENTLY ANNEXED REAL PROPERTY LOCATED ON 2303 EAST ORANGE AVENUE FROM URBAN MEDIUM IN LAKE COUNTY TO RESIDENTIAL OFFICE TRANSITIONAL (RT) IN THE CITY OF EUSTIS.

WHEREAS, Ordinance 19-32 annexed certain real property into the corporate limits of the City of Eustis; and

WHEREAS, 2303 Orange Avenue LLC, the owner of said property as more particularly described herein, has submitted an application (2019-CPLU-11) requesting a future land use designation of Residential Office Transitional (RT); and

WHEREAS, on November 21, 2019, the Land Planning Agency held a Public Hearing to consider the adoption of a Large Scale Future Land Use Amendment for this change in designation; and

WHEREAS, on November 21, 2019, the City Commission held the first of two required Public Hearings to accept the Land Planning Agency's recommendation to adopt the Large Scale Future Land Use Amendment contained herein, and approved Transmittal to the Florida Department of Economic Opportunity; and

WHEREAS, the Florida Department of Economic Opportunity has reviewed the proposed change to the Comprehensive Plan and Future Land Use Map without objection; and

WHEREAS, on February 20, 2020 the City Commission held the second Public Hearing to consider the adoption of the Large Scale Future Land Use Amendment contained herein;

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

SECTION 1.

Land Use Designation

That the Future Land Use Designation of the real property as described below shall be changed from Lake County Urban Medium to Residential Office Transitional (RT) within the City of Eustis:

Tax ID: 12-19-26-0001-000-10000

BEG AT NW COR OF E 1/2 OF NW 1/4 OF SE 1/4 OF NE 1/4 OF SEC 12-19-26, RUN N 89-32-38 E 995.4 FT TO E LINE OF SEC, S 02-16-53 W 608.63 FT TO N R/W LINE OF SR 44, S 89-08-44 W 974.24 FT, N 0-16-43 E 614.75 FT TO POB, ALSO DESCRIBED AS: E 1/2 OF NW 1/4 OF SE 1/4 OF NE 1/4, NE 1/4 OF SE 1/4 OF NE 1/4--LESS ANY PORTION LYING WITHIN R/W OF SR 44-- ORB 5333 PG 2119.

SECTION 2.

Map Amendment and Notification

That the Director of Development Services shall be authorized to amend the Future Land Use Map of the Comprehensive Plan to incorporate the change described in Section 1 and provide appropriate notification in accordance with Florida Statutes.

SECTION 3.

Conflict

That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 4.

Severability

That should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 5.

Effective Date

That this Ordinance shall not become effective unless and until the annexation of the subject property becomes effective through approval of Ordinance No. 19-32. Further, the effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the Department of Economic Opportunity notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the Department of Economic Opportunity or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Department of Economic Opportunity.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this _____ day of _____, 2020.

CITY OF EUSTIS, FLORIDA

Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA

COUNTY OF LAKE

The foregoing instrument was acknowledged before me this ____ day of February, 2020, by Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office

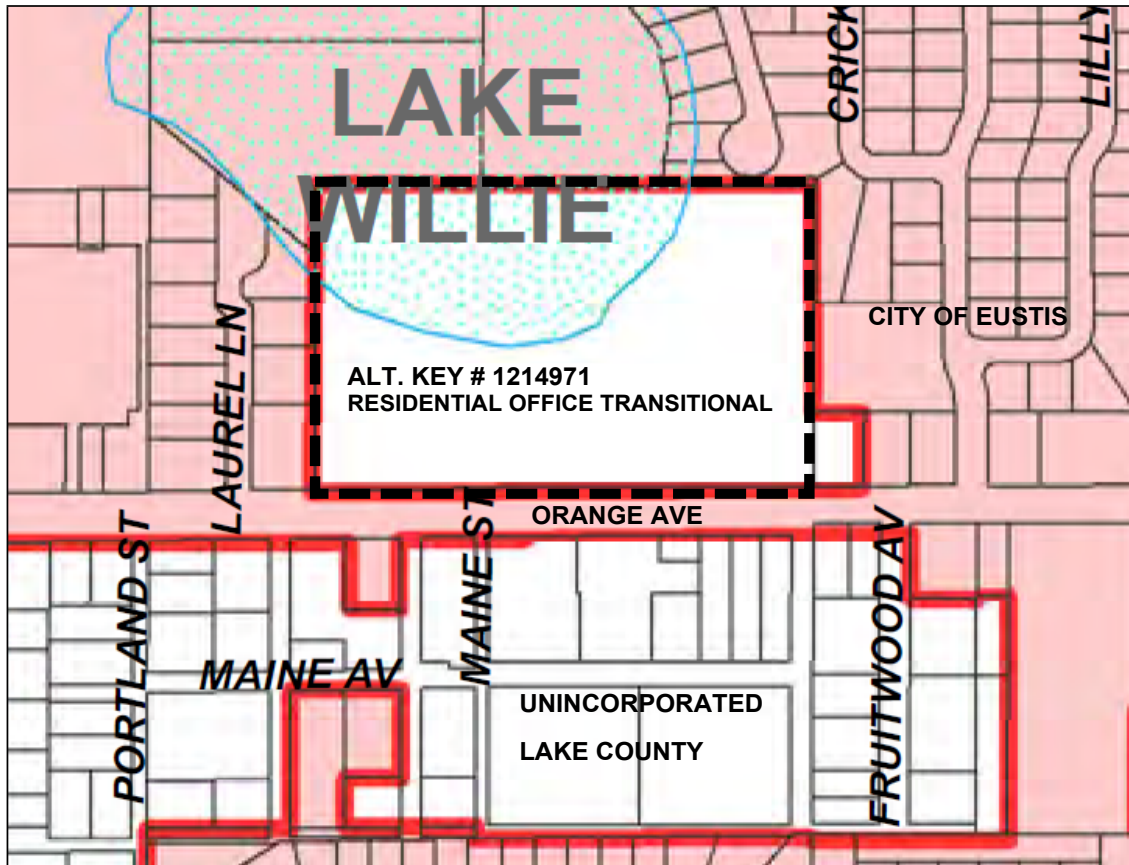
Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 19-33 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk

Exhibit A



ORDINANCE NO. 19-34

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA; ASSIGNING THE SUBURBAN CORRIDOR DESIGN DISTRICT DESIGNATION TO APPROXIMATELY 13.82 ACRES OF RECENTLY ANNEXED REAL PROPERTY LOCATED AT 2303 EAST ORANGE AVENUE.

WHEREAS, the City of Eustis desires to amend the Design District Map of the Land Development Regulations adopted under Ordinance No. 09-33 to assign a Design District designation of Suburban Corridor to approximately 13.82 acres of real property located at 2303 East Orange Avenue; and

WHEREAS, on November 21, 2019, the City Commission held the 1st Public Hearing to consider the Design District Amendment contained herein; and

WHEREAS, on February 20, 2020, the City Commission held the 2nd Public Hearing to consider the adoption of the Design District Amendment contained herein;

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

SECTION 1.

Design District Designation:

That the Design District Designation of the real property described below shall be Suburban Corridor.

Tax ID: 12-19-26-0001-000-10000

BEG AT NW COR OF E 1/2 OF NW 1/4 OF SE 1/4 OF NE 1/4 OF SEC 12-19-26, RUN N 89-32-38 E 995.4 FT TO E LINE OF SEC, S 02-16-53 W 608.63 FT TO N R/W LINE OF SR 44, S 89-08-44 W 974.24 FT, N 0-16-43 E 614.75 FT TO POB, ALSO DESCRIBED AS: E 1/2 OF NW 1/4 OF SE 1/4 OF NE 1/4, NE 1/4 OF SE 1/4 OF NE 1/4--LESS ANY PORTION LYING WITHIN R/W OF SR 44-- ORB 5333 PG 2119

SECTION 2.

Map Amendment

That the Director of Development Services shall be authorized to amend the Design District Map to incorporate the change described in Section 1.

SECTION 3.

Conflict

That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 4.

Severability

That should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 5.

Effective Date

That this Ordinance shall become effective upon annexation of the subject property through approval of Ordinance No. 19-32

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this _____ day of _____, 2020.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

STATE OF FLORIDA

COUNTY OF LAKE

The foregoing instrument was acknowledged before me this ____ day of February, 2020, by Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office

Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 19-34 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: ORDINANCE NUMBER 19-35: VOLUNTARY ANNEXATION OF PROPERTY
LOCATED ON NORTHWEST CORNER OF WASHINGTON AVENUE AND
OHIO STREET
ORDINANCE NUMBER 19-36: COMPREHENSIVE PLAN AMENDMENT
ASSIGNING FUTURE LAND USE DESIGNATION
ORDINANCE NUMBER 19-37: ASSIGNING DESIGN DISTRICT
DESIGNATION

Introduction:

Ordinance 19-35 provides for the voluntary annexation of approximately 0.3 acres located at the northwest corner of Washington Avenue and Ohio Street. If Ordinance 19-35 is approved, Ordinance 19-36 will change the future land use designation from Urban Medium in Lake County to Suburban Residential (SR) in the City, and Ordinance 19-37 will assign a design district designation of Suburban Neighborhood.

Background:

See attached Staff Report.

Recommended Action:

Staff recommends approval of Ordinances 19-35, 19-36, and 19-37.

Alternatives:

1. Approve Ordinances 19-35, 19-36, and 19-37.
2. Deny Ordinances 19-35, 19-36, and 19-37.

Attachments:

[Staff Report Ord. Nos. 19-35 19-36 and 19-37](#)

[EXHIBIT A](#)

[ADA Ord 19-35 Washington Annex](#)

[Ordinance 19-36](#)

[Ordinance 19-37](#)

Reviewed by:

Lori Barnes, Director
Ronald Neibert, City Manager

Approved - 15 Nov 2019
Approved - 15 Nov 2019



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

TO: EUSTIS CITY COMMISSION

FROM: RONALD R. NEIBERT, CITY MANAGER

DATE: NOVEMBER 21, 2019

RE: EXPLANATION OF ORDINANCES FOR PROPERTY LOCATED ON
THE NORTHWEST CORNER OF WASHINGTON AVENUE AND OHIO
STREET
Ordinance Number 19-35 – Voluntary Annexation
Ordinance Number 19-36 – Comprehensive Plan Amendment
Ordinance Number 19-37 – Design District Assignment

Introduction

Ordinance Number 19-35 provides for the voluntary annexation of approximately 0.3 acres located on the northwest corner of Washington Avenue and Ohio Street. Provided the City Commission approves annexation of the subject property, Ordinance Number 19-36 would change the future land use designation from Urban Medium in Lake County to Suburban Residential (SR) in the City of Eustis, and Ordinance Number 19-37 would assign the subject property a design district designation of Suburban Neighborhood. If the City Commission denies Ordinance Number 19-35, then there can be no consideration of Ordinance Numbers 19-36 and 19-37.

Recommended Action

The administration recommends approval of Ordinance Numbers 19-35, 19-36, and 19-37.

Background/Pertinent Site Information

1. The site contains approximately 0.3 acres and is located within the Eustis Joint Planning Area. The site is vacant and the Lake County Property Appraiser has classified the property as vacant residential. There are no structures on the site.
2. The site is contiguous to the City on its southern boundary.
3. The site has a Lake County land use designation of Urban Medium, but approval of Ordinance Number 19-36 would change the land use designation to Suburban Residential (SR) in the City of Eustis.
4. Surrounding properties have the following land use designations:

Location	Existing (Current) Use	Future Land Use		Design District
Site	Vacant	Urban (County)	Medium	NA
North	Single Family	Urban (County)	Medium	NA
South	Single Family	Urban (County)	Medium	NA
		Street in the City		Suburban Neighborhood

Location	Existing (Current) Use	Future Land Use		Design District
		(SR)		
East	Single Family	Urban (County)	Medium	NA
West	Single Family	Urban (County)	Medium	NA

Applicant's Request

The applicant, Andrew Matella has submitted an application for annexation and assignment of a Eustis future land use and design district designation.

The current Lake County zoning designation is Urban Residential (R-6) and the land use designation is Urban Medium. The Lake County zoning and land use designations allow for single and multi-family residential up to 6 du/acre. The property owner has requested the SR land use designation within the City of Eustis. The SR land use provides for single family, duplexes, and townhome uses up to 5 du/acre. The requested SR designation permits a single family or duplex use and is consistent with the land use designation of adjacent properties.

Analysis of Annexation Request (Ord. Number 19-35)

1. Resolution Number 87-34 – Joint Planning Area Agreement with Lake County:
 “The City and the County agree that the unincorporated areas adjacent to the City might be appropriately served by urban services provided by the City, and might therefore be annexed into the City in accordance with State law.....The City agrees to annex property in accordance with State law and provide adequate urban services and facilities to serve those areas within the Joint Planning Area.”

The subject property is located within the Joint Planning Area. Urban services of adequate capacity are available to serve future development, consistent with the requested SR future land use designation. (See public facilities and services analysis under item 5 below).

2. Florida Statutes Voluntary Annexation - Chapter 171.044(1):
 “The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality.”

The Joint Planning Area boundaries define the reasonably compact area where the City could provide services effectively and efficiently. The subject property lies within that planning area; it is contiguous to the City limits on its southern boundary; and the owner petitioned for annexation.

3. Florida Statutes Voluntary Annexation - Chapter 171.044(2):
“...Said ordinance shall be passed after notice of the annexation has been published at least once each week for 2 consecutive weeks in some newspaper in such city or town...”

The department published notice of this annexation in the Daily Commercial in accordance with the requirements on November 14 and November 21, 2019.

4. Florida Statutes Voluntary Annexation - Chapter 171.044(5):
“Land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves.”

Annexation of the subject property does not create an enclave. It reduces and existing enclave.

5. Florida Statutes Voluntary Annexation - Chapter 171.044(6):
“Not fewer than 10 days prior to publishing or posting the ordinance notice required under subsection (2), the governing body of the municipality must provide a copy of the notice, via certified mail, to the board of the county commissioners of the county wherein the municipality is located...”

The department provided notice to the Lake County Board of County Commissioners on November 4, 2019.

Analysis of Comprehensive Plan/Future Land Use Request (Ord. Number 19-36)

In Accordance with Florida Statutes Chapter 163.3177.9.:

Discourage Urban Sprawl:

Primary Indicators of Sprawl:

The future land use element and any amendment to the future land use element shall discourage the proliferation of urban sprawl. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:

Review of Indicators

1. Low Intensity Development:

Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.

This indicator does not apply. The requested SR future land use designation will provide for a residential project at a suburban density.

2. *Urban Development in Rural Areas:*

Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.

This indicator does not apply. The requested designation in this geographic area will provide for development of a suburban nature within 1.3-miles of the City's urban core. It is completely surrounded by suburban residential development.

3. *Strip or Isolated Development:*

Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.

This indicator does not apply. The site is located approximately 1.3 miles from the City's downtown core. It is surrounded by existing development.

4. *Natural Resources Protection:*

Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.

This indicator does not apply. The site does not contain natural resources in need of protection. It is an infill lot within an existing developed area. However, Comprehensive Plan and the Land Development Regulations include standards for protection of environmentally sensitive lands that would apply should conditions at time of development warrant such protection.

5. *Agricultural Area Protection:*

Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.

This indicator does not apply. This site and adjacent areas do not support active agricultural or silvicultural activities. The site is not prime farmland and has no unique soils.

6. Public Facilities:

Fails to maximize use of existing public facilities and services.

This indicator does not apply. City water services are available to the site along Washington Avenue. Adequate capacity is available to serve future development consistent with the requested SR future land use designation. Washington Avenue has sufficient capacity to serve residential development on this site. Upon annexation, the City will also provide other services such as fire and police protection, library services, parks, and recreation. The City provides these services to other properties in the area, so efficiency will improve. In addition to public services that are already available and serving other properties in the area, future public facilities/services include: Eustis' Fire Station Number 22 within 1.7 miles of future development on this parcel. LakeExpress bus stop 10 within 0.45 miles of future development on this parcel

7. Cost Effectiveness and Efficiency of Public Facilities:

Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.

This indicator does not apply. Adequate capacity is available to serve future development consistent with the requested SR future land use designation. The City provides these services to other properties in the area, so efficiency will improve.

8. Separation of Urban and Rural:

Fails to provide a clear separation between rural and urban uses.

This indicator does not apply. The area is developed in all directions at suburban residential densities.

9. Infill and Redevelopment:

Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.

This indicator does not apply. The area surrounding the site is already developed. This is an infill development area.

10. Functional Mix of Uses:

Fails to encourage a functional mix of uses.

This indicator does not apply. The area is completely developed as residential and does not meet planning standards for uses other than residential

11. Accessibility among Uses:

Results in poor accessibility among linked or related land uses.

This indicator does not apply. The area is already developed with a transportation network that will provide access to the site.

12. Open Space:

Results in the loss of significant amounts of functional open space.

This indicator does not apply. The vacant property, as it exists, does not provide functional open space, so any future development will not result in a loss.

13. Urban Sprawl:

The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:

a. Direction of Growth:

Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

This is an infill development site. Growth has already occurred around the site.

b. Efficient and Cost-Effective Services:

Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

City water service is available to the site along Washington Avenue. Adequate capacity is available to serve future development consistent with the requested SRJ future land use designation. The transportation network has sufficient capacity to serve residential development, up to and including the maximum development potential, on this site. Upon annexation, the City will also provide other services such as fire and police protection, library services, parks, and recreation. The City provides

these services to other properties in the area, so efficiency will improve.

c. Walkable and Connected Communities:

Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

This is a single lot within a developed residential area. Transportation options already exist in the area.

d. Water and Energy Conservation:

Promotes conservation of water and energy.

Future design of the project may include water and energy conservation measures; however, those details are not available at this time.

e. Agricultural Preservation:

Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

Not applicable; this site does not support active agricultural or silvicultural activities.

f. Open Space:

Preserves open space and natural lands and provides for public open space and recreation needs.

This is a single residential infill lot and cannot provide any open space to the area. The area contains open space that the new development will use.

g. Balance of Land Uses:

Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.

This is a residential infill lot and will only provide a residential use.

h. Urban Form Densities and Intensities:

Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.

Not applicable.

In Accordance with Comprehensive Plan Future Land Use Element Appendix:

All applications for a Plan amendment relating to the development patterns described and supported within the Plan including, but not limited to, site specific applications for changes in land use designations, are presumed to involve a legislative function of local government which, if approved, would be by legislative act of the City and shall, therefore, be evaluated based upon the numerous generally acceptable planning, timing, compatibility, and public facility considerations detailed or inferred in the policies of the Plan. Each application for an amendment to the Map #1: 2035 Future Land Use Map by changing the land use designation assigned to a parcel of property shall also be reviewed to determine and assess any significant impacts to the policy structure on the Comprehensive Plan of the proposed amendment including, but not limited to, the effect of the land use change on either the internal consistency or fiscal structure of the Plan.

Major Categories of Plan Policies:

This Plan amendment application review and evaluation process will be prepared and presented in a format consistent with the major categories of Plan policies as follows:

1. General Public Facilities/Services:

Since the Plan policies address the continuance, expansion and initiation of new government service and facility programs, including, but not limited to, capital facility construction, each application for a land use designation amendment shall include a description and evaluation of any Plan programs (such as the effect on the timing/financing of these programs) that will be affected by the amendment if approved. This analysis shall include the availability of, and actual and anticipated demand on, facilities and services serving or proposed to serve the subject property. The facilities and services required for analysis include emergency services, parks and recreation, potable water, public transportation if and when available, sanitary sewer, schools, solid waste, stormwater, and the transportation network.

a. *Emergency Services Analysis:*

The subject property is located approximately 1.3 miles from the downtown core. Eustis emergency services already provide emergency response to other properties in the area. Additionally, fire service is approximately 1.7 miles of the subject property. Any development consistent with the SR future land use designation would not have a significant negative impact on the operations of Eustis emergency services.

b. *Parks & Recreation:*

In 2010, the City prepared a Park Inventory and Level of Service Demand and Capacity analysis as part of the Comprehensive Plan Evaluation and Appraisal Report. The results show that a surplus of park area exists up to and beyond the City's population reaching 20,015.

Parks Level of Service Demand and Capacity

Year	Population	LOS Required acreage	Existing Acreage	Surplus/ (Deficiency)
2009/10	18,538	55.61	453.76	398.15
2010/11	18,760	56.28	453.76	397.48
2011/12	18,985	56.96	453.76	396.81
2012/13	19,213	57.64	453.76	396.12
2013/14	19,443	58.33	453.76	395.43
2014/15	20,015	60.05	453.76	393.72

- c. *Potable Water & Sanitary Sewer:*
Water is available to the subject property. The following outlines the water demand based on a maximum development potential scenario.

**Potential Residential Demand
1 Dwelling Units**

Water – 1 x 300 GPD =300 GPD

According to the City of Eustis Public Works Department, water and wastewater capacity is available to serve up to and including the maximum development potential.

- d. *Schools:*
The proposed change will not negatively impact schools. Single residential development meets the de minimus requirements for the School Board.
- e. *Solid Waste:*
The City contracts with Waste Management for hauling of solid waste. The company already services properties in the general area of the subject property. Serving this property will increase efficiency in delivery of services.
- f. *Stormwater:*
The Comprehensive Plan and Land Development Regulations include level of service standards to which new development must adhere. Projects designed to meet these standards will not negatively affect the existing facilities and services.
- g. *Transportation Network Analysis:*
The single-family lot meets the de minimus standards. At this time, the adjacent transportation network has the capacity to serve the proposed SR property, even at a maximum development standard, without negatively affecting the adopted level of service.

2. Natural Resources/Natural Features:

The policies of the Plan also contain general regulatory guidelines and requirements for managing growth and protecting the environment. These guidelines will be used to evaluate the overall consistency of the land use amendment with the Comprehensive Plan. Specifically each amendment will be evaluated to 1) determine the existence of groundwater recharge areas; 2) the existence of any historical or archaeological sites; 3) the location of flood zones and the demonstration that the land uses proposed in flood-prone areas are suitable to the continued natural functioning of flood plains; and 4) the suitability of the soil and topography to the development proposed.

a. Ground water recharge areas:

This is an infill lot in a developed residential area and will not affect recharge.

b. Historical or archaeological sites:

The City does not have any record of Florida Master Site Files related to this property and no known historical or cultural resources exist. Should any historical sites or archaeological sites be uncovered during future development, work in the vicinity shall cease until the property authorities can be contacted and an evaluation is conducted.

c. Flood zones:

The subject property is not located in a flood zone, nor is it adjacent to other properties that lie substantially within a flood zone.

d. Soil and topography:

The area is already developed indicating the soils can handle residential development. At the time of development, the City stormwater rules will determine if appropriate design considerations may apply.

3. Comprehensive Plan Review:

Additional criteria and standards are also included in the Plan that describe when, where and how development is to occur. Plan development policies will be used to evaluate the appropriateness of the compatibility of the use, intensity, location, and timing of the proposed amendment.

The current Lake County zoning designation of the subject property is R-6 and the land use designation is Urban Medium. The property owner has requested the SR land use designation within the City of Eustis. The evaluation below supports the requested designation.

a. Review of Surrounding Properties

The site is surrounded by single-family residences of equal or lower density. These zoning categories are Lake County R-1 to the east, north and south. The adjoining western lot is R-6.

b. Comparison of Lake County Development Conditions

(The proposed Maximum Development Potential under a RT Future Land Use Designation):

The existing Lake County future land use designation of the parcel is Urban Medium, which provides for a range of residential development

up to 7 du/acre. The Lake County zoning (R-6) allows density up to 6 du/acre. The City's SR future land use allows densities up to 5 du/acre. Under either development scenario, only 1 du is allowed.

c. Proposed Residential Land Uses.

The City shall limit these uses adjacent to incompatible commercial or industrial lands unless sufficient mitigation, such as buffering and setbacks is provided and available, which lessens the impact to the proposed residences.

Not applicable.

d. Proposed Non-Residential Land Uses.

The City shall generally not permit new industrial uses to be located adjacent to existing or planned residentially designated areas.

Not applicable.

4. Transportation:

Each application for a land use designation amendment will be required to demonstrate consistency with the Transportation Element of the adopted Comprehensive Plan.

The proposed land use designation is consistent with the Transportation Element. A single-family infill lot meets the de minimus requirements for transportation.

5. Water Supply:

Each application for a land use designation amendment will be required to demonstrate that adequate water supplies and associated public facilities are (or will be) available to meet the projected growth demands.

Public utilities and services are available. Refer to 5.A. above for more information. The City's adopted Water Supply Plan anticipated additional growth consistent with this development, so both supply and capacity are available.

In Accordance with Chapter 102-16(f), Land Development Regulations

Standards for Review:

In reviewing the application of a proposed amendment to the comprehensive plan, the local planning agency and the city commission shall consider:

a. Consistent with Comprehensive Plan:

Whether the proposed amendment is consistent with all expressed policies the comprehensive plan.

The proposed amendment is consistent with the Comprehensive Plan. See analysis above under item 5, A through D.

b. *In Conflict with Land Development Regulations:*

Whether the proposed amendment is in conflict with any applicable provisions of these land development regulations.

The proposed amendment is not in conflict with the Land Development Regulations. At the time of development there will be further review for compliance.

c. *Inconsistent with Surrounding Uses:*

Whether, and the extent to which, the proposed amendment is inconsistent with existing and proposed land uses.

The surrounding area is developed with single-family residences. The SR future land use only allows single family and duplex residences. The acreage limits development to a single-family residence.

d. *Changed Conditions:*

Whether there have been changed conditions that justify an amendment.

The applicant wishes to annex the property into the City limits of Eustis. Assignment of a City of Eustis future land use designation is required. Upon annexation, the subject property will have a full array of municipal services, including central water. These changed conditions warrant a change in the land use designation.

e. *Demand on Public Facilities:*

Whether, and the extent to which, the proposed amendment would result in demands on public facilities, and whether, or to the extent to which, the proposed amendment would exceed the capacity of such public facilities, infrastructure and services, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities.

City water service is available to the site along Washington Avenue. Adequate capacity is available to serve future development consistent with the requested RT future land use designation. Upon annexation, the City will also provide other services such as fire and police protection, library services, parks, and recreation. The City provides these services to other properties in the area, so efficiency will improve. See attached Lake County Public Schools Growth Impact Report, which indicates the change will not negatively impact schools.

f. *Impact on Environment:*

Whether, and the extent to which, the proposed amendment would result in significant impacts on the natural environment.

The site does not contain natural resources in need of protection. The Comprehensive Plan and the Land Development Regulations include standards for protection of environmentally sensitive lands that would apply should conditions at time of development warrant such protection.

g. *Orderly Development Pattern:*

Whether, and the extent to which, the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern.

County and City Future Land Use and Zoning designations are compatible with existing development in the area. Infill residential development in an area of residential development is orderly and logical.

h. *Public Interest and Intent of Regulations:*

Whether the proposed amendment would be consistent with or advance the public interest, and in harmony with the purpose and intent of these land development regulations.

The purpose and intent of the Land Development Regulations is as follows:

“The general purpose of this Code is to establish procedures and standards for the development of land within the corporate boundaries and the planning area of the city, such procedures and standards being formulated in an effort to promote the public health, safety and welfare and enforce and implement the city's comprehensive plan, while permitting the orderly growth and development with the city and Eustis planning area consistent with its small town community character and life style”

The development of the property will be in the public interest as it increases efficiency of existing infrastructure, limits sprawls and maintains Eustis' character and lifestyle.

i. *Other Matters:*

Any other matters that may be deemed appropriate by the local planning agency or the city commissioners, in review and consideration of the proposed amendment.

There are no other matters

Analysis of Design District Request (Ord. Number 19-37):

Form-Based Code:

The City's Land Development Regulations are a form-based code. Design districts are unique to form-based codes. Lake County still uses traditional Euclidean zoning, so there are no design districts for parcels in unincorporated Lake County. When a parcel annexes into the City of Eustis, the City must assign a consistent design district that follows the urban, suburban and rural transect

1. *Standard for Review:*

The Land Development Regulations includes the following standards for review of an amendment to the Design District Map. In approving a change in the designation, the City Commission shall consider: Whether the amendment is in conflict with any applicable provisions of the Code.

a. *Section 102-17(a) "...Section 109-3 Design Districts:*

identifies the definition, structure and form of each design district. The assignment of design district must follow the district pattern and intent.”

The requested amendment assigns a newly annexed parcel a designation that meets the district pattern and intent (Suburban Neighborhood).

b. ***Sec. 109-3.4. Suburban development pattern intent statements:***

Intent. Suburban development pattern...relies primarily on a pattern of residential development that provides the majority of property owners with substantial yards on their own property. The street layout, comprised of streets with fewer vehicular connections, helps to reduce cut-through traffic and establishes distinct boundaries for residential communities/subdivisions. Nonresidential uses are primarily located on corridors, districts and a mix of uses is prominent in centers. Each land use provides for pedestrian and bicycle connections.

Design districts

(1) Suburban neighborhood.

a. Definition . Predominately residential uses with some neighborhood scale commercial services.

b. Structure . Interconnected trails, bikeways and walkways with a street framework comprised of a range of blocks permitted throughout the neighborhoods.

c. Form . Mix of detached residential uses with some neighborhood supporting retail, parks and civic spaces as focal points in the neighborhoods.

The site meets the design district purpose and intent by eliminating vacant areas within the design district.

c. ***Section 102-17(a)***

The following guidelines must be followed when proposing the reassignment of design district:

Compatible intensities should face across streets. Changes in design districts should occur along rear alleys or lanes or along conservation edges.

A Suburban Neighborhood designation would maintain the existing transect conditions.

d. ***Consistent with Comprehensive Plan:***

Whether the proposed amendment is consistent with all elements of the comprehensive plan.

The requested amendment is consistent with the Future Land Use element (including Policy FLU 1.2.4, Development Patterns and FLU 1.3.2. Maintain Residential Compatibility), as well as all other elements of the Comprehensive Plan.

e. ***Consistent with Surrounding Uses:***

Whether, and the extent to which, the proposed design district is consistent with existing and proposed land uses.

The Suburban Neighborhood definition, structure and form are compatible with the existing uses and any proposed uses permitted under the SR future land use designation.

f. Changed Conditions:

Whether there have been changed conditions that justify amending the design district.

The subject property is proposed for annexation and a design district assignment is necessary. The conditions have changed from land located in unincorporated Lake County without central services to a site within the City of Eustis with full municipal services.

g. Public Facilities.

Whether, and the extent to which, the proposed redistricting would result in demands on public facilities, and whether, or to the extent to which, the proposed change would exceed the capacity of such public facilities, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities.

This amendment will not change the demand on public facilities. The Future Land Use designation controls the density and intensity permitted on the site, so the Design District map amendment would not result in impacts beyond that already anticipated. Also see analysis of public facilities in above sections of this report.

h. Impact to Environment:

Whether, and the extent to which, the redistricting would result in significant impacts on the natural environment.

The proposed Design District designation for this property does not change the development potential of the parcel. Design Districts control the form and function of any development that does occur. The Future Land Use designation controls the density, intensity and minimum open space permitted on the site, so the Design District amendment would not result in additional impacts on the natural environment. Site plan review for any future development will include environmental review to assess impacts to flora, fauna and wetlands, and provide for protection of sensitive areas.

i. Property Values:

Whether, and the extent to which, the proposed redistricting would affect the property values in the area.

This request should not affect property values, because the proposed Design District designation is consistent with the surrounding development patterns and design districts.

j. Orderly Development Pattern:

Whether, and the extent to which, the proposed redistricting would result in an orderly and logical development pattern.

The proposed Design District designation is consistent with the suburban development pattern identified in Section 109-5.5. Assignment of the requested designation will result in a more orderly and logical development pattern; making the designation consistent with the surrounding area designations and established development patterns.

k. Public Interest and Intent of Regulations:

Whether the proposed redistricting would be in conflict with the public interest, and in harmony with the purpose and intent of these regulations.

The proposed Design District is not in conflict with the public interest and reflects the purpose and intent of the regulations.

l. Other Matters:

Any other matters that may be deemed appropriate by the city commission, in review and consideration of the proposed redistricting.

The City's Land Development Regulations are a form-based code. The Design District designations define the development form, but not the types of land uses, densities, intensities or required open space. The districts, therefore, must be consistent and follow the urban, suburban and rural transect. This request assigns a designation to an annexation parcel.

Applicable Policies and Codes

1. Resolution Number 87-34

Joint Planning Area Agreement with Lake County: "The City and the County agree that the unincorporated areas adjacent to the City might be appropriately served by urban services provided by the City, and might therefore be annexed into the City in accordance with State law.....The City agrees to annex property in accordance with State law and provide adequate urban services and facilities to serve those areas within the Joint Planning Area."

2. Florida Statutes Chapter 171.044: Voluntary Annexation:

- a. "The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality."
- b. "Land shall not be annexed through voluntary annexation when such annexation results in the creation of enclaves."

3. Land Development Regulations Section 109-3.4(b)(4)a:

The Suburban Neighborhood Design District has predominately residential uses with some neighborhood scale commercial services. There are interconnected trails, bikeways and walkways with a street framework comprised of a range of blocks permitted throughout the neighborhoods.

4. Land Development Regulations Section 109-2.3:

The SR land use is intended to have a maximum density of five units to one acre. The SR designation is intended to provide for a mix of single-family

detached, patio homes and townhouse-type dwellings in a suburban atmosphere.

5. Land Development Regulations Section 110-3.2. (c) (1) and (3):

Suburban residential compatibility.

- (1) The maximum residential density permitted within any suburban design district shall be consistent with the maximum density of the applicable land use district assigned to each individual property.
- (3) Transitions within a design district and adjacent to another design district. Edge condition standards. When any suburban design district abuts an existing development, whether residential or commercial, the following shall occur:
 - a. The new residential building lot typologies that are proposed adjacent to existing or platted residential lots may not be smaller than 85 percent of the lot width or intensity of the existing adjacent residential lot(s).
 - b. Nonresidential building lot typologies that are adjacent to existing residential may be permitted if utilizing the minimum lot requirements. If lot requirements exceed the minimum, a masonry wall and landscape shall be required or a street or alley may be sufficient in buffering. This determination shall be given during site plan review by the development services director.

Fiscal Impact:

The current just value of the subject property is \$10,873. Based on the current millage rate of 7.581, annexation of the property could increase annual operating revenues by as much as \$82.43, predevelopment.

Alternatives:

1. Approve Ordinance Numbers 19-35 (Annexation), 19-36 (Comp. Plan Amendment), and/or 19-37 (Design District Designation)
2. Deny Ordinance Numbers 19-35, 19-36 and 19-37.

Discussion of Alternatives:

Alternative 1 approves the Ordinances.

Advantages:

- The action would be consistent with the expansion plans for the City in accordance with the adopted Eustis Planning Area.
- Annexation would increase the tax base of the City and increase the annual operating revenues.
- The City would have a more compact service area for utilities, police, and fire to increase efficiency and level of service. A more compact service area can reduce the overall per capita cost of providing urban services.
- The applicant can move forward with planning a future development.
- The land use change and design district assignment are consistent with the proposed use of the property and the nature of the surrounding area.
- The action could encourage additional development and/or annexations in that area.

Disadvantages:

- The site would no longer be vacant.

Alternative 2 denies the Ordinances.

(If Ordinance Number 19-35 is denied, the Commission cannot approve Ordinance Numbers 19-36 and 19-37.)

Advantages:

- The City would not have to provide services to the subject property.
- The Commission could consider a different Land Use or Design District designation for the property.

Disadvantages:

- Denying annexation would create a gap in the City's natural growth boundary as defined by the Eustis Planning Area.
- The action would eliminate the potential for increased operating revenue and the subject property would continue to receive the indirect benefits of City services that are provided to adjacent properties without paying City taxes.
- The City would continue to experience gaps in its service area causing service inefficiency and confusion regarding City boundaries.
- The property could remain underutilized.
- The City could lose an economic development opportunity.

Community Input

The department has notified surrounding property owners within 500 feet of the site; placed the proper legal advertisements in the newspaper; and posted the site. Since November 14, 2019 the department has received 5 additional response from residents or adjacent property owners.

Budget / Staff Impact:

Based on the current assessment and millage rate, the City can anticipate approximately \$82.43 annually in additional operating revenue, predevelopment. There would be no direct costs to the City beyond the normal City services. There would be no additional staff time beyond the normal review process.

Reviewed By:

Lori Barnes, AICP, Development Services Director

Prepared By:

Roland D. Magyar, AICP, Senior Planner

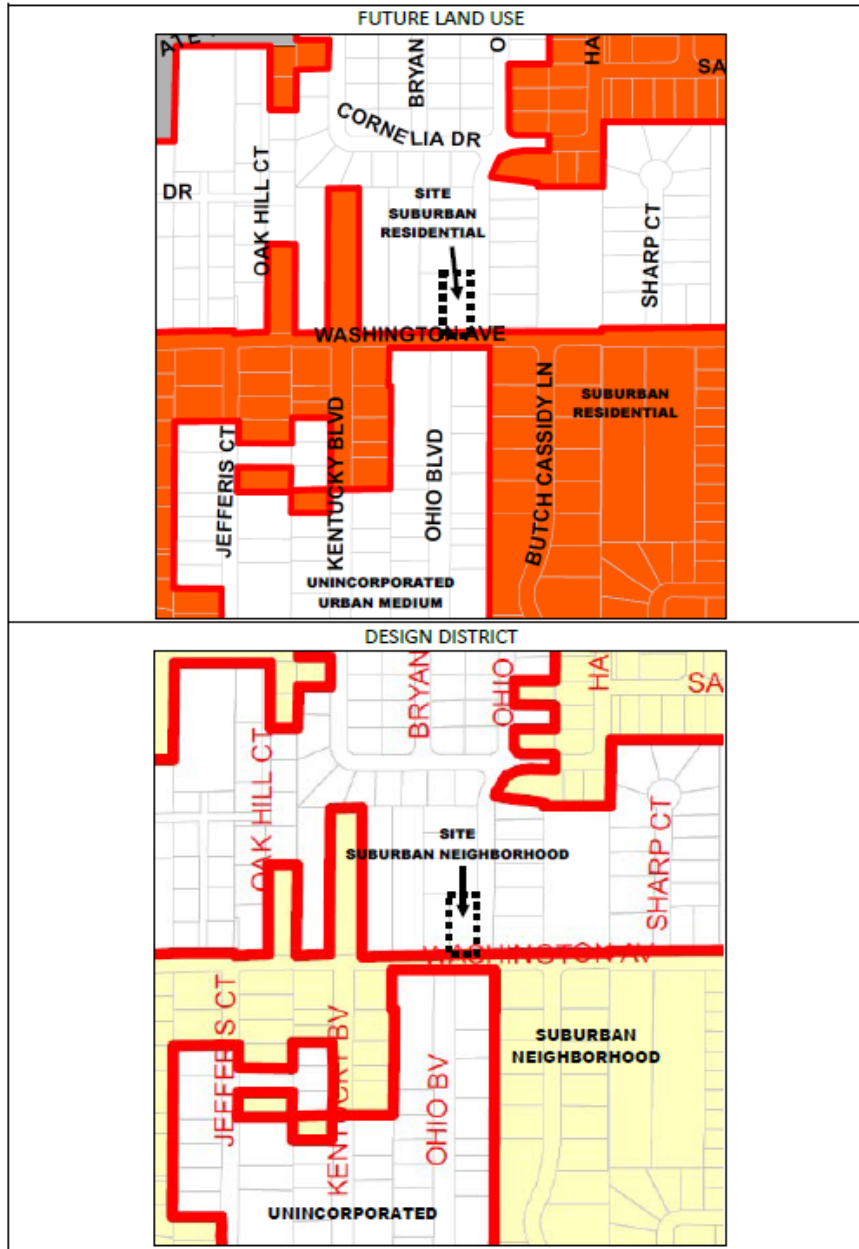
Attachments:

Ordinance Number 19-32, Ordinance Number 19-34, Ordinance Number 19-35
Exhibit A

To be provided on request:

Surrounding Property Owner Notice of Hearing
Legal Advertisement of Ordinances
School Growth Impact Report

EXHIBIT A
FUTURE LAND USE AND DESIGN DISTRICT MAPS



ORDINANCE NUMBER 19-35

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA; VOLUNTARILY ANNEXING APPROXIMATELY 0.30 ACRES OF REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF WASHINGTON AVENUE AND OHIO STREET.

WHEREAS, the Vista Grande Properties LLC, the legal owner of record, has made application for voluntary annexation of approximately 0.3 acres of real property located at the northwest corner of Washington Avenue and Ohio Street more particularly described as:

Tax ID: 12-19-26-0004-000-13200

E 82.28 FT OF W 164.55 FT OF E 564.47 FT OF S 186.49 FT OF NW 1/4 OF SE 1/4--
LESS ST R/W-- ORB 4436 PG 1842.

WHEREAS, the subject property is reasonably compact and contiguous to the City of Eustis boundary; and

WHEREAS, the annexation of this property will not result in the creation of enclaves; and

WHEREAS, the subject property is located within the City of Eustis Planning Area and City services are available; and

WHEREAS, on November 21, 2019 the City Commission held the 1st Public Hearing to consider the voluntary annexation of the property contained herein; and

WHEREAS, on December 5, 2019, the City Commission held the 2nd Public Hearing to consider the voluntary annexation of the property contained herein

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

SECTION 1.

That pursuant to, and under the authority of, Florida Statute 171.044, the City of Eustis, Lake County, Florida, does hereby annex and amend the municipal boundaries to include approximately 0.3 acres of real property located at the northwest corner of Washington Avenue and Ohio Street, as described above.

A map depicting the location of the annexed property described above is attached hereto as Exhibit "A".

SECTION 2.

That the Director of Development Services shall be authorized to amend the City of Eustis Boundary Map to incorporate the change described in Section 1.

SECTION 3.

That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 4.

That upon final passage and adoption, the City Clerk is hereby directed to file a copy hereof with the Clerk of the Circuit Court, the County Manager for Lake County, Florida, and the Department of State for the State of Florida within 7 days after the adoption of such ordinances.

SECTION 5.

That should any section, phrase, sentence, provision or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 6.

That this Ordinance shall become effective upon passing.

SECTION 7.

That the property annexed in this Ordinance is subject to the Future Land Use Element of the Lake County Comprehensive Plan until the City adopts the Comprehensive Plan Amendment to include the annexed parcel in the City Comprehensive Plan.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this 5th day of December, 2019.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 6th day of December, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office

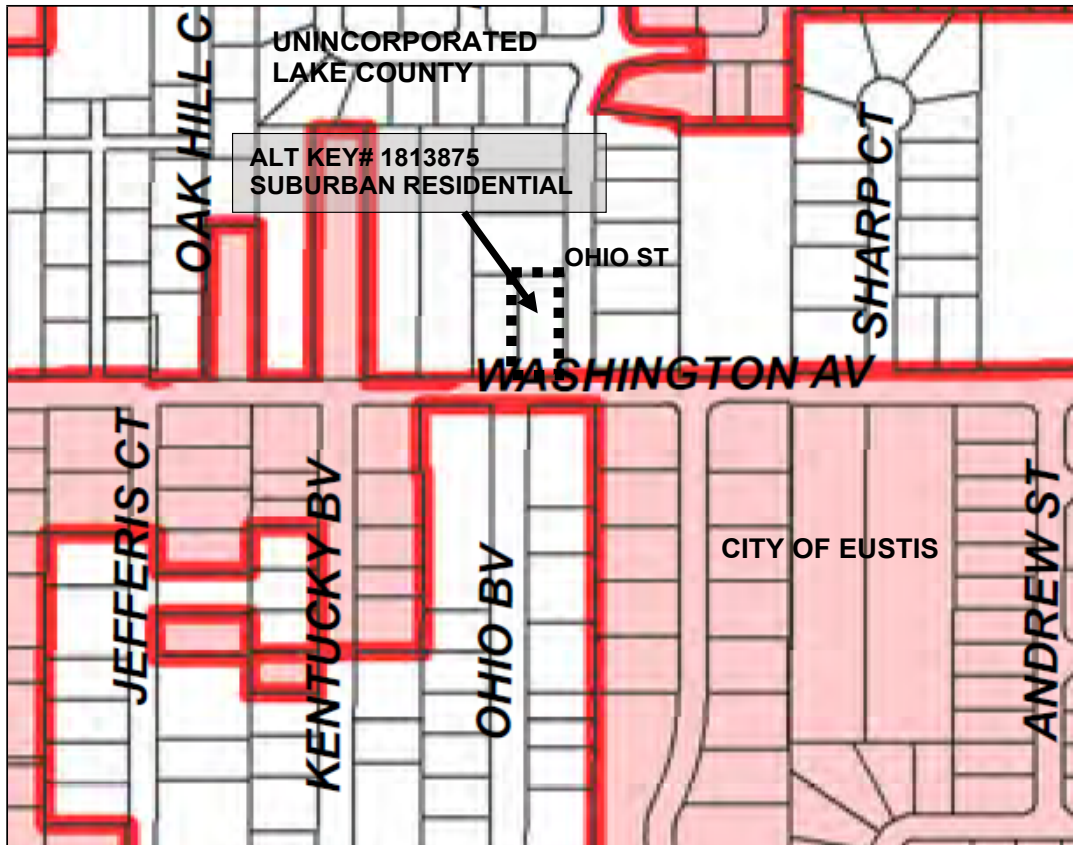
Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 19-35 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk

EXHIBIT A



ORDINANCE NUMBER 19-36

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA, AMENDING THE CITY OF EUSTIS COMPREHENSIVE PLAN PURSUANT TO 163.3187(1) F.S.; CHANGING THE FUTURE LAND USE DESIGNATION OF 0.3 ACRES OF RECENTLY ANNEXED REAL PROPERTY LOCATED ON THE NORTHWEST CORNER OF WASHINGTON AVENUE AND OHIO STREET, AS MORE PARTICULARLY DESCRIBED HEREIN, FROM URBAN MEDIUM IN LAKE COUNTY TO SUBURBAN RESIDENTIAL (SR), IN THE CITY OF EUSTIS.

WHEREAS, on November 4, 2010, the Eustis City Commission adopted the City of Eustis Comprehensive Plan 2010-2035 through Ordinance Number 10-11; and

WHEREAS, State of Florida Department of Community Affairs found the City of Eustis Comprehensive Plan 2010-2035 in compliance pursuant to Sections 163.3184, 163.3187, and 163.3189 Florida Statutes; and

WHEREAS, the City of Eustis periodically amends its Comprehensive Plan in accordance with Chapter 163.3187 and 163.3191, Florida Statutes; and

WHEREAS, the City of Eustis desires to amend the Future Land Use Map Series to change the Future Land Use designation on approximately 0.3 acres of real property located on the northwest corner of Washington Avenue and Ohio Street, and more particularly described herein; and

WHEREAS, on November 21, 2019, the Local Planning Agency held a Public Hearing to consider the adoption of a Small Scale Future Land Use Amendment for this change in designation; and

WHEREAS, on November 21, 2019, the City Commission held the 1st Adoption Public Hearing to accept the Local Planning Agency's recommendation to adopt the Small Scale Future Land Use Amendment contained herein; and

WHEREAS, on December 5, 2019, the City Commission held the 2nd Adoption Public Hearing to consider the adoption of the Small Scale Future Land Use Amendment contained herein;

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

SECTION 1.

Land Use Designation: That the Future Land Use Designation of the real property as described below shall be changed from Urban Medium in Lake County to Suburban Residential (SR) within the City of Eustis:

Tax ID: 12-19-26-0004-000-13200

E 82.28 FT OF W 164.55 FT OF E 564.47 FT OF S 186.49 FT OF NW 1/4 OF SE 1/4--LESS ST R/W-- ORB 4436 PG 1842.

SECTION 2.

Map Amendment and Notification: That the Director of Development Services shall be authorized to amend the Future Land Use Map of the Comprehensive Plan to incorporate the change described in Section 1 and provide appropriate notification in accordance with Florida Statutes.

SECTION 3.

Conflict: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 4.

Severability: That should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 5.

Effective Date: The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the Department of Economic Opportunity notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the Department of Economic Opportunity or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Department of Economic Opportunity.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this 5th day of December, 2019.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 6th day of December, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office

Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 19-36 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk

ORDINANCE NUMBER 19-37

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA; ASSIGNING THE SUBURBAN NEIGHBORHOOD DESIGN DISTRICT DESIGNATION TO APPROXIMATELY 0.3 ACRES OF RECENTLY ANNEXED REAL PROPERTY LOCATED AT THE NORTHWEST CORNER OF WASHINGTON AVENUE AND OHIO STREET.

WHEREAS, the City of Eustis desires to amend the Design District Map of the Land Development Regulations adopted under Ordinance Number 09-33 to assign a Design District designation of Suburban Neighborhood to approximately 0.3 acres of real property located at the northwest corner of Washington Avenue and Ohio Street., and

WHEREAS, on November 21, 2019, the City Commission held the 1st Public Hearing to consider the Design District Amendment contained herein; and

WHEREAS, on December 5, 2019, the City Commission held the 2nd Public Hearing to consider the adoption of the Design District Amendment contained herein;

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS:

Section 1. Design District Designation

That the Design District Designation of the real properties described below shall be Suburban Neighborhood:

Tax ID: 12-19-26-0004-000-13200

E 82.28 FT OF W 164.55 FT OF E 564.47 FT OF S 186.49 FT OF NW 1/4 OF SE 1/4--LESS ST R/W-- ORB 4436 PG 1842.

Section 2. Map Amendment

That the Director of Development Services shall be authorized to amend the Design District Map to incorporate the change described in Section 1.

Section 3. Conflict

That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 4. Severability

That should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 5. Effective Date

That this Ordinance shall become effective upon annexation of the subject property through approval of Ordinance No. 19-35.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this 5th day of December, 2019.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 6th day of December, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 19-37 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

TO: EUSTIS CITY COMMISSION

FROM: RONALD R. NEIBERT, CITY MANAGER

DATE: NOVEMBER 21, 2019

RE: ORDINANCE NUMBER 19-38: AMENDMENTS TO CHAPTER 82,
CODE OF ORDINANCES

Introduction:

Ordinance Number 19-38 amends Chapter 82, Eustis Code of Ordinances, to clarify language, eliminate redundant language, and provide for consistent enforcement.

Recommended Action:

The administration recommends approval of Ordinance Number 19-38.

Background

Code Enforcement and the Public Works Department have recently received a number of flooding complaints in neighborhoods where the cause of the flooding was the result of property owners altering the swale systems/drainage facilities designed to convey stormwater. Chapter 82 included provisions for city regulation of public right-of-way and liability for damage to same, but did not specifically identify drainage facilities as a component of the public right-of-way. This amendment includes language that clarifies drainage facilities are public right-of-way and therefore Chapter 82 provisions, requirements, and enforcement will apply when drainage facilities are altered (for example by filling swales) or damaged by action of a property owner.

In preparing this amendment, staff reviewed Chapter 82 in its entirety and identified the following additional revisions to reflect current practices, and clarify language:

- a. Clarified provisions apply to public streets.
- b. Provided for occasional use of right-of-way to access property without a paved driveway apron.
- c. Clarified state and county driveway connection permits are required on state and county maintained roads.
- d. Provided for outdoor display of merchandise in front of storefronts in the Central Business District.

Alternatives:

1. Approve Ordinance Number 19-38.
2. Deny Ordinance Number 19-38.

Discussion of Alternatives:

1. Alternative 1 approves the Ordinance.

Advantages:

- Outdated language that does not reflect current administrative practices will be updated.
- Enforcement of chapter provisions will be simplified.

Disadvantages:

- There are no disadvantages to approving the Ordinance.

2. Alternative 2 denies the Ordinance.

Advantages:

- The Commission could consider other revisions to this chapter of the Code of Ordinances.

Disadvantages:

- Effective administration and enforcement of the chapter provisions would prove difficult.

Community Input

Staff has properly advertised the ordinance, and there will be an opportunity for public input at the public hearing.

Budget / Staff Impact:

There is no budget or staff impact associated with this ordinance.

Prepared By:

Lori Barnes, AICP, Development Services Director

Attachments:

Ordinance 19-38

ORDINANCE NUMBER 19-38

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA; AMENDING, CHAPTER 82, EUSTIS CODE OF ORDINANCES; PROVIDING FOR CONFLICT WITH EXISTING ORDINANCES, AND PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the majority of the provisions regarding Street, Sidewalks and Certain Other Public Places within Chapter 82 were adopted in 1959, and;

WHEREAS, Chapter 82 was repealed and replaced with adoption of Ordinance Number 16-12 on May 19, 2016, and;

WHEREAS, the City Commission finds periodic review and revision of codes is necessary to reflect current administrative practices; and

WHEREAS, the City of Eustis is committed to assuring a living environment of the highest quality for the citizens of the City and protecting the general health, safety and welfare;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF EUSTIS, FLORIDA AS FOLLOWS:

SECTION 1.

That the following sections of Chapter 82 are amended to read as follows:

Chapter 82 - STREETS, SIDEWALKS AND CERTAIN OTHER PUBLIC PLACES

FOOTNOTE(S):--- (1) ---Cross reference--- Any ordinance dedicating, naming, renaming, establishing, locating, relocating, opening, improving, vacating an easement or otherwise affecting any specific street, public way easement or public improvement saved from repeal, § 1-9(7); any ordinance prescribing the street grades of any street of the city saved from repeal, § 1-9(9); any ordinance providing for local improvements or making assessments for such improvements saved from repeal, § 1-9(10); possession of open container of alcoholic beverages in public places, § 6-8; cemeteries, chapter 22; environment, chapter 34; housing, buildings and other structures, chapter 50; library, chapter 58; parks and recreation, chapter 66; traffic and vehicles, chapter 90; utilities, chapter 94; City of Eustis Engineering & Design Standards.

Section 82-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Driveway apron means the paved driveway approach between the paved portion of public right-of-way and the property line.

Driveway means the improved area between a public street and private property intended to provide ingress and egress of vehicular traffic from the public street or thoroughfare to a definite area, such as a carport, garage or house, on private property.

Public right-of-way-(R.O.W.) means lands covered or dedicated to the public to be used as a public street, alley, walkway, drainage facility, along with associated infrastructure, and/or facilities designed for other public purpose.

Sidewalk means an area of public or private property where pedestrians walk or stand, generally parallel to the edge of a street, roadway or curb.

Public street includes avenue, alley, boulevard, expressway, parkway, court, highway, lane, roadway, terrace, place or causeway which is dedicated to the public to be used for access.

Section 82-2. - Protecting public from injury.

Whenever any person shall do or undertake to do any of the things set forth in this chapter, it shall be the duty of such persons to protect from harm and damage all persons who may be using any public street or sidewalk or other public place where such activity is in progress; and to that end such persons shall erect and maintain suitable barricades, signs, lights, flares and other appropriate warning devices at the proper locations where such work is in progress. (Code 1959, § 19-13.16)

Section 82-3. - Owner to trim shade trees and vegetation.

The owner of property abutting upon the streets of the city shall keep all trees, vines, and shrubs or any other vegetation on his/her property trimmed so their branches do not protrude or overhang beyond the property line lower than 14 feet above the street and do not protrude or overhang into the sidewalk or the adjacent public right-of-way lower than eight feet from grade.

Section 82-56. - City may require and regulate.

The city shall have the power to require and regulate the grading, construction and repair of all public right-of-way, including but not limited to drainage facilities, streets, sidewalks and curbing in the city.

Section 82-57. - Liability for damage to public right-of-way, public streets and sidewalks.

Whoever damages any public right-of-way, including but not limited to curbing, drainage facilities, public streets or sidewalk in the city through negligence, through intentional acts including but not limited to using the public right-of-way for vehicle parking or similar uses, and/or failure to maintain trees or vegetation, shall:

- (a) Restore the affected area in accordance with Section 82-130.
- (b) Be civilly liable, in addition to any other penalties or requirement, to the city for the amount of such damage, which amount may be recovered in a suit by the city in the

courts of the state having jurisdiction. Any such amount so recovered shall be placed in the city treasury to the credit of the general fund. In the event no such amounts are recovered, the City shall place a lien on the property.(Code 1959, § 19-17)

Section 82-58. – Repairs to public right of way, public streets and sidewalks.

Whenever the city manager requires any area to be repaired in association with damages described in Section 82-57, and the owner of the property neglects or refuses to make such repairs within the time allotted, the city manager shall have such repairs made, and the cost shall be assessed against the property. Such assessment shall create and be a lien and charge against the property, which may be enforced as other liens of the city.

Section 82-59. - City to have a lien on abutting property.

When work provided for in Section 82-57 and 82-58 shall have been completed by the city, it shall have a lien of superior dignity to all other liens for the cost upon property fronting or abutting such public right-of way, including but not limited to drainage facilities, public streets, sidewalk or curb, according to the number of lineal feet of such property.

Section 82-60. - Enforcement of lien.

The lien provided in Section 82-59 may be enforced and the amount recovered from the owners of the property fronting or abutting the public right-of-way so constructed, graded, paved, altered or repaired, either by suit at law or in equity; or the amounts may be assessed against the property so fronting or abutting on that portion of the public right-of-way so constructed, graded, paved, altered or repaired, and collected in like manner as taxes.

Section 82-91. - Compliance required.

All driveway aprons constructed or removed within the city limits shall be constructed or removed as provided for in this division and the Standard Transportation Construction Specifications, City of Eustis Engineering & Design Standards of this Code. No person shall cut any drop curb for a driveway, walkway or for any other purpose without first obtaining a permit from the city.

Section 82-92. - Private driveway aprons connected with paved streets to be hard surfaced.

- (a) As of February 15, 2001, it shall be unlawful for any person to use, or cause to be used, any portion of the public right-of-way to access private property unless a permitted driveway apron of concrete or other hard surface material, is constructed in accordance with the City of Eustis Engineering & Design Standards. However, occasional use of the public right-of-way to access private property without an improved driveway apron; if such use intensifies to the extent that the public right-of-way is damaged, a permitted driveway apron will be required, or the use abandoned and the affected area restored in accordance with Section 82-130 of this Code.

- (b) Properties with new access or use initiated no earlier than February 15, 2001, are ordered and required to pave driveway aprons with concrete or other hard surface material in accordance with the City of Eustis Engineering & Design Standards, within the allotted time after being served with a written notice requiring and ordering such construction, which notice shall be ordered served via established code enforcement procedure. If the owner fails or refuses to construct or hard surface the private driveway apron, the city shall cause the driveway apron to be so constructed, paying the expense, which expense shall be a lien upon the real estate abutting upon or adjoining the improvement or private driveway and paved street, and shall be enforced in the same manner as other liens.

Section 82-93. - Construction requirements.

- (a) Driveway aprons constructed in the city on paved public streets shall be constructed in conformance with Standard Transportation Construction Specifications, City of Eustis Engineering & Design Standards.
- (b) It shall be unlawful for any person to construct, cut, break out or remove any curb along a street or alley except as authorized by the provisions of Standard Transportation Construction Specifications, City of Eustis Engineering & Design Standards.
- (c) All driveway aprons constructed in the city on paved public streets shall be reviewed and approved by the city engineer or designee prior to the issuance of any building permit for the erection, construction, reconstruction or change in the use of the building, structure or land.

Section 82-94. - Permits required; fees; posting permit.

- (a) No person shall remove, alter or construct any curb, driveway, driveway apron, gutter, pavement or perform any other improvement on any public street or designated public right-of-way without obtaining a permit authorizing such improvements. Driveways and driveway aprons shall not be relocated, altered or reconstructed without a permit approving the relocation, alterations or reconstruction and such driveways shall be subject to the provisions of this section, and the City of Eustis Engineering & Design Standards.
- (b) Fees for permits shall be according to the schedule on file in the city clerk's office and shall be paid to the city at the time the permit is issued.
- (c) The driveway permit shall be posted at the construction site.

Section 82-95. - Submission of plans; information required.

- (a) No driveway apron or driveway permit shall be issued until there is filed with the city building department two copies of the plans showing the location and dimensions of all proposed improvements.
- (b) State and/or county driveway connection permits shall be obtained for driveway aprons on state department of transportation and county maintained streets within the corporate limits.

(c) Information required on plans submitted shall include the following:

- (1) A complete plot plan showing all proposed buildings and parking layouts, including north arrow and date.
- (2) Existing and proposed driveway apron and driveway locations and widths.
- (3) Street pavement types and widths and public right-of-way widths.
- (4) Proposed location of off-street loading and unloading facilities, interior parking arrangements, and traffic circulating patterns.
- (5) Retaining walls, drainage, utility poles, trees and other physical features which affect the driveway location.

Section 82-97. Replacements required.

- (a) When any driveway is altered, modified or removed, making any portion or all of the driveway apron unnecessary, the owner of the property on which driveway apron connection is located shall, at his expense, replace all necessary curbs, gutters, sidewalks and grass areas.

Section 82-127. - Sale of merchandise on public property.

Except as may be permitted by the city manager, it shall be unlawful for any huckster, peddler, storekeeper, merchant or any other person to use or occupy any portion of any public square, park, street or sidewalk for the purpose of selling or offering for sale any goods, wares or merchandise.

(Code 1959, § 19-6)

Section 82-128. - Building materials in streets; permit required.

(a) It shall be unlawful for any person to place or cause or allow to be placed any construction and demolition debris, dumpster, trash, lumber, brick, stone, glass or any other obstruction or material in any public right of way, street, sidewalk or public ground of the city which may obstruct or hinder vehicle or pedestrian traffic except as provided in this section.

(b) Exceptions:

1. Commercial solid waste dumpsters provided by the City or its franchisee, when no on site dumpster enclosure or pad is available on the commercial property receiving solid waste and collection services when it is determined that the dumpster placement will not be detrimental to the health, safety and welfare of the public. The business utilizing such dumpster shall be responsible for keeping the public right-of-way clean and free of trash, garbage, rubbish or other materials, etc. At no time shall any loose bags or any other type solid waste, included yard waste be placed in the public right-of-way beside the dumpster.

2. (2) In addition of keep the area clean, the business is responsible for repairing any damage to the public right-of-way caused by trucks servicing the dumpster.

3. Construction dumpsters may be permitted under certain conditions with a right-of-way permit approved by the city engineer.

(Code 1959, § 19-7; Ord. No. 02-56, § 1, 8-1-2002)

Section 82-129. - Placing alternate materials, structures or plants in city public right-of-way, permit required.

Any person wishing to erect any building or structure, plant any tree or bush, install pavers, rain gardens, stone or other material alternative to sod in the city public right-of-way adjoining any lot or parcel of land may request a public right-of-way permit from the city engineer. Upon determination that the proposed improvements meet all applicable city standards and will not be detrimental to the health, safety and welfare of the public, the city engineer may issue a public right-of-way permit for such improvements with the condition that, (1) whenever necessary for construction, maintenance, operation or alteration of the public right-of-way or utilities contain therein, any or all appurtenances authorized by this permit shall be immediately removed from the public right-of-way at the expense of the applicant, and (2) the city shall not be responsible for damages to any structure placed within the public right-of-way. .

Section 82-130. Restoration.

Any person, who alters, changes or damages any public right-of-way by performing any acts listed in Articles I, II and III without approval by the city engineer shall be required to restore the affected area back to good condition, including the installation of sod, or other approved material as determined by the city engineer, regardless of its original condition. Any person who alters, changes or damages any drainage facility without approval by the city engineer shall be required to restore the drainage facility to a condition where the facility operates in the manner for which it was originally designed and constructed.

Section 82-131. Enforcement.

Unless otherwise noted herein, any violation of Articles I, II and III shall be subject to enforcement pursuant to code enforcement procedures as set forth in Chapter 2, or when deemed necessary by the City, in accordance with the nuisance abatement procedures listed in Sections 34-98 through 34-101 of this Code.

Section 82-156. - Initiation of public right-of-way vacation.

An application to abandon or vacate a public right-of-way, public street, public alleyway or public road (hereinafter jointly and severally "public right-of-way") may be initiated by:

- (1) The city manager or designee where it deems the public right-of-way vacation is in the public interest or when the public right-of-way no longer serves a public purpose; or
- (2) At least two-thirds of all owners abutting the portion of the public right-of-way proposed to be vacated.

ARTICLE V. - PUBLIC RIGHT-OF-WAY VACATION

Section 82-157. - Procedures for public right-of-way vacation.

Vacation of a public right-of-way shall be considered by the city commission at a public hearing, notice of which shall be placed in a newspaper of general circulation in the City at least ten days before the hearing. Where the city manager has initiated consideration of the vacation, all owners of the property abutting the portion to be abandoned shall be notified by mail at least ten days before the hearing. For this purpose, the owners shall be deemed to be those persons shown as owners upon the city's tax rolls. Where at least two thirds of all owners abutting the portion of the public right-of-way proposed to be vacated initiated consideration of the vacation, they shall (i) pay to the city the fee for processing the vacation application proscribed by the city commission and (ii) submit to the city the completed vacation application approved by city staff and signed by at least two-thirds of all owners abutting the portion of the public right-of-way proposed to be vacated.

Section 82-158. - Criteria for public right-of-way vacation.

At the public hearing, the city commission shall consider the following criteria in determining whether the vacation is in the public interest.

- (1) Whether the public benefits from the use of the subject public right-of-way as part of the city street system;

Section 82-159. - Required findings for vacation.

In order to vacate any public right-of-way, the city commission must determine that:

- (1) The public right-of-way no longer serves a public purpose; or
- (2) The public right-of-way vacation is in the public interest.

ARTICLE VII. - OUTDOOR SEATING AREAS, OUTDOOR PLANTERS SIDEWALK SALES/DISPLAY OF MERCHANDISE AND/OR ADDITIONAL SIGNAGE IN THE CENTRAL BUSINESS DISTRICT

Section 82-226. - Definitions.

Outdoor seating area . A specified area within the city right-of-way (sidewalk area) which may be used as a seating area with tables and chairs for the contiguous business. This seating may be in addition to the allowable indoor seating or it may be the only seating available for the business.

Sidewalk sales/display of merchandise . A specified area within the city right-of-way (sidewalk area) which may be used to stage merchandise for the purpose of sales or display for the contiguous retail business.

Section 82-227. - Where permitted.

Outdoor seating areas, sidewalk sales/display of merchandise on sidewalks (within the public right-of-way), outdoor planters, and additional signage permitted in this article shall only be permitted within the central business district as designated on the land use map of the comprehensive plan. (Note: Outdoor display of merchandise is allowed for commercial operations outside the central business district subject to the limitations in Section 110-5.10 of the Land Development Regulations.

Section 82-228. - Standards and criteria.

- (a) Outdoor seating areas and sidewalk sales/display of merchandise are only permitted as an accessory use to a business holding an active business tax receipt on the site abutting the public right-of-way.
- (f) No permit shall be issued for either outdoor seating areas, sidewalk sales/display of merchandise , outdoor planters and/or additional signage unless the permittee executes an application which contains a hold harmless agreement which releases the city from liability and which indemnifies the city for any claims, loss, damages, expenses, attorney's fees, or costs associated with use of the right-of-way by any one.

Section 82-230. - Procedures for approval for outdoor seating areas, outdoor planters and/or additional signage.

- (b) The applicant shall submit an application which includes a scaled, dimensioned and legible drawing of:
 - (1) The area proposed for use as an outdoor seating/sales and display area; sales/display areas shall be limited to the size and scope specified in Section 110-5-10 (c), and may be further limited to comply with the standards herein, including but not limited to accessible path.
 - (2) The location of the proposed items (tables, chairs, merchandise , et cetera) in the right-of-way area which the applicant desires to use; and

SECTION 2.

Provisions of Chapter 82 not modified herein shall remain in full force and effect; Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 3.

This Ordinance shall become effective immediately upon passing.

SECTION 4.

The provisions of this Ordinance are intended to be incorporated into the Code of Ordinances of the City of Eustis, Florida, and the sections of this Ordinance may be renumbered, re-lettered, and the word "ordinance" may be changed to "section," "article," or such other word or phrase in order to accomplish such intention.

SECTION 5.

That should any section, phrase, sentence, provision or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this 5th day of December, 2019.

CITY OF EUSTIS, FLORIDA

Michael L. Holland
Mayor/Commissioner

ATTEST:

Mary C. Montez, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me this 8th day of November, 2019, by Michael L. Holland, Mayor, and Mary C. Montez, City Clerk, who are personally known to me.

Notary Public - State of Florida
My Commission Expires:
Notary Serial No:

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content, but I have not performed an independent Title examination as to the accuracy of the Legal Description.

City Attorney's Office Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 19-38 is hereby approved, and I certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Eustis Parks and Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Mary C. Montez, City Clerk

Ordinance No. 19-38
Page 9 of 10



City of Eustis

P.O. Drawer 68 • Eustis, Florida 32727-0068 • (352) 483-5430

Staff Report

TO: Eustis City Commission
FROM: Ronald Neibert, City Manager
DATE: November 21, 2019
RE: DISCUSSION REGARDING VACANT COMMERCIAL BUILDINGS

Introduction:

This item is for review of information regarding how the City ensures the maintenance of vacant Commercial buildings.

Background:

Previously, the City Commission requested information and discussion on what the City could do to ensure the vacant downtown commercial buildings are maintained properly in order to keep the downtown attractive to potential commercial investors. In January 2018, the City Attorney provided a verbal report on what the Commission could legally do to protect the vacant storefronts. He stated that the State of Florida does not allow cities to require the registration of vacant properties and that all the City could legally do is to require the storefronts to be kept clean and attractive. (See attached Commission minutes from January 26, 2018, with Mr. Schroth's report highlighted.)

Also attached is a copy of an email from Eric Martin, Code Enforcement Supervisor, which indicates that Section 34-112(6) of the Code of Ordinances addresses vacant storefronts as follows:

Section 34-112(6): If any commercial property is vacant for more than 15 days, all glass surfaces visible to the public shall be kept clean and the interior of such vacant store shall be screened from public view with one of the following:

1. Decorative displays of merchandise currently available within the city;
2. Merchandise of the future tenant of the vacant store;
3. Public services displays; or
4. Festival and current holiday displays

Attached for your review is a similar ordinance from the City of Miami Beach which also includes fines for violation of the ordinance and for the City to develop a screening material which may be purchased from the City to screen vacant storefronts.

The Commission also mentioned performing annual inspections. Attached is a copy of Section 38-91 of the Code of Ordinances pertaining to fire inspections. Under this section of the Code, the City requires an annual inspection of all commercial buildings by the Fire Department, whether the building is occupied or not. At the November 7, 2019, Commission meeting, the Commission approved the adoption of a late fee to encourage better compliance with payment of the annual fire inspection fee.

Recommended Action:

This information is being presented for discussion purposes only and to allow the Commission the opportunity to provide further direction to staff.

Budget Impact:

None, at this time.

Attachments:

[01-18-2018 CC MIN](#)

[Martin and Schroth emails re vacant buildings 2018](#)

[Miami Beach ordinance re vacant storefronts](#)

[Eustis Code Sec 38-91 regarding fire inspections](#)

Reviewed by:

Ronald Neibert, City Manager

Approved - 15 Nov 2019

Mary Montez, City Clerk

Approved - 15 Nov 2019

APPROVED: 2/1/2018



City of Eustis, Florida

Meeting Minutes – Final* City Commission

City Hall
10 North Grove Street
Post Office Drawer 68
Eustis, FL 32727-0068

Thursday, January 18, 2018

6:00 PM

City Hall

INVOCATION: David Williamson, Central Florida Free Thought Community

PLEDGE OF ALLEGIANCE: Commissioner Gnann-Thompson

CALL TO ORDER: Mayor Morin

ACKNOWLEDGEMENT OF QUORUM AND PROPER NOTICE

Present: 5 - Commissioner Carla Gnann-Thompson; Commissioner Anthony Sabatini; Vice-Mayor Marie Aliberti; Commissioner Linda Bob; and Mayor Robert Morin

I. AGENDA UPDATE - None

II. APPROVAL OF MINUTES

18-0030 January 4, 2018 - Regular City Commission Meeting

A motion was made by Commissioner Sabatini, seconded by Commissioner Bob, that the Minutes be Approved. On a voice vote, the motion passed unanimously.

III. PRESENTATIONS

18-0023 Presentation of Certificate of Appreciation to Life Changing Ministries Thrift Store

Mayor Morin presented a Certificate of Recognition to Roy Peters, representing Life Changing Ministries Thrift Store, and recognized them for their support of the community.

Mr. Peters commented on the organization's efforts and how the thrift store was started noting that over \$6.5 million worth of goods have gone through the organization and back into the community.

18-0026 Presentation by LEASH, Inc. regarding local Trap-Neuter-Release program

Marie Rich addressed the Commission regarding LEASH, Inc., how it was begun and the trap - neuter - return program. She asked the Commission to consider again providing a donation for the program.

Karen LeHeup-Smith provided an update on the Trap - Neuter - Return program, the use of the City's \$5,000 donation and the need for volunteers to assist with the program.

Mr. Kelsey, Kelsey's Lube and Car Wash, commented the effect on his business when he first opened and the reduction in the feral colony.

Ms. LeHeup-Smith stated the organization's request for additional funding.

Christine Cruz added that the organization also provides rabies shots to all of the trapped cats.

Ron Neibert, City Manager, stated that the donation has not been specifically budgeted but there are funds available in Contingency.

A motion was made by Commissioner Bob, seconded by Commissioner Gnann-Thompson, for \$5,000 to be transferred from Contingency and awarded to LEASH, Inc. for the Trap - Neuter - Return program. On a voice vote, the motion passed unanimously.

IV. APPOINTMENTS

18-0021 Appointment to Code Enforcement Board - Joanne Rittenhouse

Joanne Rittenhouse addressed the Commission stating her desire to be appointed to the Code Enforcement Board and provided a brief background.

The Commission asked Ms. Rittenhouse regarding her thoughts about code enforcement in the community with Ms. Rittenhouse stating the need to assist some residents with their homes.

A motion was made by Commissioner Sabatini, seconded by Commissioner Bob, that Joanne Rittenhouse be appointed to the Code Enforcement Board. On a voice vote, the motion passed unanimously.

18-0022 Appointment to Eustis Housing Authority - Jasmine Melendez

Jasmine Melendez addressed the Commission regarding her desire to be appointed to the Eustis Housing Authority and provided a brief background.

The Commission asked why she wants to serve on the board with Ms. Melendez indicating her desire to help keep the apartment complex nice.

The Commission encouraged her to talk to the City about the Community Redevelopment Area activities and to work on the possibility of offering a summer feeding program in that area.

A motion was made by Commissioner Sabatini, seconded by Commissioner Bob, that Jasmine Melendez be appointed to the Eustis Housing Authority. On a voice vote, the motion passed unanimously.

IV. AUDIENCE TO BE HEARD

Darius Kerrison addressed the Commission regarding the upcoming Comedy Show at the Community Building on Saturday, January 20th. He then reported on the Special Olympic participants and their recent basketball games at the Big House. He noted their team would be going to state.

Tom Carrino, Economic Development Director, provided a review of the upcoming City events.

V. CONSENT AGENDA

18-0016 Resolution No. 18-05: Water Service/Annexation Agreement - 2010 Country Club Drive, Outside the City Limits

18-0027 Resolution No. 18-08: Bid award for purchase of Fire Rescue Truck

18-0013 Resolution No. 18-10: Release of Lien, 5 East Pendleton Avenue, Case #07-218

A motion was made by Commissioner Sabatini, seconded by Vice-Mayor Aliberti, to approve the Consent Agenda. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Sabatini; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

VI. ORDINANCES, PUBLIC HEARINGS & QUASI-JUDICIAL HEARINGS**18-0014 Resolution No. 18-02: Site Plan Modification for Randazzo Storage Facility Located at 2200 CR 452**

Derek Schroth, City Attorney, announced Resolution No. 18-02: A Resolution of the City Commission of the City of Eustis, Florida; approving a modification to an approved site plan to change phasing requirements and allow an on-site fire tank on approximately 4.39 acres located at 2200 CR 451, Eustis FL.

Roland Magyar, Senior Planner, explained the requested modifications to the Randazzo Storage Facility approved site plan as follows: 1) Change to the phasing dates with Phase I to be completed by March 2018; and 2) Addition of a water tank on the site. The justification for the extension was due to problems with obtaining a feasible water connection. He stated that the requested water tank is allowed as an accessory structure. He reviewed the completion dates for all three phases of the project. He stated staff's recommendation for approval.

Mr. Schroth opened the public hearing at 7:06 p.m. There being no public comment, the hearing was closed at 7:06 p.m.

A motion was made by Commissioner Sabatini, seconded by Commissioner Gnann-Thompson, to approve Resolution No. 18-02. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Sabatini; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

18-0017 Resolution No. 18-03: Subdivision Final Plat Approval for the Cobb Commerce Park Subdivision (E. CR 44 and Hicks Ditch Road)

Mr. Schroth announced Resolution No. 18-03: A Resolution of the City Commission of the City of Eustis, Florida; approving a final subdivision plat for the Cobb Commerce Park Subdivision, an eight lot commercial/industrial subdivision, on approximately 30.8 +/- acres located at East CR 44 and Hicks Ditch Road.

Mr. Magyar explained staff's request to continue consideration of Resolution No. 18-03 and approval of the final plat to a date certain in order to allow time for the City's surveyor to present comments on the final plat.

Mr. Schroth opened the public hearing at 7:07 p.m. There being no public comment, the hearing was closed at 7:07 p.m.

A motion was made by Commissioner Gnann-Thompson, seconded by Vice-Mayor Aliberti, that Resolution No. 18-03 be postponed to February 15, 2018. On a voice vote, the motion passed unanimously.

18-0015 Resolution No. 18-04: Site Plan Modification for Eustis Retail Center, Pad E Located at 17315 US Hwy 441

Mr. Schroth announced Resolution No. 18-04: A Resolution of the City Commission of the City of Eustis, Florida; approving a modification to an approved site plan to change the building size, retaining wall location and parking area on approximately 1.11 acres located at US Hwy. 441 on Lake Louise, Eustis FL.

Mr. Magyar reviewed the requested modifications to the Eustis Retail Center site plan as follows: 1) Increase size of building to 6,988 sq. ft., 2) Add eight additional parking spaces; and 3) relocate the west 45 feet of the retaining wall. He stated the applicant's justification for the request was the demand for retail space and parking was greater than expected, and the requested modifications meet the land development regulations. He stated staff's recommendation for approval.

Mr. Schroth opened the public hearing at 7:13 p.m.

Tom Robinson explained he lives adjacent to the development and questioned whether or not there is anything to keep people from going over the wall. He then clarified that he meant vehicles.

Mr. Magyar indicated there would be a dumpster with a concrete wall and a long drop on the other side of the retaining wall.

There being no further public comment, the hearing was closed at 7:15 p.m.

A motion was made by Commissioner Sabatini, seconded by Commissioner Gnann-Thompson, to approve Resolution No. 18-04. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Sabatini; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

18-0010 Resolution No. 18-06: Bid award for CDBG administrative services

Mr. Schroth announced Resolution No. 18-06: A Resolution by the City Commission of the City of Eustis, Lake County, Florida, awarding Bid No. 001-18 to Fred Fox Enterprises, Inc., for grant administration services related to the Small Cities Community Development Block Grant and authorizing the City Manager to execute the contract based on the amount quoted on the attached bid response.

Mike Brisson, Project Manager, explained the requested bid award to Fred Fox Enterprises Inc. for grant administrative services for the City's Small Cities Community Development Block Grant.

The Commission discussed whether or not the City should have its own inhouse grants writer and the possibility of partnering with Lake County for CDBG administration.

Mr. Neibert explained the funding would only provide for a portion of a grants writer position. He stated there are not that many grant programs available anymore and that many require a particular grant oversight agency. He stated that realistically the City would only be able to get a CDBG grant every other year. Regarding partnering with the County, he indicated that could be considered for the future; however, the County would have had to submit a proposal under the HUD guidelines and it was too late for them to do that.

Mr. Schroth opened the public hearing at 7:22 p.m.

Shawna Wells-Booth expressed support for having a citizen selected for the position.

Gail Isaac Thomas asked if the administrative services would be paid out of the grant monies with Mr. Neibert confirming.

There being no further public comment, the hearing was closed at 7:24 p.m.

A motion was made by Commissioner Gnann-Thompson, seconded by Vice-Mayor Aliberti, to approve Resolution No. 18-06. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Sabatini; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

18-0011 Resolution No. 18-07: Approval of purchase in excess of \$25,000 for Police Vehicles

Mr. Schroth announced Resolution No. 18-07: A Resolution by the City Commission of the City of Eustis, Lake County, Florida, authorizing a purchase in excess of \$25,000 for the Police Department to purchase and equip four (4) police vehicles utilizing the Sales Tax Revenue funds allocated in the Police Department's approved fiscal year 2017-18 budget.

Gary Calhoun, Police Chief, reviewed the requested purchase of the four police vehicles.

Mr. Schroth opened the public hearing at 7:25 p.m. There being no public comment, the hearing was closed at 7:25 p.m.

A motion was made by Vice-Mayor Aliberti, seconded by Commissioner Bob, to approve Resolution No. 18-07. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Sabatini; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

18-0025 Resolution No. 18-09: Expressing support for all Legislative efforts to protect Florida's Home Rule powers

Mr. Schroth announced Resolution No. 18-09: A Resolution of the City Commission of the City of Eustis, Lake County, Florida; supporting all legislative efforts to protect and strengthen the rights of Florida citizens to govern themselves under municipal Home Rule powers conferred upon them by the Florida Constitution; providing for authority to the City Manager for implementing administrative actions; conflicts, severability and an effective date.

Mr. Neibert explained the purpose of the resolution to support any legislation increasing the City's Home Rule authority. He stated it has no force and effect and cited the presentation by Lynn Tipton from the League of Cities.

Commissioner Sabatini commented on the lack of home rule in other states, reviewed the history of home rule in Florida, commented on activities of the Florida League of Cities in support of unlimited home rule and expressed his opposition to unlimited home rule. He emphasized that cities are created by the State.

Commissioner Bob expressed concern regarding home rule but noted there are issues with the State as well.

Mayor Morin commented on the need for the residents to be able to govern themselves and cited recent issues with the State trying to take away certain powers.

Mr. Schroth opened the public hearing at 7:32 p.m. There being no public comment, the hearing was closed at 7:32 p.m.

A motion was made by Commissioner Gnann-Thompson, seconded by Vice-Mayor Aliberti, to approve Resolution No. 18-09. The motion carried by the following vote:

Aye: 4 - Commissioner Gnann-Thompson; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

Nay: 1 - Commissioner Sabatini

FIRST READING

18-0024 Ordinance No. 18-01: Amending Chap. 10, Sec. 10-86(a) Amusements and Entertainment, expanding the on-street possession/consumption of alcohol to Monday through Sunday with no time restrictions

Mr. Schroth read Ordinance No. 18-01 by title on first reading: An Ordinance of the City Commission of the City of Eustis, Lake County, Florida; amending Chapter 10, Section 10-86(a) Amusements and Entertainment; providing for codification; and providing for an effective date.

Mr. Carrino explained the proposed amendment to allow the public consumption and possession of alcohol within the downtown entertainment district for all seven days each week instead of the current Thursday through Saturday but with no changes to the hours. He reported that Tavares has no limitations and Mount Dora does not yet have an entertainment district.

The Commission discussed the allowed hours for public consumption and encouraged the downtown businesses to provide input prior to second reading of the ordinance.

Mr. Schroth opened the public hearing at 7:39 p.m.

Ms. Wells-Booth commented on downtown alcohol sales and closing times.

There being no further public comment, the hearing was closed at 7:40 p.m.

A motion was made by Commissioner Sabatini, seconded by Commissioner Gnann-Thompson, to approve Ordinance No. 18-01 on first reading with the following amendment: that the specified hours be eliminated. The motion carried by the following vote:

Aye: 4 - Commissioner Gnann-Thompson; Commissioner Sabatini; Vice-Mayor Aliberti; and Mayor Morin

Nay: 1 - Commissioner Bob

18-0029 Ordinance No. 18-06: Amending Chapter 62 - Offenses; adding Article III - Aggressive Solicitation

Mr. Schroth read Ordinance No. 18-06 by title on first reading: *An Ordinance of the City Commission of the City of Eustis, Lake County, Florida, amending Chapter 62 – Offenses; adding Article III – Aggressive Solicitation; providing severability; providing an effective date.*

Chief Calhoun reviewed the proposed ordinance which would ban aggressive solicitation, provide specific definitions that will assist with enforcement and prohibit false or misleading solicitation.

Mayor Morin noted that a point in time count would occur the next week and expressed support for postponing consideration of the ordinance. He noted the presence of organization representatives that could provide input regarding the effect on the homeless population.

Mr. Neibert stated the ordinance would address issues in the public right-of-way and that incidents occurring on private property could be addressed with trespass ordinances.

The Commission discussed the possibility of postponing first reading of the ordinance, the effects on downtown businesses and people using the parks, the City's efforts to assist local homeless residents, the intent of the ordinance not being to address the homeless problem but aggressive solicitation, individuals preying on local residents that are not actually homeless or that request donations with a story that is false, the need to assist the police in enforcement, and the City's need to address the homeless issue.

Mr. Schroth opened the public hearing at 7:53 p.m.

B. E. Thompson, Lifestream Behavioral Center and director over the Open Door, cautioned the City to make sure the ordinance is in compliance with the "Pottinger Rule", which states the City cannot make laws that criminalize homelessness.

Barbara Wheeler, Executive Director of Mid Florida Homeless Coalition, explained their efforts to move homeless people into housing and help them to become self-sustaining. She cited the lack of cold weather shelters and the need for homeless individuals to obtain funds for a motel room to get out of the cold. She commented on the difficulties in assisting newly released prisoners to obtain housing and jobs due to their criminal record.

Mayor Morin disclosed that he is on the Coalition's Board.

Mr. Thompson reported on his discussions with County Commissioners Campione and Breeden and Lake County Community Services. He stated they are going to be bringing in Susan Porsho, former director of Big Bend Continuum of Care and now CFO and Director for Florida Housing Coalition. Ms. Porsho has introduced them to several models regarding housing programs and she wants to come to the coalition to discuss Housing First and some other initiatives. He stated they are hoping to have her here in late February or early March and encouraged the City to participate in that discussion.

Commissioner Sabatini reiterated that the ordinance is not about homelessness and cited other people that may fall under the prohibited behaviors.

There being no further public comment, the hearing was closed at 8:03 p.m.

The Commission discussed the following: 1) individuals trying to scam others; 2) whether or not aggressive solicitation is a criminal offense; 3) the ordinance making the police department's job easier; 4) the ability of the Commission to deny the ordinance on second reading; 5) and the need for the police to not specifically target homeless people.

Chief Calhoun explained that for aggressive solicitation to reach the assault level would require the victim to feel in fear. He further explained that someone with a sign would not be in violation or if the person approached says "no" and they walk away then they would not be in violation. He emphasized that the department would always use discretion and other methods before arresting someone.

A motion was made by Commissioner Sabatini, seconded by Commissioner Bob, to approve Ordinance No. 18-06 on First Reading. The motion carried by the following vote:

Aye: 4 - Commissioner Gnann-Thompson; Commissioner Sabatini; Commissioner Bob; and Mayor Morin

Nay: 1 - Vice-Mayor Aliberti

VII. OTHER BUSINESS

18-0012 Consideration of Fee Waiver Request: Final Engineering & Construction Plan Review - Trout Lake Nature Center

Lori Barnes, Development Services Director, explained the fee waiver request from the Trout Lake Nature Center for their final engineering and construction plan review. She noted their budget documents which show they are operating at a deficit for the fiscal year. She stated staff's recommendation for approval of the fee waiver.

A motion was made by Commissioner Sabatini, seconded by Commissioner Gnann-Thompson, to approve the fee waiver request for the Trout Lake Nature Center final engineering and construction plan review. The motion carried by the following vote:

Aye: 5 - Commissioner Gnann-Thompson; Commissioner Sabatini; Vice-Mayor Aliberti; Commissioner Bob; and Mayor Morin

18-0028 Update on Property Located at 17 East Magnolia Avenue

Mr. Carrino reviewed the history of the property, explained the City's previous lease of the site for the downtown pocket park and the subsequent decision by the owners, Rock and Pickle, to not extend the lease but to offer the site and adjoining building for sale. He explained the subsequent agreement for the City to purchase the park property and building and then sell the property to Teems Inc. over a period of five years. Part of that purchase agreement was for Teems Inc. to complete \$92,500 worth of improvements by December 31, 2017. He stated that Teems has

missed that deadline and the second annual payment. He reported that he has met with Teems this week and they are requesting a seven month extension for the improvements. If approved, they will make the \$37,000 second annual payment. He reviewed the Commission's options as follows: 1) for Commission to consider modifying the mortgage to allow for the requested 7-month extension; or 2) to declare default or nonperformance of the mortgage under which the City could accelerate the payments or initiate foreclosure procedures.

Commissioner Bob confirmed Teems representatives were not present and that the January 8th payment had not been made.

Mr. Carrino explained they did not make the payment in case the City was either going to call the loan or foreclose. He stated they are prepared to make the payment.

Commissioner Bob then asked if any renovation has been undertaken with Mr. Carrino stating the City has not received any receipts so the City has no evidence of any improvements being done.

Commissioner Sabatini expressed opposition to the City undertaking legal action. He expressed support for approving the requested extension but if nothing is done within the seven months then not extending again.

Commissioner Bob expressed concern about nothing being done with Mr. Neibert stating that he has been in meetings with them and has seen preliminary renovation plans. He explained they did not want to spend the money on the renovations if the City was going to foreclosure since the deadline was close. They have made some good faith effort.

Vice Mayor Aliberti emphasized the requirements are in the mortgage. She stated the reason for the \$92,500 renovation requirement was so the City had a viable storefront. She expressed support for foreclosure.

Mayor Morin stated that a good faith effort would have meant they were here with their check in hand. He asked if the building is listed for sale with Mr. Carrino confirming it is for sale.

Commissioner Gnann-Thompson expressed support for foreclosure and for the City to take it back and then put it up for sale.

Mr. Schroth explained that, if the Commission wants to foreclose, the City needs to accelerate the payment first. He recommended giving them the option to deed back to City in lieu of foreclosure. He stated that the City then would forgive the debt in exchange for the deed. He stated it is difficult to collect on a judgment and recommended getting the deed in lieu of foreclosure.

Mayor Morin opened floor to public comment at 8:31 p.m.

Gail Isaac Thomas expressed agreement with proceeding with the acceleration.

Shawna Wells-Booth confirmed that Teems had begun plans for the renovation and asked when the contract was initiated and plans begun.

Greg Mack stated that the building is on the market for \$200,000. He stated his belief that they drove an existing business out of town that subsequently moved to Mount Dora.

Mr. Neibert noted that the tenant was four to five months in arrears at that time.

Ms. Isaac Thomas expressed concern regarding how long the current owners are in arrears with Mr. Neibert explaining that the second payment was only due on January 8th and the renovations were due by December 31, 2017.

There being no further public comment, the floor was closed to comment at 8:36 p.m.

A motion was made by Vice-Mayor Aliberti, seconded by Commissioner Gnann-Thompson, to have staff accelerate the payment for the property located at 17 E. Magnolia Avenue and offer an option for Teems Inc. to provide a deed to the City in lieu of foreclosure. The motion carried by the following vote:

Aye: 3 - Commissioner Gnann-Thompson; Vice-Mayor Aliberti; and Mayor Morin

Nay: 2 - Commissioner Sabatini; and Commissioner Bob

VIII. FUTURE AGENDA ITEMS

Vice Mayor Aliberti noted that at the last meeting she had asked about an ordinance to address vacant or unoccupied buildings with Mr. Neibert indicated that the City Attorney would have a report on that under his comments.

Commissioner Sabatini asked to have new discussion regarding backyard chickens on the February 1st agenda.

The Commission discussed whether or not they were in agreement with again discussing allowing backyard chickens with a final consensus to have a brief discussion on the February 1st agenda.

IX. COMMENTS

City Commission - None

City Manager

Mr. Neibert announced that the next week's workshop had been moved to Wednesday, January 24th at 6 p.m. due to the City being invited to attend the Mount Dora Chamber's annual meeting. He explained they have invited all of the area cities to provide a report on their activities.

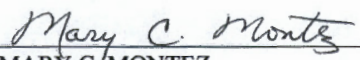
City Attorney

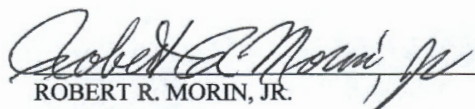
Mr. Schroth reported that the City has an existing ordinance in Chapter 34 which has requirements for storefronts vacant for more than 15 days. He stated that the City can only have a tax or fee which is allowed under state law. He noted other areas that require registration of vacant property but that is not allowed in Florida. He stated the City really can only require that they beautify the storefronts and the City currently requires the storefronts be cleaned and the interior blocked from view.

Mayor

Mayor Morin commented on the Commission having to make decisions on difficult issues.

X. ADJOURNMENT - 8:49 p.m.


MARY C. MONTEZ
City Clerk


ROBERT R. MORIN, JR.
Mayor/Commissioner

*These minutes reflect the actions taken and portions of the discussion during the meeting. To review the entire discussion concerning any agenda item, go to www.eustis.org and click on the video for the meeting in question. A DVD of the entire meeting or CD of the entire audio recording or verbatim transcript of the meeting can be obtained from the office of the City Clerk for a fee.

Barnes, Lori

From: Derek Schroth <dschroth@bowenschroth.com>
Sent: Tuesday, January 16, 2018 9:10 AM
To: Martin,Eric; Neibert, Ronald
Cc: Montez, Mary; Barnes, Lori
Subject: RE: Penalties for Vacant Properties

Thank you Eric.

Sincerely,

Derek A. Schroth
Florida Bar Certified Expert in Business Litigation and Local Government Law

Bowen|Schroth
Bowen, Schroth, Mazenko & Broome, P.A.
600 Jennings Ave.
Eustis, Florida 32726
Telephone: (352) 589-1414
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Florida Bar No. 0352070
Web Site: www.bowenschroth.com

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Please note if this communication pertains to the City of Eustis or the Town of Lady Lake and its operations: Under Florida law (Florida Statute 668.6076) e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

From: Martin,Eric [mailto:MartinE@ci.eustis.fl.us]
Sent: Tuesday, January 16, 2018 9:03 AM
To: Derek Schroth; Neibert, Ronald
Cc: Montez, Mary; Barnes, Lori
Subject: RE: Penalties for Vacant Properties

Section 34-112(6) of the City's Code of Ordinances already addresses vacant storefronts, although it could use some revisions.

(6) If any commercial property is vacant for more than 15 days, all glass surfaces visible to the public shall be kept clean and the interior of such vacant store shall be screened from public view with one of the following:

- a. Decorative displays of merchandise currently available within the city;
- b. Merchandise of the future tenant of the vacant store;

- c. Public service displays; or
- d. Festival and current holiday displays.

From: Derek Schroth [<mailto:dschroth@bowenschroth.com>]
Sent: Friday, January 12, 2018 11:18 AM
To: Neibert, Ronald <NeibertR@ci.eustis.fl.us>
Cc: Montez, Mary <MontezM@ci.eustis.fl.us>; Barnes, Lori <BarnesL@ci.eustis.fl.us>; Martin, Eric <MartinE@ci.eustis.fl.us>
Subject: Penalties for Vacant Properties

Good Morning Ron:

Some local governments, such as San Francisco, charge a registration fee for vacant properties. In Florida, local governments are restricted and can only impose charges as authorized by Florida legislature. Article VII, Section 1(a) of the Florida Constitution provides that "[n]o tax shall be levied except in pursuance of law. No state ad valorem taxes shall be levied upon real estate or tangible personal property. All other forms of taxation shall be preempted to the state except as provided by general law." FLA. CONST. art VII, § 1(a).

In Florida, local governments which have addressed vacant storefronts do so by regulating the blight from vacant store fronts. Such regulations include codifying prohibitions on unscreened vacant store fronts. These prohibitions are enforced through normal code enforcement procedures. Attached is a memo and ordinance from Miami Beach which addresses vacant storefronts and would be a good template for Eustis if the Commission decides to move forward with regulating vacant storefronts. I'll call you at 1:30 today. Thank you.

Sincerely,

Derek A. Schroth
Florida Bar Certified Expert in Business Litigation and Local Government Law

Bowen|Schroth
Bowen, Schroth, Mazenko & Broome, P.A.
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Eustis, Florida 32726
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Facsimile: (352) 589-1726
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Web Site: www.bowenschroth.com

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Land Use and Development Committee

FROM: Jimmy L. Morales, City Manager

DATE: January 20, 2016

SUBJECT: **Ordinance: Vacant Storefront Covers and Signs Requirements**

BACKGROUND

On December 9, 2015, at the request of Commissioner Grieco, the City Commission referred the subject Ordinance amendment (Item C4B) to the Land Use and Development Committee.

ANALYSIS

Section 138-140 of the Land Development Regulations establishes regulations for ground floor storefronts that face the public right-of-way and are vacant. Currently the regulations provide property owners the option of screening such windows with an opaque film while the storefront is vacant. It further encourages the screening of such properties by allowing for the City to provide a screening material at no charge to the property owner.

Several property owners have not taken advantage of the program when their storefronts have become vacant, leaving storefronts with a blighted appearance visible to the public. The proposed Ordinance amendment would modify Section 138-140 by making vacant storefront screening mandatory, and establishes penalties for not complying.

The Ordinance proposes the following changes to Section 138-140:

- For storefronts that face a public right-of-way, which are vacant for more than 15-days, all glass surfaces visible to the public shall be kept clean, and the interior of a vacant store shall be screened from public view through the two existing options.
- If the applicant is providing signage in their screening, the design and material of any signage shall require review and approval of the Planning Department, in accordance with applicable design review and historic preservation criteria.
- If the applicant is electing to use a City-provided storefront cover, it will now be provided with a charge.
- Penalties and enforcement procedures for the requirements are established.
- Civil fines are established that range from \$250 for the first violation; \$2,000 for the second violation; \$3,000 for the third violation; and 5,000 for the fourth and subsequent violations within a 12-month period.

LUDC#74

Additionally, the Department of Code Enforcement has recommended the following modifications:

- First violation is a warning. This allows the owner the opportunity to screen the windows.
- A second follow-up inspection would occur within 15-days of the first violation. If the owner has not complied, the fine could be issued.

CONCLUSION

The Administration recommends that the Land Use and Development Committee discuss the item further and provide appropriate policy direction. If there is consensus on the item, it is further recommended that the Committee transmit the Ordinance to the City Commission for referral to the Planning Board.

SMT/TRM/RAM

M:\\$CMB\CCUPDATES\Land Use and Development Committee\2016\January\Amend Ch 138 Vacant Storefront Covers And Signs - MEMO January 20, 2016 LUDC.docx

LUDC#75

ORDINANCE NO.

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 138 OF THE MIAMI BEACH CITY CODE, ENTITLED "SIGNS," ARTICLE IV ENTITLED "TEMPORARY SIGNS," AT SECTION 138-140 ENTITLED "VACANT STOREFRONT COVERS AND SIGNS" TO MANDATE THAT ALL VACANT STOREFRONT WINDOWS AND DOORS BE WRAPPED IN NON-COMMERCIAL PAPER DESIGNS; PROVIDING FOR ENFORCEMENT AND PENALTIES; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, on May 9, 2012, the City Commission enacted Ordinance No. 2012-3767, creating Section 138-140 of the City Code, as the Commission was concerned with the possible appearance of blight due to vacant storefront displays, and the Commission declared that it was in the interest of the public health, safety and welfare, and the interest of the citizens of Miami Beach, to establish policies, regulations, and standards relating to vacant storefront windows and doors; and

WHEREAS, the City Commission found that vacant storefronts create blighted economic and social conditions contrary to the viable and healthy economic, aesthetic, and social fabric that the City has cultivated and encouraged in its commercial zoning districts; and

WHEREAS, to encourage and regulate the screening of the interior of vacant storefronts with aesthetically compatible and attractive material, to obscure the deteriorated or deconstructed conditions of vacant storefronts, and to allow temporary signs to be included on this material, the City Commission created temporary sign criteria for wrapping and obscuring vacant storefronts from the community; and

WHEREAS, the City Commission believes it is in the best interest of the community to mandate the wrapping of vacant storefronts, rather than to leave this decision to the storefront owner; and

WHEREAS, the City Commission also believes it is in the best interest of the City to create an enforcement mechanism and penalties for violations of this requirement; and

WHEREAS, the City Commission desires to amend Chapter 138, Article IV, at Section 138-140 to accomplish the above objectives.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

LUDC#76

SECTION 1. That Chapter 138, entitled "Signs," Article IV entitled "Temporary Signs" at Section 138-140, entitled "Vacant storefront covers and signs," of the Miami Beach City Code is hereby amended as follows:

**CHAPTER 138
SIGNS**

* * *

ARTICLE IV. TEMPORARY SIGNS

* * *

Sec. 138-140. Vacant storefront covers and signs.

(a) *Purpose.* Vacant storefronts create blighted economic and social conditions contrary to the viable and healthy economic, aesthetic and social fabric that the city has cultivated and encouraged in its commercial zoning districts. The purpose of this section is to encourage and regulate the screening of the interior of vacant storefronts with aesthetically compatible and attractive material, to obscure the deteriorated or deconstructed conditions of vacant storefronts, and to allow temporary signs to be included on this material.

(b) *Definition.* For purposes of this section, a vacant storefront is any ground floor business establishment that is unoccupied.

(c) *Applicability.* The requirements of this section apply only to the ground floor windows and doors of vacant storefronts that face a public right-of-way. If a commercial property is vacant for more than 15 days, all glass surfaces visible to the public shall be kept clean, and the interior of such vacant store shall be screened from public view in one of the following ways, until the property is occupied:

- (1) All glass surfaces visible from the public right-of-way shall be covered as provided in subsection (e); or
- (2) All glass surfaces visible from the public right-of-way shall be covered as provided in subsection (f).

(d) *Storefront window cover ~~permitted~~ required for vacant storefronts.* Exterior Windows windows and doors on vacant commercial property may shall be completely screened with an opaque material obscuring the interior. The materials used to satisfy this requirement shall be subject to review and approval by the planning department design review staff, in accordance with applicable design review and historic preservation criteria, and shall consist of 60-pound weight paper, or similar opaque material. Windows covered in accordance with this section shall ~~may~~ remain covered until

LUDC#77

issuance of a certificate of use or occupancy for the new occupant, whichever occurs first. If the owner of vacant commercial property elects not to utilize one of the signs identified in subsection (e), the owner shall utilize the window covers identified in subsection (f).

(e) *Temporary signs permitted.* Material applied to windows in conformity with this section shall not contain general advertising signs or other prohibited sign types. Such material may contain signs that comply with the regulations of this chapter, as follows:

- (1) Artistic or super graphics in accordance with section 138-204, which may cover 100 percent of the window; and
- (2) Other types of signage allowed by this chapter, including real estate signs in accordance with section 138-136, and construction signs in accordance with section 138-133; signage under this provision may be incorporated into artistic or super graphics as referenced in (1) above; however, the text of such signage shall be limited to no more than 25 percent of the total window area of the vacant storefront.
- (3) The design and material of all proposed signs under this subsection (e) shall require review by the planning department design review staff, in accordance with applicable design review and historic preservation criteria.

(f) *City-provided storefront cover.* ~~The city may also shall produce and provide preapproved storefront covers, for a charge with or without charge, to encourage the coverage of vacant storefronts not complying with subsection (d) above. Covers provided by the city shall also satisfy the requirements of this section.~~

(g) *Penalties and enforcement.* Each day of noncompliance shall constitute a separate offense. The code compliance department is empowered and authorized to require compliance with this section within 30 days of written notice to violators.

- (1) The following civil fines shall be imposed for a violation of this section:
 - a. First violation within a 12-month period: \$ 250.00;
 - b. Second violation within a 12-month period: 2,000.00;
 - c. Third violation within a 12-month period: \$ 3,000.00;
 - d. Fourth or subsequent violation within a 12-month period: \$ 5,000.00.

(2) Enforcement. The code compliance department shall enforce this section. The notice of violation shall inform the violator of the nature of the violation, amount of fine for which the violator is liable, instructions and due date for paying the fine, that the violation may be appealed by requesting an administrative hearing before a special master within ten (10) days after service of the notice of violation, and that the failure to appeal the violation within ten (10) days of service shall constitute an admission of the violation and a waiver of the right to a hearing.

(3) Rights of violators; payment of fine; right to appear; failure to pay civil fine or to appeal; appeals from decisions of the special master.

a. A violator who has been served with a notice of violation must elect to either

i. pay the civil fine in the manner indicated on the notice of violation; or

ii. request an administrative hearing before a special master to appeal the notice of violation, which must be requested within ten (10) days of the service of the notice of violation.

b. The procedures for appeal by administrative hearing of the notice of violation shall be as set forth in sections 30-72 and 30-73 of this Code. Applications for hearings must be accompanied by a fee as approved by a resolution of the city commission, which shall be refunded if the named violator prevails in the appeal.

c. The failure to pay the civil fine, or to timely request an administrative hearing before a special master, shall constitute a waiver of the violator's right to an administrative hearing before the special master, and shall be treated as an admission of the violation, for which fines and penalties shall be assessed accordingly.

d. A certified copy of an order imposing a fine may be recorded in the public records, and thereafter shall constitute a lien upon any real or personal property owned by the violator, which may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the violator's real or personal property, but shall not be deemed to be a court judgment except for enforcement purposes. Three (3) months after the recording of any such lien which remains unpaid, the city may foreclose or otherwise execute upon the lien, for the amount of the lien plus accrued interest.

e. The special master shall be prohibited from hearing the merits of the notice of violation or considering the timeliness of a request for an

administrative hearing if the violator has failed to request an administrative hearing within ten (10) days of the service of the notice of violation.

f. The special master shall not have discretion to alter the penalties prescribed in this section.

g. Any party aggrieved by a decision of a special master may appeal that decision to a court of competent jurisdiction.

* * *

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this ____ day of _____, 2015.

Philip Levine, Mayor

ATTEST:

Rafael E. Granado, City Clerk

First Reading:
Second Reading:

Underline = new language
~~Strikethrough~~ = deleted language

[Sponsored by Commissioner Michael Grieco]

LUDC#80

DIVISION 3. - INSPECTIONS

Sec. 38-91. - Procedures and fees.

- (a) Fire inspection, as required by ordinance, law, code or regulation, shall result in one of the following outcomes:
 - (1) Inspection passed.
 - (2) Violations found, effective date.
 - (3) Notice of hazard, effective date.
- (b) If either subsection (a)(2) or (3) of this section resulted, the occupancy shall be scheduled for the first reinspection. The owner or occupant shall be notified in writing of the date of this first reinspection. After the first reinspection, the results shall be either:
 - (1) If the violations are not corrected upon the first reinspection, the matter shall be turned over to the code enforcement board for consideration and the premises shall be subject to a \$250.00 fine per day that the violation continues; or
 - (2) Notice of hazard not corrected by the effective date as per subsection (e) of this section.
- (c) If subsection (b)(2) of this section resulted, the fee shall continue to accumulate until the occupancy successfully passes an inspection. For a second reinspection or any additional reinspection thereafter to be performed, the owner or occupant must pay the sum of all accumulated fees for violations, and a fee on file in the city clerk's office for the second reinspection and for each additional reinspection thereafter.
- (d) The owner, occupant or responsible party shall be notified in writing of all violations, hazards or other information related to the results of inspections. Written notification shall be either hand delivered or mailed to their last known post office address.
- (e) When a proper notice of hazard has been issued but not corrected within the time stipulated as per written notification by the inspector:
 - (1) The responsible party shall be subject to penalties as provided in section 38-2. In addition, the city manager may suspend the occupational license until corrective action is taken.
 - (2) Immediate life-threatening circumstances which result in issuance of a notice of hazard shall be corrected by the date and time indicated in writing by the inspector or subsection (e)(1) of this section shall apply; in addition, the structure

may be closed to occupancy immediately.

- (f) If the hazard dictates closure of the occupancy (as determined by the inspector), the procedure shall be as follows:
 - (1) The fire inspector shall request the owner or occupant to close or vacate the building or occupancy until violations are corrected.
 - (2) The fire inspector shall notify the fire chief and may request police department assistance.
 - (3) If the owner or occupant does not comply, the fire chief may request the city manager to suspend the occupational license and notify the code enforcement board and occupational license office.
- (g) Circumstances constituting life-threatening situations are:
 - (1) Open flame or light where highly combustible, flammable or explosive materials are kept.
 - (2) Means of egress from all parts of the structure are not available for full and instant use.
 - (3) Unapproved dispensing, storage, or use of flammable or combustible liquids.
 - (4) Manufacture, storage, possession, sale, transportation or use of explosives, blasting agents, fireworks or ammunition without code compliance.
 - (5) Use of unapproved combustible decorative material in a public occupancy.
 - (6) Lack of maintenance to exits or exit access ways in a public occupancy.
 - (7) Overcrowding beyond the approved capacity of any place or public occupancy.
 - (8) Use of open flame in a place of public assembly, or drinking or eating establishment, except when used in conjunction with approved heating or cooking appliances, or under written permit from the fire department.
 - (9) Use of permissible tent or air-supported structure without a permit and prior approval from the public safety division.
 - (10) Lack of maintenance or nonexistence of required fire escapes.
 - (11) Any circumstance deemed life threatening by the fire chief.
- (h) Any person violating any of the provisions of this section, or neglecting to comply with any order issued pursuant to any subsection of this section, upon conviction, shall make any corrections to building or location, pay all accumulated fees, and be subject to charges as per section 38-2. All fees are in addition to those which may be levied by the code enforcement board.

(Code 1959, § 10-2.3)

Sec. 38-92. - Annual inspection by fire department, fire prevention bureau.

All commercial buildings within the city limits of the city shall be required to have an annual inspection by the fire department, fire prevention bureau. The owner of each commercial building shall be responsible for notifying the city when initial and reinspections are needed. Provided, however, the city shall not be liable for overdue/missed inspections and this section neither shifts responsibility for maintenance of commercial buildings nor shall it increase or add liability to the city for conditions or incidents occurring within said commercial buildings whether or not they are discovered during inspection.

(Ord. No. 03-74, § 1, 11-6-2003)

Editor's note— This section was added by ordinance during the 2006 republication of this Code and designated section 38-92 at the editor's discretion.

Sec. 38-93. - Fire inspection fees.

The fees, which are on file in the city clerk's office, shall be imposed for the following inspection services:

- (1) The annual inspection in all commercial buildings within the city limits of Eustis as required by section 38-92.
- (2) Inspections required by federal, state or other agencies. These inspections include but are not limited to day care centers and mental health facilities, etc.
- (3) Request for building fire flow or available water calculations.
- (4) Other inspections at the request of the public not otherwise provided for in this section.
- (5) Second or additional reinspections as required by section 38-91.
- (6) Any inspection trip occasioned by the responsible party or representative's failure to appear shall, in addition to any other fees, be charged an additional per-trip fee.
- (7) Any reinspection trip where the fee is not specifically listed, in addition to any other fees, shall be charged an additional per-trip fee.

(Code 1959, § 10-2.4; Ord. No. 03-74, § 2, 11-6-2003)

Editor's note— This section, which was formerly designated section 38-92, was renumbered as section 38-93 at the editor's discretion during the 2006 republication of this Code.

Secs. 38-94—38-120. - Reserved.