



city council agenda

Agenda
September 19, 2017 * 6:30 PM
City Council Budget Hearing
City Hall Chambers 1600 Nela Avenue

Lydia Pisano Mayor	Frank Kruppenbacher City Attorney	Bob Francis City Manager	Ed Gold District 1	Anthony Carugno District 2	Jeremy Weinsier District 3	Bobby Lance District 4	Harv Readey District 5	Lenny Mosse District 6	Sue Nielsen District 7
--------------------------	---	-----------------------------	-----------------------------	-------------------------------------	-------------------------------------	---------------------------------	---------------------------------	---------------------------------	---------------------------------

Welcome

Welcome to the City of Belle Isle City Council meeting. Agendas and all backup material supporting each agenda item are available in the City Clerk's office or on the city's website at cityofbelleislefl.org.

Meeting Procedures

Workshops are a working session and do not allow for public comment. Order and decorum will be preserved at all meetings. Personal, impertinent or slanderous remarks are not permitted. Thank you for participating in your city government.

1. Call to Order and Confirmation of Quorum
2. Invocation and Pledge to Flag - Lenny Mosse - Commissioner District 6
3. Recognition of Hurricane Irma Volunteers
4. Consent Items
 - a. Approval of the Special Called Session minutes for September 13, 2017
 - b. Proclamation: State of Emergency (Irma)
 - c. ORDINANCE NO. 17-13 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, ESTABLISHING AN IDLE SPEED, NO WAKE ZONE TO REGULATE THE WAKE CREATED BY BOATS, VESSELS, AND WATERCRAFT PROPELLED OR POWERED BY MACHINERY ON THE CONWAY CHAIN OF LAKES; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR AN OPERATION STANDARD FOR THE BOATS, VESSELS, AND WATERCRAFT IN THE IDLE SPEED, NO WAKE ZONE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.
 - d. ORDINANCE NO. 17-14 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, BANNING OUTDOOR FLAMES AND BURNING IN THE CITY AND DECLARING AN EMERGENCY.
 - e. Proclamation: September 2017 as Neonatal Intensive Care Awareness Month
5. Citizen's Comments
Persons desiring to address the Council MUST complete and provide to the City Clerk a yellow "Request to Speak" form located by the door. After being recognized by the Mayor, persons are asked to come forward and speak from the lectern, state their name and address, and direct all remarks to the Council as a body and not to individual members of the Council, staff or audience. **Citizen comments and each section of the agenda where public comment is allowed are limited to three (3) minutes.** Questions will be referred to staff and should be answered by staff within a reasonable period of time following the date of the meeting. Order and decorum will be preserved at all meetings. Personal, impertinent or slanderous remarks are not permitted. Thank you.
6. Second Public Budget Hearing and Adoption
7. Unfinished Business
 - a. Approval of City Attorney Contract and Appointment of City Attorney

"If a person decides to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." (F. S. 286.0105). "Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office (407-851-7730) at least 48 hours in advance of the meeting." --Page 1 of 81

- b. ORDINANCE 17-07 - SECOND READING AND ADOPTION
AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA. DESIGNATING THE CITY OF BELLE ISLE AS A BIRD SANCTUARY: SPECIFYING UNLAWFUL ACTS: AMENDING CHAPTER 4, SECTION 4-1 OF THE BELLE ISLE MUNICIPAL CODE PROVIDING FOR PRESERVATION OF WETLANDS AND THE CONWAY CHAIN OF LAKES WITHIN THE CITY; ESTABLISHING RESPONSIBILITIES OF CERTAIN CITY DEPARTMENTS; PROHIBITIVE ACTIVITY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND DECLARING AN EMERGENCY.
- c. ORDINANCE: 17-10 – SECOND READING AND ADOPTION
AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE BELLE ISLE CODE OF ORDINANCES CONCERNING AIRPORT ZONING REGULATIONS; BY AMENDING PART II, CODE OF ORDINANCES; BY AMENDING SUBPART B, LAND DEVELOPMENT CODE; BY AMENDING CHAPTER 44, COMMUNICATION TOWERS, TO CREATE ARTICLE V, AIRPORT ZONING REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

8. New Business

- a. RESOLUTION NO. 17-20 - RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA ESTABLISHING THE AD VALOREM TAX LEVY UPON ASSESSED REAL AND BUSINESS PERSONAL PROPERTY TAX ROLES OF THE YEAR 2017
- b. RESOLUTION NO. 17-21 - RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA ADOPTING THE ANNUAL BUDGET OF THE CITY OF BELLE ISLE, FLORIDA FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2018.
- c. RESOLUTION NO. 17-22 - RESOLUTION OF THE CITY OF BELLE ISLE, FLORIDA ADOPTING THE FIVE YEAR CAPITAL IMPROVEMENTS PROGRAM FOR FISCAL YEAR BEGINNING OCTOBER 1, 2017 AND ENDING SEPTEMBER 30, 2022.
- d. ORDINANCE 17-11 - FIRST READING AND CONSIDERATION
AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING SECTION CHAPTER 30, ARTICLE III, SECTION 30-74 (b) RELATING TO FINES BY INCREASING THE FINE FOR PARKING VIOLATIONS; SECTION 30-76 (b) AND SECTION 30-76 (c) RELATING TO FINES AND HEARINGS INCREASING THE HEARING AND DELINQUENT FEE; SECTION 30-77 (b) RELATING TO IMPOUNDMENT ORDER TO PAY CITATIONS; SECTION 30-105 PENALTIES INCREASING THE FINE FOR COMMERCIAL VEHICLES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

9. Attorney's Report

10. City Manager's Report

- a. Discuss/Approve City of Belle Isle-Comins Development Settlement Agreement
- b. Issues Log update
- c. Chief's Report

11. Mayor's Report

12. Council Reports

13. Adjournment



city council minutes

DRAFT MINUTES
September 13, 2017 * 6:00 p.m.
Special Called Session

The Belle Isle City Council met in a Special Called session on September 13, 2017 at 6:00 p.m. in the Belle Isle City Hall Council Chambers.

Present was:

Mayor Lydia Pisano
Vice Mayor/Commissioner Harvey Readey
Commissioner Gold
Commissioner Anthony Carugno
Commissioner Jeremy Weinsier
Commissioner Bobby Lance
Commissioner Lenny Mosse
Commissioner Sue Nielsen

Absent was:

n/a

Also present was City Clerk Yolanda Quiceno.

CALL TO ORDER

Mayor Pisano called the meeting to order at 6:00pm and the City Clerk confirmed quorum. Comm Carugno led the Pledge to the flag.

The following candidates were scheduled for interview,

- 6:00 PM – 6:30 PM Shepard & Smith
- 6:45 PM – 7:15 PM Fishback Dominick
- 7:30 PM – 8:00 PM Gayle Owens Law

City Manager Francis welcomed everyone to the Special Session and for submitting a proposal for City Attorney services. He stated that all presentations will be 30-minutes with a 15-minute introduction by each firm followed by a 15-minute Q&A by the Council.

Drew Smith from Shepard & Smith with offices at 2300 Maitland Center Parkway, Orlando, FL 32751 gave a brief overview of the firm and services. Also present was Attorney Andrew Hand and Attorney Patrick Brackins.

The following questions were asked by Council,

1. *What do you perceive to be the city attorney's role in dealing with City Council?*
2. *What do you do when an individual elected official's actions may be in violation of the municipal code, local, state or federal law?*
3. *What role have you played, or what role would you have in creating a Community Redevelopment Agency?*
4. *Describe any experiences you may have had in developing and recommending policies and or laws to the council relating to growth (e.g. annexation, expansion of utilities, subdivision standards, eminent domain, etc.); and What experience have you had in land use planning and zoning requirements?*
5. *Tell us about a conflict you experienced in which either an elected official or appointed staff member disagreed with some legal advice you were providing. How did you navigate or negotiate the situation?*
6. *Given the following scenario: The City Council asks if they can take a specific action that would not be allowed by the Florida Statutes or state agency. How would you advise the Council when the Council was proposing this solution for a burning issue in the community?*
7. *How would you alleviate the concern of Council that we would be lost with the other clients and would not get a full measure of service?*
8. *How are you planning to be responsive and thorough with the needs of the community?*

9. *What do you believe are the most important issues facing Belle Isle?*
10. *You represent Edgewood, What is the scenario if Edgewood and the City of Belle Isle are both looking for annexation in the same area?*

City Manager Francis asked for Council and Mayor Q&A.

11. *Lance – Has the firm attended any Council meetings within the last 6-months or has listened to the audio on the website?*
12. *Mosse – How did the firm advise the City of Apopka to ban medical marijuana dispensaries?*
13. *Mayor – What are the biggest challenge facing municipalities today?*
14. *Francis – Will the lead attorney also be available to attend the P&Z Meetings?*

Recessed for 10 minutes.

Dan Langley from Fishback Dominick with offices at 1947 Lee Road, Orlando, FL 32789 gave a brief overview of the firm and services. Also present was Attorney Kurt Ardaman, Attorney John Bennett and Attorney Rick Geller.

The following questions were asked by Council,

1. *What do you perceive to be the city attorney's role in dealing with City Council?*
2. *What do you do when an individual elected official's actions may be in violation of the municipal code, local, state or federal law?*
3. *What role have you played, or what role would you have in creating a Community Redevelopment Agency, long-term financing and bonds?*
4. *Describe any experiences you may have had in developing and recommending policies and or laws to the council relating to growth (e.g. annexation, expansion of utilities, subdivision standards, eminent domain, etc.); and What experience have you had in land use planning and zoning requirements?*
5. *Given the following scenario: The City Council asks if they can take a specific action that would not be allowed by the Florida Statutes or state agency. How would you advise the Council when the Council was proposing this solution for a burning issue in the community?*
6. *How would you alleviate the concern of Council that we would be lost in the multitude of clients that you have?*

City Manager Francis asked for Council and Mayor Q&A.

7. *Mayor – Will the firm provide proactive positions on Tallahassee legislation?*
8. *Nielsen – How important is it to you to put your opinions in writing?*
9. *Mosse – Comm Mosse spoke of contentious issues with other City governments. How did you advise those cities during their biggest problems?*
10. *Lance – Has the firm attended any Council meetings within the last 6-months or has listened to the audio on the website?*
11. *Weinsier – Would the firm make available the same attorney at Council meetings.*
12. *Francis – Will the same attorney also be available to attend the P&Z Meetings?*

Recessed for 10 minutes.

Gayle Owens from Gayle Owens Law with offices at 1802 Alafaya Trail, Orlando, FL 32826 gave a brief overview of the firm and services.

The following questions were asked by Council,

1. *What do you perceive to be the city attorney's role in dealing with City Council?*
2. *What do you do when an individual elected official's actions may be in violation of the municipal code, local, state or federal law?*
3. *What role have you played, or what role would you have in creating a Community Redevelopment Agency and any experience in bonds and long-term financing?*

4. Describe any experiences you may have had in developing and recommending policies and or laws to the council relating to growth (e.g. annexation, expansion of utilities, subdivision standards, etc.); and What experience have you had in land use planning and zoning requirements?
5. How are you planning to be responsive and thorough with the needs of the community?
6. How would you alleviate the concern of Council that, as single law firm, that you would be able to provide the adequate services to them?

City Manager Francis asked for Council and Mayor Q&A.

7. Readey – How do you feel about Home Rule?
8. Mayor – You have been recently appointed as the Attorney to the Cornerstone Charter Governing Board, would there be a conflict of interest if you were selected?
9. Nielsen – Do you foresee an issue with your role as the City Council Attorney and the P&Z Board.
10. Lance – have you attended any Council meetings within the last 6-months or have listened to the audio on the website?
11. Council agreed to open public comment;
 - a. Richard Weinsier residing at 6824 Seminole Drive asked if Ms. Owens happens to be sick or on vacation who will attend the meeting

Council Discussion and Vote

Mayor opened for Council Discussion.

Council discussed each applicant’s qualifications and services and was in agreement that all three applicants are excellent choices.

Comm Lance said he would like to see Attorney Kruppenbacher also be included in the selection. Comm Gold said it would have to be a Council decision to include him in the selection. Comm Nielsen said she understood that Attorney Kruppenbacher offered to stay for another year. He has done a good job for the City; however, she feels that he is over –committed.

City Manager Francis reported that he received a phone call from Attorney Tom Lang who was not aware of the RFP and offered his services if the applicants did not pan out.

After further discussion, Comm Weinsier made a motion to retain Fishback Dominick as the City Attorney commencing October 1, 2017.

Comm Lance seconded the motion

Mayor Pisano opened for public comment.

- Richard Weinsier said Fishback Dominick was much more personable and a team.
- Holly Bobrowski asked the City Manager if he can share his point of view on the three applicants.
- Anita Saaco was interested to know why Fishback Dominick was no longer the City Attorney.
- Cindy Lance said she was impressed with the demeanor of the Fishback Attorney’s presentation.

There being no further comment, Mayor Pisano closed public comment for Board discussion.

Mayor Pisano called for the motion, unanimously approved 7:0.

Other Business

Emergency Burn Ban Ordinance

Mayor Pisano spoke of certain issues relating to residents burning debris on their properties and called for an Emergency Burn Ban in the City for public safety. City Manager Francis stated that Council will need to post an Emergency meeting to enforce the burning ban. Council discussed regular burning circumstances and open burn violations.

City Manager Francis said Council can pass a motion to approve the Emergency Burn Ban but will be rescinded or overwritten by an Orange County Burn Ban once it is in effect.

**Comm Nielsen made a motion to pass an Emergency Burn Ban in the City effective immediately.
Vice Mayor Readey seconded the motion which was unanimously approved 7:0.**

Emergency No Wake Ordinance

Mayor Pisano reported that there are issues with motorized vehicles on the lake riding up to shore. At the current time there is debris in the water and submerged broken boat docks. There is massive concern that the boaters/wake boarders are coming too close to shore creating erosion and shore damage. She is requesting Council to pass an Emergency No Wake Zone.

**Comm Lance motioned to pass an Emergency No Wake Zone.
Comm Readey seconded the motion for discussion.**

Council discussed the safety dangers, enforcement and duration of the emergency ordinance. Comm Carugno asked if the City can request that the Home Owners Association also post on their docks until further noticed.

**After discussion, Comm Lance withdrew his motion because he doesn't believe the City can enforce a no wake zone ordinance on the Lake.
Comm Readey rescinded his second.**

Comm Nielsen asked if there was a way to notify everyone on the Lake about the dangers and place buoys as a deterrent.

**Comm Carugno disagreed with the use of buoys and made a motion to place an Idle Zone period on Lake Conway due to an emergency, personal property, water quality and public safety.
Comm Mosse seconded the motion for discussion.**

Mayor Pisano said this is a massive issue and the City must do something before there is a serious accident. She said she spoke with Mayor Jacobs and explained to her the current issues we are experiencing on the Lake and asked for closure of the Randolph and Fern Creek ramps.

Comm Lance said he would like to have an open discussion with Orange County Marine Patrol and FWC Wildlife before a motion is passed.

Comm Nielsen said this is a very important safety issue and could save a life.

Mayor Pisano opened for public comment.

- Anita Saaco said her Home Owners Association (HOA) would comply if they received a request from the City to close their boat ramps until such time as health, safety and environmental concerns are lifted.
- Holly Bobrowski said many of the homes on the Lake do not have an HOA. This is a stop so know gets hurt and until the water level goes down.

Comm Carugno stated that he is not against anyone using the Lake; as long as everyone knows that there is a No Wake Zone/Idle speed only ordinance until further advised.

**After further discussion, Comm Nielsen called for the question.
Comm Carugno's motion to place an Idle Zone/No Wake period was unanimously approved 7:0.**

Adjournment

There being no further business Mayor Pisano called for a motion to adjourn, unanimously approved at 9:00 p.m.

Yolanda Quiceno
CMC, City Clerk



PROCLAMATION

STATE OF EMERGENCY


WHEREAS, the City Council of the City of Belle Isle, Florida, is authorized by the Belle Isle Municipal Code to proclaim the existence of a State of Emergency and to impose certain prohibitions and restrictions appropriate to meet the emergency and take action affecting life, health, property or the public peace;

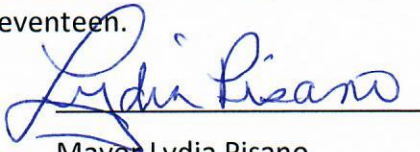
NOW, THEREFORE, the City Council of the City of Belle Isle, Florida does hereby proclaim:

A state of emergency exists within the City of Belle Isle, Florida due to the location and anticipated track of Hurricane Irma. The prohibitions set forth herein are necessary to protect public health and safety in time of emergency, and;

This proclamation of a State of Emergency shall be effective at Noon on Friday, September 08, 2017, and shall remain in effect until rescinded by the City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Belle Isle to be affixed 8th day of September, in the year two thousand seventeen.

Attest  CITY MANAGER
for Yolanda Quiceno, City Clerk


Mayor Lydia Pisano

CITY OF BELLE ISLE, FLORIDA
ORDINANCE NO. 17-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, ESTABLISHING AN IDLE SPEED, NO WAKE ZONE TO REGULATE THE WAKE CREATED BY BOATS, VESSELS, AND WATERCRAFT PROPELLED OR POWERED BY MACHINERY ON THE CONWAY CHAIN OF LAKES; PROVIDING FINDINGS; PROVIDING DEFINITIONS; PROVIDING FOR AN OPERATION STANDARD FOR THE BOATS, VESSELS, AND WATERCRAFT IN THE IDLE SPEED, NO WAKE ZONE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT AND PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

WHEREAS, Hurricane Irma has caused extensive damage to the docks and boats, vessels, and watercraft on the Conway Chain of Lakes; and

WHEREAS, there is a large amount of submerged or sunken debris such as docks and boats in the Conway Chain of Lakes are considered hazards; and

WHEREAS, high boats, vessels, watercraft, and persons being towed by boats may not be able to see the hazards throughout the Conway Chain of Lakes; and

WHEREAS, given the uniquely hazardous present conditions, the Belle Isle City Council finds and determines that, subject to limited exceptions, an idle speed, no wake zone, is created on the Conway Chain of Lakes as set forth herein by emergency ordinance is necessary to protect the public health, safety, and welfare of the citizens of Belle Isle.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF BELLE ISLE, FLORIDA:

Section 1. Findings. The City Council of the City of Belle Isle, Florida makes the following findings:

- a. The prudent and safe operation of boats, vessels, and watercraft is essential to protect the public health, safety, and welfare of the citizens of Belle Isle.
- b. The City Council is empowered to establish boating-restricted areas under Section 327.46(1) (b) of the Florida Statutes.
- c. The City Council is empowered to regulate the speed and wake of boats, vessels, and watercraft under Section 327.46(1) (c) of the Florida Statutes.
- d. An Idle Speed, No Wake Zone in the Conway Chain of Lakes is necessary to avoid hazards to persons and damage to property resulting from boats, vessels, and watercraft traveling at excessive speeds.

Section 2. Definitions

- a. "Person" means an individual, partnership, firm, corporation, or other entity.
- b. "Idle Speed, No Wake Zone" means an area of a waterway, in this instance the Conway Chain of Lakes, in which a boat, vessel, or watercraft cannot proceed at a speed greater than that specified by the Idle Speed, No Wake Zone definition in State Rule Chapter 68D-24.002
- c. "Idle Speed, No Wake Zone" indicates a boating restricted area, in this instance the Conway Chain of Lakes that has been established to protect the safety of the public. "Idle Speed, No

Wake Zone” means that a boat, vessel, or watercraft cannot proceed at a speed greater than that speed which is necessary to maintain Steerageway (Florida Administrative Code, Chapter 68D-24.002)

- d. “Boat, Vessel, or Watercraft” means any vessel being propelled or powered by machinery, including but not limited to personal watercraft
- e. “Wake” means all changes in the vertical height of the water surface caused by the passage of a boat, vessel, or watercraft, including but not limited to a vessel’s bow wake, stern wake, and propeller wash.
- f. “Steerageway” means the minimum rate of motion required for the helm of the vessel to have effect.

Section 3. Prohibition. It shall be unlawful for any Person in physical control of a boat, vessel, or watercraft in the Idle Speed, No Wake Zone to operate the vessel in violation of the Idle Speed, No wake Zone Rules

Section 4. Exemptions. The restrictions created by this Ordinance shall not apply to a vessel of a federal, state, county, or City of Belle isle agency while operated by an officer, employee, or agent thereof who is engaged in law enforcement or other necessary city or governmental activity. Further, the restrictions created by this Ordinance, shall not apply to vessels operated under emergency conditions during a legitimate emergency.

Section 5. Enforcement. This ordinance shall be enforced by the City of Belle Isle Police Department officers and any other authorized law enforcement officer as provided by Section 327.70 of the Florida Statutes.

Section 6. Penalties. Any person violating any provision of this Ordinance shall be fined not more than \$500.00 or other such amounts that may be authorized by Section 327.73 of the Florida Statues, as amended. Further nothing herein contained, shall prohibit the Belle Isle Police Department from enforcing this ordinance by any other lawful means.

Section 7. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any part.

Section 8. Effective Date. This Ordinance shall be in effect immediately on passage by the City Council by at least by a two-thirds vote of the governing body. Further, this Ordinance will be filed with the Florida Fish and Wildlife Commission upon passage.

INTRODUCED AS AN EMERGENCY ORDINANCE, ADOPTED by at least by a two-thirds vote of the governing body, and ORDERED PUBLISHED IN FULL in a newspaper of general circulation in the City of Belle Isle by the City Council at a special meeting held on the 13th day of September, 2017.

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Jeremy Weinsier	_____	_____	_____
Bobby Lance	_____	_____	_____
Harvey Readey	_____	_____	_____
Lenny Mosse	_____	_____	_____
Sue Nielsen	_____	_____	_____

LYDIA PISANO, MAYOR

ATTEST: _____
Yolanda Quiceno, CMC-City Clerk

Approved as to form and legality - City Attorney

STATE OF FLORIDA

COUNTY OF ORANGE

I, **Yolanda Quiceno, CITY CLERK** of the City of Belle Isle do hereby certify that the above and foregoing document ORDINANCE 17-13 was duly and legally passed by the Belle Isle City Council, in session assembled on the _____ day of _____ 2017, at which session a quorum of its members were present.

Yolanda Quiceno, Notary

**CITY OF BELLE ISLE, FLORIDA
ORDINANCE NO. 17-14**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BELLE ISLE, FLORIDA, BANNING
OUTDOOR FLAMES AND BURNING IN THE CITY AND DECLARING AN EMERGENCY.**

WHEREAS, Hurricane Irma has caused extensive damage to the vegetation in the City of Belle Isle; and

WHEREAS, there is a large amount of dry vegetative debris in the City of Belle Isle; and

WHEREAS, high temperatures and dry conditions have created uniquely high fire risk conditions throughout the City of Belle Isle; and

WHEREAS, given the uniquely hazardous present conditions, the Belle Isle City Council finds and determines that, subject to limited exceptions, a broad ban on any outdoor flames or burning as set forth herein by emergency ordinance is necessary to protect the public health, safety, and welfare of the citizens of Belle Isle.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF BELLE ISLE, FLORIDA:

1. Incorporation of Recitals. The aforementioned recitals are hereby fully incorporated herein.

2. Ban on Outdoor Flames and Burning. Open burning, including the use of burn barrels, is prohibited within the City. The following are hereby declared unlawful in the City.

a. Any "open fire" within the city limits, including, but not limited to campfires, warming fires, including the use of constructed, permanent fire pits or fire grates within developed picnic grounds or recreation sites; Portable fire pits with approved screens, charcoal and gas grills are permitted at private residences and restaurants, but should be used with extreme caution.

b. Vegetative debris burning. Vegetative debris includes limbs, twigs, and cut trees and shrubbery. No uncut vegetation shall be burned.

c. Any other activity that poses a significant risk of starting a fire, whether on public or private property.

d. Exceptions:

(1) Outdoor (hearth) fireplaces and chimneys (chimney patio fireplaces) with spark arrestors or other approved means to stop embers (i.e. screens on chimney, etc);

(2) Propane, natural gas, or briquette barbeques that meet applicable federal, state, and local requirements.

3. Violations. Violations of this Ordinance shall be punishable in accordance with the provisions of Chapter 1, Section 1-12 of the Belle Isle Municipal Code. Additionally, violations of this Ordinance are hereby deemed and declared to be public nuisances and may be abated by injunction or such other remedy as provided by law or equity.

4. Emergency Declaration. Pursuant to F.S. 166.041, it is hereby declared that, in the opinion of the Belle Isle City Council, an emergency exists and that there is a need for the immediate preservation of the peace, health, and safety of the City of Belle Isle and its residents and guests by the banning of all outdoor flames and burning in the City.

5. Effective Date; Duration. This Ordinance shall become effective immediately upon passage and shall remain in effect until amended or rescinded by action of the City Council and the City Council determines that the ban is no longer necessary for the health, safety and welfare of the City.

6. Severability. If any section, subsection, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and shall not affect the validity of the remaining portions thereof.

7. Repealer. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED AS AN EMERGENCY ORDINANCE, ADOPTED by at least by a two-thirds vote of the governing body, and ORDERED PUBLISHED IN FULL in a newspaper of general circulation in the City of Belle Isle by the City Council at a special meeting held on the 13th day of September, 2017.

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Jeremy Weinsier	_____	_____	_____
Bobby Lance	_____	_____	_____
Harvey Readey	_____	_____	_____
Lenny Mosse	_____	_____	_____
Sue Nielsen	_____	_____	_____

LYDIA PISANO, MAYOR

ATTEST: _____

Yolanda Quiceno, CMC-City Clerk

Approved as to form and legality - City Attorney

STATE OF FLORIDA

COUNTY OF ORANGE

I, **Yolanda Quiceno, CITY CLERK** of the City of Belle Isle do hereby certify that the above and foregoing document ORDINANCE 17-14 was duly and legally passed by the Belle Isle City Council, in session assembled on the _____ day of _____ 2017, at which session a quorum of its members were present.

Yolanda Quiceno, Notary

CITY OF BELLE ISLE



Proclamation

Neonatal Intensive Care Awareness Month

Honoring all NICU patients, families, and health professionals

- Whereas,** One of the greatest gifts you can give families of critically ill infants is hope; hope in the darkest of hours helps us endure; and
- Whereas,** NICA Month is designed to honor families experiencing a stay in the neonatal intensive care unit, and the health professionals who care for them; and
- Whereas,** In 2014, founding organization Project Sweet Peas joined other professional and parent organizations to raise awareness to the challenges faced in the NICU;



NOW, THEREFORE, I, Lydia Pisano, Mayor of the City of Belle Isle, hereby proclaim September 2017 as Neonatal Intensive Care Awareness Month in the City of Belle Isle. Participating in the events/activities builds a community committed to increasing awareness of the challenges faced in the NICU, also to expand resources to NICU's nationwide, Project Sweet Peas sought to create a month dedicated to NICU awareness.

Attest _____
Yolanda Quiceno, City Clerk

Lydia Pisano, Mayor



**CITY OF BELLE SLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: September 19, 2017

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: City Attorney Contract

Background: At the September 13 Special Council Meeting, Council interviewed three firms who submitted Proposals for the City Attorney position. The Council voted to hire Fishback Dominick Law firm as the City Attorney. The City Manager reviewed the contract for Fishback Dominick and agrees that it satisfies the requirements of the proposal as set out in the RFP.

Staff Recommendation: Council approves the contract.

Suggested Motion: I move that we approve the contract of the City Attorney and appoint the law firm of Fishback Dominick as the Belle Isle City Attorney. .

Alternatives: Do not approve the contract.

Fiscal Impact: As stated in Section 3 of the contract.

Attachments: Legal Services contract

RETAINER AGREEMENT FOR LEGAL SERVICES

THIS RETAINER AGREEMENT FOR LEGAL SERVICES (this "Agreement") made and entered into this ___ day of September 2017, by and between FISHBACK, DOMINICK, BENNETT, ARDAMAN, AHLERS, LANGLEY & GELLER LLP a/k/a Fishback Dominick, whose address is 1947 Lee Road, Winter Park, Florida 32789-1834, (hereinafter referred to as the "Firm"), and the CITY OF BELLE ISLE, a municipal corporation of the State of Florida, whose address is 1600 Nela Avenue, Belle Isle, FL 32809 (hereinafter referred to as the "City").

WITNESSETH:

WHEREAS, the Firm desires to provide legal services to the City and the City desires to receive such services; and

WHEREAS, this Agreement is entered into in accordance with a selection after a competitive request for proposal process; and

WHEREAS, the City is authorized under the City of Belle Isle Charter, Florida Constitution and the laws of the State of Florida to enter into this Agreement and to perform all of its obligations hereunder; and

WHEREAS, the City of Belle City Council pursuant to the City Charter did select and appoint A. Kurt Ardaman and Daniel W. Langley of FISHBACK, DOMINICK, BENNETT, ARDAMAN, AHLERS, LANGLEY & GELLER LLP a/k/a Fishback Dominick to serve as City Attorney for the City of Belle Isle.

NOW THEREFORE, in consideration of the agreement and promises set forth herein and other good and valuable consideration, the parties agree as follows:

1. ENGAGEMENT OF FIRM. Effective on October 1, 2017, the City engages the Firm and the Firm agrees to perform the legal services for the City as set forth herein. A. Kurt Ardaman and Daniel W. Langley shall serve as the primary City Attorneys to provide legal services under this Agreement and are hereby appointed and shall serve in the capacity of City Attorney to the City of Belle Isle in accordance with the City Charter and the Code of Ordinances of the City. In the event of Mr. Ardaman's and Mr. Langley's temporary absence due to scheduling conflicts, vacation or sickness, John F. Bennett, Richard Geller, or one of the Firm's other experienced municipal lawyers will attend such meeting(s). The other attorneys of the Firm will also provide legal services to the City as the need arises and shall serve as assistant city attorneys.

2. SCOPE OF SERVICES.

A. The City of Belle Isle, acting by and through its City Council as a collegial body, is the Firm's client, and the Firm shall take direction from the City Council and, on a day to day basis, from the City Manager. The Firm shall provide professional advice, counsel, representation, and legal services, as may be assigned and as necessary to protect the City's

interests, including, but limited to: (i) attending all regular and special meetings of City Council unless excused by the City Council or City Manager; (ii) attending all regularly scheduled Planning and Zoning Board unless excused by the City Council or City Manager and, upon request, attend any other City board, commission or committee meetings; (iii) be available as needed or requested by the Council, City Manager, Mayor and individual Commissioners and staff to review, research and provide advice and counsel with regarding to questions of law, development applications, contracts, ordinances, actions/inactions, legislation and other matters needed or required by the City; (iv) represent the City in proceedings before all federal and state courts and administrative proceedings in the State of Florida; (v) act as an intermediary and legal advisor for the City when special counsel or insurance defense counsel is appointed to represent the City in any legal proceeding; (vi) real estate transactions; (vii) provide City Attorney Opinions for bond financing transactions; and (viii) draft ordinances, resolutions, contracts, development agreements, interlocal agreements, and other agreements.

B. In compliance with Section 112.313(16)(c), Florida Statutes, Mr. Ardaman, Mr. Langley and the Firm may recommend, refer or assign legal work for the City to attorneys, law clerks and paralegals within the Firm and to “of-counsel” attorneys associated with the Firm.

C. It is acknowledged that the City may elect to assign certain legal services to outside legal counsel not associated with the Firm in certain matters, for example where the City’s insurer will provide legal counsel for the City, retirement and pension benefits matters, union and employment law matters and bond counsel services. The Firm shall not be responsible for matters the City assigns to legal counsel/attorneys outside of the Firm. As the Firm deems appropriate and in specialized matters, the Firm may recommend to the City that special legal counsel be used for defined purposes. If recommended by the Firm, the City Manager may approve use of special counsel for an expenditure of legal fees payable to the special legal counsel not to exceed the City Manager’s spending authority under the ordinances and rules of the City. All other requests to utilize special counsel shall be subject to prior approval of the City Council.

3. COMPENSATION. Compensation to the Firm from the City will consist of a monthly retainer, an hourly rate for services, reimbursement of costs as incurred and other compensation as follows:

A. Retainer Services. A retainer in the amount of \$3,800.00 per month will be paid by the City to the Firm. The monthly retainer amount covers the Firm’s legal services to the City for up to the first twenty (20) hours of work per month, excluding fees and costs covered by paragraphs 3. C. through 3. G., inclusive. This retainer amount would cover: (i) the Firm’s representation of Belle Isle at all regularly scheduled City Council meetings, special meetings and workshops and all regularly scheduled meetings of Planning & Zoning Board or other City Boards requiring the attendance of an attorney; (ii) time spent on telephone calls between the City Attorney and City Council members; and (iii) telephone calls between the City Attorney and the City Manager and Department Heads; all for up to twenty (20) hours per month. The retainer excludes meetings, telephone calls and other matters pertaining to litigation. In the event that attorney time for retainer matters does not meet or exceed 20 hours in any given month, the City will be given a credit on non-retainer legal services for the amount of time to make up the

difference between the 20 hours and the amount of time spent on retainer matters. In other words, the City will receive a minimum of 20 hours of legal services per month for the monthly retainer amount.

B. General Services. All matters and services that are not covered by the monthly retainer shall be billed on an hourly basis (in increments of one-tenth of an hour) at the following rates:

Partners and Board Certified Attorneys	\$225.00 per hour
Associates (non-Board Certified)	\$200.00 per hour
Paralegals & Law Clerks	\$125.00 per hour
Legal Assistants	\$80.00 per hour

C. Litigation Services. Litigation services including administrative, arbitration, and court and appellate proceedings, shall be at the same rates as provided in subsection 3.B. above.

D. With regard to cost reimbursement, the City agrees to reimburse the Firm for its out-of-pocket costs, including court filing fees, court reporter's fees, long distance telephone calls, facsimile charges, electronic research (e.g. Lexis-Nexis and Westlaw), real estate closing costs, express delivery charges, postage, printing, costs of reproducing documents (in firm copies billed at \$0.20 per copy), and necessary travel expenses at IRS standard mileage rates (not to include mileage back and forth to City Hall or the Orange County Courthouse) and other similar expenses.

E. The rendering of title commitments and issuance of title insurance policies incident to the purchase or sale of real estate by City will be in accordance with applicable promulgated rates for such insurance plus cost of title search. The Firm shall serve as title agent on all transactions involving the City's purchase or sale of real property, unless otherwise directed by the City Council. Real estate transaction and closing services will be charged at hourly rates set forth in subsection 3. B.

F. For legal services involving the City Attorney's issuance of an opinion letter concerning the legality of the City's issuance of general obligation bonds, revenue bonds, or other types of bonds or notes, the Firm shall receive a lump sum fee for such services to compensate the Firm not only for the time incurred in reviewing and revising the bond documents and the drafting of an legal opinion letter, but also to compensate the Firm for the risks associated with issuing the opinion letter based on the following:

.005 of bond amount for bonds up to \$5,000,000 (minimum \$7,500);
Over \$5,000,000 – Charge the above up \$5,000,000 plus .0015 of amounts over \$5,000,000.

G. For legal services provided by the Firm in which third parties reimburse the City (such as development review pass through matters reimbursed by applicants/developers and prevailing party attorneys' fee awards), the Firm's hourly rates will be one-third higher than the hourly rates provided to the City under Paragraph 3. B. of this Agreement (rounded up to the

nearest five dollar increment), subject to rate adjustments as may be mutually approved by the Firm and City Manager.

4. INVOICES. Invoices for professional services will be rendered by the Firm to the City on a monthly basis. City agrees to pay invoices submitted by the Firm within twenty (20) days of the date of such invoice.

5. TERMINATION. This Agreement is a continuing services agreement with no specific termination date. The Firm understands that it serves at the pleasure of the City Council of the City of Belle Isle and that the City is not obligated to utilize the services for any specific time period. The City Council may terminate this Agreement at any time in accordance with the City Charter, without penalty. The Firm may terminate this Agreement and its representation of the City at any time without penalty. Upon termination of legal services, the City shall remain obligated to pay the Firm for previous services rendered and any services rendered during the transition to the City's new legal counsel.

6. NOTICES. All notices, demands or other writing made under this Agreement are to be given, or made or sent, or which may be given or made or sent, by either party through this Agreement to the other, shall be deemed to have been given, made or sent when made in writing and deposited in the United States mail, certified, return receipt requested and postage prepaid and addressed as follows:

TO Firm: City Attorney
Attn: A. Kurt Ardaman & Daniel W. Langley
Fishback, Dominick, Bennett, Ardaman
Ahlers, Langley & Geller LLP
1947 Lee Road
Winter Park, Florida 32789-1834
With copy by email to ardaman@fishbacklaw.com
& dlanglely@fishbacklaw.com

TO City: City Manager
Attn: Bob Francis
City of Belle Isle
1600 Nela Avenue
Belle Isle, FL 32809

The address to which any notice, demand or other writing may be given, or made, or sent, as above provided, may be changed by written notice given by such party as above provided.

7. LIABILITY. During the term of this Agreement, the Firm shall maintain a professional liability insurance policy with a minimum of three million dollars in liability coverage. The Firm will maintain workers compensation insurance for its employees and other applicable insurance as may be required by the State of Florida. The City acknowledges and understands that there are no assurances or guarantees, either expressed or implied, with respect to the outcome of any particular issue or matter handled by the Firm. The City agrees that the

services provided by the Firm under this Agreement are performed as an officer of the City and therefore, the City hereby extends protections afforded by Section 111.07, Florida Statutes to the Firm and each of its partners, attorneys, law clerks paralegals and other employees, and the City shall defend the same accordingly.

8. LAWS. The parties acknowledge that this Agreement is governed by the laws of the State of Florida and is binding upon the parties' successors and assigns.

9. ENTIRE AGREEMENT. The terms of this Agreement are intended by the parties as a final expression of their agreement with respect to such terms herein, and also as a complete and exclusive statement of such terms. There are no other provisions, terms, conditions or obligations. Provided however, the terms of this Agreement may be subsequently modified in writing upon the mutual consent of the parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be made and entered into the day and year first written above.

FIRM:

CITY OF BELLE ISLE

Fishback, Dominick, Bennett, Ardaman,
Ahlers, Langley & Geller LLP

Lydia Pisano, Mayor

A. Kurt Ardaman, Partner
For the Firm

ATTEST:

Daniel W. Langley, Partner
For the Firm

Yolanda Quiceno, City Clerk

1 SECTION 3. That wherever possible the City will leave the environment in its natural state. The City,
2 through its Public Works Department, will attempt to mitigate the effect of development of
3 roads, parking facilities, utilities and other necessary improvements through seasonal plantings
4 and feeding stations. Enhancement programs, such as bird houses for birds and private
5 preserves will be encouraged. The City will also provide relief from drought stress. The City
6 Public Works Department and private property owners will post the area boundary with signs
7 bearing the words "RESTRICTED HUNTING AREA, Hunting by Special Permit Only" or "BIRD
8 SANCTUARY, No Hunting" established by Rule 68A-19.002, F.A.C., which shall be placed at
9 intervals of no more than 500 feet, be easily visible from any point of ingress or egress and
10 provide other necessary notice of such area to the public. In addition, the City may protect
11 "wetlands" as they exist in the City. Wetlands which are prime habitat of birds and other
12 wildlife, may not be drained, filled, or destroyed in such a manner as to render them
13 unacceptable to birds and wildlife as temporary or permanent habitat.

14 The Belle Isle Police Department, including the Marine Patrol, shall be responsible for
15 enforcement of regulations of the Florida Fish and Wildlife Conservation Commission and this
16 ordinance.

17 SECTION 4. That it shall be unlawful to trap, hunt, shoot, or attempt to shoot or molest in any manner any
18 bird or wild fowl, or to rob bird nests or wild fowl nests within the City. No person shall take
19 any wildlife in any bird sanctuary using a gun unless such taking is authorized by specific rule
20 relating to such sanctuary. Provided; the sanctuary established by this section shall not include
21 protection of (Columbia livia) feral pigeon populations or other invasive and/or non-native
22 species such as Starlings, House Wrens, which are not protected by state or federal law and
23 which may threaten native bird species. In the event that other invasive and/or non-native
24 species are found congregating in numbers in a particular locality within the city limits, as to
25

1 constitute a public nuisance or menace to the public health or to private or public property,
2 then in that event or any of them, the congregated birds or wild fowl may be destroyed as is
3 deemed advisable by and under the supervision and control of the Police Department of the
4 city.

5 SECTION 5. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be
6 invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force
7 and effect.

8 SECTION 6. That any person, firm, or corporation violating any of the provisions or terms of this ordinance
9 shall be deemed to be guilty of a Misdemeanor of the First Degree and upon conviction in the
10 District Court shall be punished by a fine not to exceed One Thousand (\$1,000.00) Dollars for
11 each offense.

12 SECTION 7. That the present ordinances of the City of Belle Isle are inadequate to properly protect birds,
13 wildlife and their habitat within the City of Belle Isle, creates an urgency and an emergency for
14 the preservation of the public health, safety, and welfare and requires that this ordinance shall
15 take effect immediately from and after its passage and publication of said ordinance, as the law
16 in such cases provides.

17 SECTION 8: Severability: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is
18 for any reason held invalid or unconstitutional by any court of competent jurisdiction, such
19 portion shall be deemed a separate, distinct, and independent provision and such holding shall
20 not affect the validity of the remaining portion hereto.

21 SECTION 9: Effective Date: This Ordinance shall take effect upon its passage and as provided by law.

22 First Reading held this 5th day of September, 2017

23 Second Reading held this 19th day of September, 2017

24 Advertised for Second Reading on the 9th day of September, 2017.
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

YES NO ABSENT

Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Jeremy Weinsier	_____	_____	_____
Bobby Lance	_____	_____	_____
Harvey Readey	_____	_____	_____
Lenny Mosse	_____	_____	_____
Sue Nielsen	_____	_____	_____

LYDIA PISANO, MAYOR

ATTEST: _____
Yolanda Quiceno, CMC-City Clerk

Approved as to form and legality City Attorney

STATE OF FLORIDA
COUNTY OF ORANGE

I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document
ORDINANCE 17-07 was duly and legally passed by the Belle Isle City Council, in session assembled on the
_____ day of _____, 2017, at which session a quorum of its members were present.

Yolanda Quiceno, CMC-City Clerk

ORDINANCE No.: 17-10

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA; AMENDING THE BELLE ISLE CODE OF ORDINANCES CONCERNING AIRPORT ZONING REGULATIONS; BY AMENDING PART II, CODE OF ORDINANCES; BY AMENDING SUBPART B, LAND DEVELOPMENT CODE; BY AMENDING CHAPTER 44, COMMUNICATION TOWERS, TO CREATE ARTICLE V, AIRPORT ZONING REGULATIONS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the desire of the City Council that the City of Belle Isle Code of Ordinance be constitutionally sound and internally consistent; and

WHEREAS Chapter 333, Florida Statutes, states that every political subdivision that has an airport hazard area within its territorial limits, is required to adopt, administer, and enforce a set of airport protection zoning regulations; and

WHEREAS, the City of Belle Isle has entered into the interlocal agreement among Orange County, City of Orlando, Seminole County, Osceola County, Winter Park, Oviedo, Belle Isle, Kissimmee, and the Greater Orlando Aviation Authority regarding Airport Zoning Regulations; and

WHEREAS, the City of Belle Isle Planning and Zoning Board serves as local planning agency for the City; and

WHEREAS, the City of Belle Isle Planning and Zoning Board, acting in its capacity as the Local Planning Agency, held a duly noticed and advertised public hearing on August 22, 2017; and

WHEREAS, the City of Belle Isle Planning and Zoning Board, acting in its capacity as the Local Planning Agency, at the August 22, 2017, public hearing, found the regulations to be consistent with the City of Belle Isle Comprehensive Plan and recommended that the City Council adopt the airport zoning regulations; and

WHEREAS, the City Council held two (2) public hearings on September 5, 2017, and September 19, 2017, to receive public comments, and considered the recommendation of the Planning and Zoning Board and the proposed airport zoning regulations; and

WHEREAS, the City Council has found and determined that the adoption of the proposed ordinance will foster and preserve the public health, safety and welfare and aid in the harmonious, orderly and progressive development of the City, and thus serve a valid public purpose.

BE IT ORDAINED by the City Council of Belle Isle, Florida:

Chapter 44
Article V. Airport
Zoning Regulations

Contents

SECTION 1 City of Belle Isle ZONING ORDINANCE 1

1.1 Title 1

1.2 Authority 1

1.3 Findings 1

1.4 Purpose 2

SECTION 2 DEFINITIONS AND RULES OF INTERPRETATION 2

2.1 Definitions 2

2.2 Abbreviations 7

2.3 Rules of Interpretation 7

SECTION 3 ZONING AND HEIGHTS REQUIRING PERMIT, AIRPORT SURFACES, AND PERMIT PROCEDURES 8

3.1 Zones and Heights Requiring Airport Height Zoning Permit 8

3.2 Airport Height Zoning Permit Application Procedure 8

3.3 Pre-Application Conference Procedure 9

3.4 Review of Airport Height Zoning Permit Application 9

3.5 Airspace Surfaces 10

3.6 Objects Affecting Navigable Airspace 11

3.7 Supportive Screening Criteria 12

3.8 Criteria for Approval or Disapproval of Airport Height Zoning Permit Application 12

3.9 Hazard Marking and Lighting 14

<u>3.10</u>	<u>Permit Required in Addition to Those Issued by Other Agencies</u>	15
<u>3.11</u>	<u>Rules of Interpretation</u>	15
<u>SECTION 4</u>	<u>EXISTING NONCONFORMING USE</u>	15
<u>4.1</u>	<u>Existing Nonconforming Use</u>	16
<u>4.2</u>	<u>Change of Existing Nonconforming Use</u>	16
<u>4.3</u>	<u>Continuance of Existing Nonconforming Uses</u>	16
<u>4.4</u>	<u>Abandoned or Deteriorated Existing Nonconforming Use</u>	16
<u>SECTION 5</u>	<u>ADMINISTRATION, ENFORCEMENT, AND REMEDIES</u>	17
<u>5.1</u>	<u>Administration</u>	18
<u>5.2</u>	<u>Enforcement</u>	18
<u>5.3</u>	<u>Remedies</u>	18
<u>SECTION 6</u>	<u>AIRPORT BOARD OF ADJUSTMENT</u>	19
<u>6.1</u>	<u>Appointment</u>	19
<u>6.2</u>	<u>Administrative Assistance</u>	20
<u>6.3</u>	<u>Powers and Duties</u>	20
<u>6.4</u>	<u>Appeals</u>	20
<u>6.5</u>	<u>Abandoned or Deteriorated Uses</u>	21
<u>6.6</u>	<u>Forms</u>	21
<u>6.7</u>	<u>Calendar of Appeals</u>	21
<u>6.8</u>	<u>Judicial Review</u>	22
<u>SECTION 7</u>	<u>AMENDMENT</u>	22
<u>SECTION 8</u>	<u>CONFLICT WITH OTHER LAWS OR REGULATIONS</u>	22
<u>SECTION 9</u>	<u>SEVERABILITY</u>	23
<u>SECTION 10</u>	<u>REPEAL OF CONFLICTING PROVISIONS</u>	23
<u>SECTION 11</u>	<u>AMENDMENT OF LAWS</u>	23
<u>SECTION 12</u>	<u>EFFECTIVE DATE</u>	23
<u>EXHIBIT "A"</u>	24

SECTION 1

BELLE ISLE ZONING ORDINANCE

1.1 Title

These regulations will be known and cited as “Airport Zoning Regulations for the Orlando International Airport” (collectively the “Regulations”).

1.2 Authority

The City of Belle Isle is a public body corporate having jurisdiction over all public airports within the City of Belle Isle. The City of Belle Isle has the power to prepare, adopt and enforce these regulations pursuant to Chapter 333, Florida Statutes, as amended. These regulations apply to all land within the City of Belle Isle, with exception of the property owned by the Greater Orlando Aviation Authority and operated as a public use general aviation or commercial service airport. The Greater Orlando Aviation Authority is required by Federal Aviation Administration regulations to protect the airspace surfaces being regulated herein and therefore there is not a need for City of Belle Isle review or oversight which would be duplicative.

1.3 Findings

The City of Belle Isle hereby finds that:

- A. The creation or establishment of an airport obstruction hazardous to the operation of aircraft reduces the navigable airspace available to the region served by the Airport;
- B. It is necessary, in the interest of the public health, public safety, and general welfare, to prevent the creation of airspace hazards and the use of land incompatible with Airport operations;
- C. The prevention of these hazards and incompatible land uses should be accomplished, to the extent legally possible, without compensation; and

- D. Preventing the creation or establishment of hazards and incompatible land uses, as well as the elimination, removal, alteration or mitigation of hazards and incompatible land uses are public purposes for which the City of Belle Isle may raise and expend public funds.

1.4 Purpose

Based on the findings set forth in section 1, the purposes of these regulations are as follows:

- A. To promote the maximum safety of aircraft using the Airport;
- B. To promote the maximum safety of persons and property located near the Airport;
- C. To promote the full utility of the Airport to ensure the welfare and convenience of the citizens and visitors of City of Belle Isle;
- D. To provide limits on the height of structures and objects of natural growth within the 14 CFR Part 77 surface primary, horizontal, conical, approach and transitional, Terminal Instrument Procedures (“TERPS”) surfaces, and other imaginary airport airspace surfaces (One Engine Inoperative-Obstacle Identification Surfaces as defined in AC 120-91 and ICAO Annex 6 [“OEI”], Threshold Siting Surface [“TSS”]), as defined herein, to ensure proper and sound development of the areas within these surfaces;
- E. To discourage new land uses, activities or construction incompatible with existing and planned airport operations or public health, safety and welfare; and
- F. To provide administrative procedures for the efficient and uniform review of land development proposals in the areas surrounding the Airport.

SECTION 2

DEFINITIONS AND RULES OF INTERPRETATION

2.1 Definitions

For the purpose of these Regulations, certain words and terms used herein are defined as follows:

- A. Aeronautical Study. A Federal Aviation Administration study, conducted in accordance with the standards of 14 CFR 77, subpart C, and Federal Aviation Administration policy and guidance, on the effect of proposed construction or alteration upon the operation of air navigation facilities and the safe and efficient use of navigable airspace.
- B. Aircraft. Any fixed wing, blimp, airship or rotorcraft device capable of atmospheric flight and requiring a paved or turf landing or take-off area.
- C. Airport. Any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purpose which, for the purposes of these Regulations, means Orlando International Airport and Orlando Executive Airport [and any other applicable airport].
- D. Airport Board of Adjustment. The City of Belle Isle Planning and Zoning Board, or such other board appointment by the City of Belle Isle, acting pursuant to the terms and provisions of Chapter 333, Florida Statutes, created to carry out the obligations set forth in section 6 below.
- E. Airport Elevation. The highest point of an Airport's usable landing area measured in feet above mean sea level.
- F. Airport Hazard. An obstruction to air navigation which affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities.
- G. Airport Hazard Area. Any area of land or water upon which an Airport Hazard might be established.
- H. Airport Height Zone. Any area described herein or shown on the Airport Height Zoning Map indicating the height at which a proposal for development, construction, establishment,

enlargement or substantial alteration or repair of a structure requires an airport height zoning permit.

- I. Airport Height Zoning Map. A map depicting the Airport Height Zones, attached hereto and incorporated herein as Exhibit "A".
- J. Airport Land Use Compatibility Zoning. Airport zoning regulations governing the use of land on, adjacent to, or in the immediate vicinity of airports.
- K. Airport Layout Plan or ALP. A set of scaled drawings that provides a graphic representation of the existing and future development plan for the Airport and demonstrates the preservation and continuity of safety, utility, and efficiency of the Airport.
- L. Airport Master Plan. A comprehensive plan of an airport which typically describes current and future plans for airport development designed to support existing and future aviation demand.
- M. Airport Obstruction. Any existing or proposed structure or object of natural growth that exceeds federal obstruction standards as contained in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21, 77.23 and any other Federal Airspace obstruction related standards such as OEI, TERPS and TSS.
- N. Airspace Surface. Any surface established and described in these Regulations used to evaluate whether an application for an airport height zoning permit or any existing or proposed structure or object of natural growth complies with federal obstruction standards as contained in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21 and 77.23; terminal instrument procedures as contained in Federal Aviation Administration Order 8260.3C and Order 8260.58A, TERPS, federal regulations for turbine powered aircraft as contained in 14 CFR § 121.189, OEI, and TSS.
- O. Airport Surveillance Radar (or ASR). A radar used for FAA air traffic management.
- P. Airport Zoning Director. The Director of Planning of the City of Belle Isle , or a designee of the City of Belle Isle 's Director of Planning, who shall be responsible for administering and enforcing these Regulations.

- Q. Airspace Hazard. Any structure, object of natural growth or use of land which would exceed federal obstruction standards as contained in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21 and 77.23, TERPS, OEI, TSS, and which obstructs the airspace required for the flight of aircraft in taking off, maneuvering or landing or is otherwise hazardous to such taking off, maneuvering or landing of aircraft and for which no person has previously obtained a permit pursuant to these regulations.
- R. Authority. [Insert Local Airport Authority and if multiple add additional definition].
- S. Authority Board. The Board of the [Insert Local Airport Authority and if multiple add additional definition].
- T. Authority Planning Director. The Director of Planning of the Authority, or a designee of the Authority's Director of Planning, who shall be an ex-officio member of the Airport Board of Adjustment, shall review all applications submitted to the [Insert Local Government and if multiple enter specificity to differentiate planning directors] under this Ordinance and provide an analysis of same with recommendations for use by the Airport Zoning Director.
- U. Avigation Easement. The right to use the airspace over real property.
- V. City of Belle Isle. The City of Belle Isle, Florida.
- W. County. Orange County.
- X. Educational Facility. Any Structure, land, or use that includes a public or private kindergarten through 12th grade school, charter school, magnet school, college campus, or university campus. The term does not include space used for educational purposes within a multitenant building.
- Y. Existing Nonconforming Use. Any structure, object of natural growth, or use of land that does not conform to the provisions of these Regulations or any amendments hereto as of the effective date of such regulation or amendment.

- Z. Federal Aviation Administration (or FAA). A federal agency charged with regulating air commerce to promote its safety, encouraging and developing civil aviation, air traffic control and air navigation and promoting the development of a national system of airports.
- AA. Non-Vertically Guided Instrument Runway. A runway having an existing, published, or planned instrument approach procedure utilizing air navigation facilities with only lateral [horizontal] guidance or area type navigation equipment, for which a straight-in non-vertically guided instrument approach procedure has been approved or planned on a FAA planning document or approved airport layout plan.
- BB. Object of Natural Growth. Any organism of the plant kingdom, including a tree.
- CC. Person. Any individual, firm, co-partnership, corporation, company, association, joint-stock association or body politic, including any trustee, receiver, assignee or other similar representative thereof.
- DD. Vertically Guided Instrument Runway. A runway having an existing, published, or planned instrument approach procedure utilizing air navigation facilities or an Instrument Landing System (“ILS”) with lateral and vertical guidance or area type navigation equipment, for which a straight-in vertically guided instrument approach procedure has been approved or planned, and for which a vertically guided approach is planned or indicated on an FAA planning document or approved airport layout plan.
- EE. Real Property. A lot, parcel, tract of land, or water together with any structure, object of natural growth, or natural feature located thereon.
- FF. Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- GG. Runway Protection Zone. Area at the end of a runway designed to enhance the protection of people and property on the ground; the dimensions of which are based on aircraft category and

visibility minimums defined in FAA Advisory Circular 150/5300-13A, Change 1, entitled Airport Design and in accordance with 14 CFR § 151.9(b).

- HH. Structure. Any permanent or temporary object, including but not limited to buildings, antenna, towers, cellular towers, smoke stacks, utility or light poles, overhead transmission lines, advertising signs, billboards, poster panels, fences, construction cranes, derricks, draglines, boom-equipped machinery, balloons, kites, watercraft, retaining walls, and navigation aids including but not limited to VORTAC, LLWAS, ASOS, approach lighting systems and radar facilities, as FAA Navigation Aids are defined in section 3.7(c).
- II. Terminal Instrument Procedures (or TERPS). Criteria for terminal instrument procedures for arriving and departing aircraft as established in FAA Order 8260.3C and Order 8260.58A, entitled United States Standards for Terminal Instrument Procedures, OEI, TSS.

2.2 Abbreviations

For the purpose of these regulations, certain abbreviations will have the following meanings:

- A. AGL. Above ground level.
- B. ALP. Airport layout plan.
- C. AMSL. Above mean sea level.
- D. CFR. Code of Federal Regulations.
- E. FAA. Federal Aviation Administration.
- F. FCC. Federal Communications Commission.
- G. FDOT. Florida Department of Transportation.

2.3 Rules of Interpretation

Unless the natural construction of the wording indicates otherwise, all words used in the present tense include the future tense; all words in the plural number include the singular number; all words in the singular number include the plural number and all words of the masculine gender include correlative

words of the feminine and neuter genders. Any reference herein to a rule, statute, regulation or other legal requirement or form shall also include any modification, amendment, alteration or replacement thereof subsequent to the effective date hereof.

SECTION 3

ZONING AND HEIGHTS REQUIRING PERMIT, AIRPORT SURFACES, AND PERMIT PROCEDURES

3.1 Zones and Heights Requiring Airport Height Zoning Permit

In order to regulate the height of permanent and temporary structures and objects of natural growth, this section establishes permitting requirements in certain zones based on height. These zones, and the heights established for each zone, provide for the independent review by the City of Belle Isle of the height of land development proposals over which the City of Belle Isle may have jurisdiction to regulate, as well as objects of natural growth. No structure or object of natural growth that would exceed two hundred (200) feet AGL, any federal obstruction standards or the height for the zone in which it is located or proposes to be located may be developed, constructed, established, enlarged, substantially altered or repaired, approved for construction, issued a natural resources permit or building permit, or planted, allowed to grow or be replanted, unless either the Airport Zoning Director has issued an airport height zoning permit in accordance with these regulations. The zones and heights are depicted on the Airport Height Zoning Map, attached hereto and incorporated herein as Exhibit "A".

3.2 Airport Height Zoning Permit Application Procedure

A request for an airport height zoning permit may be initiated by filing with the Airport Zoning Director a completed application for airport height zoning permit on a form prescribed by the City of Belle Isle including a copy of the Form 7460-1 and/or FAA's online OE/AAA website tool, Notice of Proposed Construction or Alteration filed with the FAA, as required pursuant to 14 CFR §§ 77.5, 77.7, 77.9

and 77.11. An FAA airspace review determination resulting from the submittal of a Notice of Proposed Construction or Alteration does not preclude the requirement to obtain an airport height zoning permit from the City of Belle Isle. An application for an airport height zoning permit must contain a site survey, with an FAA accuracy code of 1A, which certifies the site coordinates and elevations with an accuracy of +/- 20-feet horizontal and +/- 3-feet vertical (all site coordinates must be based on North American Datum of 1983 and National Geodetic Vertical Datum of 1988); site plans; drawings and other data as may be necessary to enable the Airport Zoning Director to determine whether or not the proposal will comply with these Regulations. A separate application for an airport height zoning permit must be submitted for permanent or temporary derricks, draglines, cranes and other boom-equipped machinery to be used during construction or installation at heights greater than the height of proposed structure. Applications for an airport height zoning permit must be signed by the owner or an authorized agent of the owner.

3.3 Pre-Application Conference Procedure

Prior to submittal of any application for an airport height zoning permit, a prospective applicant shall request a pre-application conference with the Airport Zoning Director and may include the Authority Planning Director. The pre-application conference is to advise the applicant of the information needed for submittal and the standards and other requirements so that issues can be identified and costly modifications avoided. Information provided as a result of the conference is for conceptual purposes only, is given solely as a means to assist the applicant, and does not take the place of the formal application review process.

3.4 Review of Airport Height Zoning Permit Application

Before an application for an airport height zoning permit will be considered, the applicant must submit to the Airport Zoning Director a copy of the final airspace review determination by the FAA of the applicant's Notice of Proposed Construction or Alteration. Upon receipt of a completed application and copy of the

final determination, the Airport Zoning Director shall forward same to the Authority Planning Director and to the FDOT Aviation Office, via certified mail return receipt requested or via a delivery service that provides evidence of delivery. FDOT shall have fifteen (15) days to review the application for technical consistency with Chapter 333, Florida Statutes, with said review period running concurrently with the review by the City of Belle Isle and the Authority Planning Director. The Authority Planning Director shall produce an analysis and recommendation as to consistency with these regulations to the Airport Zoning Director. The Airport Zoning Director upon receipt of the application and analysis from the Authority Planning Director will review the application for consistency with the height limits for the airspace surfaces as set forth in this section 3 and the guidelines, procedures and criteria set forth in chapter 6, section 3, part 2 of FAA Order 7400.2k, entitled Procedures for Handling Airspace Matters, as provided in section 3.6 herein. Within a period of twenty-one (21) calendar days from receipt of a completed application, the Authority Planning Director's analysis, and final determination by the FAA, the Airport Zoning Director will either approve or disapprove the application. The Airport Zoning Director may consider an application for an airport height zoning permit concurrently with the development plan approval. An incomplete application will be deemed abandoned one hundred eighty (180) calendar days after filing, unless pursued in good faith. The Airport Zoning Director may grant one extension of one hundred eighty (180) days. The extension must be requested in writing and justifiable cause demonstrated.

3.5 Airspace Surfaces

There are hereby created and established certain airspace imaginary surfaces in order to evaluate whether any existing or proposed structure or object of natural growth complies with federal obstruction standards as contained in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21 and 77.23 terminal instrument procedures as contained in FAA Order 8260.3C and Order 8260.58A, entitled United States Standards for Terminal Instrument Procedures and federal regulations for turbine powered aircraft as contained in 14

CFR § 121.189. The airspace surfaces are hereby specified for the most restrictive approach existing or planned for each runway and any planned extension of existing runways and include all of the land lying beneath the airspace surface, as applied to each airport. Except as otherwise provided in these regulations, no application for an airport height zoning permit may be approved; no structure may be developed, constructed, established, enlarged, substantially altered or repaired, approved for construction, or issued a natural resources permit or building permit; and no object of natural growth may be planted, allowed to grow or be replanted, in any airspace surface at a height above the height limit established herein for the airspace surface in which the structure or object of natural growth is located or proposed to be located. Such height limits will be computed from mean sea level elevation, unless otherwise specified. The 14 CFR Part 77C (primary, horizontal, conical approach and transitional) airspace surfaces have been analyzed by the [Local Airport Authority] and are illustrated on the map incorporated herein as Exhibit "A" and further defined as illustrated in FAA Order 7400.2k, entitled Procedures for Handling Airspace Matters, and are defined as follows, as applied to MCO and ORL [Insert Additional Airports]. Definitions of 14 CFR Part 77 and the Airspace Surfaces that are illustrated in Exhibit "A" are available at the [Insert Local Airport Authority]'s website.

3.6 Objects Affecting Navigable Airspace

Any existing or proposed structure or object of natural growth that exceeds the standards for identifying and evaluating aeronautical effect as defined in section 3, chapter 6, part 2 of FAA Order 7400.2, entitled Procedures for Handling Airspace Matters, is presumed to be a hazard to air navigation unless an obstruction evaluation study determines otherwise. Any structure or object of natural growth in violation of the aforementioned standard will be evaluated by the FAA and the Airport Zoning Director to determine if the structure has a substantial adverse effect on navigable airspace effecting airport operations. The Airport Zoning Director shall take into account the above presumption in approving or denying an application for an airport height zoning permit.

3.7 Supportive Screening Criteria

A. Antenna Installations. Antenna installations used to transmit over navigable airspace may produce a harmful electromagnetic interference (EMI) with navigation aids or radio communications or aircraft, airport or air traffic control facility. An antenna installation must comply with the permitting requirements of this section unless the antenna is to be co-located on an existing structure and:

1. The antenna does not increase the height of the existing structure;
2. The structure has a current no hazard determination on file with the FAA; and
3. The transmission of the antenna has been coordinated and approved by the Federal Communications Commission (FCC).

B. FAA Navigation Aids. The FAA owns and operates navigation aids at MCO, ORL, and off airport property. These include, but are not limited to, Airport Surveillance Radar (ASR), Terminal Doppler Radar (TDR), Low Level Wind Shear Alert System (LLWAS), Omnidirectional Range Beacon/Tactical Air Navigation System (VORTAC), and Automated Surface Observation System (ASOS). The FAA provides guidance on the required clear areas around navigational aids (“navaid”). Any structure or object of natural growth within the vicinity of an FAA navaid must be evaluated by the FAA for interference with the navaid. If the FAA determines that such proposed structure or object of natural growth will adversely affect the utilization of the navaid, the Airport Zoning Director shall take the determination into account when reviewing the application.

3.8 Criteria for Approval or Disapproval of Airport Height Zoning Permit Application

A. Criteria. In determining whether to issue or deny an Airport Height Zoning Permit, the City of Belle Isle must consider:

1. The safety of persons on the ground and in the air;

2. The safe and efficient use of navigable airspace;
 3. The nature of the terrain and height of existing structures;
 4. The effect of the construction or alteration of an obstruction on the state licensing standards for a public-use airport contained in Chapter 330, Florida Statutes, and rules adopted thereunder;
 5. The character of existing and planned flight operations and developments at public-use airports;
 6. Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA;
 7. The effect of the construction or alteration of an obstruction on the minimum descent altitude or the decision height at the affected airport; and
 8. The cumulative effect on navigable airspace of all existing obstructions and all known proposed obstructions in the area.
- B. Approval. A permit application for the construction or alteration of an obstruction may not be approved unless the applicant submits documentation showing both compliance with the federal requirement for notification of proposed construction or alteration and a valid aeronautical study, as defined in 14 CFR Part 77. A permit may not be approved solely on the basis that the FAA determined that such proposed structure or object of natural growth will not exceed federal obstruction standards and was not an airport hazard, as contained in 14 CFR Part 77, or any other federal aviation regulation(s). Upon consideration of the above requirements, as set forth in Section 333.025, Florida Statutes, and if the FAA has issued a determination that the proposed structure will not constitute an airspace hazard and the applicant has established by clear and convincing evidence provided to the Airport Zoning Director that the proposed structure or object of natural growth will not exceed the height limits established for the airspace surfaces as set

forth in section 3.5 and the standards referenced in sections 3.6 and 3.7, and will not otherwise constitute an airspace hazard, the Airport Zoning Director may approve an application for an airport height zoning permit. In the event of approval, the permit will be issued within fourteen (14) business days. No airport zoning height permit will be issued after the expiration date indicated on the FAA's final determination. Each airport height zoning permit will specify an expiration date as a condition. Development authorized by the permit must commence prior to the permit's expiration date and must continue without interruption in good faith until development is complete; otherwise it shall lapse. After a permit has been issued, no change, modification, alteration or deviation may be made from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit.

- C. Disapproval. The Airport Zoning Director will not approve an application for an airport height zoning permit if the FAA has issued a determination that the proposed structure would constitute an airspace hazard or the Airport Zoning Director has determined that the proposed structure or object of natural growth would exceed the height limits established for the airspace surfaces as set forth in section 3.5 or the standards referenced in sections 3.6, 3.7 or otherwise would constitute an airspace hazard. Any decision of the Airport Zoning Director disapproving an airport height zoning permit application may be appealed as prescribed in section 6.4 herein.

3.9 Hazard Marking and Lighting

If a structure or object of natural growth meets the specifications set forth in Advisory Circular 70-7460-1L, Change 1 or otherwise as recommended by the FAA, the Airport Zoning Director shall require, as a condition of approval of an application for an airport height zoning permit, the applicant to install prior to the issuance of a certificate of occupancy, and to operate and maintain, at the applicant's own expense, such marking and/or lighting on the permitted structure as may be necessary to indicate to aircraft pilots

the presence of the structure or object of natural growth. Such marking and lighting must conform to the specific standards in FAA Advisory Circular 70-7460-1L, Change 1, entitled Obstruction Marking and Lighting and Section 14-60.009, Florida Administrative Code.

3.10 Permit Required in Addition to Those Issued by Other Agencies

A permit required by these regulations is in addition to any other building, zoning, environmental or occupancy permits required by any other governmental agency or jurisdiction. Pursuant to Section 125.022, Florida Statutes, issuance of a airport height zoning permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.

3.11 Rules of Interpretation

An area located in more than one of the described airport height zones or airspace surfaces must comply with the most restrictive height limit or surface. In the event a conflict arises between an Airspace Surface and the regulations as set forth in 14 CFR §§ 77.13, 77.15, 77.17, 77.19, 77.21 and 77.23; terminal instrument procedures as contained in FAA Order 8260.3c and Order 8260.58A entitled United States Standards for Terminal Instrument Procedures and federal regulations for turbine powered aircraft as contained in 14 CFR § 121.189, the most restrictive regulation will prevail, and any other FAA Advisory Circulars or guidelines relating to airspace.

SECTION 4

EXISTING NONCONFORMING USE

4.1 Existing Nonconforming Use

Any structure, object of natural growth, or use of land existing on the effective date of these regulations, which exceeds any height limit established herein or otherwise fails to comply with any provision of these regulations, is hereby declared to be an existing nonconforming use and in violation of these regulations.

4.2 Change of Existing Nonconforming Use

No existing nonconforming use may be enlarged, increased in height, expanded, replaced, substantially altered or repaired at a cost which exceeds fifty percent (50%) of the value of the existing nonconforming use, rebuilt, or allowed to grow higher or to be replanted, unless the Airport Zoning Director has issued an airport height zoning permit in conformance with these regulations.

4.3 Continuance of Existing Nonconforming Uses

- A. Existing Nonconforming Uses. Except as provided in sections 4.2 or 4.4 herein, nothing in these regulations will be construed to require removal, lowering, alteration, sound conditioning or other change to or interference with a nonconforming use in existence before the effective date of these Regulations. That continuation of any existing nonconforming use will be governed by the City of Belle Isle airport zoning regulations in effect on the date of the creation of the existing nonconforming use, except as provided in sections 4.2 or 4.4 herein.
- B. Existing Nonconforming Educational Facilities. Except as provided in sections 4.4 herein, nothing in these Regulations will be construed to require removal, alteration, sound conditioning, or other change to or interference with the continued use, modification, or adjacent expansion of any educational facility in existence on or before July 1, 1993, or be construed to prohibit the construction of any new educational facility for which a site has been determined as provided in former Section 235.19, Florida Statutes as of July 1, 1993.

4.4 Abandoned or Deteriorated Existing Nonconforming Use

- A. Declaration of Abandoned or Deteriorated Existing Nonconforming Use. In the event the Airport Zoning Director determines an existing nonconforming use is abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed, no permit will be issued that would allow such existing nonconforming use to exceed the applicable height limit or otherwise deviate from these regulations; and whether application is made for a permit under these regulations or not, the Airport Zoning Director may petition the Airport Board of Adjustment, upon due notice to the owner of the existing nonconforming use or the owner of the real property on which it is located, to compel the owner to lower, remove, reconstruct, equip, or otherwise alter the abandoned, destroyed, deteriorated, or decayed nonconforming use as may be necessary to conform to these regulations. Upon receipt of such petition, the Airport Board of Adjustment will conduct a public hearing pursuant to these regulations after due notice to the owner. If, after a public hearing, the Airport Board of Adjustment determines the existing nonconforming use to be abandoned, or more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed, the Airport Board of Adjustment may compel the owner, at the owner's own expense to lower, remove, reconstruct, equip, or otherwise alter the existing nonconforming use as may be necessary to conform to these regulations.
- B. Failure to Remove Abandoned or Deteriorated Existing Nonconforming Use. If the owner neglects or refuses to comply with such order within thirty (30) calendar days after notice thereof, the City of Belle Isle may proceed to lower, remove, reconstruct, equip, or otherwise alter the structure or use and assess the cost and expense thereof on the structure or the real property whereon it is or was located.

SECTION 5

ADMINISTRATION, ENFORCEMENT, AND REMEDIES

5.1 Administration

The provisions of these regulations will be interpreted, administered, and enforced by the Airport Zoning Director, with input provided by the Authority Planning Director or other experts from the Authority. The duties of the Airport Zoning Director shall include that of hearing and deciding all permits and all other matters under these regulations except any of the duties or powers herein delegated to the Airport Board of Adjustment. The Airport Zoning Director shall coordinate the administration of these regulations with the Authority Planning Director and appropriate departments of the Authority, the FAA, the City of Belle Isle and the FDOT.

5.2 Enforcement

In the event of a violation of these regulations or an order, ruling, or permit issued hereunder, the Airport Zoning Director shall request that the Code Enforcement Manager provide a citation in writing to the owner of the real property on which the violation is located. Such notice will indicate the nature of the violation and order the owner to lower, remove, reconstruct, equip, or otherwise alter the structure or object of natural growth in order to correct or abate the violation within a period of time set forth in the citation.

5.3 Remedies

- A. Penalty. Each violation of a regulation, order, ruling, or permit issued hereunder cited by the Airport Zoning Director constitutes a misdemeanor of the second degree punishable as provided in Florida Statutes. Each day a violation continues to exist will constitute a separate offense. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of these regulations, an order, ruling, or permit issued hereunder, upon conviction in the county court, will be fined not more than five hundred dollars (\$500.00) for each offense, or by imprisonment in the county jail for not more than sixty (60) days, or by both fine and imprisonment.

- B. Judicial Relief. In addition to the provisions of section 5.3(A), the General Counsel of the [Insert Local Government] is hereby authorized to institute in any court of competent jurisdiction an action on behalf of the City of Belle Isle to prevent, restrain, correct, or abate any violation of these regulations, or of any order or ruling made in connection with the administration or enforcement of these regulations, and request that the court adjudge to the City of Belle Isle such relief, by way of injunction or otherwise, which may be mandatory or otherwise, as may be proper under all the facts and circumstances of the case in order to fully effectuate the purposes of these Regulations and any order or ruling made pursuant thereto.
- C. Cumulative Penalties. The remedies provided in this section are cumulative in nature such that seeking civil penalty pursuant to section 5.3(A) does not preclude the City of Belle Isle from seeking alternative relief, including an order for abatement or injunctive relief pursuant to section 5.3(B), in the same or separate action.

SECTION 6

AIRPORT BOARD OF ADJUSTMENT

6.1 Appointment

The City of Belle Isle Planning and Zoning Board will serve as the Airport Board of Adjustment within the jurisdictional limits of the City of Belle Isle. The Authority Planning Director, or his designee, shall serve as an ex-officio, non-voting member and shall provide an analysis of each appeal along with a recommendation on behalf of the Authority. The Airport Board of Adjustment will have and exercise all the powers permitted by the provisions of Chapter 333, Florida Statutes, this section and all other laws governing its activities and procedures. City of Belle Isle Council may establish such rules of procedure or other processes to assist the Airport Board of Adjustment in carrying out its obligation hereunder,

including but not limited to the creation of an appropriately qualified Hearing Officer or Hearing Master to receive and analyze the submission of evidence and to provide a report on same to the Airport Board of Adjustment. Such Hearing Officer or Hearing Master may be appropriately compensated, if permitted by applicable law. Such process may result in limitations on the public hearing process before the Airport Board of Adjustment, but only if the Hearing Officer or Hearing Master process has a full and open public hearing in taking evidence and testimony to be used in determining its recommendations to the Airport Board of Adjustment.

6.2 Administrative Assistance

The Airport Zoning Director and the Authority Planning Director will provide such technical, administrative, and clerical assistance as is required by the Airport Board of Adjustment to carry out its function under these regulations.

6.3 Powers and Duties

The Airport Board of Adjustment will have the following powers and duties:

- A. Appeals. To hear and decide appeals from any order, requirement, decision, or determination made by the Airport Zoning Director in the application or enforcement of these Regulations.
- B. Abandoned or Deteriorated Uses. To hear and decide petitions to declare an existing nonconforming use abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed.

6.4 Appeals

Any applicant, land owner, or other lawful participant in such proceeding, who is affected by any decision of the Airport Zoning Director made in the administration of these regulations, or any governing body of a political subdivision, which is of the opinion that a decision of the Airport Zoning Director is an improper application of these Regulations, may appeal to the Airport Board of Adjustment. Such appeals must be filed no later than ten (10) calendar days after the date of notification of the decision appealed from by

filing with the Airport Zoning Director a notice of appeal specifying the grounds therefor. The Airport Zoning Director will transmit to the Airport Board of Adjustment copies of the record of the action appealed. An appeal stays all proceedings in furtherance of the action appealed from, unless the Airport Zoning Director certifies to the Airport Board of Adjustment after the notice of appeal has been filed that, by reason of facts stated in the certificate, a stay would result in imminent peril to life and property. In such case, proceedings will not be stayed other than by order by the Airport Board of Adjustment or by a court of competent jurisdiction, or notice to the Airport Zoning Director, and on due cause shown.

6.5 Abandoned or Deteriorated Uses

Upon petition by the Airport Zoning Director, or upon its own motion, the Airport Board of Adjustment may review any existing nonconforming use to determine if it is abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated or decayed. Upon declaring an existing nonconforming use abandoned or more than eighty percent (80%) torn down, destroyed, deteriorated, or decayed, the Airport Board of Adjustment will proceed in accordance with the provisions set forth in section 4.4 of these regulations.

6.6 Forms

Appeals and petitions will be made on forms provided by the City of Belle Isle therefor, and all information required on said forms must be provided by the appellant or petitioner. Forms will be filed with the Airport Zoning Director, and the appellant or petitioner must pay for expenses incidental to the appeal or petition. No form will be accepted unless it contains all pertinent information and is accompanied by any required fee.

6.7 Calendar of Appeals

Appeals and petitions filed in proper form will be numbered serially, docketed and placed upon the calendar of the Airport Board of Adjustment. The calendar of appeals or petitions to be heard will be

posted conspicuously on the City of Belle Isle’s notice board at 1600 Nela Avenue, Belle Isle, Florida, 32809, fifteen (15) calendar days before such hearing date.

6.8 Judicial Review

Judicial review of any decision of the Airport Board of Adjustment will be in the manner provided by Section 333.11, Florida Statutes.

**SECTION 7
AMENDMENT**

These regulations, including the Airport Height Zoning Map, may be amended by the City of Belle Isle on its own motion, so long as said amendment is in conformance with the Interlocal Agreement and Chapter 333, Florida Statutes. Before adopting an amendment to these regulations, the City of Belle Isle will give public notice and hold a public hearing as provided by Section 333.05, Florida Statutes.

**SECTION 8
CONFLICT WITH OTHER LAWS OR REGULATIONS**

In the event of conflict between these regulations and any other laws and regulations applicable to the same area, whether the conflict be with respect to the height of the structures or objects of natural growth, the use of land or any other matter, and whether such laws or regulations were adopted by the City of Belle Isle or by some other political subdivision, the more stringent limitation or requirement will govern and prevail.

SECTION 9

SEVERABILITY

If any section, clause, provision or portion of these regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding will not affect any other section, clause or portion of these regulations which is not itself declared by a court of competent jurisdiction to be invalid or unconstitutional.

SECTION 10

REPEAL OF CONFLICTING PROVISIONS

All previous ordinances, resolutions or motions of the City of Belle Isle which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except as provided herein.

SECTION 11

AMENDMENT OF LAWS

All laws, ordinances, rules, regulations, advisory circulars or orders referenced in these regulations will include any applicable amendments thereto.

SECTION 12

EFFECTIVE DATE

These Airport Zoning Regulations will take effect and be enforced from and after this **19th** day of **September, 2017**.

First Reading held this 5th day of September, 2017

Second Reading held this 19th day of September, 2017

Advertised for Second Reading on the 9th day of September, 2017.

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Jeremy Weinsier	_____	_____	_____
Bobby Lance	_____	_____	_____
Harvey Readey	_____	_____	_____
Lenny Mosse	_____	_____	_____
Sue Nielsen	_____	_____	_____

ATTEST: _____

Yolanda Quiceno, CMC-City Clerk

LYDIA PISANO, MAYOR

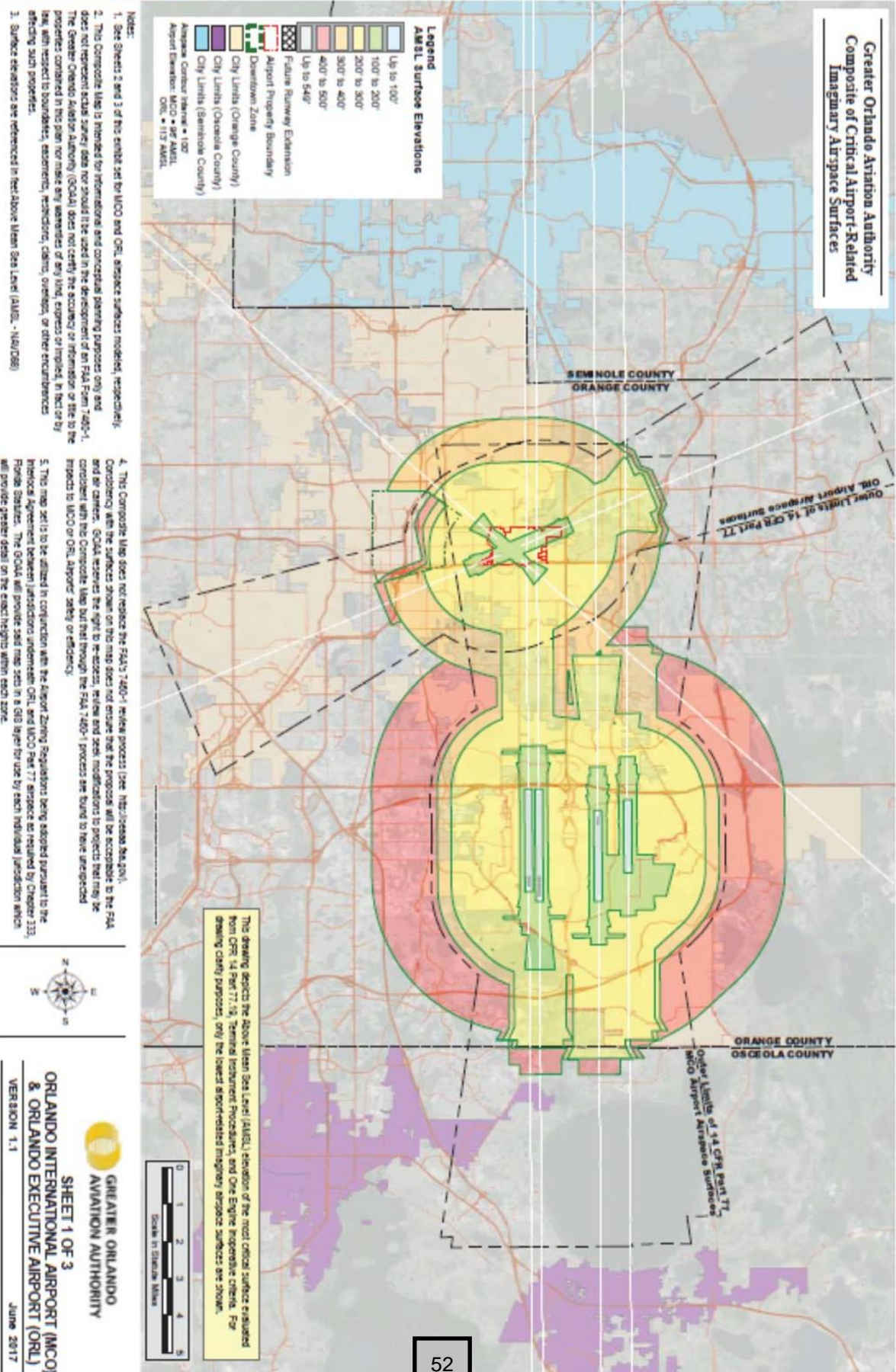
Approved as to form and legality City Attorney

STATE OF FLORIDA
COUNTY OF ORANGE

I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document ORDINANCE 17-10 was duly and legally passed by the Belle Isle City Council, in session assembled on the _____ day of _____, 2017, at which session a quorum of its members were present.

Yolanda Quiceno, CMC-City Clerk

EXHIBIT "A" - The "Airports"

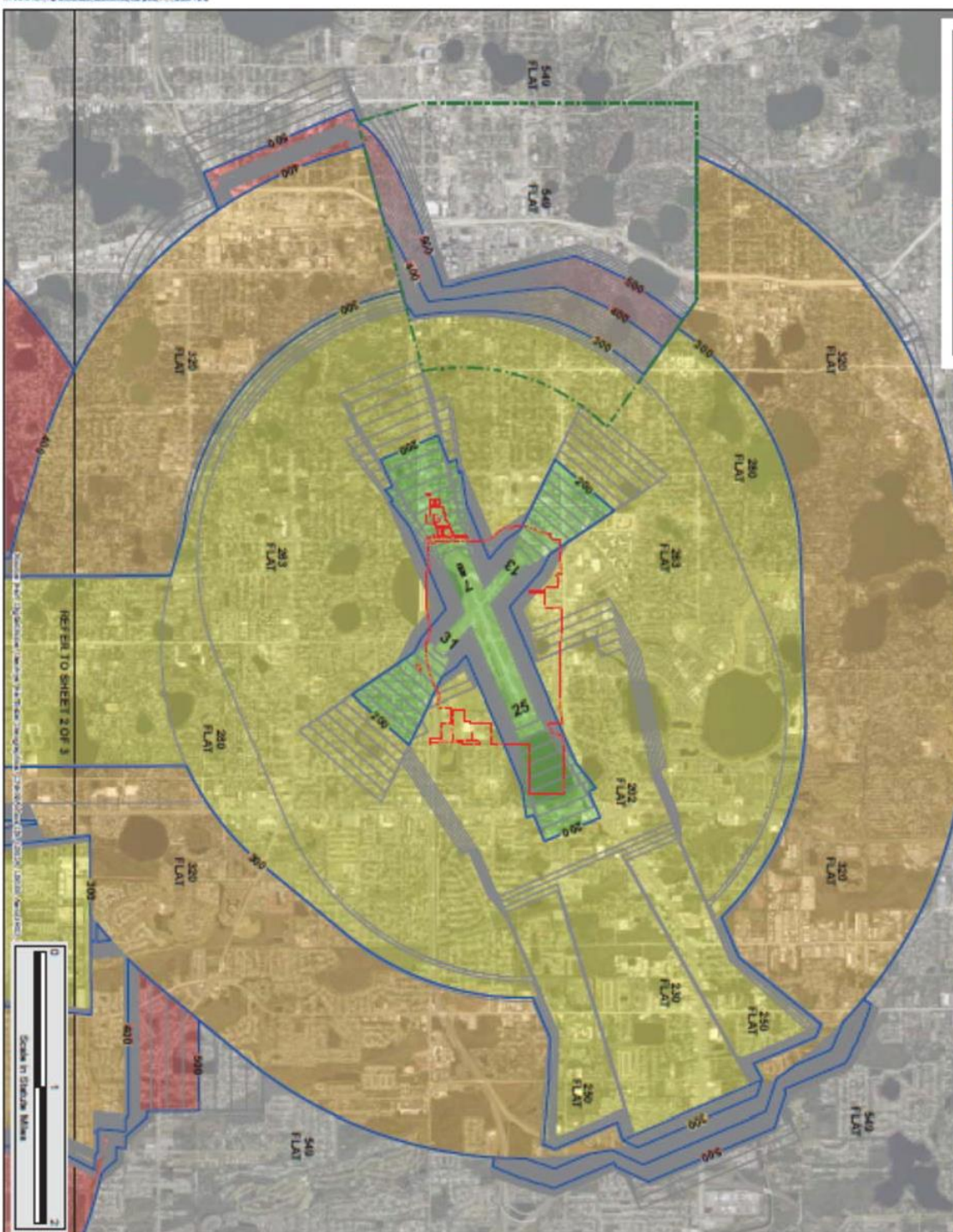


- Notes:
1. See Sheets 2 and 3 of this exhibit set for MCO and ORL airspace surfaces models, respectively.
 2. This Composite Map is intended for informational and conceptual planning purposes only and does not represent actual survey data nor should it be used in the development of an FAA Form 7460-1. The Greater Orlando Aviation Authority (GOAA) does not certify the accuracy or information on the map or the data contained in this plan nor make any warranties of any kind, express or implied, in fact or by law, with respect to boundaries, easements, restrictions, claims, overlaps, or other encumbrances affecting such properties.
 3. Surface elevations are referenced in feet above Mean Sea Level (AMSL). (NAD83)

4. This Composite Map does not replace the FAA's 7460-1 review process (see <http://www.faa.gov>). Consistent with the surfaces shown on this map does not ensure that the proposed will be acceptable to the FAA and air carriers. GOAA reserves the right to re-evaluate, review and seek modifications to projects that may be inconsistent with this Composite Map but that through the FAA 7460-1 process are found to have unanticipated impacts to MCO or ORL Airport safety or efficiency.
5. This map set is to be utilized in conjunction with the Airport Zoning Regulations being adopted pursuant to the Technical Agreement between jurisdictions underwritten ORL and MCO Part 77 airspace as required by Chapter 233, Florida Statutes. The GOAA will provide said map sets in a 508 layer for use by each individual jurisdiction which will provide greater detail on the exact heights within each zone.

Greater Orlando Aviation Authority
Composite of Critical Airport-Related
Imaginary Airspace Surfaces

This drawing depicts the Above Mean Sea Level (AMSL) elevation of the most critical surface evaluated from CFR Part 77.9, Terminal Instrument Procedures, and One Engine Inoperative Criteria. For drawing clarity purposes, only the lowest assessed imaginary airspace surfaces are shown.



Legend

AMSL Surface Elevations

- Up to 100'
- 100' to 200'
- 200' to 300'
- 300' to 400'
- 400' to 500'
- Up to 540'

Future Runway Extension

ORL Property Boundary

Downtown Zone

Airport Extension • 113 AMSL • 107 & 100'

Note:
1. This Composite Map is intended for informational and conceptual planning purposes only and does not represent actual survey data nor should it be used in the development of a FAA Form 7460-1. The Greater Orlando Aviation Authority (GOAAA) does not certify the accuracy or information of this to the projects contained in this plan nor make any warranties of any kind, express or implied, in fact or by law, with respect to boundaries, encroachments, restrictions, claims, interests, or other encumbrances affecting such projects.

2. This Composite Map does not replace the FAA's 7460-1 review process (see <http://www.faa.gov>). Consistency with the surfaces shown on this map does not ensure that the proposal will be acceptable to the FAA and all agencies. GOAAA reserves the right to re-assess, review and seek modifications to projects that may be consistent with the Composite Map but that through the FAA 7460-1 process are found to have unexpected impacts to MOOD or ORL Airport safety or efficiency.

3. Surface elevations are referenced in feet Above Mean Sea Level (AMSL - NAVD83).

4. This map set to be utilized in conjunction with the Airport Zoning Regulations being adopted pursuant to the Interlocal Agreement between jurisdictions underlying ORL and MOO Part 17, appears as required by Chapter 303, Florida Statutes. The GOAAA will provide said map sets in a GIS layer for use by each individual jurisdiction which will provide greater detail on the exact heights within each zone.

COMPOSITE MAP PARAMETERS

SURFACE TYPES	RUNWAYS
CIRCLE-TOLAND	ALL RUNWAYS
8" RUND DIMENSIONS	ALL RUNWAYS
LOCALIZER APPROACH**	7, 26
LNAV APPROACH**	7, 26
LTV APPROACH**	7, 26
MVA (1500')	ALL RUNWAYS
PART 77*	ALL RUNWAYS
VELOCITY (STANDARD-PLAN) WIND APPROACH**	ALL RUNWAYS
7, 26	7, 26

* FINAL, WINDS AND 71' DOWNTOWN.
** FUTURE SURFACES BASED ON 800' EXTENSION TO RUNWAY 7 END WITH 800' DISCRETE THRESHOLD.

GREATER ORLANDO AVIATION AUTHORITY

ORLANDO EXECUTIVE AIRPORT (ORL)

SHEET 3 OF 3

VERSION 1.1

June 2017

1 SECTION 2: This Resolution shall become effective immediately upon passage.

2 ADOPTED the 19th day of September, 2017.

3

4

5

LYDIA PISANO, MAYOR

6

7 Attest:

8

Yolanda Quiceno, City Clerk

9

Approved

10

as to legality:

11

Frank Kruppenbacher, City Attorney

12

13 STATE OF FLORIDA

14 COUNTY OF ORANGE

15

16 I, YOLANDA QUICENO, CITY CLERK OF THE CITY OF BELLE ISLE, FLORIDA, do

17 hereby certify that the above and foregoing Resolution No. 17-20 was duly and

18 legally passed and adopted by the Belle Isle City Council in session

19 assembled, at which session a quorum of its members were present on the

20 _____ day of _____, 2017.

21

22 _____

23 Yolanda Quiceno, City Clerk

24

25

1 beginning October 1, 2017 and ending September 30, 2018, said final budget
2 being hereby confirmed, adopted and approved in all respects by the City
3 Council of the City of Belle Isle.

4 SECTION 3. There are hereby expressly appropriated out of anticipated
5 revenues all funds and monies necessary to meet the appropriations stipulated
6 by and in said final budget.

7 SECTION 4. If any section, subsection, sentence, clause, phrase or
8 portion of this Resolution is for any reason held invalid or unconstitutional
9 by any court of competent jurisdiction, such portion shall be deemed a
10 separate, distinct and independent provision and such holding shall not
11 affect the validity of the remaining portion hereto.

12 SECTION 5. This Resolution shall become effective immediately upon
13 passage.

14 ADOPTED this 19th day of September, 2017.

15 _____

16 LYDIA PISANO, MAYOR

17
18 Attest: _____

19 Yolanda Quiceno, City Clerk

20 Approved
21 as to legality: _____

22 Frank Kruppenbacher, City Attorney

1 STATE OF FLORIDA

2 COUNTY OF ORANGE

3

4 I, YOLANDA QUICENO, CITY CLERK OF THE CITY OF BELLE ISLE, FLORIDA, do
5 hereby certify that the above and foregoing Resolution No. 17-21 was duly and
6 legally passed and adopted by the Belle Isle City Council in session
7 assembled, at which session a quorum of its members were present on the
8 _____ day of _____, 2017.

9

10

11

12 _____
Yolanda Quiceno, City Clerk

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Approved

2 as to legality: _____

3 Frank Kruppenbacher, City Attorney

4

5 STATE OF FLORIDA

6 COUNTY OF ORANGE

7

8 I, YOLANDA QUICENO, CITY CLERK OF THE CITY OF BELLE ISLE, FLORIDA, do
9 hereby certify that the above and foregoing Resolution No. 17-22 was passed
10 and adopted by the City Council of Belle Isle, Florida, in session assembled,
11 at which session a quorum of the City Council was present on the 19th day of
12 September, 2017.

13

14 _____

15 Yolanda Quiceno, City Clerk

16

17

18

19

20

21

22

23

24

25

ORDINANCE 17-11

AN ORDINANCE OF THE CITY OF BELLE ISLE, FLORIDA, AMENDING SECTION CHAPTER 30, ARTICLE III, SECITON 30-74 (b) RELATING TO FINES BY INCREASING THE FINE FOR PARKING VIOLATIONS; SECTION 30-76 (b) AND SECTION 30-76 (c) RELATING TO FINES AND HEARINGS INCREASING THE HEARING AND DELINQUENT FEE; SECTION 30-77 (b) RELATING TO IMPOUNDMENT ORDER TO PAY CITATIONS; SECTION 30-105 PENALTIES INCREASING THE FINE FOR COMMERCIAL VEHICLES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council recognizes that there has been an increasing number of parking violations at certain locations with in the city occurring on a frequent basis; and

WHEREAS, the City Council recognizes that such violators pose a risk to public safety and the citizens of Belle Isle, and

WHEREAS, the City Council recognizes that the current schedule of fines no longer serves as a deterrent for such violators; and

WHEREAS, the City Council finds it necessary to amend the City of Belle Isle Code of Ordinances in order to better prevent further parking violations and provide for the safety of its citizens; and

WHEREAS, for purposes of this Ordinance, text with underlined (underlined) type shall constitute additions to the original text and text with strikethrough (~~strikethrough~~) type shall constitute deletions to the original text;

NOW, THERFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BELLE ISLE, ORANGE COUNTY, FLORIDA:

SECTION 1. The City Council of the City of Belle Isle, Florida hereby amends Sections 30-74, 30-76, 30-77, and 30-105 of the City of Belle Isle Code of Ordinances to read:

A. Sec. 30-74. - Issuance of citation; schedule of fines. (b) The amount of such civil penalty shall be as follows: (1) One Hundred fifty Dollars (\$150) ~~Thirty-five dollars~~ for each violation of any offense, except for the offense listed in subsection (b)(2) of this section;

B. Sec. 30-76. - Fines and hearings. (b) *Hearing request by person cited.* Any person summoned by a parking violation citation, upon the payment of a fee of \$150.00 ~~\$35.00~~ in cash, money order or cashier's check, may within five working days after issuance of the citation file with the city manager a written request for a hearing before the city council. Such hearing shall be set at a regular or special meeting to be held not later than 60 days after the filing of such request. The person summoned by the parking violation citation shall be given at least five working days' written notice of the time and place of such hearing. At the completion of the hearing, the city council shall decide whether or not the citation was justified and whether or not the fine should be imposed/upheld. In the event the city council overturns the parking violation, the fee of \$150.00 ~~\$35.00~~ shall be refunded to the person that paid such fee within five working days of the city council's decision.

(c) Delinquent fee; notice of summons for failure to respond. If any person summoned by a parking violation citation on a motor vehicle does not respond to such citation within five business days, by either paying the fine or requesting a hearing under subsection (b) of this section, the city manager shall assess a \$25.00 ~~\$40.00~~ penalty against the registered owner of the vehicle. In addition, a notice of summons shall be sent, by certified mail, to the registered owner of the motor vehicle which was cited, informing such owner of the parking violation citation and the failure to comply therewith. Such notice shall direct the recipient to respond within ten calendar days; otherwise, a summons will be issued for failure to comply. Costs in the amount of \$10.00 ~~\$5.00~~ shall be assessed incident to this notification process.

C. **Sec. 30-77. - Impoundment.** (b) *Impounding and storage charges.* The cost of finer, towing or removing a vehicle impounded under this article and the cost of storing same shall be chargeable against the owner and shall be a lien upon the vehicle. The owner of the vehicle shall pay these charges before the vehicle will be released. Payment for parking fines to the City will be paid first before the cost of impounding and storing. The owner will present a City receipt to the towing/storage company as proof that the vehicle can be released. The vehicle may be stored in a public or private place. If the vehicle is stored in a private place, the amount charged for storage shall be the amount provided for by contract between the private storage facility and the enforcement officer. The charges to the owner for towing shall be the amount provided for in any wrecker contract between the towing company and the city. If the owner of a vehicle impounded under this article does not claim such vehicle within 60 days, the enforcement officer is hereby authorized to declare such vehicle an abandoned vehicle and to dispose of such vehicle in accordance with article II of this chapter.

D. **Sec. 30-105. - Penalties.** (a)

Any person cited under this division shall pay the city a fine of \$100.00 ~~\$75.00~~ for the first violation and a fine of ~~\$250~~\$150.00 for each subsequent violation. Each day that a violation of this division continues or is permitted to exist after the issuance of a civil citation shall constitute a separate offense under this division.

SECTION 2. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. This ordinance shall become effective immediately upon final passage by the City Council.

First Reading held this 19th day of September, 2017

Second Reading held this 3rd day of October, 2017

Advertised for Second Reading on the 23rd day of September, 2017.

	YES	NO	ABSENT
Ed Gold	_____	_____	_____
Anthony Carugno	_____	_____	_____
Jeremy Weinsier	_____	_____	_____
Bobby Lance	_____	_____	_____
Harvey Readey	_____	_____	_____
Lenny Mosse	_____	_____	_____
Sue Nielsen	_____	_____	_____

LYDIA PISANO, MAYOR

ATTEST: _____

Yolanda Quiceno, CMC-City Clerk

Approved as to form and legality City Attorney

STATE OF FLORIDA

COUNTY OF ORANGE

I, Yolanda Quiceno, City Clerk of the City of Belle Isle do hereby certify that the above and foregoing document ORDINANCE 17-11 was duly and legally passed by the Belle Isle City Council, in session assembled on the _____ day of _____, 2017, at which session a quorum of its members were present.

Yolanda Quiceno, CMC-City Clerk



**CITY OF BELLE ISLE, FLORIDA
CITY COUNCIL AGENDA ITEM COVER SHEET**

Meeting Date: September 19, 2017

To: Honorable Mayor and City Council Members

From: B. Francis, City Manager

Subject: Settlement Agreement for Comins Development

Background: In Accordance With F.S. 70.51, a Settlement Agreement between the City and Comins Development has been reached. A draft was presented to the Council by the City Attorney at the September 5 Council Meeting for review. The City Attorney suggested changes to the document and those changes were made. Modifications made to the plan are outlined starting on Page 2, Section 8 of the attached document.

Staff Recommendation: Approve the settlement Agreement. Advertise for a public hearing on October 3, 2017 to approve the PD.

Suggested Motion: I move to approve the Settlement Agreement between the City and Comins Development and direct the City Clerk to advertise for a public hearing to be held on October 3, 2017.

Alternatives: Do not approve the Settlement Agreement

Fiscal Impact: Undetermined at this time.

Attachments: Settlement Agreement

PROCEEDING PURSUANT TO SECTION 70.51, FLORIDA STATUTES,
IN AND FOR BELLE ISLE, FLORIDA

COMINS DEVELOPMENT I, LLC, a Florida
limited liability company,

Petitioner,

vs.

BELLE ISLE, FLORIDA,

File No. _____

Respondent.

_____ /

SETTLEMENT AGREEMENT

COMINS DEVELOPMENT I, LLC, a Florida limited liability company, (hereinafter called "Petitioner"), and BELLE ISLE, FLORIDA, a municipal corporation formed and existing under the laws of the State of Florida (hereinafter called the "City"), hereby enter into this Settlement Agreement and agree to the following facts, terms and conditions:

1. The City Manager shall present this Settlement Agreement to the Belle Isle City Council (the "City Council") for approval on September 19, 2017, or as soon thereafter as can be reasonably accomplished. If the City Council approves this Settlement Agreement, it will proceed to public hearing to approve the PD which will be a final resolution of the proceeding filed by Petitioner pursuant to Section 70.51, Florida Statutes. If the City Council fails to approve the Settlement Agreement, this proceeding shall continue pursuant to Section 70.51, Florida Statutes, and a hearing will be scheduled before Lewis W. Stone, Esq., the Special Magistrate appointed in this matter.

2. On June 1, 2017, Petitioner filed a Request for Relief under Section 70.51, Florida Statutes, regarding the City's denial of a Planned Development ("PD") / Preliminary Subdivision

Plan (“PSP”) (collectively, the “PD/PSP”) for the proposed Silver Isles Townhome Project that is comprised of three contiguous parcels of property (the “Properties”).

3. The Properties are located on Daetwyler Drive in the City and have approximately 350 feet of frontage on Lake Conway.

4. Portions of the Properties were formerly used as a mobile home park, a restaurant and a single family home. Three docks and one boat ramp exist on the Properties.

5. The Properties have a Medium Density Future Land Use Map designation that requires a development density of between 5.6 and 10 dwelling units per acre. The Properties are currently zoned R-2, which allows multiple-family dwelling units. The City’s PD District also allows multiple-family dwelling units.

6. On April 25, 2017, the City’s Planning and Zoning Board recommended approval of the PD/PSP with specific conditions.

7. On May 2, 2017, the City Council denied the proposed preliminary concept plan and thereby denied the PD/PSP, and this proceeding was timely filed within thirty (30) days following the denial.

8. On August 29, 2017, a mediation between the Petitioner and the City was conducted by the Special Magistrate. At the mediation, the Petitioner presented for consideration by the City’s representatives a revised preliminary concept plan for the PD/PSP (the “Concept Plan”) which is attached hereto as Exhibit “A” and conceptual architectural renderings (the “Architectural Concepts”) which are attached hereto as Exhibit “B.” The following terms of this Settlement Agreement were negotiated at the mediation and will be confirmed by the City Council’s approval of this Settlement Agreement:

A. The Concept Plan is acceptable with the following modifications:

(i) Add a note to the Concept Plan establishing the minimum size of the townhome units at 2,000 s.f. and requiring that each unit have a double car garage.

(ii) Remove the twelve (12) parallel parking spaces north and south of the pool area and replace them with the maximum number of angled parking spaces (potentially 18-20) that can be provided using accepted engineering practices without decreasing the minimum square footage of any townhome unit or the total number of townhome units.

(iii) The location of buildings shown on the Concept Plan are approved unless they need to be shifted to accommodate the angled parking.

(iv) The City shall coordinate the Orange County Fire Department's review and approval of the street layout in the Concept Plan.

(v) Depict the location of any dumpsters / recyclers on the Concept Plan and include a note stating they will be screened by a wall and gate.

(vi) The two Architectural Concepts attached to this Settlement Agreement as Exhibit "B" shall be part of the PSP approval and the Development Plan. The Petitioner shall select elements from the Architectural Concepts for the design of the townhome units.

(vii) The nine (9) townhome units facing the lake shall not exceed a thirty foot (30') height limit; the twenty-one (21) non-lakefront townhome units shall not exceed a thirty-five foot (35') height limit.

(viii) The recreational open space areas located on either side of the center lakefront building shown on the Concept Plan shall include hardscape elements and a landscape planting plan substantially similar to the depiction on Exhibit "C" attached hereto, which shall be used to soften the view from the lake of the townhome units located behind the lakefront units but

not significantly restrict views of the lake from those townhome units. The ultimate type and description of landscaping shall be included in the Development Plan.

(ix) Add a note on the Concept Plan requiring the Properties to be platted at one time in a single plat.

(x) Add a note on the Concept Plan stating that copies of the State Department of Environmental Protection (“DEP”) and Orange County permits issued for lakefront clearing shall be provided with the Development Plan submittal.

B. The following conditions shall apply to the dock and fishing/observation piers:

(i) Dock permitting shall occur only after platting and creation of the homeowners’ association (the “HOA”) for the PD/PSP.

(ii) The applicant for any dock or fishing/observation piers shall be the HOA.

(iii) The dock and fishing/observation piers shall be owned by the HOA. The HOA may lease boat slips to individual owners of the townhome units in the PSP/PD.

(iv) No boathouses shall be allowed on the dock or on the fishing/observation piers.

(v) No storage lockers shall be located on the dock or the fishing/observation piers.

(vi) No dock or fishing/observation pier shall be located within thirty feet (30’) from the residential property to the north or twenty feet (20’) from the property to the south.

(vii) No overnight mooring or other mooring by any individual watercraft for more than one hour during a 24-hour period shall be allowed on a fishing/observation pier. Drop-off and pick-up of boat passengers from the southern fishing/observation pier is allowed.

(viii) The length and location of the dock and the fishing/observation piers shall be governed by the City Code; provided, however, that the size of the dock and of the fishing/observation piers shall comply with the following conditions set forth below that were recommended by the Planning and Zoning Board on April 25, 2017. In the event of a conflict between the City Code and the conditions set forth in this Settlement Agreement, the conditions set forth in the Settlement Agreement shall control.

(ix) The existing boat docks and boat ramp on the Properties shall be removed prior to installation of the proposed 10-slip boat dock and the fishing/observation piers;

(x) The proposed 10-slip boat dock shall not be permitted by the City nor constructed before 25% of the total number of units approved within this PD/PSP have been permitted, constructed, and issued a certificate of occupancy;

(xi) The 10-slip boat dock shall be deed restricted to use only by residents/property owners within the development and shall not be utilized for commercial lease or profit

(a) The layout and design of the boat dock and fishing/observation piers shall be determined through a separate Belle Isle permitting process in accordance with the Belle Isle boat dock regulations, except that the terminal platform of the fishing/observation piers shall be no larger than ten feet by twenty feet (10' X 20'), the height of the dock and the fishing/observation piers shall be no greater than five feet (5') above the Normal

High Water Line (“NHWL”), and the maximum size of the 10-slip boat dock terminal platform shall be 3,600 square feet.

9. The first reading of the PD with these conditions and the revised Concept Plan shall be scheduled for hearing before the City Council as soon as reasonably possible following the City Council’s approval of this Settlement Agreement.

10. The Petitioner shall reimburse the City for legal review of all agreements related to this proceeding or the Revised PD/PSP, not to exceed \$2,000.00. The City shall send an invoice to the Petitioner for the amount owed and include reasonable detail of the legal work performed for which reimbursement is requested.

11. The Petitioner and the City shall each pay one-half (1/2) of an invoice to be sent by the Special Magistrate for his services within twenty (20) days following receipt of the invoice.

12. The Petitioner acknowledges and agrees that the City, through the Police Department or the Code Enforcement Officer shall have authority to enter the properties at any time, present or in the future, to enforce the terms and conditions set forth in this Settlement Agreement and PD/PSP once approved by the City Council.

AGREED TO AS OF THE LATEST DATE INDICTED BELOW.

PETITIONER

Comins Development I, LLC, a Florida limited liability company

By: _____

Its: _____

Dated: _____

[Signatures Continue on Following Page]

CITY OF BELLE ISLE, FLORIDA

Lydia Pisano, Mayor

This _____ day of _____, 2017.

ATTEST:

Clerk

Approved as to form and legality:

Thomas P. Callan, Assistant City Attorney

Exhibit "A"

(Preliminary Concept Plan for PD/PSP)

FUTURE LAND USE LOW DENSITY RESIDENTIAL

ZONING R-1-AA

FUTURE LAND USE LOW-MEDIUM DENSITY RESIDENTIAL

ZONING R-1

NET DEVELOPABLE LAND:
 LAKE CONWAY JURISDICTIONAL AREA
 3.791 ACRES
 0.00 ACRES
 0.08 ACRES
 3.711 ACRES

NET DEVELOPABLE LAND:
 LAKE CONWAY JURISDICTIONAL AREA
 3.791 ACRES
 0.00 ACRES
 0.08 ACRES
 3.711 ACRES



TOTAL PROJECT AREA CALCULATIONS

TRACT #	ADDRESS	SHANNICE & LILLIOTS	0.847 ACRES	23.420 ACRES	ENCLAVE
TRACT 1	0.215 ACRES				
TRACT 2	0.459 ACRES				
TRACT 3	0.459 ACRES				
TRACT 4	0.167 ACRES				
TRACT 5	0.167 ACRES				
TRACT 6	0.167 ACRES				
TRACT 7	0.167 ACRES				
TRACT 8	0.167 ACRES				
TRACT 9	0.167 ACRES				
TRACT 10	0.167 ACRES				
TRACT 11	0.167 ACRES				
TRACT 12	0.167 ACRES				
TRACT 13	0.167 ACRES				
TRACT 14	0.167 ACRES				
TRACT 15	0.167 ACRES				
TRACT 16	0.167 ACRES				
TRACT 17	0.167 ACRES				
TRACT 18	0.167 ACRES				
TRACT 19	0.167 ACRES				
TRACT 20	0.167 ACRES				
TRACT 21	0.167 ACRES				
TRACT 22	0.167 ACRES				
TRACT 23	0.167 ACRES				
TRACT 24	0.167 ACRES				
TRACT 25	0.167 ACRES				
TRACT 26	0.167 ACRES				
TRACT 27	0.167 ACRES				
TRACT 28	0.167 ACRES				
TRACT 29	0.167 ACRES				
TRACT 30	0.167 ACRES				
TOTAL AREA	3.791 ACRES				

DEVELOPABLE AND RECREATIONAL AREA CALCULATIONS:
 OPEN SPACE PROVIDED: 0.923 ACRES
 COMMON AREAS: 0.215 ACRES
 LAKE CONWAY: 0.459 ACRES
 TOTAL: 1.607 ACRES

OPEN SPACE AND RECREATIONAL AREA CALCULATIONS:
 OPEN SPACE PROVIDED: 0.923 ACRES
 COMMON AREAS: 0.215 ACRES
 LAKE CONWAY: 0.459 ACRES
 TOTAL: 1.607 ACRES

WAIVER REQUESTS

ITEM	REQUIRED	PROVIDED	JUSTIFICATION
DOCK LENGTH <td>48'-30(2)</td> <td>ADJUSTED 130'</td> <td>THE PROPOSED DOCK LENGTH IS SMALLER THAN THE EXISTING DOCK ON THE SUBJECT PROPERTY.</td>	48'-30(2)	ADJUSTED 130'	THE PROPOSED DOCK LENGTH IS SMALLER THAN THE EXISTING DOCK ON THE SUBJECT PROPERTY.
TOTAL DOCK & SLIP AREA <td>48'-30(2)</td> <td>1,000 SF</td> <td>3,540 SF</td>	48'-30(2)	1,000 SF	3,540 SF

LOT AREA TABLE

LOT #	AREA, SF	AREA, AC.
1	17723.16	0.41
2	17500.00	0.40
3	17500.00	0.40
4	17500.00	0.40
5	17500.00	0.40
6	17500.00	0.40
7	17500.00	0.40
8	17733.33	0.41
9	17733.33	0.41
10	17500.00	0.40
11	17500.00	0.40
12	17500.00	0.40
13	17500.00	0.40
14	17500.00	0.40
15	17500.00	0.40
16	17723.16	0.41



GENERAL NOTES

- NO CONSTRUCTION SHALL BE PERMITTED WITHIN THE PLANNED...
- ALL EXISTING STRUCTURES SHALL BE DEMOLISHED PRIOR TO NEW CONSTRUCTION...
- EXISTING ROAD MARKS AND DOCK SHALL BE DEMOLISHED PRIOR TO NEW CONSTRUCTION...
- APPROVAL OF THIS PLAN DOES NOT CONSTITUTE ASSURANCE OF A PERMIT FOR THE...
- RELIANCE ON WETLAND BUFFER AREAS: ANY PERSON DESIRING TO CONSTRUCT A BOAT DOCK...
- THIS COUNTY SHALL APPLY FOR A PERMIT PRIOR TO THE INSTALLATION OF THE...
- NO CONSTRUCTION SHALL BE PERMITTED...
- NO CONSTRUCTION OF PROFESSIONAL OFFICE USES WILL BE LOCATED WITHIN THE PLANNED...
- ALL EXISTING STRUCTURES SHALL BE DEMOLISHED PRIOR TO NEW CONSTRUCTION...
- EXISTING ROAD MARKS AND DOCK SHALL BE DEMOLISHED PRIOR TO NEW CONSTRUCTION...
- APPROVAL OF THIS PLAN DOES NOT CONSTITUTE ASSURANCE OF A PERMIT FOR THE...
- RELIANCE ON WETLAND BUFFER AREAS: ANY PERSON DESIRING TO CONSTRUCT A BOAT DOCK...
- THIS COUNTY SHALL APPLY FOR A PERMIT PRIOR TO THE INSTALLATION OF THE...

PLANNED SUBDIVISION/ PRELIMINARY SUBDIVISION PLAN FOR SILVER ISLES

7740, 7728, AND 7740 DAETWYLER DRIVE
 BELLE ISLE, ORANGE COUNTY, FLORIDA

FEG ENGINEERING GROUP
 Engineering the Future

5121 S. Orange Avenue, Suite 200
 Orlando, FL 32809
 Phone: 407-885-0324
 Fax: 407-895-0325
 www.feg-inc.us

REVISIONS

DATE	BY	REVISIONS

NOT VALID FOR CONSTRUCTION UNLESS SIGNED BY THIS SEAL

PRELIMINARY CONCEPT PLAN FOR PD/PSD

SCALE: 1" = 100'

DATE: MAY 11, 2017

APPROVED BY: [Signature]

SCALE: 1" = 100'

DATE: MAY 11, 2017

APPROVED BY: [Signature]

Exhibit "B"

(Architectural Concepts)



Lake View Elevation

Building 1

Building 2

Building 3



Lake View Elevation Building 3



Lake View Elevation Building 2



Lake View Elevation Building 1

Silver Isles Townhomes
 Belle Isle, Orange County, Florida

Elevation - West Side
 3-3-3 Units Buildings - Lake View - Elevation A

CCM Associates
 500 Alhambra Avenue, Suite 200, Orlando, FL 32809
 407.850.1100
 CA Reg No. E17024110



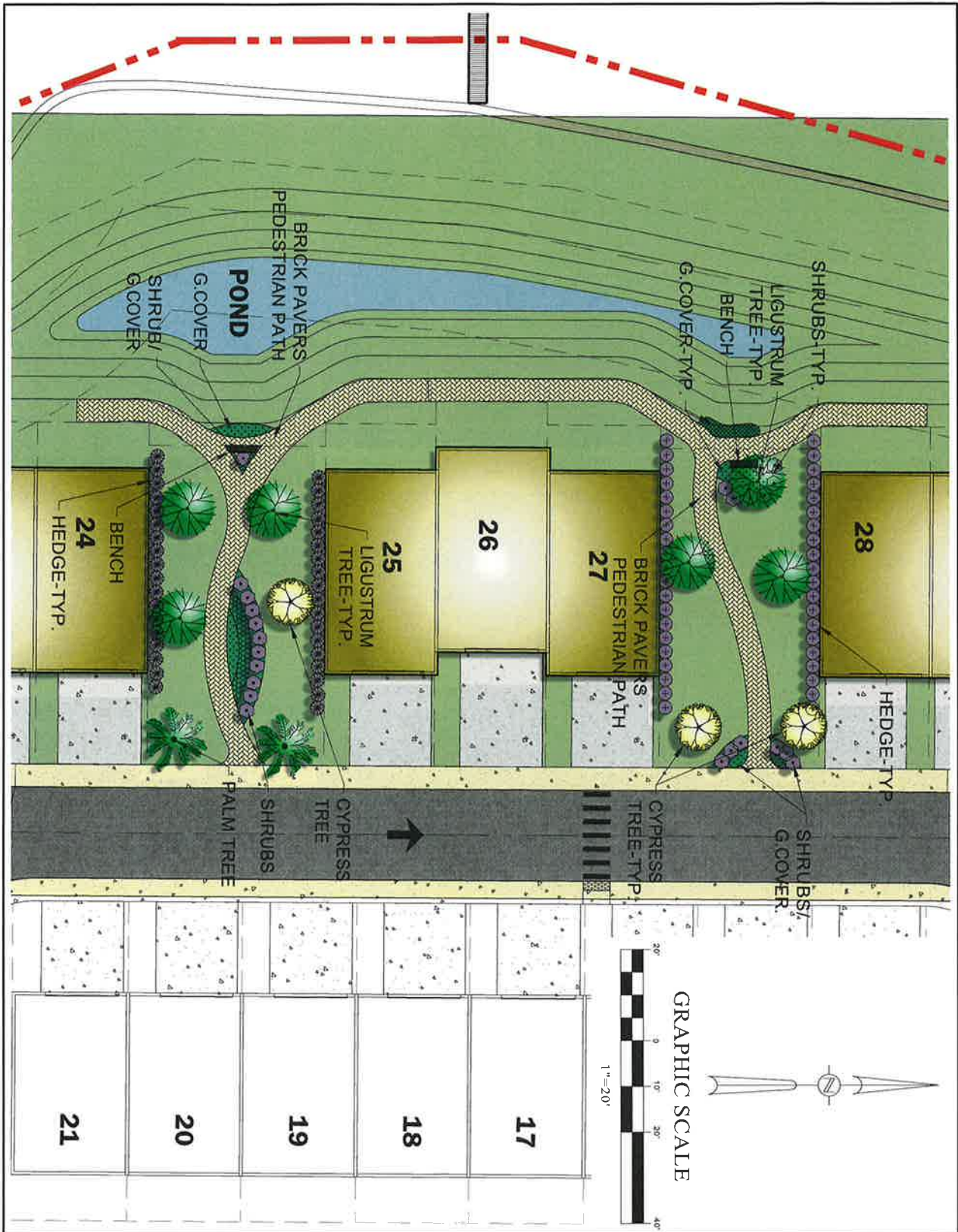
Silver Isles Townhomes
 Belle Isle, Orange County, Florida

Elevation - West Side
 3-3-3 Units Buildings - Lake View - Elevation B


CMJN ASSOCIATES
 300 Corporate Center - Orlando, Florida 32810-3872
 407.251.1111
 CA, JN No. 217024-10
 08.23.2017

Exhibit "C"

(Hardscape and Landscape Concepts for Lakefront Open Spaces Between Buildings)



14

PROJECT NAME: LANDSCAPE CONCEPT PLAN SILVER ISLES TOWNHOME PROJECT 7710, 7728, AND 7740 DAETWYLER DRIVE BELLE ISLE, ORANGE COUNTY, FLORIDA		 <p>FLORIDA ENGINEERING GROUP</p> <p>Engineering the Future</p>	5127 S. Orange Avenue, Suite 200 Orlando, FL 32809 Phone: 407-895-0324 Fax: 407-895-0325 www.feg-inc.us
CLIENT: COMINS DEVELOPMENT 9145 NARCOOSSEE RD. #102	F.E.G. PROJECT NO.: 15-084		
DATE: 08/31/2017	SCALE: 1" = 20'		