



## AGENDA ITEM COVER SHEET

Meeting Date: October 18, 2016

Item # 9

Contact Name: Scott Cookson, City Attorney  
Contact Number: (407) 581-9800

Reviewed By:

Department Director:

City Manager:

MM  
[Signature]

**Subject: Temporary Moratorium on Development Orders, Development Permits, and Building Permits in the City's Special Overlay Areas**

### Background Summary:

The City has established Special Overlay Areas in its Land Development Code for the purpose of facilitating unique development activities in areas where there is a need for coordination among landowners in the development of the area. The four types of Special Overlay Areas identified in the Land Development Code are Interchange Impact Areas, the Downtown Redevelopment Area, Activity Centers and CRA Target Areas.

On September 6, 2015, City staff made a presentation to the City Commission relating to the development and redevelopment of parcels within the Special Overlay Areas. Topics of specific concern to staff and the City Commission is the redevelopment of parcels within the Overlay Areas, density and compatibility concerns with development and redevelopment, allowable uses in the overlay, and the development of zoning standards that will enhance economic development and redevelopment in the Overlay Areas with the following uses or intended uses: pharmaceutical dispensaries, fast food and other drive through restaurant establishments, check cashing stores, self-storage facilities, vehicle and tire service, sales, and repair facilities, and discount retail stores.

City Staff recommended the City Commission adopt a moratorium in order to allow staff the time to evaluate the current Special Overlay Area standards and update the standards as necessary.

### Issue:

Should the Honorable Mayor and City Commissioners approve an ordinance establishing a temporary moratorium until March 31, 2017, on the processing and consideration of applications for development orders, development permits, and building permits concerning properties that are located within the Special Overlay Areas, as described more specifically in the ordinance?

**Recommendations:**

Staff respectfully recommends that the Honorable Mayor and City Commissioners approve an ordinance establishing a temporary moratorium until March 31, 2017, on the processing and consideration of applications for development orders, development permits, and building permits concerning properties that are located within the Special Overlay Areas, as described more specifically in the ordinance.

**Attachments:**

Ordinance including Exhibits A (Special Overlay Areas).

**Financial Impact:**

N/A

**Type of Item:** *(please mark with an "x")*

- Public Hearing
- Ordinance First Reading
- Ordinance Second Reading
- Resolution
- Commission Approval
- Discussion & Direction

For Clerk's Dept. Use:

- Consent Agenda
- Public Hearing
- Regular Agenda

- 
- Original Document/Contract Attached for Execution by City Clerk
  - Original Document/Contract Held by Department for Execution

Reviewed by City Attorney	_____	_____	N/A
Reviewed by Finance Dept.	_____	_____	N/A
Reviewed by <u>  ()</u>	_____	_____	N/A

**ORDINANCE 2016-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF OCOEE, FLORIDA, IMPLEMENTING A TEMPORARY MORATORIUM UNTIL MARCH 31, 2017 ON THE PROCESSING AND CONSIDERATION OF APPLICATIONS FOR DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, AND BUILDING PERMITS FOR PROPERTIES LOCATED WITHIN THE SPECIAL OVERLAY AREAS, AS MORE SPECIFICALLY DESCRIBED IN THIS ORDINANCE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, as provided in Article VIII of the Constitution of the State of Florida and chapters 163 and 166, Florida Statutes, the City of Ocoee (the "City") enjoys all home rule authority, police power, land development and zoning authority, and governmental and proprietary powers necessary to conduct municipal government and perform municipal functions; and

**WHEREAS**, the City may exercise any power for municipal purposes, except as expressly prohibited by law; and

**WHEREAS**, the City has found that there is a need to revise code standards relating to the development and create standards relating to the redevelopment of properties located within the City Special Overlay Areas, as depicted on the map attached hereto as Exhibit "A" and incorporated herein by reference (hereafter known as the "Special Overlay Areas" or as the "Overlay Areas"); and

**WHEREAS**, the City staff is in the process of evaluating development and use compatibility standards in the Special Overlay Areas and intends to present to the City Commission a proposed ordinance or ordinances amending the City's Comprehensive Plan and/or land development code for the purpose of updating said standards specifically as they relate to uses, architecture, and compatibility, and the development of zoning standards that will enhance economic development and redevelopment within the Overlay Area; and

**WHEREAS**, the City wishes to place the public and all parties on notice that it is considering such amendments and is hereby creating a temporary moratorium on the acceptance, processing, and consideration of applications for development orders,

development permits, and building permits concerning properties located within the Overlay Areas with the following uses or intended uses: pharmaceutical dispensaries, fast food and other drive through restaurant establishments, check cashing stores, self-storage facilities, vehicle and tire service, sales, and repair facilities, and discount retail stores; and

**WHEREAS**, pursuant to the pending legislation doctrine set forth in *Smith v. City of Clearwater*, 383 So. 2d 681 (Fla. 2d DCA 1980), the City hereby declares and implements the pending ordinance doctrine concerning the zoning and land development regulations governing properties located within the Overlay Areas; and

**WHEREAS**, the City Commission in good faith determines that this Ordinance is in the best interest of the City and its residents and promotes the health, safety, and welfare of the public.

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

Section 1. **Recitals.** The foregoing recitals are hereby ratified and confirmed as true and correct and incorporated herein by this reference.

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

Section 3. **Definitions.** For the purposes of this Ordinance, the terms “development order” and “development permit” have the same meaning as these terms are defined at Section 163.3164, Florida Statutes.

Section 4. **Moratorium.** Unless otherwise specifically provided for in this Ordinance, the City hereby places a temporary moratorium (suspension) on the processing and consideration of all applications for development orders, development permits, and building permits for exterior modifications and new construction for all properties located within the Overlay Areas with the following uses or intended uses: pharmaceutical dispensaries, fast food and other drive through restaurant establishments, check cashing stores, self-storage facilities, vehicle and tire service, sales, and repair facilities, and discount retail stores. The moratorium shall be from the effective date of this Ordinance until March 31, 2017, unless this Ordinance is terminated earlier or extended by an Ordinance or Resolution duly adopted by the City Commission. Notwithstanding the foregoing, during the moratorium period, only with approval of the City Manager and the City Planner may the City accept applications for development review for projects located within the Overlay Areas which are otherwise hereby restricted; provided however, that the City reserves the right to require

significant revision to any applications for plans that are accepted for processing during the moratorium period to ensure that the plan is in compliance with the permitted uses, conditional uses, prohibited uses, supplemental standards, design standards, and other development regulations on properties within the Overlay Areas that are adopted by the City Commission as a result of the evaluation of the Overlay Areas.

Section 5. **Exemptions.** The following are exempt from the temporary moratorium established in this ordinance: the acceptance of building permit applications and issuance of building permits for the interior modification of existing structures that do not affect or alter the current use, intensity, or density of property located within the Overlay Areas and the issuance of building permits for any project that has submitted for approval a Final Subdivision Plan or Final Site Plan prior to the effective date of this Ordinance.

Section 6. **Conflict.** All Ordinances or parts of Ordinances, Resolutions, or parts of Resolutions in conflict herewith are hereby made ineffective to the extent of such conflict

Section 7. **Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereto.

Section 8. **Non-codification.** It is the intention of the City Commission that the provisions of this Ordinance shall not be codified.

Section 9. **Effective Date.** This Ordinance shall become effective immediately upon passage and adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

**APPROVED:**

**CITY OF OCOEE, FLORIDA**

**ATTEST:**

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

(SEAL)

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

**ADVERTISED \_\_\_\_\_, 2016**  
**READ FIRST TIME \_\_\_\_\_, 2016**  
**READ SECOND TIME AND ADOPTED**  
**\_\_\_\_\_, 2016**  
**UNDER AGENDA ITEM NO. \_\_\_\_\_**

**FOR USE AND RELIANCE ONLY BY  
THE CITY OF OCOEE, FLORIDA;  
APPROVED AS TO FORM AND  
LEGALITY**

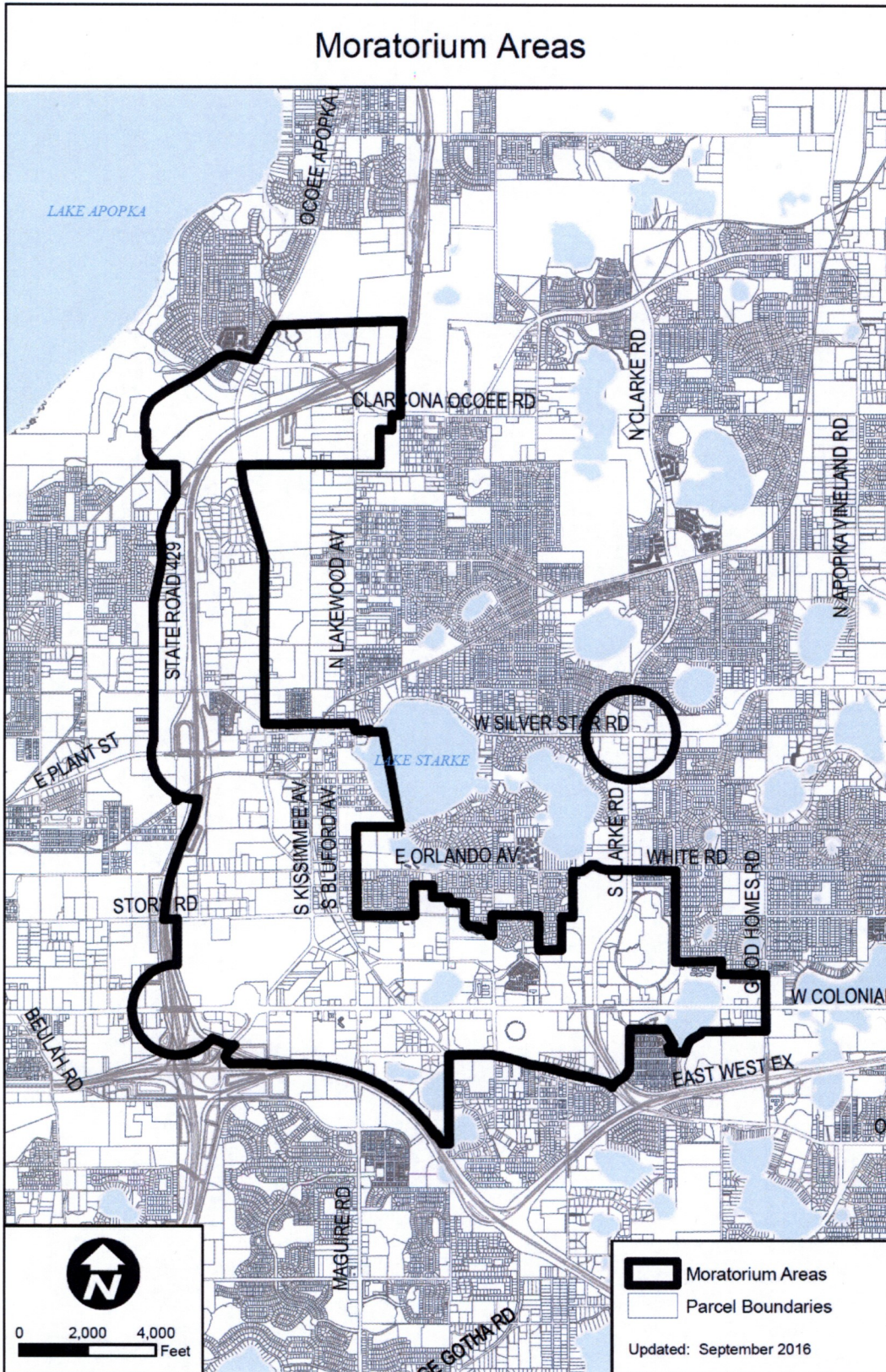
This \_\_\_\_ day of \_\_\_\_\_, 2016.

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

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

# EXHIBIT A

## Moratorium Areas



## City of Ocoee Notice of Public Hearing

# TEMPORARY MORATORIUM ON DEVELOPMENT IN SPECIAL OVERLAY AREAS

**Notice is hereby given** that the City of Ocoee City Commission will consider a proposed Ordinance relating to a Temporary Moratorium on Development within the Special Overlay Areas. City staff is in the process of evaluating Special Overlay Areas identified in the Land Development Code to present to the City Commission a proposed ordinance or ordinances amending the City's Comprehensive Plan and land development code affecting the permitted uses, conditional uses, prohibited uses, supplemental standards, design standards, and other development regulations governing properties within the Special Overlay Areas.

**The OCOEE CITY COMMISSION** will hold a public hearing on the proposed moratorium on **Tuesday, OCTOBER 18, 2016, at 7:15 pm** or as soon thereafter as practical. The public hearing will be held in the City Hall Commission Chambers located at 150 North Lakeshore Drive, Ocoee.

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Interested parties may appear at the public hearing and be heard with respect to the proposed actions above. The complete case file may be inspected at the Ocoee Development Services Department/Planning Division located at 150 North Lakeshore Drive, Ocoee, Florida between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. The City Commission may continue the public hearing to other dates and times, as it deems necessary. Any interested party shall be advised of the dates, times, and places of any continuation of these or continued public hearings shall be announced during the hearing and no further notices regarding these matters will be published. You are advised that any person who desires to appeal any decision made at the public hearings will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk's Office 48 hours in advance of the meeting at 407-905-3105.

