



CITY OF TAMARAC
REGULAR CITY COMMISSION MEETING
City Hall - Commission Chambers
May 8, 2013

CALL TO ORDER:

7:00 P.M.

ROLL CALL:

PLEDGE OF ALLEGIANCE:

Vice Mayor Harry Dressler

INTRODUCTION

1. PROCLAMATIONS AND PRESENTATIONS:

a. Just Drive Month Proclamation

Presentation of a proclamation by Mayor Beth Talabisco proclaiming the month of May 2013 as "Just Drive Month". (Requested by Mayor Beth Talabisco)

b. National Kids to Parks Day

Presentation of a proclamation by Mayor Beth Talabisco proclaiming May 18, 2013 as "National Kids to Parks Day". (Requested by Parks & Recreation Director Greg Warner)

c. Emergency Medical Services Week Proclamation

Presentation of a proclamation by Mayor Beth Talabisco proclaiming the week of May 19 - 23, 2013 as "Emergency Medical Services Week". (Requested by Fire Chief Mike Burton)

d. Tamarac University - Graduating Class of 2013

Presentation by Mayor Beth Talabisco of Certificates of Graduation to the sixth Graduating Class of Tamarac University - May 2013:

Eunice Brown	Shaheewa Jarrett
Lisa Butler	Lorena Jativa
Aelkin Cadagan	Jacqueline Lekacz
Ruby Crane	Pamela LeMelle-Gray
Herbert Daley	Judith Miller
Melvin Dubin	Tara Piatek
Brenda Edwards-Fung	Esty Schleifer
Sandy Ehrlich	Barry Shapiro
Julie Fishman	Kathleen Stubbolo
Diane Friedman	Avril Wattley
Sandra Griffin	Charlotte Williams

Earl Williams

2. CITY COMMISSION REPORTS

a. Commissioner Bushnell

- b. Commissioner Atkins Grad
- c. Commissioner Glasser
- d. Vice Mayor Dressler
- e. Mayor Talabisco

- 3. **CITY ATTORNEY REPORT**
- 4. **CITY MANAGER REPORT**
- 5. **PUBLIC PARTICIPATION**

Any member of the public may speak to any issue that is not agendized for public hearing at this meeting. Speakers will be limited to three minutes during this item and at public hearings. There will be a thirty (30) minute aggregate time limit for this item, and speakers are encouraged to sign up in advance with the City Clerk prior to their participation.

When an issue has been designated as quasi-judicial, public remarks shall only be heard during a quasi-judicial hearing that has been properly noticed for that matter.

ANNOUNCEMENT OF TIME ALLOCATIONS-MOTIONS TO TABLE

The Chair at this time will announce those items that have been given a specific time to be heard, and will entertain motions from the Commission members to table those items that require research. The Commission may agendize by majority consent matters of an urgent nature which have come to the Commission's attention after publication.

6. CONSENT AGENDA

Items listed under Consent Agenda are viewed to be routine and the recommendation will be enacted by ONE MOTION in the form listed below. If discussion is desired, then, in accordance with Resolution 2003-15, Sec. 4.5, the item(s) will be removed from the Consent Agenda and will be considered separately.

- a. **Approval of the April 15, 2013 Special Commission Meeting Minutes**

Approval of the April 15, 2013 Special Commission Meeting Minutes

- b. **Approval of the April 24, 2013 Regular Commission Meeting Minutes**

Approval of the April 24, 2013 Regular Commission Meeting Minutes

- c. **TR12330 - Park Place @ Woodmont Delegation Request/ Fee Refund**

A Resolution of the City Commission of the City of Tamarac, Florida, authorizing a refund of \$1,500.00 submitted by Howard Jablow, P.E., of AJ Hydro Engineering, Inc. Designated Agent for the property owner, Lago Tamarac, LLC., for a Delegation Request application fee, collected in conjunction with the Park Place at Woodmont project (Case No. 7-MI-13); providing for conflicts; providing for severability; and providing for an effective date.

- d. **TR12333 - Six Cent Local Option Gas Tax**

A Resolution of the City Commission of the City of Tamarac, Florida authorizing the appropriate City Officials to execute the 2013 Amendment to Interlocal Agreement between Broward County and City of Tamarac providing for division and distribution of the proceeds of the Six Cent Local Option Gas Tax imposed by the Broward County Local Option Gas Tax Ordinance; providing for conflicts; providing for severability; and providing for an effective date.

- e. **TR12334 - Additional Local Gas Tax**

A Resolution of the City Commission of the City of Tamarac, Florida authorizing the appropriate City Officials to execute the 2013 Amendment to Interlocal Agreement between Broward County and City

of Tamarac providing for division and distribution of the proceeds from the Broward County Additional Local Option Gas Tax on Motor Fuel Ordinance; providing for conflicts; providing for severability; and providing for an effective date.

f. TR12335 - Fifth Cent Additional Gas Tax

A Resolution of the City Commission of the City of Tamarac, Florida authorizing the appropriate City Officials to execute the 2013 Amendment to Interlocal Agreement between Broward County and City of Tamarac providing for division and distribution of the proceeds from the Broward County Fifth Cent Additional Local Option Gas Tax on motor fuel for transit; providing for conflicts; providing for severability; and providing for an effective date.

g. TR12336 - Renewal of Auditing Services

A Resolution of the City Commission of the City of Tamarac, Florida authorizing the appropriate City Officials to amend the original agreement between the City of Tamarac and GLSC & Company, PLLC, for annual auditing services to extend the agreement for fiscal years ending on September 30, 2013, September 30, 2014 and September 30, 2015 respectively, for an annual not to exceed cost of \$102,000; providing for conflicts; providing for severability; and providing for an effective date.

h. TR12316 - RFP 12-17R - Design-Build of Mainlands Park

A Resolution of the City Commission of the City of Tamarac, Florida, authorizing the appropriate City Officials to award RFP #12-17R and execute an agreement with DiPompeo Construction Corporation for the design/build of Tamarac Mainlands Park for an amount not to exceed \$1,348,485; a contingency amount of \$134,000 will be added to the project account for a total project budget of \$1,482,485; providing for an additional appropriation to fund the project budget; providing for conflicts; providing for severability; and providing for an effective date.

7. REGULAR AGENDA

8. ORDINANCE(S) - FIRST READING

a. TO 2278 - Telecommunication Ordinance - Amending Article IX, Chapter 24 "Telecommunications Towers and Antennas"

Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida; **on first reading** amending Article IX, Chapter 24 entitled "Telecommunications Towers and Antennas" of the Code of Ordinances of the City of Tamarac, Florida, as amended, and to regulate personal wireless service facilities in the public rights-of-way; containing a repealer provision, a severability clause, and providing for an effective date.

ITEM TABLED FROM THE APRIL 24, 2013 MEETING

9. PUBLIC HEARING(S)

10. ORDINANCE(S) - SECOND READING

a. TO2277- LI1-Light Industrial District Code Amendment

Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida, **on second reading** to amend the City's Light Industrial District regulations by specifically amending Chapter 24, Article III, District Regulations, Division 23, Light Industrial District, Section 24-529 (a), "Impervious Area and Outside Storage" of the Code of Ordinances of the City of Tamarac, Florida, for the purpose of modifying the maximum impervious area from 60 percent to 80 percent of gross lot area; providing for codification; providing for conflicts; providing for severability; and providing for an effective date.

PASSED ON FIRST READING APRIL 24, 2013

b. TO2279 - Amending Chapter 5.6 Telecommunications of the Code of Ordinances

Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida, **on second reading** amending Chapter 5.6, "Telecommunications" of the Code of Ordinances of the City of Tamarac by specifically amending Section 5.6-3, entitled "Definitions," to amend certain definitions and define additional terms associated with communications service providers; amending Section 5-6-5, entitled "Fees and Payments," to limit this section to fees chargeable pursuant to Florida Statutes; amending Section 5.6-6 entitled "Reports & Records," repealing the entire section and

retitle to "Reserved"; providing for codification; providing for conflicts; providing for severability; providing for an effective date.

PASSED ON FIRST READING APRIL 24, 2013

11. QUASI-JUDICIAL HEARING(S)

a. TO2281-Park Place @ Woodmont - Rezoning

An Ordinance of the City Commission of the City of Tamarac, Florida, amending prior zoning of certain real estate property otherwise known as Park Place at Woodmont from B-3 (General Business District) to R-3 (Low Density Multi-Family Residential District), for the property located at or around the southwest corner of Pine Island Road and NW 77 street (Parcel A, I.C. Plat, according to the Plat thereof as recorded in Plat Book 130, Page 35 of the public records of Broward County, Florida); (Case No. 2-Z-13); providing for amendment to the official zoning map to reflect such change; providing for conflicts; providing for severability; and providing for an effective date.

12. OTHER

The City Commission may consider and act upon such other business as may come before it. In the event this agenda must be revised, such revised copies will be available to the public at the City Commission meeting.

Pursuant to Chapter 286.0105, Florida Statutes, if a person decides to appeal any decision made by the City Commission with respect to any matter considered at such meeting or hearing, he may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is based.

The City of Tamarac complies with the provisions of the Americans with Disabilities Act. If you are a disabled person requiring any accommodations or assistance, please notify the City Clerk's Office at (954)-597-3505 of such need at least 48 hours (2 days) in advance. Additionally, if you are hearing or speech impaired and need assistance, you may contact the Florida Relay Service at either of the following numbers: 1-800-955-8770 or 1-800-955-8771.

A handwritten signature in blue ink, reading "Patricia Teufel". The signature is fluid and cursive, with the first name "Patricia" and last name "Teufel" clearly distinguishable.

Patricia Teufel, CMC
Interim City Clerk



Title - 7:00 P.M.

7:00 P.M.

ATTACHMENTS:

Name:

Description:

No Attachments Available



Title - Vice Mayor Harry Dressler

Vice Mayor Harry Dressler

ATTACHMENTS:

Name:

Description:

No Attachments Available



Title - Just Drive Month Proclamation

Presentation of a proclamation by Mayor Beth Talabisco proclaiming the month of May 2013 as "Just Drive Month". (Requested by Mayor Beth Talabisco)

ATTACHMENTS:

Name:

 [Just Drive Month.doc](#)

Description:

Just Drive Month Proclamation



Proclamation

Requested by Mayor Beth Talabisco

WHEREAS, the City of Tamarac holds the health and safety of its residents and visitors as a vital concern; and

WHEREAS, the use of “smartphones” has become pervasive throughout Broward County, the State of Florida and the Nation at large; and

WHEREAS, Big Brothers Big Sisters of Broward County, in conjunction with Leadership Broward Foundation, Inc., and Leadership Broward Class XXXI endeavor to highlight and change the distracted driving practices of all residents in Broward County. The **“Just Drive”** campaign was created by these organizations as a platform through which to increase awareness of this problem; and

WHEREAS, increased awareness of the dangers and impact surrounding distracted driving is the cornerstone to reducing injury and death among county residents; therefore, during the month of May, the **“Just Drive”** campaign will be highlighted in Broward County schools through the distribution of literature, keepsake items, t-shirts and a video Public Service Announcement.

NOW, THEREFORE, I Beth Talabisco, Mayor of the City of Tamarac, Broward County, Florida, do hereby proclaim the month of May, 2013 as

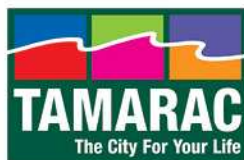
“JUST DRIVE MONTH”

in the City of Tamarac, and urge all residents to support education leading to more awareness of distracted driving practices and to focus more attention on safe driving habits.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tamarac to be affixed this 8th day of May, 2013.

Beth Talabisco

Beth Talabisco, MAYOR





Title - National Kids to Parks Day

Presentation of a proclamation by Mayor Beth Talabisco proclaiming May 18, 2013 as "National Kids to Parks Day". (Requested by Parks & Recreation Director Greg Warner)

ATTACHMENTS:

Name:

 [National Kids to Parks 2013.doc](#)

Description:

Kids to Parks Day Proclamation



Requested by Gregory Warner, Director of Parks and Recreation

WHEREAS, May 18th is National Kids to Parks Day organized and launched by the National Park Trust; and

WHEREAS, National Kids to Parks Day empowers kids and encourages families to get outdoors and visit America's parks; and

WHEREAS, it is important to introduce a new generation to our nation's parks because of the decline in park attendance over the last few decades; and

WHEREAS, we should encourage children to lead a more active lifestyle to combat the issues of childhood obesity, diabetes mellitus, hypertension and hypercholesterolemia; and

WHEREAS, National Kids to Parks Day is open to all children and adults across the country to encourage a large and diverse group of participants; and

WHEREAS, the City of Tamarac has many parks and facilities for the residents and public to enjoy including Tephford Park, Caporella Park, Tamarac Park, the Sports Complex, Gary B. Jones Park for People and Pups, Caporella Aquatic Center, Tamarac Veterans' Park, Sunset Point Park, and Tamarac Commons; and

WHEREAS, National Kids to Parks Day will broaden children's appreciation for nature and the outdoors.

NOW THEREFORE, I Beth Talabisco, Mayor of the City of Tamarac, Broward County, Florida, do hereby proclaim May 18, 2013 as

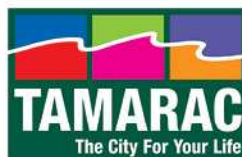
"NATIONAL KIDS TO PARKS DAY"

in the City of Tamarac and urge residents of Tamarac to make time on May 18th to take the children in their lives to a neighborhood, state or national park.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tamarac to be affixed this 8th day of May, 2013.

Beth Talabisco

Beth Talabisco, Mayor





Title - Emergency Medical Services Week Proclamation

Presentation of a proclamation by Mayor Beth Talabisco proclaiming the week of May 19 - 23, 2013 as "Emergency Medical Services Week". (Requested by Fire Chief Mike Burton)

ATTACHMENTS:

Name:

Description:

 [EMS Week 2013.doc](#)

Emergency Medical Services Week Proclamation



Requested by Fire Chief Mike Burton

WHEREAS, emergency medical services personnel are trained to rapidly assess, manage, and effectively provide care in unpredictable situations requiring decisions in life and death situations; and

WHEREAS, the emergency medical services system consists of physicians, nurses, medical technicians, paramedics, firefighters, educators and administrators who provide lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, emergency medical personnel, often under stressful conditions and in high-risk situations, exhibit unselfish dedication as they provide much needed care to victims of sudden life-threatening injuries and illnesses; and

WHEREAS, the members of emergency medical services teams engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

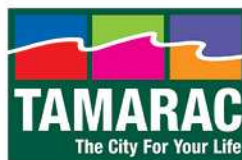
WHEREAS, with this year's theme, **"EMS: One-Mission. One Team"**, Emergency Medical Services Week brings together local communities and medical personnel to publicize safety and honor the dedication of those who provide day-to-day lifesaving services of medicine's "front line"; and

WHEREAS, it is appropriate to recognize the value and the accomplishments of emergency medical services providers by designating an Emergency Medical Services Week in the City of Tamarac.

NOW, THEREFORE, I Beth Talabisco, Mayor of the City of Tamarac, Florida, do hereby proclaim the week of May 19th – 25th, 2013, as

"EMERGENCY MEDICAL SERVICES WEEK"

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Tamarac to be affixed this 8th day of May, 2013.



Beth Talabisco

Beth Talabisco, Mayor



Title - Tamarac University - Graduating Class of 2013

Presentation by Mayor Beth Talabisco of Certificates of Graduation to the sixth Graduating Class of Tamarac University - May 2013:

Eunice Brown	Shaheewa Jarrett
Lisa Butler	Lorena Jativa
Aelkin Cadagan	Jacqueline Lekacz
Ruby Crane	Pamela LeMelle-Gray
Herbert Daley	Judith Miller
Melvin Dubin	Tara Piatek
Brenda Edwards-Fung	Esty Schleifer
Sandy Ehrlich	Barry Shapiro
Julie Fishman	Kathleen Stubbolo
Diane Friedman	Avril Wattley
Sandra Griffin	Charlotte Williams
Earl Williams	

ATTACHMENTS:

Name:

Description:

Type:

No Attachments Available



Title - 7:00 P.M.

7:00 P.M.

ATTACHMENTS:

Name:

Description:

No Attachments Available



**Title - TO 2278 - Telecommunication Ordinance - Amending Article IX, Chapter 24
"Telecommunications Towers and Antennas"**

Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida; **on first reading** amending Article IX, Chapter 24 entitled "Telecommunications Towers and Antennas" of the Code of Ordinances of the City of Tamarac, Florida, as amended, and to regulate personal wireless service facilities in the public rights-of-way; containing a repealer provision, a severability clause, and providing for an effective date.

ITEM TABLED FROM THE APRIL 24, 2013 MEETING

ATTACHMENTS:

Name:

Description:

📎 [TO2278-Telecommunication Towers and Antennas - Memo.pdf](#)

TO 2278 - Memo

📎 [TO 2278 \(Personal Wireless Facilities\) FINAL.docx](#)

TO 2278 - Ordinance

**CITY OF TAMARAC
INTEROFFICE MEMORANDUM
CITY MANAGER'S OFFICE**

**TO: Michael C. Cernech,
City Manager**

DATE: April 16, 2013

**FROM: Jennifer K. Bramley,
Director of Community
Development**

**RE: TO 2278 - Telecommunications
Towers and Antennas**

Recommendation: The Director of Community Development recommends that the City Commission approve First Reading of Temporary Ordinance 2278, and set Second Reading for May 8, 2013

Issue: Revisions to the existing ordinance governing installation of Telecommunications infrastructure to address Distributed Antenna Systems (DAS).

Background:

Placement of DAS Poles in the Right-of-Way

While the City's telecommunications ordinance addresses traditional telecommunications towers, it does not address DAS which is newer technology. Unlike traditional cell towers which may reach 200 feet in height, DAS uses a smaller cell solution that enables carriers to "boost" their signal. Presently, the City Code limits the installation of cell towers to certain commercial areas and precludes installation of towers within 250 feet of any residential area, absent a special exception.

Crown Castle, provides infrastructure for use/ lease by the various carriers, and is registered as a telecommunications service provider in accordance with the existing code in June of 2012. In August, permits were requested for installation of one utility pole with attached antenna and associated equipment, and for fiber optics within the public right of way (ROW) in front of houses within the Sunflower subdivision. Given that existing code does not accommodate the installation of cell towers within residential areas, City staff met with representatives for Crown Castle in an attempt to better understand the full scope of services they provide, and their infrastructure needs. During that meeting representatives advised that while they had submitted an application for one pole, they had existing plans to install at least four additional residential ROW locations within the City. Alternative locations, as well as the potential to co-locate antennas on existing FPL poles, thereby negating the need to install additional poles, were discussed. Crown Castle representatives concluded that none of the alternatives discussed were viable. The City ultimately denied the permits, given that a special exception would be required for consideration in order for the permits to be approved.

Prior Actions - Zoning in Progress

On December, 18, 2012 the City Manager issued a zoning in progress order, prohibiting issuance of permits for wireless facilities in residential areas of the City for a period of 90 days. In doing so he noted that as internet usage has increased, service providers are seeking new ways to augment signal strength and increase capacity. Given this fact, a comprehensive determination is required as to whether existing land use and zoning regulations applying to the siting of telecommunications towers and antennas within public rights-of-way and residential areas are appropriate.

In the intervening period, City staff has worked with the City Attorney's office and outside telecommunications counsel retained by the City to draft an ordinance that would preserve the aesthetics of the neighborhoods while protecting the health and safety of the public. Temporary Ordinance 2272 was forwarded to the City Commission for First Reading on February 27, 2013. DAS industry representatives had numerous comments regarding the ordinance. The City Commission directed staff to investigate these comments and make recommendations at Second Reading of the ordinance. In order to afford more time for input from the telecommunications industry, the City Manager extended the zoning in progress for sixty (60) days on March 13, 2013.

In keeping with the City Commission's directive, Staff met with representatives from Crown Castle, PCIA, ATT and Florida Powers and Light on March 28, 2013. The meeting resulted in numerous amendments to the proposed ordinance and as such it was determined that the item should again to be heard by the City Commission at First Reading (Temporary Ordinance 2278).

Temporary Ordinance 2278

The resultant proposed revisions to Article IX, Chapter 24 "Telecommunications Towers and Antennas" are summarized as follows;

The Proposed Ordinance:

- Revises Sec. 24-700, the "Intent and Purpose" section of Article IX (the Telecommunications Towers and Antennas Article) of the City's Zoning Code, to specify that the provisions of the Article are intended to distinguish between and apply separately to telecommunications towers and personal wireless service facilities.
- Revises Sec. 24-701, the "Definitions" section of Article IX, to provide a definition of the term "personal wireless service facilities" that is consistent with state and federal law, and to include the types of facilities used in a Distributed Antenna System network like the one proposed by Crown Castle NG.
- Creates in Article IX a new Sec. 24-707 concerning personal wireless service facilities in the public rights-of-way. Key provisions of the new section:
 - Provide certain "minimum standards" that apply to personal wireless service facilities in the ROW, including:
 - A requirement that an application for placement of wireless service facilities in the ROW be approved by the Building Department, the Public Services Department and the Department of Community Development;
 - A requirement that, because certain personal wireless service facilities are necessarily installed above-ground, a minor development site plan be submitted to the planning division for site development plan approval notwithstanding that applications for use of the ROW do not typically require site plan approval;

- Potential waiver of site plan requirements if the applicant proposes a stealth personal wireless service facility that emulates structures existing in adjacent areas of the ROW;
 - A requirement that City staff determine within 20 days of submittal whether an application is complete, and grant or deny an application within 90 days of a completed filing. These time frames are required under state law, and fall within similar “shot clock” rules adopted by the FCC;
 - A requirement that, unless a special exception is granted, a new personal wireless service antenna must be collocated or installed as a “stealth” free-standing facility similar in character to power and light poles already installed near the proposed site; and
 - A limitation on the exterior dimensions of a personal wireless facility other than a pole or tower of no more than 24 cubic feet.
- Provide certain height, setback and related location requirements for personal wireless facilities located in the ROW, including:
 - A requirement that personal wireless service facilities not exceed the height of existing poles in the ROW within 100 feet from the proposed facility. If no such existing pole is present, the facility may not exceed 50 feet;
 - A requirement that personal wireless facilities are subject to the setbacks provided for particular underlying zoning districts, except that no such facility shall be permitted in the ROW within 50-feet of a principal residential structure.
 - A cooperative process between the City and the applicant for determining an appropriate location for the proposed facility if the setback restrictions result in an actual or effective prohibition of the applicant’s service to a residential area from outside that area. This cooperative process is the same as that set forth in s. 365.172(12) (b) 3. Florida Statutes. The cooperative determination must, to the extent possible, be consistent with the purposes of the City’s Land Development Code, and there will be a preference for collocation and the use of stealth structures.
 - Provide certain requirements with respect to new antennas in the ROW, including:
 - A requirement that the applicant submit a depiction of the proposed antenna’s stealth features. Compliance with the Code’s definition of “stealth facility” must be determined by staff. The Director of Community Development may require, to the extent possible, that stealth measures be used to match the antenna to existing fixtures in the ROW.
 - A requirement that antennas in the public right of way shall to the extent possible be co-located on existing light or other utility poles.
 - A requirement that except in the case of co-location, an applicant proposing placement of facilities in the right-of-way within districts where communications facilities are otherwise required to be placed underground shall submit a site plan for a minor development;

- A prohibition against the use of certain lights on a proposed antenna unless required by state or federal laws or rules;
 - A requirement that the height or location of an exterior mounted antenna not interfere with the use of the ROW;
 - A requirement that the antenna installed in the ROW not exceed the height of the pole to which it is attached, that it be mounted no more than 4 inches from the pole, and that no exterior loop cable is installed;
 - A requirement that the Director of Community Development determine that the proposed dimensions of an antenna are required by existing technology, as certified by an industry specialist in the relevant disciplines.
 - A requirement that a distance of at least 400-feet be maintained between antenna sites, and that no more than 13 antenna sites occur within a 1-square-mile area, to minimize the visual impacts caused by proliferation or clustering of antenna sites.
 - A cooperative process between the City and the applicant for determining an appropriate location for the proposed antenna if the distance restrictions result in an actual or effective prohibition of the applicant's service to a residential area from outside that area. This cooperative process is the same as that set forth in s. 365.172(12) (b) 3. Florida Statutes. The cooperative determination must, to the extent possible, accommodate the City's preference for collocation on existing sites or on the use of existing capacity. Where collocation or use of existing capacity is not possible, stealth facilities must be used and sited in a location that is consistent, to the extent possible, with the purposes of the City's Land Development Code.
- Provide various other requirements or conditions of approval, including:
 - Compliance with FCC radio frequency emissions standards;
 - The use of walls, fencing or landscape as a buffer consistent with other buffers used in the ROW, if determined by the Director of Community Development to be necessary;
 - A prohibition against the above-ground placement of cabinets or equipment in the ROW unless approved by the City Engineer as to safety and approved as a special exception;
 - A prohibition against the use of generators in the ROW except in the case of emergency and with prior approval of the City Engineer;
 - Requirements related to decommissioning or abandoning personal wireless service facilities in the ROW;
 - A prohibition against posting signs or advertising on personal wireless service facilities in the ROW;
 - The owner of the personal wireless facility in the public right-of-way shall submit a report to the City's Building Department certifying structural and electrical integrity every two (2) years;
 - A requirement that replacements or modifications to personal wireless service facilities that result in a change of size type and appearance that is readily discernible at ground-level from surrounding properties be approved as a special exception. This standard is taken from s. 365.172(12)(e), Florida Statutes.

Summary:

Policy 1.5 of the Future Land Use Element of the Comprehensive Plan states “The City will continue to promote “quality development” in all land use categories by the establishment and implementation of design criteria and development standards in the Land Development Code (LDC) which promote the highest standards of urban development and community aesthetics”. It is in keeping with the Goals, Objectives and Policies of the Comprehensive Plan for the City Commission to adopt Land Development Code regulations that support neighborhood aesthetics. While many of the comments forwarded from telecommunications industry professionals have been incorporated in Temporary Ordinance 2278, staff believes that the criteria for placement of DAS facilities will ensure the quality of Tamarac’s built environment is maintained.

Fiscal Impact:

The proposed ordinance has no direct budgetary impact.



Jennifer K. Bramley,
Director of Community Development

Attachments: Temporary Ordinance No. 2278

JKB/alg

CITY OF TAMARAC, FLORIDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA; AMENDING ARTICLE IX, CHAPTER 24 ENTITLED "TELECOMMUNICATIONS TOWERS AND ANTENNAS" OF THE CODE OF ORDINANCES OF THE CITY OF TAMARAC, FLORIDA, AS AMENDED, AND TO REGULATE PERSONAL WIRELESS SERVICE FACILITIES IN THE PUBLIC RIGHTS-OF-WAY; CONTAINING A REPEALER PROVISION, A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, to promote the public health, safety, aesthetics, and general welfare, the City of Tamarac has a substantial and significant public interest in maintaining and protecting its public-rights of way in a non-discriminatory manner, and requiring that individuals and entities seeking permits to conduct any type of excavation, construction or other activity therein do so in a safe, expeditious, and professional manner; and

WHEREAS, the Emergency Communications Number E911 Act, Chapter 365, Florida Statutes, (the "Act") addresses, *inter alia*, local governments' regulation of the placement, construction or modification of wireless communications facilities; and

WHEREAS, Section 337.401 *et seq*, Florida Statutes, addresses, *inter alia*, the authority of municipalities to regulate the placement and maintenance of communications facilities in the public rights-of-way; and

WHEREAS, said statutes authorize regulations of telecommunications facilities in the public rights-of-way that are related to the placement or maintenance of facilities in the public rights-of-way, are reasonable and non-discriminatory, and are necessary to the management of the public rights-of-way; and

WHEREAS, courts applying Florida and federal law have held that a municipality may impose reasonable design limitations on telecommunications facilities that deal directly with a concern for aesthetics and may regulate the placement of wireless facilities where such regulation does not prohibit or effectively prohibit the provision of wireless services; and

WHEREAS, the City Code provisions regulating telecommunications towers and antennas need to be updated to expressly address current practices utilizing personal wireless service facilities in the public rights-of-way and to protect the public interest by

protecting, preserving and maintaining the health, safety and welfare of the users of the public rights-of-way, while also protecting, preserving and maintaining the aesthetic character of areas where such rights-of-way exist, and this ordinance achieves such purpose; and

WHEREAS, the City Clerk has provided at least ten days advance notice prior to first reading of this Ordinance to the Secretary of State.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF TAMARAC, FLORIDA, THAT:

SECTION 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this Section.

SECTION 2. Sec. 24-700. – Intent and purpose, is hereby amended as follows:

The regulations and requirements of this article are intended to:

- (1) Promote the health, safety and general welfare of the citizens by regulating the siting of telecommunications towers and personal wireless service facilities;
- (2) Provide for the appropriate location and development of telecommunications towers, personal wireless service facilities and antennas within the city;
- (3) Minimize adverse visual effects of telecommunications towers, personal wireless service facilities and antennas through careful design, siting, landscape screening and innovative camouflaging techniques;
- (4) Avoid potential damage to adjacent properties from tower or facility failure through engineering and careful siting of tower structures and personal wireless service facilities;
- (5) Protect residential areas and land uses from potential adverse impacts of telecommunications towers, personal wireless service facilities and antennas by maximizing use of any new or existing telecommunications towers through shared use, i.e., co-location, to reduce the number of towers or structures used in connection with personal wireless service facilities that are needed.

SECTION 3. Sec. 24-701, Definitions, is hereby amended as follows¹:

¹ Language underlined in sections 2 and 3 is to be added. Language in said sections with a strikethrough is to be deleted.

Personal wireless services means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, and shall include “wireless service” as defined in Section 365.172, Florida Statutes, as well as “personal wireless services” defined in 47 USC §332(c)(7)(C)(i), as they may be amended.

Personal wireless service facilities means facilities for the provision of personal wireless services, and shall include all of those “wireless communications facilities” as defined in Section 365.172, Florida Statutes, as it may be amended, that are not telecommunications towers as defined in this section. A power, light or other utility pole used exclusively as such prior to attachment of a personal wireless service facility shall not be considered a personal wireless service facility because of such attachment.

Public rights-of-way has the same meaning as provided in Section 5.6-3 of the City Code.

SECTION 4. There is hereby created a new Section 24-707 to provide as follows:

Section 24-707. Personal wireless service facilities in the public rights-of-way.

(a) Minimum standards. Personal wireless service facilities in the public rights-of-way must meet the following minimum standards:

(1) Required approvals. No application for placement of wireless service facilities in the public rights-of-way shall be permitted without approval of the building department, the public services department and the department of community development.

(2) Site plan review in lieu of underground placement. Because certain personal wireless service facilities must be placed above-ground in order to function, except in the case of co-location, an applicant proposing placement of such facilities in the public rights-of-way within districts where communications facilities are otherwise required to be placed underground shall submit a site plan for a minor development as required by section 10-47 of the Land Development Code. The director of community development may waive all or some of the requirements of section 10-47 of the Land Development Code for a stealth facility. No building permit shall be issued by the building department and no engineering permit shall be issued by the public services department prior to the approval of a site plan required pursuant to this paragraph.

(3) Completeness review; time limitation. The city shall grant or deny a properly completed application for personal wireless service facilities in

the public rights-of-way no later than 90 business days after the date the application is determined to be properly completed. An application is deemed submitted or resubmitted on the date the application is received by the planning division. The planning division shall notify the applicant within twenty (20) business days after the date the application is initially submitted or additional information resubmitted, whether the application is properly completed in compliance with the city's requirements. If the application is not completed in compliance with the city's requirements, the planning division shall so notify the applicant in writing indicating with specificity any deficiencies which, if cured, make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the planning division shall notify the applicant, in writing, no later than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. If a specified deficiency is not properly cured when the applicant resubmits its application to comply with the notice of deficiencies, the planning division may continue to request the information until such time as the specified deficiency is cured, or may establish a reasonable time frame within which the required information to cure the application deficiency is to be provided. If the curative information is not provided within such time frame, the application will be considered withdrawn or closed.

(4) Co-location or use of stealth facilities. Antennas in the public rights-of-way, shall to the extent possible, be collocated on existing power, light or other utility poles. When co-location of an antenna is not possible, a free standing stealth facility shall be utilized; however, a non-stealth type facility may be utilized if approved as a special exception.

(5) Statement. A statement or statements shall be submitted certifying that the construction of personal wireless service facilities proposed to be located in the public rights-of-way will comply with applicable standards as set forth in the Florida Building Code, latest edition, the State of Florida Department of Transportation, Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, and any associated regulations including all electrical codes; and describing the proposed personal wireless service facilities' capacity to permit multiple users, including an example of the number and type of antennas or other attachments it can accommodate. No personal wireless service facility which exceeds its loading capacity, which causes any pole or structure to exceed its loading capacity or which does not conform to applicable electrical codes shall be permitted in the public rights-of-way.

(6) Dimensional limits for cabinets, boxes and vaults. No permit or order shall be granted authorizing the placement, construction or modification in the public rights-of-way of a personal wireless communications facility cabinet, box or vault having a total volume exceeding twenty-four cubic feet (24 ft³), unless the applicant provides a statement explaining the need for the greater proposed dimensions and certifying that current technology provides no alternative consistent with the dimensional requirements of this subsection.

(b) Height, setbacks and related location requirements.

(1) The height of a personal wireless service facility in the public rights-of-way shall not exceed the height of existing poles or structures within one-hundred feet of such proposed facility in the public rights-of-way, or if no such existing poles are present within one-hundred feet of such proposed facility, such facility shall not exceed a height of fifty (50) feet. Height shall be measured from the crown of the road of the nearest public street.

(2) Except as otherwise provided herein, personal wireless service facilities in the public rights-of-way shall conform to the standards and requirements set forth in the State of Florida Department of Transportation Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.

(3) No personal wireless service facility attached to a free-standing pole in the public right-of-way, other than as a co-location with an existing power or light pole, shall be permitted within fifty (50) feet of any principal residential structure.

(c) Antennas

(1) Each application, other than for co-location, shall contain a rendering or photograph of the proposed antenna which depicts its aesthetic features including, but not limited to, the use of colors and screening devices. The application shall be subject to administrative approval determining consistency with the definition of a stealth facility as defined in Sec. 24-701 of the Zoning Code. The director of community development may require, to the extent possible, that stealth antennas be utilized to match existing fixtures in the public rights-of-way.

(2) No signals, lights, or illumination shall be permitted on an antenna or, except in the case of a light pole or a stealth facility designed to emulate a

light pole, on a pole to which such antenna is attached, unless required by applicable state or federal laws or rules.

(3) Antennas shall be mounted at a height and location that will not interfere with use of the public rights-of-way.

(4) No exterior antenna in the public right-of-way shall exceed the height of the pole to which it is attached unless it is attached as a co-location to an existing power, light or other utility pole.

(5) No antenna shall be mounted more than four inches (4") from the pole to which it is attached unless it is attached as a co-location to an existing power, light or other utility pole.

(6) Exterior looping of excess cable length installed on any personal wireless service facility located in the public right-of-way is prohibited.

(7) *Antenna dimensions.* Antenna dimensions shall be approved by the director of community development as required by existing technology. The director of community development may require a statement certifying the need for the required dimensions.

(8) *Distance between antenna locations/number of antenna locations within a specified area.* To minimize the adverse visual impacts associated with the proliferation and clustering of antennas and associated above ground personal wireless service facilities, no antenna site in the public rights-of-way shall be located within four hundred feet (400') of any other such antenna site or telecommunications tower. Further, no more than thirteen (13) antenna sites may be located within an area of one square mile (1 mi²). This paragraph (c)(8) shall not apply to any antenna collocated on an existing light pole or power pole within the public rights-of-way.

(d) *Co-locations.* For the purposes of this section, "co-location" means the mounting or installation of an antenna on an existing power, light or other utility pole for the purpose of transmitting and/or receiving radio frequency signals for communications purposes. In any co-location, the existing power, light or other utility pole may be modified or replaced to accommodate the new attachment, provided however that the modified or replacement pole complies with the height, setback and related location requirements of sections 24-707(b)(1) and (2).

(d) *Approval required from other governmental agencies and owners.* Each application for the location of a personal wireless service facility in the public rights-of-way may be required to include written approval, or a statement of no objection, from federal or state agencies that regulate siting, design, and

construction of such facilities, or have jurisdiction over the public rights-of-way. An existing facility in the public rights-of-way shall only be utilized in a manner consistent with the City Code and with the written permission of the facility owner.

(e) FCC emissions standards. All personal wireless service facilities in the public rights-of-way shall comply with current radio frequency emissions standards of the Federal Communications Commission.

(f) Buffering.

(1) Except in the case of an application for a co-location, as a condition of approval the director of community development may require the use of a fence or wall as a buffer, which fence or wall is consistent in design and function with fencing or walls currently used in the public rights-of-way around any personal wireless service facilities.

(2) Except in the case of an application for a co-location, as a condition of approval the director of community development may require the use of landscaping as a buffer, which landscaping is consistent with the landscaping otherwise located in the public rights-of-way. Additional landscaping may be required if deemed necessary to buffer adjacent properties. The director of community development may require landscaping in excess of the requirements of the City Code to enhance compatibility with adjacent residential and nonresidential land uses.

(g) Equipment. The location in the public rights-of-way of any equipment or equipment cabinets associated with personal wireless service facilities shall be subject to the approval of the city engineer. Any such cabinets or equipment must be approved by the city engineer as to safety, and shall not interfere with the use of the public rights-of-way. The city engineer may require a statement certifying the need for the proposed equipment and location. No generators utilized in connection with personal wireless services facilities may be placed in the public rights-of-way, except temporarily in the case of emergency and if approved in advance by the city engineer.

(h) Removal of personal wireless service facilities in the public rights-of-way and restoration of the public rights-of-way.

(1) All abandoned or unused personal wireless service facilities in the public rights-of-way shall be removed by the owner/operator within ninety (90) days of the cessation of use. A personal wireless service facility in the public rights-of-way shall be considered abandoned if use has been discontinued for one hundred eighty (180) consecutive days. Personal

wireless service facilities in the public rights-of-way being utilized for other purposes, including but not limited to light standards and power poles, may be exempt from this provision where superseded by the requirements of county, state or federal regulatory agencies.

(2) Upon the removal of any personal wireless service facilities from the public rights-of-way, such public rights-of-way shall be completely restored to the satisfaction of the city engineer at the cost of the owner or operator of the personal wireless service facilities in the public rights-of-way. The city engineer shall require a bond or other fund sufficient to secure the restoration of the public rights-of-way.

(i) Signs and advertising. The use of any portion of a personal wireless service facility in the public rights-of-way for the posting of signs or for advertising purposes, including the display of company name, banners, streamers, etc., is strictly prohibited.

(j) Inspections.

(1) Owners or operators of personal wireless service facilities in the public rights-of-way shall ensure that the city's building department has current contact information for such owner or its authorized representative.

(2) The owner or operator of a personal wireless service facility in the public rights-of-way shall submit a report to the city's building department, certifying structural and electrical integrity at least once every two (2) years.

(3) Inspections evaluating the structural and electrical integrity of the facilities shall be conducted by an engineer licensed to practice in the state. The results of such inspections shall be provided to the building department along with certification that the engineer or engineers conducting such inspections are competent in the engineering discipline or disciplines necessary to evaluate the structural and electrical integrity of the facilities, or that the evaluation has been made by a competent engineer or engineers under his or her direction or supervision. Any personal wireless service facilities in the public rights-of-way found in such inspection or otherwise determined to be lacking structural or electrical integrity shall be repaired or removed as required by the building department.

(4) The building department may conduct periodic inspections of personal wireless service facilities in the public rights-of-way to ensure structural and electrical integrity. The owner or operator of personal wireless service facilities in the public rights-of-way may be required to have more frequent

inspections of a particular facility should there be reason to believe that the structural and electrical integrity of said facility has been jeopardized.

(k) Actual or effective prohibition; cooperative determination. In the event a provider of wireless service, as defined in section 365.172(3), Florida Statutes, demonstrates to the satisfaction of the director of community development that application of this section results in an actual or effective prohibition of wireless service, the applicant and the director of community development shall cooperate to determine an appropriate location and design for the proposed facility. In any such cooperative determination there shall be a preference for co-location with existing personal wireless service facilities or other utility facilities, or for use of unused capacity on existing personal wireless service facilities. Where facilities cannot be collocated and no such unused capacity exists, there shall be a preference for the use of free standing stealth-type structures which are consistent, to the extent possible, with the purposes of the Land Development Code as that code is defined in Sec. 10.327. The director of community development may require a statement certifying that the proposed location is needed by a wireless service provider to close a significant gap in its service to that area. The applicant shall reimburse the reasonable costs incurred by the city for this cooperative determination.

(l) Modifications or replacements. Modification or replacement of any personal wireless service facilities or equipment in the public rights-of-way, except co-location of new transmission equipment, removal of transmission equipment or replacement of transmission equipment, shall be subject to approval of the city's building department. If such modification or replacement of facilities or equipment other than transmission equipment would, as reasonably determined by the city, result in the facility or equipment being readily discernibly different in size, type, and appearance when viewed from ground level from surrounding properties, such modification shall require approval as a special exception. Any co-location of new transmission equipment, removal of transmission equipment or replacement of transmission equipment that substantially changes the physical dimensions of an antenna node site shall be subject to approval of the city's building department.

(m) Statements and certifications. Any statement or certification submitted by or on behalf of an applicant pursuant to the provisions of this section shall be prepared applying rational analysis by one or more engineers registered and licensed in the state, or by such other person or persons designated by the applicant who are qualified to perform the required analysis. Any person or

persons providing such a statement or statements shall also certify as to his or her competence in the discipline or disciplines necessary to perform the analysis and to provide the statement.

(n) Reservation of Rights.

(1) The city does not waive any rights under applicable law with respect to management of its public rights-of-way. The city shall require that owners and users of personal wireless service facilities in the public rights-of-way pay the maximum compensation to the city. The city reserves the right to enforce all applicable city code provisions with respect to personal wireless service facilities in the public rights-of-way.

(2) The city does not warrant or make any representations that the public rights-of-way are available, suitable or appropriate for the construction, placement, maintenance or use of personal wireless service facilities.

(3) The city's approval of an application for the construction, placement, or modification of a personal wireless service facilities in the public rights-of-way shall not create any rights in such facilities' ability to be maintained or utilized in the public rights-of-way for any particular period of time or any rights that are inconsistent with the city code.

(4) The city reserves the right to abandon any public rights-of-way, notwithstanding the presence of any personal wireless service facilities in the public rights-of-way that have been approved by the city and the city shall have no liability or responsibility to the owner, operator, or users of such personal wireless service facilities in the public rights-of-way.

(5) The city reserves the right to require the relocation or removal of any personal wireless service facilities in the public rights-of-way consistent with its authority under applicable law. The city shall have no liability or responsibility to the owner, operator or users of the personal wireless service facilities in the public rights-of-way.

(6) The city shall have no responsibility or liability for damage to or interference with the use or maintenance of personal wireless service facilities in the public rights-of-way by any third party.

~~Secs. 24-707—24-799. —Reserved~~

~~Secs. 24-708—24-799. - Reserved~~

SECTION 5. Conflicts. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 6. Savings. All fees and other dollar amounts owed to the City under any contract, Agreement, or other provisions of the City Code as of the effective date of this Ordinance, whether known or unknown, shall not be affected by the adoption of this Ordinance and the City expressly reserves its rights with respect to such amounts.

SECTION 7. Severability. It is declared to be the intent of the City Commission of the City of Tamarac, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of the this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

SECTION 8. Inclusion in Code. It is the intent of the City Commission of the City of Tamarac that the provisions of this Ordinance shall become and be made a part of the City Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article," "regulation," or such other appropriate word or phrase in order to accomplish such intentions.

SECTION 9. Effective Date. This Ordinance shall become effective immediately upon the date of its adoption by the City Commission.

PASSED, FIRST READING this ____ day of _____, 2013.

PASSED, SECOND READING this ____ day of _____, 2013.

ATTEST: BY: _____
MAYOR BETH TALABISCO

PAT TUEFEL, CMC,
INTERIM CITY CLERK

RECORD OF COMMISSION VOTE: 1ST Reading

MAYOR TALABISCO	_____
DIST 1: COMM BUSHNELL	_____
DIST 2: COMM ATKINS-GRAD	_____
DIST 3: COMM GLASSER	_____
DIST 4: V/M DRESSLER	_____

I HEREBY CERTIFY that
I have approved this
ORDINANCE as to form:

RECORD OF COMMISSION VOTE: 2ND Reading

MAYOR TALABISCO	_____
DIST 1: COMM BUSHNELL	_____

SAMUEL S. GOREN
CITY ATTORNEY

DIST 2: COMM. ATKINS-GRAD _____
DIST 3: COMM GLASSER _____
DIST 4: V/M DRESSLER _____



Title - TO2277- LI1-Light Industrial District Code Amendment

Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida, **on second reading** to amend the City's Light Industrial District regulations by specifically amending Chapter 24, Article III, District Regulations, Division 23, Light Industrial District, Section 24-529 (a), "Impervious Area and Outside Storage" of the Code of Ordinances of the City of Tamarac, Florida, for the purpose of modifying the maximum impervious area from 60 percent to 80 percent of gross lot area; providing for codification; providing for conflicts; providing for severability; and providing for an effective date.

PASSED ON FIRST READING APRIL 24, 2013

ATTACHMENTS:

Name:

Description:

📎 [1304007m LI1-Code Amendment.pdf](#)

TO2277-LI1-Light Industrial District Memo

📎 [TO 2277 LI-1-Industrial District Code Amendment.docx](#)

TO2277-LI1-Light Industrial District Code Amendment Ordinance

📎 [Pervious Impervious Area Study.pdf](#)

TO2277-LI1-Light Industrial District Code Amendment-Benchmarking Chart

CITY OF TAMARAC
INTEROFFICE MEMORANDUM 13-04-007M
COMMUNITY DEVELOPMENT DEPARTMENT

TO: Michael C. Cernech,
City Manager

DATE: April 10, 2013

FROM: Jennifer K. Bramley,
Director of Community Development

RE: Light Industrial District Code
Amendment

CASE#: 4-Z-13 **Temp. Ord. No.** 2277

RECOMMENDATION: The Director of Community Development recommends that the Mayor and City Commission adopt on First Reading the proposed text amendment to Chapter 24, Article III, District Regulations, Division 23, Light Industry District, Section 24-529 Impervious Area and Outside Storage of the City's Code of Ordinances at its April 24, 2013 meeting and at its May 8, 2013 meeting on Second Reading.

ISSUE: Proposed amendment to Chapter 24, Article III, District Regulations, Division 23, Light Industry District, Section 24-529 (a) "Impervious Area and outside storage" of the City's Code of Ordinances for the purpose of modifying the maximum impervious area from 60 percent to 80 percent of gross lot area. The proposed Code amendment is attached to this memorandum (see attached Legislative Draft Ordinance).

BACKGROUND: Staff proposed amendments to Chapter 24 of the Tamarac Code of Ordinances in the Fall of 2012. The City Commission approved Second Reading on September 12, 2012 which clarified the landscape buffer requirements for Light Industry zoned properties and resolved the conflict regarding landscape buffer requirements within this section of code. At that time, the maximum impervious area was increased from 30 percent to 60 percent for all properties zoned LI-1 (not just for properties 5 acres or less). Since this time, staff has researched typical regulations regarding maximum impervious areas in other local corporate parks within South Florida. This research revealed that a more typical allowance for maximum impervious area is 80 percent (see benchmarking chart).

ANALYSIS: Staff proposes to amend Section 24-529 (a), "Impervious area and outside storage", of the Light Industry District division within the District Regulations article of the Zoning chapter of the Tamarac Code of Ordinances. This amendment will modify the maximum impervious area requirement for Light Industry zoned properties by increasing the allowable impervious area to 80 percent of gross lot area.

The majority of the buildings within the Tamarac Commerce Park have been developed to this level of impervious area. This code amendment will allow future development and redevelopment within the commerce park to be consistent with existing properties. The goal of the proposed code amendment is to ensure consistent development within the City's commerce park.

SUMMARY OF RECOMMENDATION: Staff recommends that the Mayor and City Commission adopt on First Reading the proposed text amendment to the City's Code of Ordinances. The proposed code amendment is consistent with Comprehensive Plan Future Land Use Element Policy 1.5, which requires the City to continue to promote "quality development" in all land use categories by the establishment and implementation of design criteria and development standards in the Land Development Code which promote the highest standards of urban development and community aesthetics. The proposed amendments also support the City's Strategic Goal #4 "Clear Communication" by clarifying regulations and resolving conflicts between regulations within the Land Development Code.

INTERVENING ACTION: At its April 3, 2013 meeting, the Planning Board voted unanimously, 4-0 (Hubert Klombers excused absence) to forward a favorable recommendation regarding the proposed amendment to the City Commission at its April 24, 2013 meeting for First Reading and at its May 8, 2013 meeting for Second Reading.

FISCAL IMPACT: There will be no direct budgetary impact.



Jennifer K. Bramley,
Director of Community Development

JKB/FZ/lml

Attachment: Temp. Ord. No. 2277
 Legislative Draft Ordinance
 Benchmarking Chart for Local Municipalities – Maximum Impervious Area

CITY OF TAMARAC, FLORIDA

ORDINANCE NO. 2013-

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, TO AMEND THE CITY'S LIGHT INDUSTRIAL DISTRICT REGULATIONS BY SPECIFICALLY AMENDING CHAPTER 24, ARTICLE III, DISTRICT REGULATIONS, DIVISION 23, LIGHT INDUSTRIAL DISTRICT, SECTION 24-529 (A), "IMPERVIOUS AREA AND OUTSIDE STORAGE" OF THE CODE OF ORDINANCES OF THE CITY OF TAMARAC, FLORIDA, FOR THE PURPOSE OF MODIFYING THE MAXIMUM IMPERVIOUS AREA FROM 60 PERCENT TO 80 PERCENT OF GROSS LOT AREA; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Tamarac (hereinafter referred to as the "City"), seeks to amend its regulations pertaining to the City's Light Industrial District Code regulations by specifically amending Chapter 24, Article III, District Regulations, Division 23, Light Industry District, Section 24-529 (a) "Impervious Area and Outside Storage", for the purpose of modifying the maximum impervious area from 60 percent to 80 percent of gross lot area; and

WHEREAS, the City recognizes a need to amend Chapter 24 to update the City's Light Industrial District Code regulations to reflect current industry standards; and

WHEREAS, the City recognizes a need to update its current signage regulations for the purpose of clarifying and organizing applicable code sections; and

WHEREAS, the proposed amendments are in keeping with the Goals, Objectives and Policies of the Comprehensive Plan; and

WHEREAS, the Director of Community Development recommends approval of these amendments; and

WHEREAS, the City Commission of the City of Tamarac has deemed it to be in the best interest of the citizens and residents of the City of Tamarac to amend Chapter 24, Article III, District Regulations, Division 23, Light Industry District, Section 24-529 (a) "Impervious Area and Outside Storage", of the Code of Ordinances of the City of Tamarac, Florida for the purpose of modifying the maximum impervious area from 60 percent to 80 percent of gross lot area.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA:

SECTION 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of the Ordinance upon adoption hereof; all exhibits attached hereto are incorporated herein and made a specific part of this Ordinance.

SECTION 2: That the City of Tamarac Code of Ordinances Chapter 24, Article III, District Regulations, Division 23, Light Industry District, Section 24-529 (a) "Impervious Area and Outside Storage", is hereby amended to read as follows:

Sec. 24-529. - Impervious Area and Outside Storage

- (a) The maximum impervious area allowed is ~~sixty (60)~~ eighty (80) percent of the gross lot area.
- (b) No outside storage of material, supplies, finished products or equipment shall be permitted.

- (c) Regulations on signage, chapter 18; parking and lighting standards, sections 24-576 through 24-585; landscaping, sections 9-36 through 9-42, 9-58, chapter 11, and sections 24-631 through 24-635; except as specifically amended by this section, shall be required as specified in such provisions of the City of Tamarac Code.

SECTION 3: It is the intention of the City Commission and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Tamarac, Florida, and that the Sections of this Ordinance may be renumbered, relettered and the word "Ordinance" may be changed to "Section", "Article" or such other word or phrase in order to accomplish such intention.

SECTION 4: All Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6: This Ordinance shall become effective immediately upon its passage and adoption.

PASSED, FIRST READING this day of , 2013.

PASSED, SECOND READING this day of , 2013.

BETH TALABISCO,
MAYOR

ATTEST:

PATRICIA TEUFEL,
INTERIM CITY CLERK

I HEREBY CERTIFY that I
have approved this
ORDINANCE as to form.

SAMUEL S. GOREN,
CITY ATTORNEY

Benchmarking Chart for Local Municipalities - Maximum Impervious Area

City/Municipality	Maximum Impervious Area	Minimum Pervious Area	Code Reference Section
Coral Springs	Varies; 70%	Varies; 30%	-
Industrial Commercial (IC)	<u>Buildings</u> Limited to 25,000 sq. ft.; no lot size min/max	Varies	Section 250617
Industrial, Research and Development (IRD)	70%	30%	Pervious Area Minimum: Section 250645
Margate	Enforced through setbacks, buffers and interior landscaping requirements.	Enforced through setbacks, buffers and interior landscaping requirements.	-
Light Industrial (M-1)	-	-	
Industrial Park (M-1A)	-	-	
Lauderhill	40% - 65%	35% - 60%	-
Light Industrial (IL)	40%	60%	40% impervious is the rule of thumb; can be increased with Engineering approval to a maximum of 65%, but must demonstrate that drainage is retained on site. (Reference: Melinda Matthews, Planner)
Sunrise	Plot Coverage Only**	Plot Coverage Only	
Light Industrial	**40%	N/A	
Plantation			
Davie	80%	20%	Table 12-54
Light Industrial (M-1)	80%	20%	Table 12-54
Medium Industrial (M-2)	80%	20%	Table 12-54
Planned Industrial Park (M-3)	80%	20%	Table 12-54
Fort Lauderdale	No maximum impervious surface requirement.	must meet landscaping and buffering requirements.	Engineering review required. Must show that water is maintained on site.

Pembroke Pines			
Light Industrial (M-1)			
Planned Industrial (M-1B)			
Medium Industrial (M-2)			
General Industrial (M-3)			
Limited Heavy Industrial (M-4)			
Heavy Industrial (M-5)			
Pompano Beach	80%	20%	-
General Industrial (I-1)	80%	20%	Pervious Area Minimum: Section 155.3402
Special Industrial (I-1X)	80%	20%	Pervious Area Minumum: Section 155.3403
Office Industrial Park (OIP)	80%	20%	Pervious Area Minimum: Section 155.3404
Marina Industrial (M-2)	80%	20%	Pervious Area Minimum: Section 155.3405
Hollywood	80%	20%	Code Contradictions - Rule of Thumb - 20% pervious.
-	-	-	-



Title - TO2279 - Amending Chapter 5.6 Telecommunications of the Code of Ordinances

Motion to adopt an Ordinance of the City Commission of the City of Tamarac, Florida, **on second reading** amending Chapter 5.6, "Telecommunications" of the Code of Ordinances of the City of Tamarac by specifically amending Section 5.6-3, entitled "Definitions," to amend certain definitions and define additional terms associated with communications service providers; amending Section 5.6-5, entitled "Fees and Payments," to limit this section to fees chargeable pursuant to Florida Statutes; amending Section 5.6-6 entitled "Reports & Records," repealing the entire section and retitle to "Reserved"; providing for codification; providing for conflicts; providing for severability; providing for an effective date.
PASSED ON FIRST READING APRIL 24, 2013

ATTACHMENTS:

Name:

Description:

 [TO 2279 Memo - Chapter 5 6 Telecommunications 05 08 13 revised .docx](#)

TO 2279 Memo- Chapter 5.6
Telecommunications

 [Ordinance No 2013- \(Amending Chapter 5 6 Telecommunications\) - Final.pdf](#)

Ordinance No 2013-

CITY OF TAMARAC
INTEROFFICE MEMORANDUM
FINANCIAL SERVICES DEPARTMENT

TO: Michael C. Cernech, City Manager DATE: April 10, 2013

**FROM: Mark C. Mason, Director of
Financial Services**



**RE: TO 2279 –Amending Chapter 5.6
Telecommunications**

Recommendation:

Place Temporary Ordinance 2279 amending Chapter 5.6 Telecommunications of the Code of Ordinances on the April 24, 2013 Commission Meeting Agenda for first reading with May 8, 2013 for second reading and adoption.

Issue:

During the course of actions regarding amending the Land Development Code for communications devices, Chapter 5.6 Telecommunications was reviewed and found to be outdated in connection with the Florida Statutes.

Background:

As a result of discussions with a new communications service provider that has applied to provide services within the boundaries of the City of Tamarac, a question remained as to whether a fee could be charged for communications service providers outside of the Communication Services Tax Simplification Law adopted by the Florida Legislature in 2001 with an effective date of October 1, 2001.

As a result of research, it was determined that there are two types of communication service providers, those that are subject to the Communication Services Tax and who collect that tax and remit it to the State for distribution to the City and those who don't and who are known as pass-through providers.

In reviewing the Code of Ordinances and determining that the code applicable to the circumstances associated with charges for communications services was Chapter 5.6 Telecommunications, staff reviewed the ordinance and determined that there were inconsistencies with respect to citations associated with statutes, sections that were no longer applicable as a result of the Communication Services Tax Simplification Law as well as a lack of applicability as to the fee included in the ordinance (which is not changed). Following is a detailed look at the changes that are proposed in the ordinance and why:

Sec. 5.6-3. - Definitions.

Communications facility is a facility that may be used to provide communications services. Multiple cables, conduits, strands, or fibers located within the same conduit and used together by a single communications services provider for the provision of that provider's service shall be considered one communications facility.

This definition is added to the code and is consistent with the definition contained in Section

337.401 and provides a definitive statement as to what a communications facility is.

Communications Services has the same meaning as provided in Chapter 202, Florida Statutes.

This definition is added to the code and is consistent with the definition contained in Section 337.401 and refers to the Communications Services Tax Simplification Law which defines Communication Services as follows:

“Communications services” means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added. The term does not include:

- (a) Information services.
- (b) Installation or maintenance of wiring or equipment on a customer’s premises.
- (c) The sale or rental of tangible personal property.
- (d) The sale of advertising, including, but not limited to, directory advertising.
- (e) Bad check charges.
- (f) Late payment charges.
- (g) Billing and collection services.
- (h) Internet access service, electronic mail service, electronic bulletin board service, or similar online computer services.

~~Gross receipts shall mean all cash, credits or property of any kind or nature, with deductions for bad debt expense, reported as revenue items to the registrant's audited income statements arising from, or attributable to recurring local service revenues of registrant within the city. The city reserves the right to amend the definition contained herein as permitted by applicable law. The definition herein shall not be applicable as of October 1, 2001; or such other date as provided by law, provided that section 337.401, Florida Statutes is amended effective October 1, 2001, as set forth in chapter 00-260, Laws of Florida, 2000.~~

Section 337.401 was amended in 2001 by Chapter 2001-140, Florida Laws. Therefore, based upon the language of the last sentence, this definition is no longer applicable.

Pass-through provider has the same meaning as provided in Section 337.401(6)(a)1., Florida Statutes.

This definition is added to identify the type of entity to which the fee included in this ordinance, and is consistent with Section 337.401, applies. Specifically the definition is as follows:

“pass-through provider” is any person who places or maintains a communications facility in the roads or rights-of-way of a municipality or county that levies a tax pursuant to chapter 202 and who does not remit taxes imposed by that municipality or county pursuant to chapter 202.

Public rights-of-way means the surface, the airspace above the surface and the area below the surface of any public street, highway, road, boulevard, concourse, driveway, freeway, thoroughfare, parkway, sidewalk, court, lane, path, alley, way, drive, circle, public easement, public place, or any other property for which the city is the authority that has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law. "Public rights-of-way" shall not include any real or personal city property except as described above and shall not include city buildings, fixtures, or other structures or improvements, regardless of whether they are situated in the public rights-of-way. For the purpose of calculating the fees and payments provided in Section 5.6-5, “public rights-of-way” shall not include roads or rights-of-way that extend in or through the city but are state, county, or another authority’s roads or rights-of-way.

This definition is amended to maintain consistency with Section 337.401 which specifically states that the linear mile calculation of the fee does not include any other public rights-of-way other than those that are the City of Tamarac’s rights-of-way.

~~*Recurring local service revenues* means revenues from the monthly recurring charges for local service, including but not limited to (1) recurring basic area revenues derived from the provision of flat rated basic area services; (2) recurring optional extended area revenues derived from the provision of optional extended area services; (3) local private line revenues derived from local services which provide communication between specific locations, either through dedicated circuits, private switching arrangements, predefined transmission paths, whether virtual or physical, or any other method of providing such services; (4) revenues from the sale of local services for resale; and (5) other local service revenues from the provision of secondary features that are integrated with the telecommunications network, including, without limitation, services such as call forwarding, call waiting, and touchtone line service. Except as provided herein, revenues from all recurring local services provided by a registrant over a telecommunications facility or system in the public rights of way shall constitute recurring local service revenues subject to this chapter. Recurring local service revenues do not include revenues from (1) toll charges for the transmission of voice, data, video, or other information; (2) access charges paid by carriers for origination and/or termination of toll telephone service as defined in section 203.012(7), Florida Statutes, or other charges required by the Federal Communications Commission which are directly passed through to end users; (3) interstate service; (4) ancillary services such as directory advertising, directory assistance, detailed billing services, inside wire maintenance plans, bad check charges, and non-recurring charges for installation, move, changes or termination services; (5) cellular mobile telephone or telecommunications services; or specialized mobile telephone or telecommunications service; or specialized mobile radio, or pagers or paging service, or related ancillary services; (6) public~~

~~telephone charges collected on site; (7) teletypewriter or computer exchange services as defined in section 203.012(6), Florida Statutes; or (8) local message rated (message, unit or time basis) and minutes of use charges in excess of the minimum flat rated charges for similar services. This definition shall not be applicable as of October 1, 2001, or such other date as provided by law, provided that section 337.401, Florida Statutes is amended effective October 1, 2001, as set forth in chapter 00-260, Laws of Florida, 2000.~~

This definition is repealed consistent with the last sentence. As noted above, Section 337.401, Florida Statutes was amended by Chapter 2001-140, Florida Laws and this section is no longer applicable. In addition, the fee identified in this ordinance of \$500 (which has not been changed) is an annual fee and not a monthly fee.

Telecommunications company has the meaning set forth in section 364.02(12), Florida Statutes, as amended. ~~The term "telecommunications company" does not include an open video system or a cable service provider.~~

The additional language was not necessary to the definition as Section 364.02(12) Florida Statutes already identifies what a telecommunications company is and what it is not. In addition, it is again specifically identified in the following definition as something separate to that requires the City's authorization.

Telecommunications service shall include, without limitation, the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by and through electronic, radio, satellite, cable optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. ~~"telecommunications~~ Telecommunications service," as contemplated herein, does not include the provision of service via an open video system or a cable service which shall require separate authorizations from the city.

This amendment corrects a scrivener's error in the original ordinance.

Sec. 5.6-5. - Fees and payments.

This section is amended to remove language that is inconsistent with Chapter 202, Florida Statutes and Section 337.401 as well as adds who is subject to the \$500 fee (which has not been changed from the original ordinance).

Specifically, the following section is added to identify that the only entity subject to the \$500 fee is a pass-through provider and not a registrant and is consistent with Section 337.401, Florida Statutes.

~~(ba) A registrant~~ pass-through provider, ~~other than a registrant providing services as defined in section 203.012(3), Florida Statutes, for occupying and using the public rights-of-way, shall pay to the city annually no less than five hundred dollars (\$500.00) per linear mile or portion thereof of any cable, fiber optic, or other pathway that makes physical use of the public rights of way. The city may adopt additional fees or other consideration, provided that any fee or other consideration imposed by the city in excess of five hundred dollars (\$500.00) per linear mile shall be applied in a nondiscriminatory manner and shall not exceed the sum of:~~

- ~~(1) Costs directly related to the inconvenience or impairment solely caused by the disturbance of the public rights-of-way;~~
- ~~(2) The reasonable cost of the regulatory activity of the city; and~~
- ~~(3) The proportionate share of cost of land for such street, alley or other public way attributable to utilization of the public rights-of-way by a telecommunications service provider.~~

The following section is left largely intact since the definition of a registrant remains in the definitions section of the code and is used and applies to the remainder of the Sections included in Chapter 5.6 Telecommunications, i.e. Sections 5.6-7 through 5.6-17, and simply adds the new definition associated with a pass-through provider as well as a communications facility as opposed to telecommunications facility.

(d) Except to the extent prohibited by applicable law:

- (1) The fee payments to be made pursuant to this section shall not be deemed to be in the nature of a tax;
- (2) Such fee payments shall be in addition to any and all taxes of a general applicability;
- (3) A registrant or pass-through provider shall not have or make any claim for any deduction or other credit of all or any part of the amount of said fee payments from or against any of said city taxes or other fees or charges of general applicability which registrant is required to pay to the city, except as required by law; and
- (4) The fee specified herein is the consideration for use of the public rights-of-way, including all public easements, for the purpose of installing and maintaining a communication~~telecommunications~~ facility.

~~(e) The payments required under subsections (a) and (d) of this section shall not apply as of October 1, 2001; or such other date as provided by law, provided that section 337.401, Florida Statutes is amended effective October 1, 2001, as set forth in chapter 00-260, Laws of Florida, 2000.~~

~~(f)~~ For the fiscal year of the city commencing on October 1, 2001 and ending on September 30, 2002, the city hereby establishes the rate of the communications services tax at a rate of five and one-tenth (5.10) percent as authorized by section 202.19(2)(a), Florida Statutes, plus two-tenths (0.20) percent as permitted by section 13 of chapter 2001-140 of the Laws of Florida, plus twelve one-hundredths (0.12) percent as permitted by section 337.401, Florida Statutes, for a total of five and forty-two one-hundredths (5.42) percent.

~~(g)~~ On and after October 1, 2002, the city hereby establishes the rate of the communications services tax at a rate of five and one-tenth (5.10) percent as authorized by section 202.19(2)(a), Florida Statutes, plus twelve one-hundredths (0.12) percent as permitted by section 337.401, Florida Statutes, for a total of five and twenty-two one-hundredths (5.22) percent.

~~(h)~~ The city hereby instructs the state department of revenue to collect the

communications services tax at the rates set forth in subsections (fe) and (gf) of this section effective October 1, 2001.

Subsection (e) is repealed as well since the fee of \$500 needs to remain and the language is obsolete. The remainder of this section remains intact to preserve our Communications Services Tax percentage and the collections derived therefrom.

Sec. 5.6-6. - Reports and records.

~~(a) The city may, at its option, upon sixty (60) days notice to the registrant, but in no event more often than once per year, examine the records and accounting files, and such other books and records, if such records relate to the calculation of fee payments. The examination of such books, accounts, records or other materials necessary for determination of compliance with the terms, provisions, and requirements of this chapter shall be during regular hours of business of the registrant at an office of the registrant located within the county, or at another location satisfactory to the city. In the event that the city, pursuant to an audit, determines that there exists a discrepancy in the amount paid and the amount owed to the city by the registrant in excess of two (2) percent, registrant shall pay all reasonable costs, fees and expenses of the audit. This paragraph shall not apply for periods after October 1, 2001, or such other date as provided by law, provided that section 337.401, Florida Statutes is amended effective October 1, 2001, as set forth in chapter 00-260, Laws of Florida, 2000.~~

~~(b) Upon reasonable request, a registrant shall provide the following documents to the city as received or filed:~~

~~(1) Any pleadings, petitions, notices, and documents, regarding any legal proceeding involving any provisions of this chapter and which are reasonably necessary for the city to protect its interests under this chapter.~~

~~(2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.~~

~~(3) Nothing in this section shall affect the remedies the registrant has available under applicable law.~~

~~(c) In addition, the city may, at its option, and upon reasonable notice to the registrant, inspect the facilities in the public rights-of-way to ensure the safety of its residents.~~

~~(d) The city shall keep any documentation, books and records of the registrant confidential to the extent required under Florida Statutes. [Reserved]~~

This section is repealed consistent with the last sentence of the (a) above as the Communication Services Tax Simplification Law was put in place and Section 337.401 was amended by Chapter 2001-140, Florida Laws.

As noted in the foregoing information, the fee originally included in this ordinance of no less than \$500 has not changed and remains consistent with Section 337.401, Florida Statutes. This ordinance has been reviewed by the City's external telecommunication's attorneys at Nabors, Giblin, and Nickerson.

Fiscal Impact:

There is no fiscal impact unless a pass-through communications provider provides service within the City of Tamarac.

ORDINANCE NO. 2013- _____

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, AMENDING CHAPTER 5.6, "TELECOMMUNICATIONS" OF THE CODE OF ORDINANCES OF THE CITY OF TAMARAC BY SPECIFICALLY AMENDING SECTION 5.6-3, ENTITLED "DEFINITIONS," TO AMEND CERTAIN DEFINITIONS AND DEFINE ADDITIONAL TERMS ASSOCIATED WITH COMMUNICATIONS SERVICE PROVIDERS; AMENDING SECTION 5.6-5, ENTITLED "FEES AND PAYMENTS," TO LIMIT THIS SECTION TO FEES CHARGEABLE PURSUANT TO FLORIDA STATUTES; AMENDING SECTION 5.6-6 ENTITLED "REPORTS & RECORDS," REPEALING THE ENTIRE SECTION AND RETITLE TO "RESERVED"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City, under its Home Rule authority, regulates the use of its public rights-of-way; and

WHEREAS, Section 337.401, Florida Statutes provides for specific authority to charge certain fees for the use of the City's public rights-of-way; and

WHEREAS, City Staff has reviewed other sections of the current ordinance and recommends changes and adjustments to existing language; and

WHEREAS, the City Commission deems the proposed amendments to the City of Chapter 5.6 "Telecommunications" to be in the best interests of the health, safety, and welfare of the citizens and residents of the City of Tamarac.

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

Section 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. That Chapter 5.6 "Telecommunications" of the City of Tamarac Code of Ordinances be amended by:

Sec. 5.6-3. - Definitions.

For the purpose of this chapter, the following terms, phrases, words and derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive. Words not otherwise defined herein or in any permit that might be granted hereunder shall be given the meaning set forth in the Communications Act of 1934, 47 U.S.C. § 151 et seq., as amended (collectively the "Communications Act"), and, if not defined therein, as defined by Florida Statute; and, if not defined therein, be construed to mean the common and ordinary meaning.

City means the City of Tamarac, an incorporated municipality of the State of Florida, in its present form or in any later reorganized, consolidated, or enlarged form.

Communications facility is a facility that may be used to provide communications services. Multiple cables, conduits, strands, or fibers located within the same conduit and used together by a single communications services provider for the provision of that provider's service shall be considered one communications facility.

Communications Services has the same meaning as provided in Chapter 202, Florida Statutes.

~~*Gross receipts* shall mean all cash, credits or property of any kind or nature, with deductions for bad debt expense, reported as revenue items to the registrant's audited income statements arising from, or attributable to recurring local service revenues of registrant within the city. The city reserves the right to amend the definition contained herein as permitted by applicable law. The definition herein shall not be applicable as of October 1, 2001; or such other date as provided by law, provided that section 337.401, Florida Statutes is amended effective October 1, 2001, as set forth in chapter 00-260, Laws of Florida, 2000.~~

Law means any local, state or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff, guideline or other requirements, as amended, now in effect or subsequently enacted or issued including, but not limited to, the Communications Act of 1934, 47 U.S.C. 151 et seq. as amended by the Telecommunications Act of 1996, Pub L. No. 104-104 101(a), 110 Stat. 70 codified at 47 U.S.C., and all orders, rules, tariffs, guidelines and regulations issued by the Federal Communications Commission or the governing state authority pursuant thereto.

Pass-through provider has the same meaning as provided in Section 337.401(6)(a)1., Florida Statutes.

Person means any individual, corporation, partnership, association, joint venture, estate, trust, syndicate, fiduciary, organization or legal entity of any kind, and any lawful trustee, successor, assignee, transferee or personal representative thereof, and all other groups or combinations.

PSC means the Florida Public Service Commission.

Public rights-of-way means the surface, the airspace above the surface and the area below the surface of any public street, highway, road, boulevard, concourse, driveway, freeway, thoroughfare, parkway, sidewalk, court, lane, path, alley, way, drive, circle, public easement, public place, or any other property for which the city is the authority that has jurisdiction and control and may lawfully grant access to such property pursuant to applicable law. "Public rights-of-way" shall not include any real or personal city property except as described above and shall not include city buildings, fixtures, or other structures or improvements, regardless of whether they are situated in the public rights-of-way. For the purpose of calculating the fees and payments provided in Section 5.6-5, "public rights-of-way" shall not include roads or rights-of-way that extend in or through the city but are state, county, or another authority's roads or rights-of-way.

~~*Recurring local service revenues* means revenues from the monthly recurring charges for local service, including but not limited to (1) recurring basic area revenues derived from the provision of flat-rated basic area services; (2) recurring optional extended area revenues derived from the provision of optional extended area services; (3) local private line revenues derived from local services which provide communication between specific locations, either through dedicated circuits, private switching arrangements, predefined transmission paths, whether virtual or physical, or any other method of providing such services; (4) revenues from the sale of local services for resale; and (5) other local service revenues from the provision of secondary features that are integrated~~

~~with the telecommunications network, including, without limitation, services such as call forwarding, call waiting, and touchtone line service. Except as provided herein, revenues from all recurring local services provided by a registrant over a telecommunications facility or system in the public rights-of-way shall constitute recurring local service revenues subject to this chapter. Recurring local service revenues do not include revenues from (1) toll charges for the transmission of voice, data, video, or other information; (2) access charges paid by carriers for origination and/or termination of toll telephone service as defined in section 203.012(7), Florida Statutes, or other charges required by the Federal Communications Commission which are directly passed through to end users; (3) interstate service; (4) ancillary services such as directory advertising, directory assistance, detailed billing services, inside wire maintenance plans, bad check charges, and non-recurring charges for installation, move, changes or termination services; (5) cellular mobile telephone or telecommunications services; or specialized mobile telephone or telecommunications service; or specialized mobile radio, or pagers or paging service, or related ancillary services; (6) public telephone charges collected on-site; (7) teletypewriter or computer exchange services as defined in section 203.012(6), Florida Statutes; or (8) local message rated (message, unit or time basis) and minutes of use charges in excess of the minimum flat-rated charges for similar services. This definition shall not be applicable as of October 1, 2001, or such other date as provided by law, provided that section 337.401, Florida Statutes is amended effective October 1, 2001, as set forth in chapter 00-260, Laws of Florida, 2000.~~

Registrant or *facility owner* shall mean a telecommunications company or other person which seeks to use or occupy the public rights-of-way that has registered with the city in accordance with the provisions of this chapter.

Registration and *register* shall mean the process described in section 5.6-4 whereby a telecommunications service provider provides certain information to the city.

Telecommunications company has the meaning set forth in section 364.02(12), Florida Statutes, as amended. ~~The term "telecommunications company" does not include an open video system or a cable service provider.~~

Telecommunications facilities, facilities or systems means any facility, equipment or property, including, but not limited to, cables, conduits, converters, splice boxes, cabinets, handholes, manholes, vaults, equipment, drains, surface location markers, appurtenances, located, to be located, used, or intended to be used, in the public rights-of-way of the city to transmit, convey, route, receive, distribute, provide or offer

telecommunications services.

Telecommunications service shall include, without limitation, the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by and through electronic, radio, satellite, cable optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. "~~telecommunications~~ Telecommunications service," as contemplated herein, does not include the provision of service via an open video system or a cable service which shall require separate authorizations from the city.

Telecommunications service provider shall refer to any person making available or providing telecommunications services, as defined herein, through the use of a telecommunications facility in the public rights-of-way.

Sec. 5.6-5. - Fees and payments.

~~(a) In consideration for the rights, privileges and permission granted hereunder, a registrant hereunder shall pay to the city annually a sum equal to one (1) percent of gross receipts of the registrant on recurring local service revenues for services provided within the corporate limits of the city. Included within such one (1) percent maximum fee or consideration are all taxes, licenses, fees, in-kind contributions accepted pursuant to Florida Statute 337.401(5), and other impositions except ad valorem taxes and amounts for assessments for special benefits, such as sidewalks, street pavings, and similar improvements, and local business license taxes levied or imposed by the city upon a registrant. In the event that applicable law currently permits or is amended to permit the city to collect a fee higher than one (1) percent, or permits the city to calculate the fee on revenues not specified herein, the registrant shall pay, following written notice from the city, its fee payments to the city to that higher amount on the effective date of such law. In the event applicable law is amended to require the city to collect a fee lower than the current statutory limit, the city shall take all necessary steps to conform the requirements hereof to applicable law. All of the aforesaid payments shall be made to the city quarterly, with such payments made within twenty (20) days following the end of each calendar quarter. Payments received after the due date stated herein shall be subject to interest in accordance with section 55.03, Florida Statutes, or its successors.~~

~~(ba) A registrant~~pass-through provider, other than a registrant providing services as defined in section 203.012(3), Florida Statutes, for occupying and using the public rights-of-way, shall pay to the city annually no less than five hundred dollars (\$500.00)

~~per linear mile or portion thereof, of any cable, fiber optic, or other pathway that makes physical use of the public rights-of-way. The city may adopt additional fees or other consideration, provided that any fee or other consideration imposed by the city in excess of five hundred dollars (\$500.00) per linear mile shall be applied in a nondiscriminatory manner and shall not exceed the sum of:~~

- ~~(1) Costs directly related to the inconvenience or impairment solely caused by the disturbance of the public rights-of-way;~~
- ~~(2) The reasonable cost of the regulatory activity of the city; and~~
- ~~(3) The proportionate share of cost of land for such street, alley or other public way attributable to utilization of the public rights-of-way by a telecommunications service provider.~~

~~The fee or other consideration imposed pursuant to this subsection shall not apply in any manner to any telecommunications company that provides telecommunications services as defined in section 203.012(3), Florida Statutes for any services provided by such telecommunications company.~~

(b) The amounts charged pursuant to this section shall be calculated in the manner provided in Section 337.401(6)(d), Florida Statutes.

(c) Notwithstanding anything herein to the contrary, the city shall at all times hereby require the maximum compensation allowed under applicable law.

(d) Except to the extent prohibited by applicable law:

- (1) The fee payments to be made pursuant to this section shall not be deemed to be in the nature of a tax;
- (2) Such fee payments shall be in addition to any and all taxes of a general applicability;
- (3) A registrant or pass-through provider shall not have or make any claim for any deduction or other credit of all or any part of the amount of said fee payments from or against any of said city taxes or other fees or charges of general applicability which registrant is required to pay to the city, except as required by law; and
- (4) The fee specified herein is the consideration for use of the public rights-of-way, including all public easements, for the purpose of installing and maintaining a

communicationstelecommunications facility.

~~(e) The payments required under subsections (a) and (d) of this section shall not apply as of October 1, 2001; or such other date as provided by law, provided that section 337.401, Florida Statutes is amended effective October 1, 2001, as set forth in chapter 00-260, Laws of Florida, 2000.~~

(fe) For the fiscal year of the city commencing on October 1, 2001 and ending on September 30, 2002, the city hereby establishes the rate of the communications services tax at a rate of five and one-tenth (5.10) percent as authorized by section 202.19(2)(a), Florida Statutes, plus two-tenths (0.20) percent as permitted by section 13 of chapter 2001-140 of the Laws of Florida, plus twelve one-hundredths (0.12) percent as permitted by section 337.401, Florida Statutes, for a total of five and forty-two one-hundredths (5.42) percent.

(gf) On and after October 1, 2002, the city hereby establishes the rate of the communications services tax at a rate of five and one-tenth (5.10) percent as authorized by section 202.19(2)(a), Florida Statutes, plus twelve one-hundredths (0.12) percent as permitted by section 337.401, Florida Statutes, for a total of five and twenty-two one-hundredths (5.22) percent.

(hg) The city hereby instructs the state department of revenue to collect the communications services tax at the rates set forth in subsections (fe) and (gf) of this section effective October 1, 2001.

Sec. 5.6-6. - Reports and records.

~~(a) The city may, at its option, upon sixty (60) days notice to the registrant, but in no event more often than once per year, examine the records and accounting files, and such other books and records, if such records relate to the calculation of fee payments. The examination of such books, accounts, records or other materials necessary for determination of compliance with the terms, provisions, and requirements of this chapter shall be during regular hours of business of the registrant at an office of the registrant located within the county, or at another location satisfactory to the city. In the event that the city, pursuant to an audit, determines that there exists a discrepancy in the amount paid and the amount owed to the city by the registrant in excess of two (2) percent, registrant shall pay all reasonable costs, fees and expenses of the audit. This paragraph shall not apply for periods after October 1, 2001, or such other date as provided by law, provided that section 337.401, Florida Statutes is amended effective October 1, 2001, as set forth in chapter 00-260, Laws of Florida, 2000.~~

~~(b) Upon reasonable request, a registrant shall provide the following documents to the city as received or filed:~~

~~(1) Any pleadings, petitions, notices, and documents, regarding any legal proceeding involving any provisions of this chapter and which are reasonably necessary for the city to protect its interests under this chapter.~~

~~(2) Any request for protection under bankruptcy laws, or any judgment related to a declaration of bankruptcy.~~

~~(3) Nothing in this section shall affect the remedies the registrant has available under applicable law.~~

~~(c) In addition, the city may, at its option, and upon reasonable notice to the registrant, inspect the facilities in the public rights-of-way to ensure the safety of its residents.~~

~~(d) The city shall keep any documentation, books and records of the registrant confidential to the extent required under Florida Statutes. [Reserved]~~

Section 3. It is the intention of the City Commission of the City of Tamarac that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Tamarac, Florida, that only those provisions of said Code of Ordinances specifically addressed herein be amended while all others remain unchanged, and that 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 4. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the remaining portions or applications remaining in full force and effect.

Section 5. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 6. This Ordinance shall become effective on immediately upon adoption, as provided by Florida law.

PASSED, FIRST READING this _____ day of _____, 2013.
PASSED, SECOND READING this _____ day of _____, 2013.

ATTEST: BY: _____
MAYOR PAMELA BUSHNELL

PAT TUEFEL, CMC
INTERIM CITY CLERK

RECORD OF COMMISSION VOTE: 1ST Reading

MAYOR TALABISCO	_____
DIST 1: COMM. BUSHNELL	_____
DIST 2: COMM. ATKINS-GRAD	_____
DIST 3: COMM. GLASSER	_____
DIST 4: V/M DRESSLER	_____

I HEREBY CERTIFY that
I have approved this
ORDINANCE as to form:

RECORD OF COMMISSION VOTE: 2ND Reading

MAYOR TALABISCO	_____
DIST 1: COMM. BUSHNELL	_____
DIST 2: COMM. ATKINS-GRAD	_____
DIST 3: COMM. GLASSER	_____
DIST 4: V/M DRESSLER	_____

SAMUEL S. GOREN
CITY ATTORNEY



Title - TO2281-Park Place @ Woodmont - Rezoning

An Ordinance of the City Commission of the City of Tamarac, Florida, amending prior zoning of certain real estate property otherwise known as Park Place at Woodmont from B-3 (General Business District) to R-3 (Low Density Multi-Family Residential District), for the property located at or around the southwest corner of Pine Island Road and NW 77 street (Parcel A, I.C. Plat, according to the Plat thereof as recorded in Plat Book 130, Page 35 of the public records of Broward County, Florida); (Case No. 2-Z-13); providing for amendment to the official zoning map to reflect such change; providing for conflicts; providing for severability; and providing for an effective date.

ATTACHMENTS:

Name:

Description:

1304009M Park Place Rezoning 2-Z-13.pdf

TO2281-Park Place @ Woodmont Rezoning

2281ord Park Place Rezoning 2z13.doc

TO2281-Park Place @ Woodmont Rezoning Ordinance

TO2281-Park Place @ Woodmont-Justification Letter.pdf

TO2281-Park Place @ Woodmont Rezoning-Justification Letter

CITY OF TAMARAC
INTEROFFICE MEMORANDUM 13-04-009M
COMMUNITY DEVELOPMENT DEPARTMENT

TO:	Michael C. Cernech, City Manager	DATE:	April 24, 2013
FROM:	Jennifer K. Bramley, Director of Community Development	RE:	Park Place @ Woodmont – Rezoning
		CASE#:	2-Z-13 TEMP. ORD. NO. 2281
		MF#:	01-13

RECOMMENDATION: The Director of Community Development recommends that the City Commission approve this rezoning application at its May 8, 2013 meeting for First Reading and set Second Reading for June 12, 2013.

ISSUE: The applicant is requesting approval of a Rezoning petition to change the designation of the subject property from B-3 (General Business District) to R-3 (Low Density Multi-family Residential District) (see site Map).

The Rezoning petition to R-3 will accommodate the future development of a total of 20 townhouse dwelling units on 2.01 acres.

PUBLIC NOTIFICATION: Section 2-370 of the Code of Ordinances requires that all property owners within 400 feet of the subject property be notified of this application. To that end 75 property owners were notified for the Rezoning petition.

BACKGROUND: Howard Jablon, P.E., Designated Agent for the property owner, Lago Tamarac, LLC, is requesting a Rezoning to allow for the future development of 20 townhouse dwelling units. The amendment site is located at the southwest corner of Pine Island Road and N.W. 77 Street.

The property is designated “Commercial” on the City’s Land Use Map and is zoned B-3. The commercial land use and zoning was the result of litigation between Leadership Housing and the City in 1972 that resulted in a Stipulation executed by the two parties in May, 1979. The Stipulation provided that the property would continue to be zoned for commercial use limiting those uses to professional offices, banks and savings and loan offices and non-fast food restaurants.

The City’s Land Use Element allows for residential development of small (less than 5 acres) parcels of land designated “Commercial” on the Land Use Map through the rezoning process and the allocation of Flex Units (Reserve Units per Section 10-30 of the Code of Ordinances). The R-3 zoning district is the most appropriate zoning district for the proposed project.

Upon the rezoning of the property and the approval of the future site plan for residential use, the Stipulation will be terminated by agreement by both parties. The commercial use of the property as provided in the Stipulation has been of great concern to the City at this location in terms of compatibility with the surrounding neighborhoods. The use as a new townhouse residential development will be more compatible with the residential nature of the surrounding properties.

Associated with this request are several other applications that will move forward through the public hearing process including a New Site Plan application and an allocation of Flex Units application for the utilization of 20 Flex Units associated with this rezoning.

ANALYSIS: Rezoning this parcel to a residential designation is in keeping with the Policies of the City's Comprehensive Plan specifically Policy 1.4. The Goals, Objectives and Policies (GOP's) of the Future Land Use Element of the Comprehensive Plan and specifically Policy 1.4 state the following;

Policy 1.4 *The Community Development Department will continue to review land use plan amendments, zoning amendments, site plans, and plat approval requests for compatibility with adjacent land uses as currently required in the Code of Ordinances. The Land Development Code revisions should address criteria to be used in reviews for determining whether there is compatibility among adjacent land uses. The Community Development Department will continue to review the Planning Commission Board agendas of surrounding cities to identify land use proposals which might affect the City of Tamarac.*

The proposed amendment supports Goal #5, "A Vibrant Community" by revitalizing our community within the City's residential neighborhoods.

FISCAL IMPACT: The application is being funded by an application/processing fee.

SUMMARY RECOMMENDATION: The Rezoning petition meets the standards of the City's Code of Ordinances relative to rezoning requirements. Staff has determined that the proposed rezoning from B-2 to R-3 is consistent with the City's Comprehensive Plan. Additionally, the use as a new townhouse residential development versus a commercial use will be more compatible to the residential nature of the surrounding properties. Therefore staff recommends that the City Commission approve this rezoning application at its May 8, 2013 meeting for First Reading and set Second Reading for June 12, 2013.

INTERVENING ACTION: At its April 3, 2013 meeting, the Planning Board voted unanimously, 4-0 (Hubert Klombers excused absence) to forward a favorable recommendation for the Park Place Rezoning application, Case No. 2-Z-13, to the City Commission at its May 8, 2013 meeting for First Reading and set Second Reading for June 12, 2013.



Jennifer K. Bramley
Director of Community Development

Attachments: Temporary Ordinance No. 2281
 Site Map
 Justification Letter/Application

CITY OF TAMARAC, FLORIDA

ORDINANCE NO. O-2013-

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, AMENDING PRIOR ZONING OF CERTAIN REAL ESTATE PROPERTY OTHERWISE KNOWN AS PARK PLACE AT WOODMONT FROM B-3 (GENERAL BUSINESS DISTRICT) TO R-3 (LOW DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT), FOR THE PROPERTY LOCATED AT OR AROUND THE SOUTHWEST CORNER OF PINE ISLAND ROAD AND NW 77 STREET (PARCEL A, I.C. PLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 130, PAGE 35 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA); (CASE NO. 2-Z-13); PROVIDING FOR AMENDMENT TO THE OFFICIAL ZONING MAP TO REFLECT SUCH CHANGE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Howard Jablon, P.E., Designated Agent for the property owner, Lago Tamarac, LLC., has requested that certain real estate property located at or around the southwest corner of Pine Island Road and NW 77 Street, containing 2.01 gross acres be rezoned from B-3 (General Business District) to R-3 (Low Density Multi-family Residential District) to allow for the future development of 20 townhouse dwelling units; and

WHEREAS, pursuant to the provisions of the Code of Ordinances of the City of Tamarac, Florida, public notice has been given of the time and place of the public hearing regarding the rezoning of the subject property and said public hearing has been held in accordance with the notice and the public has been given an opportunity to be, and has been heard; and

WHEREAS, the public hearing has been held on Case No. 2-Z-13 by the City Commission pursuant to the Charter and Florida State Statutes; and

WHEREAS, the Director of Community Development recommends approval of this Rezoning; and

WHEREAS, on April 3, 2013, the Planning Board held a duly advertised Public Hearing and recommended approval of this Rezoning; and

WHEREAS, the City Commission of the City of Tamarac, Florida, deems the Rezoning to be consistent with the City of Tamarac Comprehensive Plan; and

Whereas, the City Commission of the City of Tamarac has deemed it to be in the best interests of the citizens and residents of the City of Tamarac to amend prior zoning of certain real estate property otherwise known as Park Place at Woodmont from B-3 (General Business District) to R-3 (Low Density Multi-Family Residential District), for the property located at or around the southwest corner of Pine Island Road and N.W. 77 Street (Parcel A, I.C. Plat, according to the Plat thereof as recorded in Plat Book 130, Page 35 of the Public Records of Broward County, Florida) to allow for the future development of 20 townhouse dwelling units.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA:

SECTION 1: That the foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of the Ordinance upon adoption hereof; all exhibits attached hereto are incorporated herein and made a specific part thereof.

SECTION 2: That the lands for which the legal description is described as Parcel A, I.C. Plat, according to the Plat thereof as recorded in Plat Book 130, Page 35 of the public records of Broward County, Florida are hereby rezoned from B-3 (General Business District) to R-3 (Low Density Multi-Family Residential District).

SECTION 3: That the official zoning map of the City of Tamarac shall be changed to reflect such zoning designation upon the effective date of this Ordinance.

SECTION 4: All Ordinances or parts of Ordinances, and all Resolutions or parts of Resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given affect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6: This Ordinance shall become effective immediately upon its adoption.

PASSED, FIRST READING this day of , 2013.

PASSED, SECOND READING this day of , 2013.

BETH TALABISCO,
MAYOR

ATTEST:

PATRICIA TEUFEL, CMC
INTERIM CITY CLERK

I HEREBY CERTIFY that I
have approved this
ORDINANCE as to form.

SAMUEL S. GOREN,
CITY ATTORNEY

CITY OF TAMARAC
2013 FEB 19 PM 12:41

JUSTIFICATION STATEMENT

PARK PLACE AT WOODMONT

General Background Information.

The subject property is 2.01 acres in size and is located at the Southwest corner of Pine Island Road (NW 88th Avenue) and NW 77th Street. The property is designated Commercial on the City's Land Use Map and is zoned B-3. The commercial land use and zoning was the result of litigation between Leadership Housing and the City in 1972 that resulted in a Stipulation executed by the parties in May, 1979. The Stipulation provided that the property would continue to be zoned for commercial use but the uses would be limited to professional offices, banks and savings and loan offices and non-fast food restaurants.

The developer, Klemow, Inc., is proposing to develop a residential townhouse community on the property. Residential development is permitted on land designated Commercial on the City's Land Use Map without a land use change so long as the property is allocated Reserve of Flexibility Units pursuant to the provisions of the City's Land Use Element and the property is rezoned to an appropriate residential zoning category.

Park Place at Woodmont Development.

Park Place consists of 20 fee simple two-story townhouse units. All of the units have three bedrooms. Ingress and egress for the development is from NW 77th Street and there is an exit-only access onto Pine Island Road/NW 88th Avenue. Landscape buffers are provided on the perimeter of the property with 20' wide buffers on the South and West borders and 25' buffers adjacent to NW 77th Street and Pine Island Road. 45 parking spaces plus 5 guest parking spaces are required and provided. Each of the units has a one-car garage with two parking spaces outside of the garage. The parking spaces will be constructed with paver blocks.

Development Applications.

The following applications are being submitted for the City's review and consideration:

1. Rezoning. An application is being submitted to rezone the property from B-3 to R-3 (Low density multi-family) in order to permit 20 residential townhouse units. As stated above, the City's Land Use Element allows the residential development of small (under 5 acres in size) parcels of land designated Commercial on the Land Use Map through the rezoning process and the allocation of Reserve or Flexibility Units. The R-3 zoning district was determined to be the most appropriate zoning district for the proposed project.

2. Site Plan. A site plan application for a 20 unit residential townhouse project is being filed. The site plan is described in the preceding section.
3. Plat Amendment. A delegation request is being filed to place the following note on the plat to permit residential development: "This plat is restricted to 20, 3-bedroom, townhouse units".
4. Allocation of Reserve or Flexibility Units. An application is being filed for the allocation of Reserve or Flexibility Units. In connection with the rezoning and site plan approval applications, the applicant requests the allocation of 20 Reserve or Flexibility Units in accordance with the provisions of the City's Land Use Element.

Termination of Stipulation.

Upon the rezoning of the property and the approval of the site plan for residential use, the Stipulation referenced above will be terminated by agreement between the parties.

Benefits to the City.

The commercial use of the property as provided in the Stipulation has always been of great concern to the City and the residents of the surrounding neighborhood. Park Place at Woodmont is a use that is much more compatible to the neighborhood and accordingly will be a benefit to the City and the surrounding neighborhood.