



CITY COMMISSION

SPECIAL MEETING AGENDA

MONDAY, APRIL 29, 2019 AT 6:30 PM

CITY HALL - COMMISSION CHAMBERS
1126 EAST STATE ROAD 434, WINTER SPRINGS, FLORIDA

CALL TO ORDER

Roll Call
Invocation
Pledge of Allegiance
Agenda Changes

AWARDS AND PRESENTATIONS

100. Not Used

INFORMATIONAL AGENDA

200. Not Used

PUBLIC INPUT

Anyone who wishes to speak during Public Input on any Agenda Item or subject matter will need to fill out a "Public Input" form. Individuals will limit their comments to three (3) minutes, and representatives of groups or homeowners' associations shall limit their comments to five (5) minutes, unless otherwise determined by the City Commission.

CONSENT AGENDA

300. Not Used

PUBLIC HEARINGS AGENDA

400. First Reading of Ordinance 2019-08 for Construction Site Management

Attachments: [Ordinance 2019-08](#)

REGULAR AGENDA

500. Draft Ordinance for Amending the Application, Notice, and Review Criteria Procedures for Special Zoning Permits

Attachments: [Draft Ordinance 2019-XX with Exhibit A](#)

501. Round-Table Visioning Session with the East Central Florida Regional Planning Council and Local Developers

Attachments: None

PUBLIC INPUT

Anyone who wishes to speak during Public Input on any Agenda Item or subject matter will need to fill out a "Public Input" form. Individuals will limit their comments to three (3) minutes, and representatives of groups or homeowners' associations shall limit their comments to five (5) minutes, unless otherwise determined by the City Commission.

ADJOURNMENT

PUBLIC NOTICE

This is a Public Meeting, and the public is invited to attend and this Agenda is subject to change. Please be advised that one (1) or more Members of any of the City's Advisory Boards and Committees may be in attendance at this Meeting, and may participate in discussions.

Persons with disabilities needing assistance to participate in any of these proceedings should contact the City of Winter Springs at (407) 327-1800 "at least 48 hours prior to meeting, a written request by a physically handicapped person to attend the meeting, directed to the chairperson or director of such board, commission, agency, or authority" - per Section 286.26 *Florida Statutes*.

"If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based" - per Section 286.0105 *Florida Statutes*.



PUBLIC HEARINGS AGENDA ITEM 400

CITY COMMISSION AGENDA | APRIL 29, 2019 | SPECIAL MEETING

TITLE

Approve on First Reading Ordinance 2019-08 regarding the regulation of construction site management.

SUMMARY

During the City Commission workshop process, which has been taking place this past month, the City Commission expressed a desire to adopt a more comprehensive and centrally codified set of reasonable construction site management requirements to mitigate against the negative effects construction sites may sometimes cause to surrounding properties and neighborhoods.

Ordinance 2019-08 was preliminarily reviewed at the Commission workshop on April 15, 2019. At that meeting, the consensus of the City Commission was to proceed with the public hearing and adoption process of Ordinance 2019-08.

Ordinance 2019-08 is intended to provide a reasonable set of construction site management rules that contractors and property owners can follow. By consolidating these rules in one City Code section, the intension is that all affected parties (contractors, property owner, neighborhoods) will have advance notice of what is expected during the construction process. Ordinance 2019-08 generally addresses several categories of construction related issues that could, if not reasonably monitored and controlled with reasonable rules, cause negative effects on the construction site and surrounding properties and neighborhoods. The categories are as follows:

- (a) *Construction Management Plan.*
- (b) *Temporary toilet facilities for workers.*
- (c) *Contractor/Owner Responsibility.*
- (d) *Final site clean-up; Repair damage to Public Property.*
- (e) *Requirements during weather emergency.*
- (f) *Temporary construction fence.*
- (g) *Erosion and run-off control.*

The details for each category are set forth in Ordinance 2019-08 and not repeated in the Agenda Item.

In addition, Ordinance 2019-08 also provides for enforcement and penalties. Specifically, the Ordinance provides:

(1) The contractor and property owner shall be joint and severally responsible and liable for the requirements of this section and any violation thereof.

(2) Failure to abide by the provisions of this section shall constitute a violation of the City Code, and are subject to the enforcement procedures and penalties set forth in chapter 2, Division 2 of the City Code. Each day a violation continues shall be deemed a separate violation.

(3) A violation may be enforced by the building official or designee through the issuance of a stop work order in accordance with the procedures in the Florida Building Code; or an order to repair, restore or demolish the work, to vacate the premises, or otherwise abate the violation.

(4) Any violation of this section is subject to abatement as a public nuisance.

(5) The provisions of this subsection are cumulative with and in addition to any other remedy provided by law.

(6) The city may recover as costs of repairs or compliance, the costs associated with the city securing job sites and correcting any violation of this section. Failure of the contractor or owner to reimburse the city for said costs within thirty (30) days of written notice by the City, the city may collect said costs in accordance with law and the costs shall also constitute a lien on the property until paid in full.

RECOMMEDATION

Staff recommends approval on First Reading Ordinance 2019-08 regarding the regulation of construction site management.

ORDINANCE NO. 2019-08

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS, FLORIDA, REGARDING BUILDINGS AND BUILDING ADMINISTRATIVE REGULATIONS; PROVIDING FOR THE ADOPTION OF SECTION 6-88 REGARDING CONSTRUCTION SITE MANAGEMENT AND RELATED CONFORMING AMENDMENTS TO THE CITY CODE; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; INCORPORATION INTO THE CODE; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the enforcement of the Florida Building Code is the responsibility of local governments; and

WHEREAS, the City of Winter Springs actively participates in the enforcement of building construction regulations for the benefit of the public health, safety and welfare; and

WHEREAS, the City of Winter Springs desires to facilitate the enforcement of the Florida Building Code by enacting administrative and technical amendments which meet the needs of the citizens and businesses of Winter Springs and protect the public health, safety and welfare; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS, SEMINOLE COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Commission of the City of Winter Springs.

Section 2. Code Amendment. Section 6-88 of the City Code is hereby created to read as follows: (underlined type indicates additions to the City Code and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from this Ordinance of text existing in Chapter 6. It is intended that the text in Chapter 6 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance):

Chapter 6 – BUILDING AND BUILDING REGULATIONS

* * *

Article III. – BUILDING CONSTRUCTION STANDARDS

* * *

Sec. 6-88. – Construction Site Management. Unless otherwise preempted by state or federal law, the following construction site management requirements shall apply to construction projects within the jurisdictional limits of the city:

(a) Construction Management Plan. The building official may require a detailed management plan and completion schedule prior to the approval of a building permit or during the process of completing any active or inactive construction or demolition project. The management plan shall, at a minimum, provide specific information outlining the location of construction worker parking, construction equipment, material storage and temporary structures on the site under construction or on nearby properties, and methods of debris removal including compliance with the city's waste franchise agreement. Additionally, traffic routes to and from the site, pedestrian safety barriers and fencing shall be included on the management plan and shall be identified for approval. The management plan must also reflect where displaced public or private parking is temporarily located during the term of the project to the maximum extent feasible. The plan is subject to review and approval by the building official. Failure to comply with the approved management plan shall constitute a violation of this section. The approved management plan must be kept at the construction site and be available at all times during the construction process and be made available to the building official or city inspectors.

(b) Temporary toilet facilities for workers. Suitable temporary toilet facilities as determined by the building official in reliance upon normal industry standards shall be provided and maintained in a sanitary condition for the use of workers during construction. Such facilities may only be located on the construction site after the building permit has been issued and construction has commenced. If construction becomes inactive on the site for more than a two week time period, the building official may require that the temporary toilet be removed from the site until such time reasonable assurances have been provided that active construction has resumed on the site. Such facilities shall be regularly cleaned and provided in a well-ventilated location and shall be placed at least 15 feet from the side property line of the lot on which it is located where practical, may not be placed in the public right-of-way and shall be screened from view when required and to the extent practicable. The location of temporary toilet facilities on the property may be changed by the building official to recognize unique conditions or a less offensive location for pedestrians and neighbors.

(c) Contractor/Owner Responsibility. The contractor and owner of any active or inactive construction project shall be responsible for the clean-up and removal of all construction debris or any other miscellaneous discarded articles during the entire duration of the construction project and prior to receiving final inspection approval. Construction job sites must be kept clean, free of overgrown weeds and grass over 12 inches in height, and the accumulation of construction debris must not remain on the property for a period of time exceeding 10 days. The accumulation of trash and litter and other miscellaneous discarded articles not constituting construction debris (e.g., cans, bottles, food products and containers, papers, towels, clothing, plastics, etc.) must also be cleaned daily and placed in a separate on-site receptacle. Trash and litter

shall not be discarded in construction debris containers and roll-offs. The on-site litter/trash receptacle service must be paid for by the contractor and emptied at least once a week by the city's solid waste franchise hauler or more often in a timely fashion so there is no overflow of trash and litter. Off-site trash and litter generated by the contractor and workers must be picked-up and cleaned daily and placed in the on-site trash/litter receptacle. Public trash receptacles are not intended to handle trash and litter generated from construction sites so the contractor and workers shall not use such receptacles for their trash. The contractor is responsible for their workers overburdening public off-site trash receptacles located near the construction site. Dust created during construction or demolition must be contained on the site or close proximity to building or structure through wetting down the dust or materials or through the use of any alternate means that prevents dust from leaving the property. Violation of any of these conditions shall authorize the building official to place a stop work order on such jobs in violation of this section and require removal of debris and overgrowth, and correction of dust accumulation on site and adjacent properties or streets.

(d) *Final site clean-up; Repair damage to Public Property.* The contractor and owner, upon completion of a building or construction project, shall immediately remove all walkways, debris and all other obstructions and leave such public property in as good a condition as it was before work was commenced and shall replace all broken curbs, sidewalks or other damaged public utilities or property to the satisfaction of the building official prior to obtaining a certificate of occupancy/completion or within 14 calendar days from notification if no certificate of occupancy/completion is issued. Failure to correct damaged public property will result in the city taking action to make corrections and all costs incurred will be charged to the contractor and owner, and a lien will be placed against the property for the costs of repairs.

(e) *Requirements during weather emergency.* It is the responsibility of the owner and contractor to have removed construction materials from the project site or secured construction materials at the project site at least 48 hours prior to the predicted landfall of a tropical storm or hurricane until the time set forth in subsection (8) below.

(1) *Applicability.* At least 48 hours prior to the predicted landfall of a tropical storm or hurricane for any portion of Seminole County Florida, as determined by the National Weather Service, National Hurricane Center or appropriate weather agency or as provided in the city's emergency plan; or upon order of the building official in anticipation of a storm emergency; all construction materials, including roof tiles, on all project sites within the city shall be secured and stored onsite in a safe manner or removed so that no material can become a safety hazard with hurricane or tropical storm force winds.

(2) *Notice.* Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of an approaching tropical storm or a hurricane is hereby deemed notice to the owner or contractor. The owner and contractor are responsible for the project site by securing on-site or removing from the site any construction materials or debris or trash and litter to protect against the effect of hurricane or tropical storm force winds. By holding a building permit during hurricane season, the contractor shall monitor the National Weather Service and the National Hurricane Center for weather emergencies.

(3) *Inspection.* A pre-storm inspection shall be required for all active construction sites involving exterior work and/or exterior storage of materials. The owner and contractor shall be responsible for insuring that the construction site has passed inspection prior to the issuance of a

tropical storm warning or hurricane warning. The owner or contractor shall be available by phone until the site has passed the pre-storm inspection.

(4) *Materials stockpiled on site.* Materials stockpiled on any construction site shall be handled as follows:

a. Band construction materials together and fasten them to the structure in such a manner to prevent the material from becoming airborne during a tropical storm or hurricane; or

b. Remove construction materials from the top of the structure and secure them to the ground;
or

c. Remove construction materials from the project site; or

d. Store construction materials inside a structure if said structure is secure from tropical or hurricane force wind loads.

(5) *Dumpsters.* The contents of construction site dumpsters must be removed or weighted and secured with rope, mesh or other durable, wind resistant material.

(6) *Temporary toilets.* Temporary portable toilets shall be secured to the structure, dumpster or emptied and laid horizontal and secured to the ground.

(7) *Roofing Materials – Hurricane Season.* During the National Weather Service designated hurricane season, building or roofing materials shall not be loaded on a roof earlier than ten working days prior to the permanent installation of the materials.

(8) *Material capable of becoming airborne.* Construction materials, debris or any material capable of becoming airborne shall remain secured and stored on the project site or shall be removed from the project site until the National Weather Service, National Hurricane Center, or the city through local action has removed all portions of the city from those areas included in a tropical storm warning or hurricane warning. Contractors shall not resume construction on any construction site until the site is brought into compliance with the construction site management plan.

(f) *Temporary construction fence.* A temporary construction fence screening the construction site shall be erected and maintained in good order at all times. The temporary construction fence shall be erected and completely in place as a requirement for the issuance of a building permit and prior to the beginning of construction activities. The temporary construction fence shall be removed when construction has been completed. The temporary construction fence shall be six feet chain link fence with a screening material attached to visually screen and minimize impact to neighboring properties which may be affected by construction site dust and debris. The chain link and screening material must be constructed and maintained at ground level to mitigate against ground level windblown dust and materials being blown off-site. If the construction site is located on an arterial or collector road, and is not located within an existing residential area, the screening material facing the arterial or collector road may temporarily depict on-site information about the project, provided the information is limited on no more than 25% of the screening material facing the arterial or collector road. A fence permit is required to be issued for the temporary construction fence, and the fence installed, inspected, and the fence permit must be closed-out by the building official prior to the issuance of a building permit.

(1) A temporary construction fence will be required for all new construction, demolitions and substantial renovations unless the building official determines all or portion of the fencing is not required to protect or screen neighboring properties.

(2) Work being done within the unit is exempt from this requirement.

(3) Individual lots being constructed in a new residential or commercial subdivision are exempt from being individually screened under the requirements of this section. However, the outer perimeter of the new subdivision is subject to the requirements unless otherwise determined by the building official pursuant to subsection (1) above.

(4) Work on pools, pool installations or substantial renovations will require a temporary construction fence at all times to avoid health and safety hazards. Also pools undergoing renovations and new pools being installed must be emptied of accumulated water at all times.

(g) *Erosion and run-off control.* In compliance with the city's National Pollution Discharge Elimination System (NPDES) permit requirements, prior to beginning any clearing, grubbing, or construction activities, as part of the building permit process, the contractor shall submit a plan (Erosion and Sediment Control Plan) detailing the location and handling of materials, soils and outlining the actions to be taken to prohibit run-off of dirt, sand, fluids, vegetation or any other item into the city's stormwater system or onto adjacent property, roadways and waterways. Piles of soil, erected barriers, temporary detention areas, or any other methods approved by the city, shall provide for a containment area to reduce run-off.

(h) *Violations; Enforcement.*

(1) The contractor and property owner shall be joint and severally responsible and liable for the requirements of this section and any violation thereof.

(2) Failure to abide by the provisions of this section shall constitute a violation of the City Code, and are subject to the enforcement procedures and penalties set forth in chapter 2, Division 2 of the City Code. Each day a violation continues shall be deemed a separate violation.

(3) A violation may be enforced by the building official or designee through the issuance of a stop work order in accordance with the procedures in the Florida Building Code; or an order to repair, restore or demolish the work, to vacate the premises, or otherwise abate the violation.

(4) Any violation of this section is subject to abatement as a public nuisance.

(5) The provisions of this subsection are cumulative with and in addition to any other remedy provided by law.

(6) The city may recover as costs of repairs or compliance, the costs associated with the city securing job sites and correcting any violation of this section. Failure of the contractor or owner to reimburse the city for said costs within thirty (30) days of written notice by the City, the city may collect said costs in accordance with law and the costs shall also constitute a lien on the property until paid in full.

* * *

Section 3. Conforming Amendments to Section 6-31 of the City Code. Sec. 6-31. - Administrative amendments to Chapter 1 of the Florida Building Code, Subsection 110.3 of the City Code is hereby amended to read as follows: (underlined type indicates additions to the City Code and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from this Ordinance of text existing in Section 6-31 and Subsection 110.3. It is intended that the text in Section 6-31 and Subsection 110.3 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance):

Sec. 6-31. - Administrative amendments to Chapter 1 of the Florida Building Code

* * *

110.3 Required inspections. The building official, upon notification from the permit holder or his or her agent shall make the following inspections, and such other inspections as deemed necessary and shall either release that portion of the construction or shall notify the permit holder or his or her agent of any violations which must be corrected in order to comply with the technical codes. The building official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection.

* * *

Site Debris

~~1. The contractor and/or owner of any active or inactive construction project shall be responsible for the clean up and removal of all construction debris or any other miscellaneous discarded articles prior to receiving final inspection approval. Construction job sites must be kept clean.~~

~~2. All debris shall be kept in such a manner as to prevent it from being spread by any means.~~

* * *

Section 4. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts or ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. Incorporation into Code. This Ordinance shall be incorporated into the Winter Springs City Code and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 7. Effective Date. This Ordinance shall become effective upon adoption by the City Commission of the City of Winter Springs, Florida, and pursuant to City Charter.

ADOPTED by the City Commission of the City of Winter Springs, Florida, in a regular meeting assembled on the ____ day of _____, 2019.

Charles Lacey, Mayor

ATTEST:

Andrea Lorenzo-Luaces, City Clerk

**APPROVED AS TO LEGAL FORM
AND SUFFICIENCY FOR THE CITY
OF WINTER SPRINGS ONLY:**

Anthony A. Garganese, City Attorney

Legal Ad: _____
First Reading: _____
Second Reading: _____



REGULAR AGENDA ITEM 500

CITY COMMISSION AGENDA | APRIL 29, 2019 | SPECIAL MEETING

TITLE

Draft Ordinance for Amending the Application, Notice, and Review Criteria Procedures for Special Zoning Permits

SUMMARY

During the City Commission workshop process, which has been taking place, the City Commission directed the City Attorney to prepare an Ordinance to update and streamline the application, notice, review criteria, and procedures regarding special zoning permits and other land use permitting decisions. Additionally, the City Commission directed that the Ordinance eliminate the separate land use permit decision making process in the Town Center Code and to consolidate the Town Center Code process with the regular development permit process under the City Code for purposes of streamlining development permit procedure and eliminating any unintended confusion with the two separate processes.

The City Commission has previously recognized that since the Town Center District Code's adoption in 2000, the Town Center has operated, in many respects, under its own set of rules and procedures especially regarding special exception applications which may be filed requesting waivers from the various standard provisions of the Town Center Code. The City Commission has recently expressed interest in streamlining the special exception process by consolidating it with the general zoning regulations applicable to other zoning districts and special zoning permits.

The attached Ordinance was prepared at the City Commission's direction. The Ordinance is procedural in nature only regarding the requirements to process development permit applications and does not specifically address land uses in the various zoning districts. Land uses will be reviewed by the City Commission separately as part of the workshop process and addressed in a separate ordinance if the City Commission desires to modify the land use provisions in the City Code.

The proposed Ordinance will require several publicly noticed and advertised public hearings including one hearing before the City's Land Planning Agency and two hearings before the City Commission.

This is a legislative process. In other words, the City Commission is exercising its legislative authority to consider whether to amend the zoning laws applicable within the jurisdiction of the city of Winter Springs. Unlike a quasi-judicial zoning hearing where the City Commission is applying existing policy, the City Commission is attempting to formulate (create) new policy related to the processing of development permit applications as set forth in the proposed Ordinance.

Any new zoning policies must be adopted by ordinance and will be applied in quasi-judicial hearings conducted on the development permits referenced in the Ordinance in the future.

Generally, the Ordinance, if approved, will make very important changes to requirements in the City's land development code which are fundamental to the City's authority to process land development permit applications:

1. Repeals the separate development permit procedure in the Town Center Code, and streamlines it by consolidating the Town Center permit process with the regular development permit process contained in Chapter 20 of the City Code. Conforming text amendments to the Town Center Code, such as striking (as no longer necessary) the reference to the special development review committee, are required to be made to effectuate this streamlining/consolidation including as stated in Exhibit "A" to the Ordinance.
2. The Ordinance addresses a uniform procedure for applying for site plans, variances, conditional uses, rezoning, waivers, and administrative appeals as set forth in the City Code. These uniform procedures will apply to ALL City zoning districts, and not just the specific zoning districts referenced in the pending moratorium ordinance.
3. In addition to the consolidation of the Town Center Code referenced above, the Ordinance proposes a variety of updates and improvements including:
 - a. Providing for a discretionary advisory hearing officer to conduct land use permit hearings if necessary;
 - b. Require posting of land use permit applications on the City's website for public viewing within 5 days of filing with the City;
 - c. Providing an optional conceptual plan review process (currently limited to Town Center Code);
 - d. Providing a recommended pre-application meeting with the community development department;

- e. Enhancing the development permit application requirements and process to require applicants to not only provide a complete application, but to provide all relevant and necessary information related to the proposed development project for purposes of allowing the City to make a compliance determination with the City's Comprehensive Plan and Code;
- f. Requiring all new development projects, conditional uses and redevelopment projects requiring more than minor modifications to an existing site plan, shall be required to be memorialized in a binding development agreement;
- g. Requiring the developer to conduct a publicly noticed community workshop, consistent with the minimum enumerated code requirements, for all new development, new buildings, conditional uses, existing buildings being altered by 50 percent or greater of the original floor area or seating capacity, or development agreements under section 20-28.1 of the City Code;
- h. Requiring minimum requirements for City staff recommendations to the land planning agency and city commission related to their review of all applications for site plans, rezonings, variances, conditional uses, waivers, and administrative appeals;
- i. Enhancing the review criteria applicable to applications for rezonings, variances, conditional uses, waivers, and administrative appeals;
- j. Clarifying provisions applicable to administrative appeals related to administrative determinations and interpretations under Chapter 20 of the City Code;
- k. Expressly incorporating unique features (e.g. transects and other architectural dimensional requirements) of the Town Center Code into the existing limited administrative waiver procedure in the City Code, and also clarifying that city commission can likewise use the limited administrative criteria to grant applicable waivers when considering and making final decisions on any other land use application requiring city commission approval such as final engineering plans; and
- l. Repealing old language in the City Code regarding the site plan review board which was previously superseded and repealed by the Chapter 9 of the City Code related to approval of final development plans and engineering.

The details of the aforementioned changes are set forth in the attached Ordinance and will be discussed in more detail at the City Commission meeting.

4. Although a public hearing is not required on this Ordinance at this time, public input is recommended in order to receive any public input regarding the proposed changes to the City's development permit process.
5. The City Attorney and City Manager are requesting that the City Commission provide comments regarding the proposed Ordinance. If the City Commission believes the proposed Ordinance is substantially acceptable at this stage of the review process, the City Attorney and City Manager recommend that the City Commission refer this Ordinance to the City's Land Planning Agency/ Planning and Zoning Board for their review and recommendation pursuant to the Community Planning Act.

RECOMMENDATION

Staff recommends that the City Commission consider and provide comments on the draft Ordinance amending the application, notice, review criteria, and procedures regarding special zoning permits and other land use permitting decisions, and determine whether the Ordinance is ready to be referred and presented to the City's Land Planning Agency for review and recommendation pursuant to the Community Planning Act.

ORDINANCE NO. 2019-___

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS, FLORIDA; AMENDING APPLICATION, NOTICE, REVIEW CRITERIA, AND PROCEDURES REGARDING SPECIAL ZONING PERMITS AND OTHER LAND USE PERMITTING DECISIONS; MAKING CONFORMING AMENDMENTS TO THE CITY CODE; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; INCORPORATION INTO THE CODE; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the City Commission has conducted numerous public workshops to evaluate and discuss updating and amending the City's land development code related to certain land use decision making procedures including special zoning permits; and

WHEREAS, the City Commission desires to update and amend the City Code related to the aforesaid; and

WHEREAS, the City's Land Planning Agency/Planning & Zoning Board has reviewed and made a recommendation regarding this Ordinance at a duly advertised public meeting held on _____; and

WHEREAS, the City Commission held a duly noticed public hearing on the proposed changes to the land development code set forth hereunder and considered findings and advice of the Land Planning Agency, staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the changes set forth hereunder serve a legitimate government purposes and are consistent with the City of Winter Springs Comprehensive Plan; and

WHEREAS, the City Commission also hereby deems this Ordinance in the best interests of the public health, safety and welfare of the citizens of Winter Springs.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS, SEMINOLE COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Commission of the City of Winter Springs.

Section 2. Code Amendment. Chapter 20 of the City Code is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from this Ordinance of text existing in Chapter 20. It is intended that the text in

Chapter 20 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance):

Chapter 20 – ZONING

* * *

ARTICLE II. - ADMINISTRATION

DIVISION 1. - PROCEDURE; LAND USE DECISIONS

Sec. 20-26. - Intent and purpose.

The intent and purpose of this division is to set forth the uniform procedure for applying for site plans, variances, conditional uses, rezonings, waivers, and administrative appeals as set forth in the City Code this chapter.

Sec. 20-27. - City commission; authority.

(a) Unless otherwise provided in this chapter, the city commission shall render all final decisions regarding site plans, rezonings, variances, conditional uses, waivers, and administrative appeals provided for in this chapter. The city commission may impose reasonable conditions on any approved site plan, rezoning, variance, conditional use, waiver or administrative appeal to the extent deemed necessary and relevant to ensure compliance with applicable criteria and other applicable provisions of the city code and comprehensive plan. All formal decisions shall be based on competent substantial evidence and the applicable criteria set forth in this chapter. The city commission may adopt, by resolution or ordinance, quasi-judicial rules and procedures to implement this division.

(b) On an as needed basis depending on the complexity of a particular application, the city commission at its discretion may appoint, or direct the city manager to appoint, an advisory hearing officer to conduct an evidentiary hearing required by this section for any particular application. The advisory hearing officer shall be a member of the Florida Bar in good standing for five or more years. The hearing officer must demonstrate satisfactory knowledge of municipal land use and zoning law and general procedures for quasi-judicial land use matters. Hearings conducted pursuant to this subsection shall be noticed as required by this Division and the hearing officer shall generally conduct the hearing in accordance with applicable provisions of the city commission's quasi-judicial procedures. The advisory hearing officer shall within a reasonable time, not to exceed 30 days from the date the hearing is closed, submit in writing a report to the city commission. Such report shall summarize the evidence submitted and considered and state precisely the hearing officer's findings, conclusions and recommendations. The report shall be a public record and shall be provided by mail and email to the applicant and any interested party. The city commission may decide the application based upon the hearing officer's report, with or without taking additional evidence, or the application may be referred back to the hearing officer to take additional evidence. The city commission may adopt or reject, in whole or in part, the hearing officer's proposed findings, conclusions and recommendations. The city commission's decision shall be deemed final.

Sec. 20-28. - Due process; special notice requirements.

- (a) All applicants shall be afforded minimal due process as required by law, including the right to receive notice, be heard, present evidence, cross-examine witnesses, and be represented by a duly authorized representative.
- (b) Within five (5) business days of filing with the City or as soon as practicable, applications filed under this Division shall be publicly posted on the City's website on a web page reserved for identifying pending land use applications.
- (b)c) In addition to any notice requirements provided by state law, all public hearings under this division shall be publicly noticed for at least five (5) calendar days prior to the date of the hearing. Said notice shall include the address of the subject property, matter to be considered and the time, date and place of the hearing. The notice shall be posted in the following manner:
 - (1) Posting the affected property.
 - (2) Posting at city hall.
 - (3) Notifying, by U.S. mail, all owners of real property adjacent to and within approximately one hundred fifty (150) feet of the subject property based on the information contained in the property appraiser's or similar property database.
 - (4) Posting on the city's website.

The notice requirements set forth in subsections (1), (2), ~~and (3)~~, and (4) above are hereby deemed to be courtesy notices. The failure to provide such courtesy notices shall not be a basis of appealing any decision made under this division.

Sec. 20-28.1. – Conceptual Plan Review. Applicants may, at their option and sole cost and risk, submit site layout and building elevation designs in schematic or sketch form to the city commission for a non-binding and preliminary review as an initial courtesy to the applicant. These submittals are subject to a more formal application process which requires the submission of more detailed plans and specifications and requires a more detailed review and final consideration of approval by the city commission. Comments and statements made by city officials at the preliminary review are non-binding unless memorialized in a written agreement approved by the city commission. City staff and the applicant shall only seek feedback from the commission and city staff shall not make a formal recommendation regarding the proposed project at this time, unless the application is accompanied by a written development agreement being proposed by city staff for the commission's approval or during the preliminary review, a development agreement is pursued by the city commission and the applicant. In which case, the city staff shall make a recommendation regarding the application and proposed agreement. This non-binding and preliminary review shall not be relied upon by the applicant as a final decision and shall not be construed in any manner as creating any vested right or entitlement for the development of the subject property. By requesting and participating in the optional preliminary review process, the applicant shall be deemed to have read and agreed to this code provision and to hold the city and its officials harmless for any future actions they may have taken based on the results of a preliminary review pursuant to this section.

Sec. 20-28.2. - Pre-application Meeting. It is recommended that applicants meet with the community development department prior to submitting an application, in order to discuss the application process and the proposed project. No person may rely upon any comment made by any participant at the pre-application conference as a representation or implication that the application will be ultimately approved or rejected in any form.

Sec. 20-29. - Applications.

- (a) The city manager or the city manager's designee is hereby authorized to prepare applications in furtherance of this division. At a minimum, applications for conceptual plan review shall require payment of an applicable application fee adopted by the city commission and contain the information required by subparagraphs (1) through (6), site layout and building elevation designs in schematic or sketch form, and such other preliminary information deemed necessary by the applicant or city staff to describe the development concept and the potential on and off-site impacts of the proposed development. Additionally, all applications for site plans, rezonings, variances, conditional uses, waivers, and administrative appeals shall be accompanied by the applicable application fee adopted by the city commission and shall contain the following information:
- (1) A general description of the relief sought under this division.
 - (2) A brief explanation, with applicable supporting competent substantial evidence and documents, as to why the application satisfies the relevant criteria set forth in this division.
 - (3) The name(s) of the owner(s) of the particular real property.
 - (4) If the applicant is other than all of the owners of the particular property, written consent signed by all owners of the particular real property shall be attached.
 - (5) The legal description of the particular real property, accompanied by a certified survey or that portion of the map maintained by the Seminole County Property Appraiser reflecting the boundaries of the particular real property.
 - (6) The current and future land use and the zoning designations on the real property.
 - (7) For all new development, new buildings, conditional uses, existing buildings being altered by 50 percent or greater of the original floor area or seating capacity, or as otherwise deemed applicable by the city to relevantly and competently examine an application for compliance with the city code and the affect the proposed use will have on neighborhood and surrounding properties, applicants shall be required to submit with the application the following information:
 - a. A current up-to-date tree survey and tree preservation and landscape plan;
 - b. A site plan, drawn to scale, which shall indicate:
 1. Building elevations illustrating all side of structures, floor plans, locations and orientations, and landscape areas;

2. Ingress and egress, emergency access, parking locations and number of spaces, sidewalks and pedestrian and vehicle circulation within the site;
 3. If applicable, stacking/queuing of vehicles, drop off zones, truck/delivery areas, bike rack locations, and connections to adjacent properties;
 4. Paved surfaces, materials and location(s);
 5. Site location diagram and legal description;
 6. Signage;
 7. Wetland and floodplain boundaries;
 8. Screening, buffering and lighting plans; and
 9. Such other relevant information regarding the proposed site.
- c. A parking analysis, prepared by a duly qualified expert, justifying the proposed parking solution;
 - d. An economic fiscal impact report, prepared by a duly qualified expert, in compliance with the requirements set forth in the City's Comprehensive Plan and Code, if applicable and required by the city;
 - e. A traffic study and analysis, prepared by a duly qualified expert, regarding the estimated impact of the proposed project on the neighborhood and surrounding properties as well as the established level of service on affected roads;
 - f. A stormwater management plan;
 - g. A noise study to analyze current and proposed noise levels as well as methods of sound attenuation, if applicable and required by the city.
- (8) If a residential development is proposed, a school concurrency letter from the School District, if applicable.
 - (9) If the proposed development has the potential to discharge noxious odors or pollutants, an odor or pollution study, prepared by a duly qualified expert, regarding the proposed project's estimated odor or pollutant impact on the neighborhood, surrounding properties and the environment.
 - (10) Other reasonable supporting documents to indicate intentions and/or any other items reasonably required by the city to determine whether or not the proposed development is in compliance with the City's Comprehensive Plan and Code.
- (b) Incomplete applications will not be processed and presented to the planning & zoning board and city commission, or if inadvertently presented to said board and city commission, the board and city commission may require the applicant to complete the application if deemed necessary before proceeding with final review of the application. Applicants will be provided written notice of incomplete applications and be afforded a reasonable opportunity to sufficiently complete an application before an incomplete application is deemed rejected and returned by the city staff. If an application is deemed incomplete and the applicant fails to complete it within ninety (90) days of written notice from the City, the City shall have the

right, by providing written notice to the applicant, to deem the application withdrawn by the applicant. Applications deemed withdrawn shall not be processed and the application fee shall be deemed forfeited. Withdrawn applications may be refiled in complete form and payment of the applicable application fee.

- (c) All site plans, rezonings, variances, conditional uses, and appeals approved herein shall be binding on the use of the property. As a condition of approval by the city commission, all new development projects, conditional uses and redevelopment projects requiring more than minor modifications to an existing site plan, shall be required to be memorialized in a binding development agreement which shall be executed by the city and property owner. If the applicant is a developer, the developer shall be required to execute the binding development agreement subject to closing and acquiring the property. The agreement shall be recorded against the property so that the terms and conditions of approval related to the development project or conditional use shall run with the land.

Sec. 20-29.1. – Community Workshop requirements.

- (a) For all new development, new buildings, conditional uses, existing buildings being altered by 50 percent or greater of the original floor area or seating capacity, or development agreements under section 20-28.1 of the City Code, the applicant shall provide the opportunity for a workshop to inform neighboring property owners of the proposed application. The workshop shall be held in a location generally near the subject property and shall be held in a facility that is ADA compliant. The applicant shall provide notification by mail to all owners of property located within 400 feet of the subject property and to all neighborhood homeowner’s associations registered with the city and located within one-half-mile of the property. The city manager or designee shall provide mailing labels to the applicant. The applicant shall mail these notices with proper postage at least 15 calendar days before the workshop. The applicant shall also provide the City with an appropriate written notice to be published on the City’s website at least 15 calendar days before the date of the workshop.
- (b) The workshop shall start between 6:00 p.m. and 8:00 p.m. on a weekday or between 9:00 a.m. and 5:00 p.m. on a weekend. All required workshops shall be held prior to submittal of the application with the exception that applications for a non-binding and preliminary review, without a development agreement, under section 20-28.1 shall not require a workshop. The applicant shall be required to schedule an additional workshop if the initial workshop has occurred more than six months prior to submittal of the application, or the applicant’s initially proposed plans have substantially and materially changed from the initial workshop or the city commission determines that an additional workshop is required before making a final decision on any related application.

Sec. 20-30. - Staff review.

- (a) The city staff shall be required to review all applications for site plans, rezonings, variances, conditional uses, waivers, and administrative appeals, and make written recommendations to the planning and zoning board and the city commission. Staff recommendations shall include at a minimum the following relevant information:
- (1) background data about the subject property including, but not limited to, current future land use and zoning designations, previous applicable development agreements, binding land covenants, parcel size and dimensions, development constraints such as wetlands and conservation areas and easements, and a map and aerial of the subject and surrounding property;
 - (2) information regarding adjacent and surrounding land uses;
 - (3) information regarding the applicant and proposed application request;
 - (4) citation and summary of applicable law such as city comprehensive plan policies, city code provisions and state and federal laws;
 - (5) procedural history of the proposed application and project including application submittal dates, legal advertisements, other related pending applications, previous city commission approvals, community charette meetings, and planning & zoning board recommendations;
 - (6) summary of relevant review criteria regarding the application;
 - (7) the applicants written analysis and response to the review criteria;
 - (8) city staff's written analysis and response to the review criteria; and
 - (9) other competent substantial evidence deemed necessary by city staff to analyze the application for compliance with law.
- (b) Upon completion of the written recommendation, city staff shall forward the application along with the recommendation, to the planning and zoning board as required by this division, for a duly noticed public hearing and recommendation before the city commission considers the application.

Sec. 20-31. - Rezonings.

- (a) Any real property owner may file a rezoning application requesting a change in zoning designation for their real property.
- (b) The planning and zoning board shall be required to review all rezoning applications and make a written recommendation to the city commission. Such recommendation shall include the reasons for the board's recommendation and show the board has considered the applicable rezoning criteria set forth in this section.
- (c) Upon receipt of the planning and zoning board's recommendation, the city commission shall make a final decision on the application. If the city commission determines that the planning and zoning board has not made a recommendation on an application within a reasonable period of time, the city commission may, at its discretion, consider an application without the planning and zoning board's recommendation.
- (d) All rezoning applications shall be reviewed for compliance with the following standards:

- (1) The proposed rezoning change is in compliance with all procedural requirements established by the City Code and law;
- (2) The proposed rezoning change is consistent with the goals, policies and objectives of the city's comprehensive plan including, but not limited to, the Future Land Use Map and the proposed change would not have an adverse effect on the city's implementation of the goals, policies and objectives of the comprehensive plan;
- (3) The proposed rezoning change is consistent with any master plan applicable to the property;
- (4) The proposed rezoning change is not contrary to the land use pattern established by the city's comprehensive plan;
- (5) The proposed rezoning change would not create a spot zone prohibited by law;
- (6) The proposed rezoning change would not materially alter the population density pattern in a manner that would overtax the load on public facilities and services such as schools, utilities, streets, and other municipal services and infrastructure;
- (7) The proposed rezoning would not result in existing zoning district boundaries that are illogically drawn in relation to existing conditions on the property and the surrounding area and the land use pattern established by the city's comprehensive plan;
- (8) Changed or changing conditions make the proposed rezoning necessary for the city to serve the population and economic activities;
- (9) The proposed rezoning change will not seriously reduce light or air to adjacent areas;
- (10) Should the city be presented with competent substantial evidence indicating that property values will be adversely affected by the proposed rezoning, the applicant must demonstrate that the proposed rezoning change will not adversely affect property values in the surrounding area;
- (11) The proposed rezoning will not be a substantial detriment to the future improvement or development of vacant adjacent and surrounding property;
- (12) The proposed rezoning will not constitute a grant of special privilege to an individual owner as contrasted with the public welfare and legitimate government interests;
- (13) The proposed rezoning change and allowed uses, intensity and density are is compatible with and not out of scale or incompatible with the surrounding existing development and needs of the neighborhood or the city;
- (14) The proposed rezoning does not violate any applicable land use regulations adopted by the city.
- (15) Applications in the Town Center to rezone to a transect zone shall meet the following additional criteria:
 - a. The proposed T-Zone shall provide a logical extension of an existing zone, or an adequate transition between zones.
 - b. The area shall have had a change in growth and development pattern to warrant a rezoning to a more or less urban T-Zone.

c. The request shall be consistent with the overall city vision for growth and development as expressed in the city's comprehensive plan or applicable master plan.

(16) Whether the applicant has agreed to execute a binding development agreement required by city to incorporate the terms and conditions of approval deemed necessary by the city commission including, but not limited to, any mitigative techniques and plans required by city code.

(e) In approving a change in the zoning classification on a lot or parcel of land, at the request of or with the concurrence of the owner of said lot or parcel, the city commission may approve a rezoning subject to restrictions provided such restrictions do not confer any special privilege upon the owner or subject property that would otherwise be denied by the city's land development regulations in the same zoning district. Such restrictions may include one or more of the following:

- (1) Use restrictions greater than those otherwise specified for that particular district;
- (2) Density restrictions greater than those otherwise specified for the particular district;
- (3) Setbacks greater than those otherwise specified for the particular district, including setbacks from lakes and major arterial roadways;
- (4) Height limits more restrictive than otherwise permitted in the district;
- (5) Minimum lot areas or minimum widths greater than otherwise specified for the particular district;
- (6) Minimum floor area greater than otherwise specified for structures in the particular district;
- (7) Open space requirements greater than otherwise required for property in the particular district;
- (8) Parking, loading driveway or traffic requirements more restrictive than otherwise required for the particular district;
- (9) Fencing or screening requirements greater than otherwise required for the particular district;
- (10) Restrictions on any other matters which the city commission is authorized to regulate.

Upon approval of such restrictive rezonings, the planning division shall enter a reference to the restrictions on the city's official zoning map, and a notice of zoning restrictions shall be recorded in the public records of Seminole County. Restrictions shall run with the land, without regard to transfer of ownership or other interests, and may be removed only upon further amendment to the zoning classification of the subject property in accordance with the procedures prescribed herein.

Sec. 20-32. - Variances.

(a) Any real property owner may file a variance application requesting variance from this chapter for their real property. Variances may be approved only for height, width, length or

area of structures; size of lots; size of yard setbacks; driveway widths; building design standards (dimensional standards only); landscaping area requirements for vehicular use areas; landscape buffer requirements for buffer strip areas; landscape zones; street setbacks; glazing and window percentages; and minimum first floor height. Under no circumstances may a variance be granted to allow a use not permitted generally or by conditional use permit in the district involved, or any use expressly or by necessary implication prohibited in the district by the terms of this chapter or other applicable provision of the city code.

- (b) The planning and zoning board shall be required to review all variance applications and make a written recommendation to the city commission. Such recommendation shall include the reasons for the board's recommendation and show the board has considered the applicable variance criteria set forth in this section.
- (c) Upon receipt of the planning and zoning board's recommendation, the city commission shall make a final decision on the application. If the city commission determines that the planning and zoning board has not made a recommendation on an application within a reasonable period of time, the city commission may, at its discretion, consider an application without the planning and zoning board's recommendation.
- (d) All variance recommendations and final decisions shall be based on an affirmative finding as to each of the following criterion:
 - (1) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, buildings or structures in the same zoning district.
 - (2) That special conditions and circumstances do not result from the actions of the applicant or applicant's predecessor in title.
 - (23) That literal interpretation of this chapter would work an unnecessary and undue hardship on the applicant deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and other applicable building and land development codes of the city~~work unnecessary and undue hardship on the applicant.~~
 - (34) That the special conditions and circumstances referred to in subsection (d)(1) of this section do not result from the actions of the applicant.
 - (45) That approval of the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures in the same zoning district.
 - (56) That the requested variance is the minimum variance from this chapter necessary to make possible the reasonable use of the land, building or structure.
 - (67) That approval of the variance will be in harmony with the general intent and purpose of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - (8) Whether the applicant has agreed to execute a binding development agreement required by city to incorporate the terms and conditions of approval deemed necessary by the

city commission including, but not limited to, any mitigative techniques and plans required by city code.

(e) The following factors shall not be considered in any variance request:

(1) The presence of nonconformities in the zoning district or adjoining districts.

(2) Financial loss or business competition.

(3) Whether the property was purchased with the intent to develop or improve the property, whether or not it was known at the time of purchase that such development would be a violation.

Sec. 20-33. - Conditional uses.

- (a) Any real property owner may file a conditional use application requesting a conditional use of their real property providing the conditional use is listed in the applicable zoning district category.
- (b) The planning and zoning board shall be required to review all conditional use applications and make a written recommendation to the city commission. Such recommendation shall include the reasons for the board's recommendation and show the board has considered the applicable conditional use criteria set forth in this section.
- (c) Upon receipt of the planning and zoning board's recommendation, the city commission shall make a final decision on the application. If the city commission determines that the planning and zoning board has not made a recommendation on an application within a reasonable period of time, the city commission may, at its discretion, consider an application without the planning and zoning board's recommendation.
- (d) All conditional use recommendations and final decisions shall be based on the following criteria to the extent applicable:
 - (1) Whether the applicant has demonstrated the conditional use, including its proposed density, height, scale and intensity, hours of operation, building and lighting design, setbacks, buffers, noise, refuse, odor, particulates, smoke, fumes and other emissions, parking and traffic-generating characteristics, number of persons anticipated using, residing or working under the conditional use, and other offsite impacts, is compatible and harmonious with adjacent land uses, and will not adversely impact land use activities in the immediate vicinity.
 - (2) Whether the applicant has demonstrated the size and shape of the site, the proposed access and internal circulation, and the design enhancements to be adequate to accommodate the proposed density, scale and intensity of the conditional use requested. The site shall be of sufficient size to accommodate design amenities such as screening, buffers, landscaping, open space, off-street parking, safe and convenient automobile, bicycle, and pedestrian mobility at the site, and other similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.
 - (3) Whether the proposed use will have an adverse impact on the local economy, including governmental fiscal impact, employment, and property values.

- (4) Whether the proposed use will have an adverse impact on the natural environment, including air, water, and noise pollution, vegetation and wildlife, open space, noxious and desirable vegetation, and flood hazards.
- (5) Whether the proposed use will have an adverse impact on historic, scenic, and cultural resources, including views and vistas, and loss or degradation of cultural and historic resources.
- (6) Whether the proposed use will have an adverse impact on public services, including water, sewer, stormwater and surface water management, police, fire, parks and recreation, streets, public transportation, marina and waterways, and bicycle and pedestrian facilities.
- (7) Whether the traffic report and plan provided by the applicant details safe and efficient means of ingress and egress into and out of the neighborhood and adequately addresses the impact of projected traffic on the immediate neighborhood, traffic circulation pattern for the neighborhood, and traffic flow through immediate intersections and arterials.
- (78) Whether the proposed use will have an adverse impact on housing and social conditions, including variety of housing unit types and prices, and neighborhood quality.
- (9) Whether the proposed use avoids significant adverse odor, emission, noise, glare, and vibration impacts on adjacent and surrounding lands regarding refuse collection, service delivery, parking and loading, signs, lighting, and other site elements.
- (10) Whether the applicant has provided an acceptable security plan for the proposed establishment that addresses the safety and security needs of the establishment and its users and employees and minimizes impacts on the neighborhood, if applicable.
- (11) Whether the applicant has provided an acceptable plan for the mass delivery of merchandise for new large footprint buildings (greater than 20,000 square feet) including the hours of operation for delivery trucks to come into and exist the property and surrounding neighborhood, if applicable.
- (12) Whether the applicant has demonstrated that the conditional use and associated site plan have been designed to incorporate mitigative techniques and plans needed to prevent adverse impacts addressed in the criteria stated herein or to adjacent and surrounding uses and properties.
- (13) Whether the applicant has agreed to execute a binding development agreement required by city to incorporate the terms and conditions of approval deemed necessary by the city commission including, but not limited to, any mitigative techniques and plans required by city code.

Sec. 20-34. - Waivers.

- (a) Any real property owner may file a waiver application requesting a waiver for their real property from any term and condition of this chapter (except from the list of permitted,

conditional and prohibited uses set forth in any zoning district category) ~~if the property owner clearly demonstrates that the applicable term or condition clearly creates an illogical, impossible, impractical, or patently unreasonable result.~~

- (b) The planning and zoning board shall be required to review all waiver applications and make a written recommendation to the city commission. Such recommendation shall include the reasons for the board's recommendation and show the board has considered the applicable waiver criteria set forth in this section.
- (c) Upon receipt of the planning and zoning board's recommendation, the city commission shall make a final decision on the application. If the city commission determines that the planning and zoning board has not made a recommendation on an application within a reasonable period of time, the city commission may, at its discretion, consider an application without the planning and zoning board's recommendation.
- (d) ~~In addition to the standard set forth in paragraph (a) above, a~~All waiver recommendations and final decisions shall also comply with the following criteria:
 - (1) The applicant clearly demonstrates that the applicable term or condition clearly creates an illogical, impossible, impractical, or patently unreasonable result related to the proposed property and development.
 - (12) The proposed development plan is in substantial compliance with this chapter and in compliance with the comprehensive plan.
 - (23) The proposed development plan will significantly enhance the real property.
 - (34) The proposed development plan serves the public health, safety, and welfare.
 - (4-5) The waiver will not diminish property values in or alter the essential character of the surrounding neighborhood.
 - (5-6) The waiver granted is the minimum waiver that will eliminate or reduce the illogical, impossible, impractical, or patently unreasonable result caused by the applicable term or condition under this chapter.
 - (67) The proposed development plan is compatible and harmonious with the surrounding neighborhood.
 - (8) Whether the applicant has agreed to execute a binding development agreement required by city to incorporate the terms and conditions of approval deemed necessary by the city commission including, but not limited to, any mitigative techniques and plans required by city code.

Sec. 20-35. - Administrative appeals.

- (a) Any final administrative decision regarding the enforcement or interpretation of this chapter, where it is alleged there is an error by an administrative official, can be appealed as set forth in this section. Administrative appeals are not authorized or permitted on interpretation issues based on the following:

- (1) Any order, requirement, decision, or determination made regarding code enforcement, including notice of violations and civil citations.
 - (2) Acts of administrative officials pursuant to the orders, resolutions, or directives of the city commission including development agreements.
 - (3) Zoning verification letters.
 - (4) Challenges to a development order controlled by F.S. § 163.3215.
 - (5) Appeals that circumvent procedures required by this chapter, including those that are more appropriately addressed in an application for a waiver, variance, or rezoning.
- (b) The following persons shall have standing to appeal an administrative decision that is not of general applicability and that is specifically related to a particular project or parcel of real property:
- (1) An applicant who is adversely affected by the decision.
 - (2) A property owner whose property is the subject of the decision.
 - (3) All owners of real property that lies within 400 feet of the property that is the subject of the decision.
 - (4) Any resident, landowner, or person having a contractual interest in land in the city who demonstrates a direct adverse impact from the decision that exceeds in degree the general interest in community good shared by all persons.
- (bc) Appeals shall be taken within ~~thirty~~ fifteen (3015) days after such administrative decision is signed by the administrative official rendering the decision or is otherwise rendered in writing. Appeals shall be is made by filing a written notice of appeal with the city manager stating the name of the decision maker, date of the decision, applicable code provisions and the specific grounds for appeal. A copy of the written decision shall accompany the written notice of appeal and filing fee. Upon receipt of the notice of appeal, the city manager shall schedule the appeal before the planning and zoning board within fifty (50) days and transmit all documents, plans, papers or other materials constituting the record upon which the action appealed from was taken. Within twenty (20) calendar days of the filing of a notice of appeal pursuant to this section, any person with standing may intervene and become a party to the appeal by filing a written notice of appeal in accordance with this section and payment of the filing fee.
- (ed) The planning and zoning board shall be required to review all administrative appeals and make a recommendation to the city commission.
- (de) Upon receipt of the planning and zoning board's recommendation, the city commission shall make a final decision on the administrative appeal. If the city commission determines that the planning and zoning board has not made a recommendation on an administrative appeal within a reasonable period of time, the city commission may, at its discretion, consider an application without the planning and zoning board's recommendation.
- (f) The hearing shall be limited to the record on appeal and shall consist of oral argument by city staff and parties with standing, each of whom may be represented by legal counsel, and the party challenging the administrative decision shall have the burden of proof. The hearing

shall be conducted in accordance with established Florida law for quasi-judicial hearings. The record on appeal shall consist of the following: 1) the application and accompanying information; and 2) the written decision of the administrative official and accompanying information. All parties may freely refer to provisions from the comprehensive plan, any other city ordinance, resolution, or rule, and any federal or state statute, rule, or decision. If any party desires to admit any additional evidence, the additional evidence shall be disclosed to the other parties and the planning and zoning board or city commission not less than five calendar days before the hearing. At the beginning of the hearing, the planning & zoning board or city commission shall rule on whether such additional evidence may be presented and shall freely allow the evidence when such evidence is relevant to the issue on appeal.

(eg) Review of administrative decisions shall be based on the following criteria:

- (1) Whether the applicant was properly afforded procedural due process;
- (2) Whether the decision under review is supported by competent, substantial evidence; and
- (3) Whether the decision under review complied with applicable law, including a proper interpretation of any provision under this chapter.

(fh) The city commission shall have the right to reverse or affirm, wholly or in part, or may modify the order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the officers from whom the appeal is taken.

(i) An administrative appeal filed pursuant to this section stays all proceedings in furtherance of the action appealed from, including the issuance of a building permit or development order, unless the administrative official from whom the appeal is taken certifies in writing to the board of adjustment after the notice of appeal is filed that, because of facts stated in the certificate, a stay would, in the administrative official's opinion, cause imminent peril to life and property. In such case where the administrative official makes such certification, proceedings shall not be stayed other than by an injunction issued by a court of competent jurisdiction

Sec. 20-36. - Expiration of conditional use, variance and waiver approvals.

- (a) Any conditional use, variance or waiver approved by the city commission under this Division shall expire two (2) years after the effective date of such approval by the city commission, unless a building permit based upon and incorporating the conditional use, variance, or waiver is issued by the city within said time period. Upon written request of the property owner, the city commission may extend the expiration date, without public hearing, an additional six months, provided the property owner demonstrates good cause for the extension. In addition, if the aforementioned building permit is timely issued, and the building permit subsequently expires and the subject development project is abandoned or discontinued for a period of six months, the conditional use, variance or waiver shall be deemed expired and null and void.
- (b) The city commission hereby finds that there may be one or more unexpired conditional use, variance, or waiver permits previously granted by the City that may have never been acted upon or abandoned by the property owner. The city commission finds that these

unexpired permits may now be detrimental to the public health, safety, and welfare of the community due to changed circumstances in the surrounding neighborhood and changes in law. Therefore, the provisions of this section shall apply retroactively to any unexpired conditional use, variance, and waiver previously granted by the city commission. It is the intent and purpose of this subsection to void any previously granted conditional use, variance, and waiver permit that does not comply with the provisions of this section and to require the property owner to reapply, under current circumstances, for said permit should the property owner desire or need said permit.

Sec. 20-37. - Limited administrative waivers.

(a) *Authorization by city manager.* Waivers to the adopted land development regulations set forth in this chapter may be authorized administratively by the city manager or designee, subject to the procedures and limitations of this section. Designees under this section may be approved by city manager by written administrative order.

(b) *Waivers subject to administrative review and approval.*

(1) Administrative waivers may be considered for height, area, ~~or~~ size, or design dimensional requirement of a structure or architectural feature; and/or distance requirement, size of yard, setback and open space requirements of an applicable zoning district including the transect design standards in the Town Center District. Administrative waivers shall not exceed ten percent (10%) of the applicable requirement.

The city manager may authorize the administrative review and approval of a waiver when a property owner clearly demonstrates:

- a. The waiver is necessary, as a condition of city permit approval, to allow the reasonable use of the subject property and any proposed or existing improvements thereon; and
- b. Such waiver will not: (i) have more than a de minimus impact on the subject property and surrounding area; (ii) be contrary to the public interest; (iii) be incompatible with the surrounding area; (iv) have an adverse effect on the neighborhood or general welfare of the area; and (v) have the effect of nullifying the intent and purpose of any applicable provision of this chapter.

(c) *Application submittal and fee.* Application for an administrative waiver by the city manager shall be made on a form provided by the community development department and shall be accompanied by an application fee established by the city. As part of the application, the city manager reserves the right to require a signed affidavit (submitted on a form prepared by the city) from all abutting property owners indicating no objection to the requested waiver. In such case, failure of the applicant to obtain signatures of all abutting property owners will constitute a basis for denying the application. For the purpose of this section, the term "abutting" shall include those properties directly across a road.

(d) *Conditions.* The city manager may prescribe appropriate conditions and safeguards to ensure that the purposes of this section, chapter and other applicable regulations set forth in

the City Code are carried out, and to ensure that the waiver granted is the minimum necessary to allow reasonable use of the land and improvements.

- (e) *Further action.* Applications approved by the city manager under this section shall be deemed final. However, a denial of a request for an administrative waiver by the city manager shall be considered a non-final order of the city and shall not be appealable. Applications denied under this section shall not preclude an applicant from requesting a variance or waiver from the city commission pursuant to other applicable provisions of this chapter. In such cases, the applicant shall submit a formal application for a variance or waiver consistent with the requirements set forth in this chapter, and decisions made on such applications shall be deemed final and subject to appeal in a court of competent jurisdiction.
- (f) *Approvals by City Commission.* The city commission can use the limited administrative criteria in subsection (b) to grant applicable waivers when considering and making final decisions on any other land use application requiring city commission approval such as approval of final engineering plans. Such waivers are not subject to the application requirements in subsection (c) and shall not exceed fifteen percent (15%) of the applicable requirement. However, in conjunction with the land use application requiring city commission approval, the applicant and city staff shall identify the applicable limited waivers and address, in writing, the criteria in subsection (b). Additionally, if deemed necessary and relevant by city staff or city commission to approving the limited waiver requested, the applicant shall provide such relevant information enumerated in section 20-29 to support granting the waiver request.

* * *

DIVISION 12. - TOWN CENTER DISTRICT CODE

* * *

Sec. 20-320. - Intent.

* * *

(c) *How to use this code.*

- (1) Review the policies and administration procedures ~~specifically~~ applicable to the town center as set forth ~~including those contained~~ in the City's Comprehensive Plan and City Code including the Town Center District Code, Chapter 9 Land Development including final engineering plans, subdivision of land, and aesthetic review, and Chapter 20, Article II Administration, Division 1 Procedures; Land Use Decisions regarding special zoning permits.
- (2) Identify the transect zone assigned to the subject property.
- (3) Determine whether the proposed use is permitted in the applicable transect zone and is compatible under existing conditions at the proposed location with other adjacent or nearby land uses within the town center and any established surrounding neighborhoods.



Tuscawilla Road Retail, Winter Springs Town Center

- (4) Review the general provisions and other requirements which apply throughout the applicable transect zone.
- (5) Determine which street type your lot fronts on the thoroughfare standards map.
- (6) Review the building elements and architectural guidelines which contain specific rules for architectural design.
- (7) Prepare plans and specifications for submittal to the city in compliance with applicable law including, but not limited to, the City's Comprehensive Plan, City Code and Town Center District Code.

* * *

Sec. 20-321. - Administration.

(a) *Interpretation of the standards.* ~~Interpretation of the standards in this division shall be the responsibility of the city's development review committee (DRC). Unless otherwise authorized by resolution of the city commission, the city commission shall serve as the development review committee under this division. The adopted Master Plan (inclusive of any economic development strategies adopted by the city commission for the town center) shall serve as guidance to the development review committee with regard to the city's intent for land development in the town center. The images contained in this division are meant to demonstrate the character intended for the town center and shall be the guide for future development, but are for illustrative purposes only. The accompanying text and numbers are rules that govern permitted development.~~

(b) ~~*Review process.*~~

~~(1) — Applications are subject to final review and approval by the development review committee (DRC). Prior to final review and approval by the development review committee, all new applications, and proposed substantial amendments to previously approved applications, shall be reviewed by the planning and zoning board for purposes of issuing an advisory recommendation to the development review committee.~~

~~The committee shall have authority, within reason and applicable rules, for approving all aspects of site planning and exterior architecture, including aesthetic appropriateness, verification of an acceptable economic fiscal impact, environmental implications, traffic impacts, and any other site-specific matters not delineated herein.~~

~~(2) — *Optional preliminary review.* Applicants may, at their option and sole cost and risk, submit site layout and building elevation designs in schematic or sketch form to the development review committee for a non-binding and preliminary review as an initial courtesy to the applicant. These submittals are subject to a more formal application process which requires the submission of more detailed plans and specifications and requires a more detailed review and final consideration of approval by the DRC. Comments and statements made by city officials at the preliminary review are non-binding unless memorialized in a written agreement approved by the city commission. City staff and the applicant shall only seek feedback from the commission and city staff shall not make a formal recommendation regarding the proposed project at this time, unless the application is accompanied by a written development agreement being proposed by city staff for the commission's approval. In which case, the city staff shall make a recommendation regarding the application and proposed agreement. This non-binding and preliminary review shall not be relied upon by the applicant as a final decision and shall not be construed in any manner as creating any vested right or entitlement for the development of the subject property. By requesting and participating in the optional preliminary review process, the applicant shall be deemed to have read and agreed to this code provision and to hold the city and its officials harmless for any future actions they may have taken based on the results of a preliminary review pursuant to this section.~~

~~(3) — Applicants shall submit the following items to the community development department for review:~~

- ~~a. — A current up-to-date site survey;~~
- ~~b. — A current up-to-date tree survey;~~
- ~~c. — A site plan, drawn to scale, which shall indicate:
 - ~~1. — Building locations and orientations, and landscape areas;~~
 - ~~2. — Parking locations and number of spaces;~~
 - ~~3. — Paved surfaces, materials and location(s);~~
 - ~~4. — Site location diagram and legal description; and~~
 - ~~5. — Signage.~~~~
- ~~d. — Building elevations illustrating all sides of structures facing public streets or spaces;~~
- ~~e. — A parking analysis justifying the proposed parking solution (such as Shared Parking, by Barton Aeschman Associates, The Urban Land Institute);~~
- ~~f. — An economic fiscal impact report, prepared by a duly qualified expert, in compliance with the requirements set forth in the City's Comprehensive Plan and Code, if applicable; and~~

~~g. — Other reasonable supporting documents to indicate intentions and/or any other items reasonably required by the development review committee to determine whether or not the proposed development is in compliance with the City's Comprehensive Plan and Code.~~

~~The provisions of this subsection are not applicable to the optional preliminary review process, but some or all of the requirements may be required by the city, on a case-by-case basis, if the city and the applicant pursue a development agreement during the optional preliminary review process.~~

~~(e) — *Special exceptions.*~~

~~(1) — The city commission may by special exception waive strict compliance with provisions of this code in furtherance of promoting the town-center policies adopted by the city. In granting a special exception, the city commission must find by substantial competent evidence that:~~

~~a. — The proposed development contributes to, promotes and encourages the improvement of the Winter Springs Town Center and catalyzes other development as envisioned in the Winter Springs Town Center regulations.~~

~~b. — The proposed development will not have an unfavorable effect on the economy of the Winter Springs Town Center and complies with the economic fiscal impact requirements set forth in the City's Comprehensive Plan and Code.~~

~~c. — The proposed development abides by all rules in this code other than those specially excepted. Special limitations apply to large footprint buildings (greater than twenty thousand (20,000) square feet); see subsection 20-324(9) for these limitations.~~

~~d. — The proposed development meets any reasonable additional conditions, restrictions or limitations deemed necessary by the city commission in order to preserve and promote the intent of the Winter Springs Town Center District Code.~~

~~e. — With respect to each waiver requested, the specific waiver shall comply with all of the following:~~

~~1. — Is a result of special conditions and circumstances which are peculiar to the land, site plan, structure or building involved and which justify granting the waiver in the context of the overall proposed development being successful within the town-center;~~

~~2. — Is the minimum waiver from the town-center regulations necessary to make possible the reasonable use of the land, building or structure;~~

~~3. — Is in harmony with the general intent and purpose of the town-center regulations;~~

~~4. — Will not be injurious or incompatible to the town-center and any surrounding neighborhood or property; and~~

~~5. — Will not create a public nuisance or be detrimental to the public health, safety, and welfare relative to public services including water, sewer, surface water management, police, fire, parks and recreation, streets and traffic patterns, public transportation, marina and water ways, bicycle and pedestrian facilities.~~

~~(2) — *Procedure for special exceptions.*~~

~~a. — Approval may be granted only after a minimum of two (2) discretionary reviews. The first review shall be before the planning and zoning board, at which time the planning and zoning board shall review the project and provide to the city commission an advisory recommendation~~

~~regarding approval, approval with conditions, or disapproval. The second review shall be a public hearing held before the city commission and shall be held no sooner than seven (7) calendar days following the planning and zoning board hearing.~~

~~b. — Requests for special exceptions under this division shall include each exhibit required in the administration review process per subsection 20-321(b). In addition, the city commission may within reason require additional exhibits and may defer approval of the special exception application or schedule an additional public hearing or hearings to review those exhibits.~~

~~e. — Special exceptions shall not be unreasonably withheld if the requested special exception complies with the applicable criteria set forth in the town center regulations, but the city commission shall have authority to require that the applicant satisfy any additional conditions it deems necessary to fulfill goals of the master plan, including reasonable offsite improvements directly related and proportionate to the specific impact of the request, or further review(s) and approval by the development review committee.~~

~~(3) — The city commission may grant the approval of an application for special exceptions from the Code in whole or in part upon a majority vote of its members.~~

~~(d) — *Site development agreement option.* The city may enter into a site development agreement with the user or developer of a property, relating to development of a particular parcel or tract of land, and such an agreement may address such issues as impact fee credits; a specialized or negotiated concept of design or site plan development authorized or sanctioned by this division; infrastructure service credits or public-private participation in funding, design or construction; or other incentives based upon strict compliance with requirements of this ordinance. The agreement will be mutually acceptable to all parties. Considerations for the city in deciding whether to participate in such an agreement will include compliance with the objectives and design criteria specified in this division; demonstration of a cost benefit to city and developer; consideration of development amenities provided by the developer. Such a site development agreement shall be adopted and be in conformance with the requirements of the Florida Municipal Home Rule Powers Act or F.S. §§ 163.3220 through 163.4243, as to effect, duration, public hearing requirements and other issues.~~

~~The terms and conditions set forth in a development agreement and any related final engineering plans ("development agreement") approved by the city commission shall be binding on the subject property regardless of any changes to the Town Center Code. In the event that the Town Center Code is amended after a development agreement is approved to permit development that is inconsistent and in conflict with a previously approved development agreement, the terms and conditions of the development agreement shall prevail, unless the development agreement is amended. The intent of this paragraph is to prohibit a developer from relying upon an amendment to the Town Center Code enacted subsequent to approval of its development project in order to alter the terms and conditions of its project without the express written consent of the city commission.~~

(b) In the town center district, decorative street signs are required along roadways as part of the decorative street sign and light program for new development including: subdivisions,

commercial development and areas constructed for public use. Standards for the town center district follow the same guidelines as street signage that is upgraded in all other areas of the city. In addition, the city requires that decorative street lights be provided for all development within the town center district. During the development review process, it will be determined by the city whether or not the user or developer of a property within the town center may need to enter into a Neighborhood Street Sign Light Improvement Agreement (NSSLIA) as part of the respective development agreement.

~~(e) — Comprehensive plan compliance required. All development of property subject to these regulations shall also be subject to the Comprehensive Plan of the City of Winter Springs, Florida, and all approvals and land development permits shall be in compliance with said comprehensive plan.~~

* * *

Sec. 20-324. – General Provisions.

The following general provisions apply to all street types.

* * *

(9) Large footprint buildings. Buildings with a footprint greater than twenty thousand (20,000) square feet may be built within the town center district by ~~special exception~~ conditional use only. In these cases, the maximum lot width as noted in each applicable transect zone will be waived. Such buildings must abide by all rules in this division with the following special limitations:

* * *

Sec. 20-327.1. - Signs.

* * *

Signs shall be flat against the facade, mounted projecting from the facade, or mounted above the top of the facade. Free standing monument signs are permitted by ~~special exception~~ waiver along State Road 434 frontage.

* * *

Sec. 20-417. - Residential wall buffers required.

Any developer or property owner proposing a commercial or multi-family development or redevelopment adjacent to a single family zoning district or use shall construct, at the developer's expense, an opaque wall of six (6) feet in height along the full length of the property line between such development or redevelopment and the adjacent single family zoning district or use. A wall shall also be required for a proposed commercial development or redevelopment adjacent to a multi-family zoning district or use, as required above. The wall shall be constructed of concrete block, brick or other durable material (wood not allowed) which is compatible with the surrounding area, and acceptable to the development review committee as to compatibility, design, and compliance with this section and the City Code. The wall requirements of this section shall apply internally within the boundaries of town center, but only to buffer loading

docks, service areas, and trash disposal facilities from adjacent single-family or multi-family residential uses. If a wall is required internally within the town center, the wall requirement may be waived or varied by the development review committee and city commission pursuant to the ~~special exception waiver or variance~~ criteria and procedure set forth in the Town Center District Code. The wall requirements of this section shall also apply along the boundary of property that also constitutes the outer perimeter of the existing area zoned town center.

Sec. 20-422. - Public, private and charter school and daycare center siting criteria.

Daycare centers and schools (hereinafter referred to as "school" in this section) present unique planning/zoning issues and challenges for the city and surrounding land uses. Therefore, all schools must be deemed compatible with surrounding land uses by the city before any development permit may be issued for a new school or the expansion of existing school. In addition to complying with any other applicable provision of the City Code including, but not limited to, conditional use ~~and special exception~~ requirements, and applicable provisions of the city's comprehensive plan, compatibility shall be determined by satisfying all of the following factors:

* * *

Sec. 20-436. - Authorized commercial vehicles—Limited-term parking permits.

(a) One (1) authorized commercial vehicle per dwelling unit, as defined in section 20-434 above and not to exceed ten (10) feet in height, may be exempted from the garaging and fencing requirements of section 20-434 until July 2, 2001, if the dwelling unit of the owner, user, or caretaker of the authorized commercial vehicle does not have a garage or fence capable of screening the vehicle from view as provided in section 20-434 provided that the owner, user, or caretaker of the authorized commercial vehicle shall have first acquired from the city a limited term parking permit which shall be clearly affixed upon the rear window or rear panel of the authorized commercial vehicle.

(b) Following the termination of the period of the permit the commercial vehicle must comply in all respects with section 20-434 or be removed from the residential zoned district.

(c) No authorized commercial vehicle as defined in section 20-434 may be provided a limited term parking permit later than December 31, 1999.

(d) A permit may be transferred to a similar authorized commercial vehicle as defined in section 20-434 for the duration of any applicable permit ~~the special exception~~ provided that a new permit is acquired from the city and the original permit is returned to the city.

* * *

Section 2. Code Amendment. Chapter 9 of the City Code is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from this Ordinance of text existing in Chapter 9. It is intended that the text in Chapter 9 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance):

Chapter 9 – LAND DEVELOPMENT

* * *

~~ARTICLE VI. – SITE PLAN REVIEW~~

~~DIVISION 1. – GENERALLY~~

~~Secs. 9-326 – 9-340. – Reserved.~~

~~DIVISION 2. – SITE PLAN REVIEW BOARD~~

~~Sec. 9-341. – Creation.~~

~~There is hereby created a site plan review board for the city.~~

~~Sec. 9-342. – Purpose; composition.~~

~~The purpose of the site plan review board is to ensure compliance with adopted development standards and the Code of Ordinances. The board shall be composed of the city manager, building official, fire chief, police chief, and any other pertinent department heads or consultants as designated by the city manager. The city manager shall serve as chairman and appoint a board member as vice chairman to serve in his absence.~~

~~Sec. 9-343. – Clerical support and records.~~

~~The city shall provide the site plan review board such clerks, stenographers and assistants as the city manager may deem necessary and responsible. The city shall provide a secretary to keep the minutes of the board's proceedings, serve all notices directed by the board, maintain site plan review board service records and files, preserve all reports and correspondence, and perform such other related duties as directed by the site plan review board. All permanent records of the site plan review board shall be kept in the custody of the city clerk.~~

~~Sec. 9-344. – Meetings.~~

~~All meetings of the site plan review board shall be open to the public and the board shall meet upon call of the chairman or vice chairman in the absence of the chairman. Public notice of a meeting shall be posted on the public bulletin board at the city hall three (3) days before a scheduled meeting.~~

~~Sec. 9-345. – Procedures, regulations and fees.~~

~~Complete records of all proceedings of the site plan review board shall be kept. Procedures, regulations and fees relating to site plans not inconsistent with the provisions of sections 9-341 through 9-349 may be established by the city council from time to time by applicable administrative procedure or resolution. Such procedures, regulations and fees as then established shall be adhered to as if the same were specifically set forth in this chapter.~~

~~Sec. 9-346. – Prohibitions.~~

~~Except that used for a single family dwelling, no parcel of land within the city shall be developed or improved by construction of any nature without a site plan having been first submitted, reviewed and approved as herein set forth, such approval to be valid for a period not to exceed one (1) year. Upon receipt of written application, the site plan review board may extend the approval for a period not to exceed six (6) months. If development has not commenced within one (1) year from the date of approval or within any extension period authorized by the board, the approval of the site plan originally submitted shall be considered null and void and no development or improvement of any nature may take place until such time as a site plan is resubmitted for review and approval as set forth in this chapter. No building permit shall be issued by the city until the site plan has been finally approved by the board or the city commission when applicable. No work of any nature shall commence on the property until a building permit has been issued, except with the express approval of the board or the city commission when applicable.~~

Sec. 9-347. – Duties.

~~Any person desiring to develop or improve any parcel of land as provided for in this chapter shall first submit to the site plan review board a site plan. Such site plan shall be reviewed for compliance with all city ordinances, for conformity with the city's comprehensive plan, for compatibility with locally recognized values of community appearance and design, for conformity with the guidelines established by the city council concerning vehicular traffic access, ingress, egress, internal circulation, parking; concerning emergency vehicle access and concerning pedestrian movement; for assurances of satisfactory utility service for the health and welfare of the community; to assure compatibility with other improvements and the need for adequate light, air, access and privacy; to assure that the natural qualities and characteristics of the land will be preserved and that the project site will be appropriately landscaped and provisions established for the maintenance of same; to assure that adequate setbacks will be provided within the planned project and that provisions are made for the supervision and maintenance thereof; and to assure that the aesthetic and architectural details of the planned project are compatible with the surrounding area and serve to enhance the character of that area. The site plan shall be reviewed by the board and approved, disapproved or properly referred by such board in accordance with the results of its review.~~

Sec. 9-348. – Appeals.

~~Any person aggrieved by a decision of the site plan review board may appeal such decision to the city commission within thirty (30) days after notice of such decision. Upon appeal, the city commission shall review the decision of the board within fourteen (14) days and approve, modify or disapprove such decision. The decision of the city commission on appeal shall be final, provided any person aggrieved thereby may seek judicial relief as provided by law.~~

Sec. 9-349. – Penalty for violation.

(a) ~~It is unlawful for any person to violate any of the terms and/or provisions specified within sections 9-341 through 9-349 or failing to comply with any order issued pursuant to any section hereof.~~

- (b) ~~The developer, owner or tenant of any building or structure, parcel, premises or any part thereof, and any architect, building contractor, corporate officer, agent or other person who commits, participates in, assists in or maintains that which is a violation of this ordinance shall be classified as principal in the first degree and shall be found guilty of a violation of the terms of this division and suffer the penalties herein specifically provided.~~
- (c) ~~Nothing herein contained shall prevent the city from instituting and taking such other legal action at law or in equity as is from time to time necessary, in order to prevent or remedy any violation of the rules, conditions, covenants stipulations or terms of this division.~~

* * *

Sec. 9-386.4. - Definitions.

For the purpose of this division, the following words and terms shall have the meaning ascribed thereto:

* * *

Development permit. Includes any building permit, conditional use, zoning approval, subdivision approval, rezoning, development order, conditional use special exception, variance, waiver, or any other official action of local government having the effect of permitting the development of land.

* * *

Sec. 9-501. - Definitions.

The following words and phrases used in this article shall have the meanings ascribed below unless the context clearly indicates otherwise:

* * *

Development permit. Includes any building permit, zoning permit, subdivision approval, rezoning certification, conditional use special exception, variance, waiver, or any other official action of the city having the effect of permitting the development of land.

* * *

Section 3. Additional Town Center Code Conforming Amendments. One of the major policy objectives of this Ordinance is to streamline the town center development land use permit process and consolidate it with the regular land use permit process contained in the City Code. Unlike other provisions of the City Code, the Town Center Code specifically references a special development review committee as part of the development permit decision making process. Since the Town Center Code was enacted, the City Commission has served as the development review committee under said code for purposes of making land use decisions required by the Town Center Code. In furtherance of the aforesaid objective, reference to the development review committee must be modified (as conforming amendments) in the Town Center Code consistent with the regular land use permit process set forth elsewhere in the City Code. Therefore, Chapter 20, Division 12. – Town Center District Code is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from this Ordinance of text existing in Chapter 20, Division 12. It is intended that the text in Chapter 20, Division 12 denoted by

the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance):

See Exhibit "A," which is hereby fully incorporated herein by this reference.

Section 4. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts or ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 5. Incorporation into Code. This Ordinance shall be incorporated into the Winter Springs City Code and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, word, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 7. Effective Date. This Ordinance shall become effective upon adoption by the City Commission of the City of Winter Springs, Florida, and pursuant to City Charter.

ADOPTED by the City Commission of the City of Winter Springs, Florida, in a regular meeting assembled on the ____ day of _____, 2019.

Charles Lacey, Mayor

ATTEST:

Andrea Lorenzo-Luaces, City Clerk

**APPROVED AS TO LEGAL FORM
AND SUFFICIENCY FOR THE CITY
OF WINTER SPRINGS ONLY:**

Anthony A. Garganese, City Attorney

Legal Ad:
First Reading:
Second Reading:

Exhibit "A"

ORDINANCE NO. 2019-___

CONFORMING AMENDMENTS TO TOWN CENTER CODE


DIVISION 12. - TOWN CENTER DISTRICT CODE

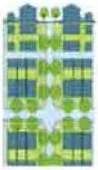
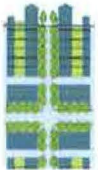

Sec. 20-320. - Intent.

* * *

Transect Zone Descriptions

This table provides descriptions of the character of each transect zone.

<p>T1 (Natural Zone)</p> 	<p>General character: Natural landscape (i.e., wetlands) that is typically unsuitable for development.</p> <p>Building placement: Not applicable</p> <p>Typical building height: Not applicable</p>
<p>T2 (Rural Zone)</p> 	<p>General character: Sparsely settled lands in an open or cultivated state. Typical buildings include farmhouses and agricultural buildings.</p> <p>Building placement: Variable setbacks</p> <p>Frontage types: Not applicable</p> <p>Typical building height: 1- and 2-story</p>
<p>T3 (Suburban Zone)</p> 	<p>General character: Consists of the least dense residential areas with some mixed-use. Home occupations and accessory dwelling units (ADU) are permitted.</p> <p>Building placement: Medium to large front and side yard setbacks</p> <p>Frontage types: Porches, fences, common yards</p> <p>Typical building height: 1-story minimum, 3-story maximum*</p> <p>* See section 20-324(11) for additional details</p>
<p>T4 (General Urban Zone)</p>	<p>General character: Consists of mixed-use but primarily residential urban fabric in a more compact area that is close to the core of the town center. A wide range of</p>

<p>T4</p> 	<p>building types both residential and commercial in nature are found in this zone.</p> <p>Building placement: None to medium front and side yard setbacks</p> <p>Frontage types: Porches, fences, common yards</p> <p>Typical building height: 2-story minimum, 4-story maximum*</p> <p>* See section 20-324(11) for additional details</p>
<p>T5 (Urban Center Zone)</p> <p>T5</p> 	<p>General character: Comprises the core of the town center and consists of a higher intensity mix of uses such as retail, offices, and residential.</p> <p>Building placement: Shallow setbacks or none, buildings oriented close to the street defining a street wall.</p> <p>Frontage types: Stoops, shop-fronts, galleries</p> <p>Typical building height: 2 minimum, to 5-story maximum*</p> <p>* See section 20-324(11) for additional details</p>
<p>C/P (Civic/Public)</p> 	<p>General character: Used for functions of public benefit such as parks and recreation areas, and government uses. Design standards shall be evaluated by the Community Development Department for recommendation to the <u>City Commission Development Review Committee (DRC)</u>.</p>

(c) *How to use this code.*

- (1) Review the policies and administration procedures specifically applicable to the town center as set forth including those contained in the City's Comprehensive Plan and City Code including the Town Center District Code, Chapter 9 Land Development including final engineering plans, subdivision of land, and aesthetic review, and Chapter 20, Article II Administration, Division 1 Procedures; Land Use Decisions regarding special zoning permits.
- (2) Identify the transect zone assigned to the subject property.
- (3) Determine whether the proposed use is permitted in the applicable transect zone and is compatible under existing conditions at the proposed location with other adjacent or nearby land uses within the town center and any established surrounding neighborhoods.



Tuscawilla Road Retail, Winter Springs Town Center

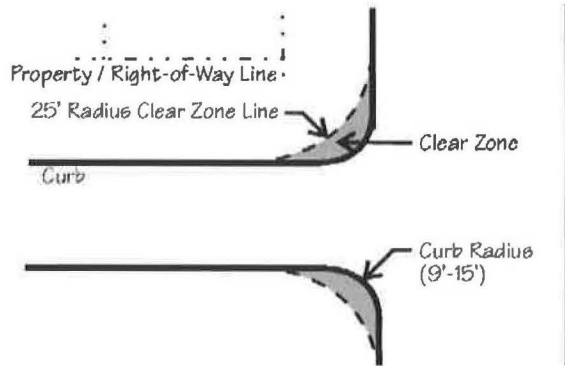
- (4) Review the general provisions and other requirements which apply throughout the applicable transect zone.
- (5) Determine which street type your lot fronts on the thoroughfare standards map.
- (6) Review the building elements and architectural guidelines which contain specific rules for architectural design.
- (7) Prepare plans and specifications for submittal to the city in compliance with applicable law including, but not limited to, the City's Comprehensive Plan, City Code and Town Center District Code.

* * *

Sec. 20-324. - General provisions.

The following general provisions apply to all street types.

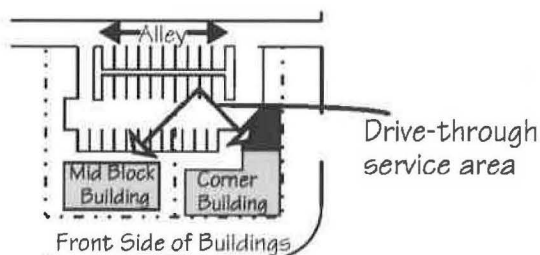
- (1) *Corner radii and clear zones.* Corner curb radii shall be between nine (9) feet and fifteen (15) feet, with the following permitted exceptions: 1) where a curb radius must be larger in order to meet the minimum requirements to obtain a required permit from another agency (FDOT, Seminole County, etc.); and 2) where the fire marshal has determined that a larger curb radius must be provided. Fairly tight turning radii shorten pedestrian crossings and inhibit reckless drivers from turning corners at high speeds. To allow for emergency vehicles (e.g., fire trucks) to turn corners, a twenty-five-foot radius clear zone shall be established free of all vertical obstructions including but not limited to telephone poles, sign poles, fire hydrants, electrical boxes, or newspaper boxes.



- (2) *Alleys.* Alleys are required in the T4 and T5 zones of the town center to minimize curb cuts and to provide access to parking and service areas behind buildings. Alleys are not required in the T3 zone in cases when lot widths are greater than fifty (50) feet. In these cases, a front-loaded garage can be utilized, provided it is setback at least twenty (20) feet behind the principle plane of the primary building. Alley locations and dimensions are not fixed but shall be designed to accommodate the alley's purpose. Additional curb cuts shall be added only with the permission of the city commission development review committee. Alleys may be incorporated into parking lots as drive aisles and fire lanes. In general alleys are intended to accommodate services including but not limited to parking, trash pickup, loading docks, and drive-throughs.
- (3) *Exceptions from build-to lines (front setbacks).* Exceptions from build-to lines as noted in each transect zone may be granted by the city commission development review committee for avoiding trees with diameter breast height (dbh) greater than eight (8) inches.

On corner sites (within fifty (50) feet of the corner) with build-to lines set back from the property line, building frontage may be positioned forward of the build-to line up to the property line, provided it does not encroach upon the clear zone.

- (4) *Diversity of building widths.* No more than three (3) detached residential buildings twenty (20) feet or less in width are permitted within any two hundred (200) feet of frontage.
- (5) *Accessory structures.* Accessory structures are permitted and may contain parking, accessory dwelling units, home occupation uses, storage space, and trash receptacles. Home occupation uses are restricted to owner plus one (1) employee, shall not include noxious or disruptive functions, and may not disrupt parking for neighboring residents. Accessory structures shall not be greater than six hundred twenty-five (625) square feet in footprint and shall not exceed two (2) stories in height.
- (6) *Drive-throughs.* Drive-through service windows are only permitted in the rear in and alley accessed locations provided they do not substantially disrupt pedestrian activity or surrounding uses.





(7) *Civic sites.* Civic buildings and sites contain uses of special public importance. Civic buildings include, but are not limited to, municipal buildings, churches, libraries, schools, daycare centers, recreation facilities, and places of assembly. Civic buildings do not include retail buildings, residential buildings, or privately owned office buildings. In order to provide greater flexibility to create a special architectural statement, civic buildings are not subject to build-to line requirements or building frontage requirements. Civic sites include Central Winds Park and Wetlands Park. The design of civic buildings and sites shall be subject to review and approval by the city commission ~~development review committee~~ and are permitted in any transect zone within the town center but primarily in the "civic/public" zone.

(8) *Parking.*

a. *Parking requirements.* The intent of these parking regulations is to encourage a balance between compact pedestrian oriented development and necessary car storage. The goal is to construct neither more nor less parking than is needed.

There shall be no minimum parking requirement in the town center. The applicant shall provide a parking analysis justifying the proposed parking solution. The level of detail required for the parking analysis shall be determined in consultation with the city staff ~~DRC~~ early-on in the development process. In general, the parking analysis shall include a detailed analysis and calculation of the normal and peak parking demands for a development. The usage of standard parking generation rates is normally not acceptable for this purpose. The best source of data is field parking counts from similar developments in the area. Factors to consider when calculating the overall parking demand include, but are not limited to:

- Size and usage of the development/number of units
- Availability and proximity of mass transit
- Demographics of the expected user group
- Availability and expected use of bicycle and pedestrian facilities
- Surrounding land use

* * *

(11) *Maximum block size.* A block is noted by this Code as an increment of land composed of an aggregate of lots, tracts and alleys circumscribed by thoroughfares. The maximum block size permitted by this Code is a perimeter of one thousand six hundred (1,600) feet, with no individual block face being more than six hundred (600) feet in length. Special exceptions may

be approved by the city commission DRG on a case-by-case basis from this provision where circumstances including structured parking among other things are constructed in the block.

* * *

Sec. 20-325. - Transect standards.

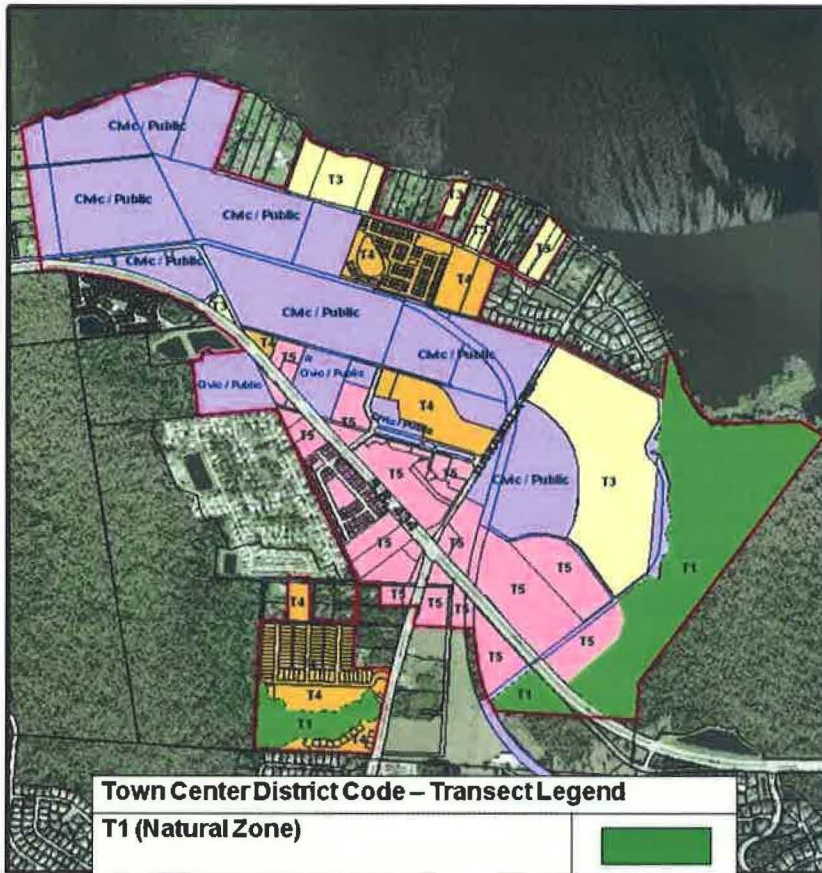
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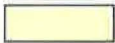



(b) *Transect zone design standards.*

T3 (Suburban Zone)

- (1) *Description* . This zone consists of the least dense residential areas, adjacent to higher density zones within the town center that include some mixed-use. Home occupations and accessory dwelling units (ADU) are allowed. Planting is naturalistic and setbacks are relatively deep. Blocks may be large and the roads irregular to accommodate natural conditions. This zone is intended to provide a transition to and incorporation with existing lower density residential areas that are adjacent to the town center district.

Town Center District Transect Map



Town Center District Code – Transect Legend	
T1 (Natural Zone)	
T3 (Suburban Zone)	
T4 (General Urban Zone)	
T5 (Urban Center Zone)	
C/P (Civic/Public)	

(2) *Dimensional requirements.* Applications are subject to standard administrative provisions in section 20-321 of this Code.

Lot Design Guidelines	
Lot orientation	
Lot width	30 ft. min., 100 ft. max.
Lot depth	50 ft. min., 175 ft. max.

Lot coverage (building footprint)	60% max., or 4,000 sf. max. footprint
Principle building setbacks (from property line)	
Front	10 ft. min. (from front property line)
Rear	3 ft. min. (from rear property line) 6 ft. max.
Side	0 ft. or 3 ft. min. (from side property line)
Frontage buildout *	40% minimum at setback
Accessory building setbacks	
Front	20 ft. min. + building setback (from front property line)
Rear	3 ft. min. (from rear property line)
Side	0 ft. or 3 ft. min. (from side property line)
Building height	
Principle	3 stories max—1 story minimum **
Accessory	2 stories maximum
Private frontages	
Common yard	Permitted
Porch & fence	Permitted
Terrace/light court	Prohibited
Forecourt	Prohibited
Stoop	Prohibited
Shopfront, awning & balcony	Permitted

Gallery	Prohibited
Arcade/colonnade	Permitted

* Irregularly shaped lots may vary from the frontage buildout standard upon recommendation of the city commission Development Review Committee (DRC).

** There shall be a one-foot minimum raised first floor height above the sidewalk for residential uses.

* * *

T5 (Urban Center Zone)

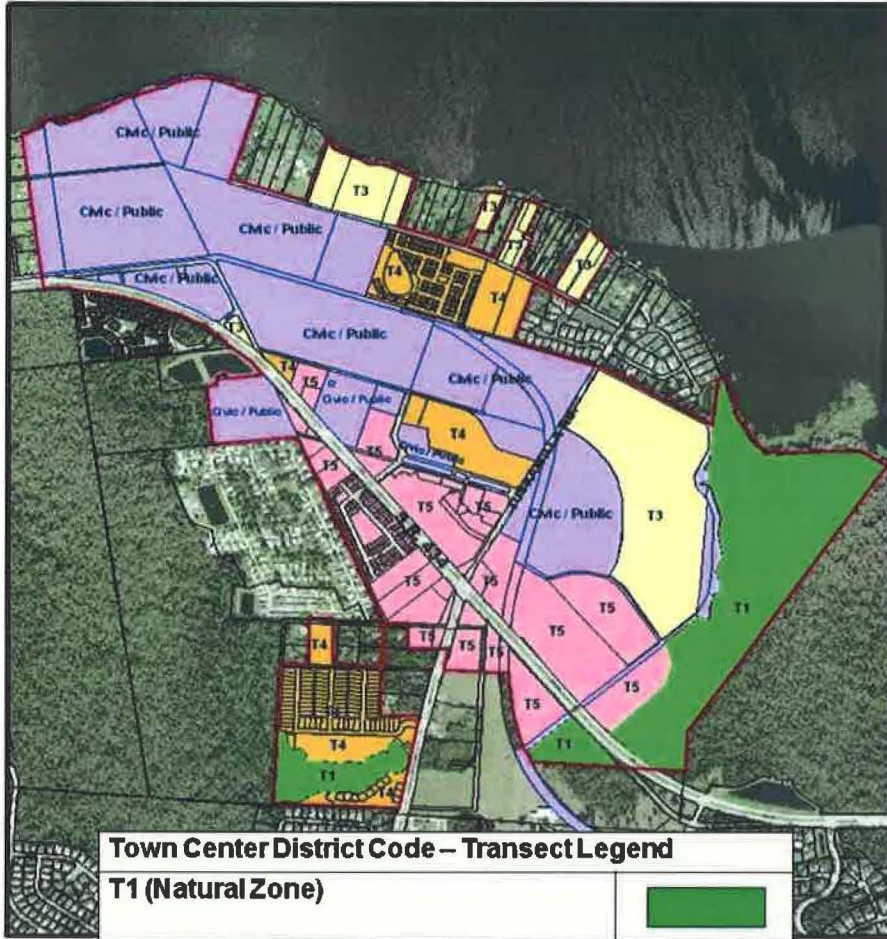
- (1) *Description* . The T5 urban center zone comprises the core of the town center and is synonymous with the city's urban central business district. It shall consist of a higher intensity mix of uses that include retail, offices, and residential. T5 areas typically have fairly small blocks with wide sidewalks, regularly-spaced tree planting, and buildings set close to the street.

* * *

Civic/Public

- (1) *Description* . The civic/public areas are used for functions of public benefit such as parks and recreation, conservation areas that are dedicated to the public and government uses such as City Hall, Winter Springs High School, and the U.S. Post Office.
- (2) *Dimensional requirements*. Design standards in all civic/public areas shall be evaluated by the city community development department for recommendation to the city commission development review committee (DRC).

Town Center District Transect Map



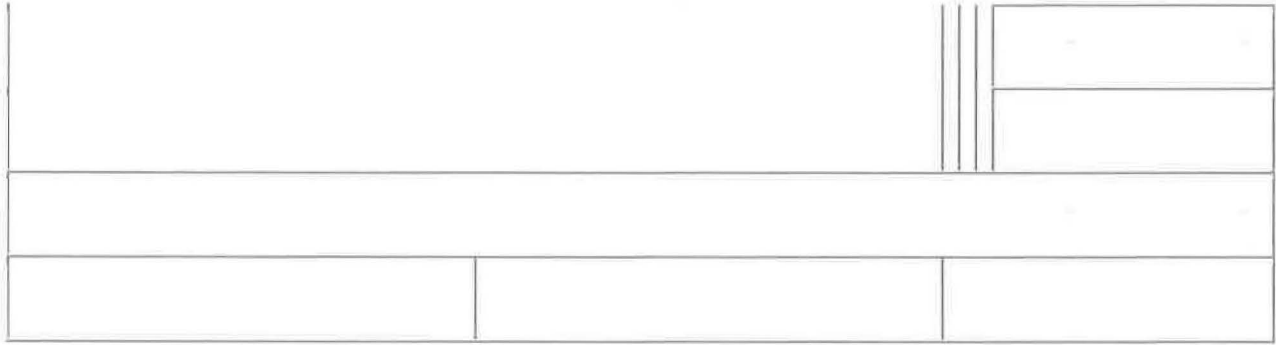
Town Center District Code – Transect Legend	
T1 (Natural Zone)	
T3 (Suburban Zone)	
T4 (General Urban Zone)	
T5 (Urban Center Zone)	
C/P (Civic/Public)	

(c) *Thoroughfare standards.*

* * *

(4) Town Center Street (a one-way variation of this street section is acceptable subject to approval of the city commission development review committee (DRC)).

Acorn Finial for 4"
Pole Cast Aluminum



* * *

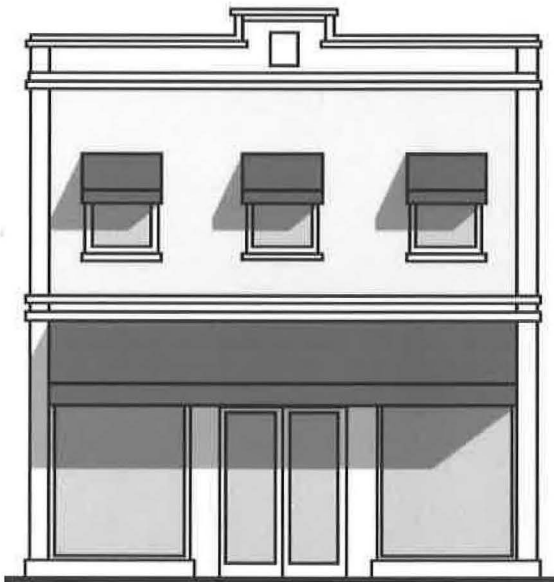
Sec. 20-327. - Architectural guidelines.

* * *

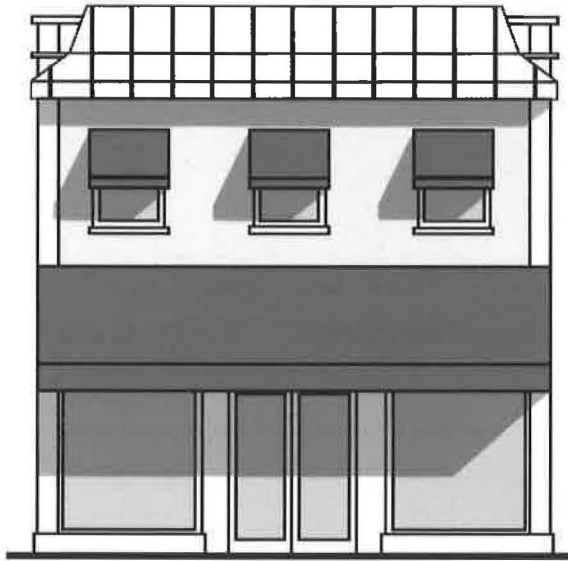
(a) *Building walls.*

- (1) *General requirements.* Required for all buildings except single-family houses:

An expression line shall delineate the division between the first story and the second story. A cornice shall delineate the tops of the facades. Expression lines and cornices shall either be moldings extending a minimum of two (2) inches, or jogs in the surface plane of the building wall greater than two (2) inches.



Desirable



Undesirable

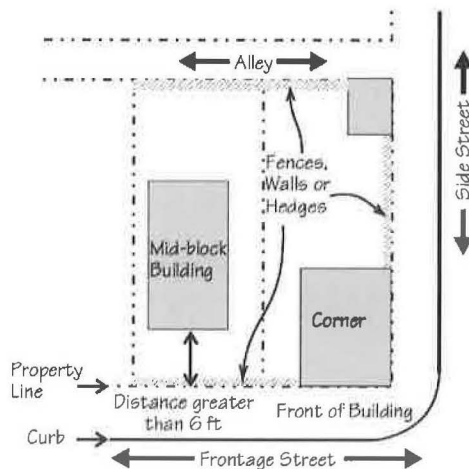
(2) *Permitted finish materials.*

- Concrete masonry units with stucco (C.B.S.)
- Reinforced concrete with stucco
- "Hardie-plank" siding
- Wood (termite resistant): Painted white, left natural (cypress and cedar preferred), or painted/stained with colors approved by the city commission development review committee.

* * *

(b) *Garden walls, fences and hedges.*

- (1) *General requirements.* Fences, garden walls, or hedges are strongly encouraged and, if built, should be constructed along all un-built rights-of-way which abut streets and alleys as shown in the diagram below. Fences, garden walls and hedges shall be minimum twenty-five (25) percent opaque.



- Height:
 - Front yard: Maximum height of forty-eight (48) inches. Pillars and posts may extend up to six (6) inches more, to a height of fifty-four (54) inches.
 - Side and rear yards: Maximum height of seventy-two (72) inches. Pillars and posts may extend up to six (6) inches more, to a height of seventy-eight (78) inches.

(2) *Permitted finish materials.*

- Wood (termite resistant): Painted white, left natural, or painted/stained with colors approved by the city commission development review committee.
- Concrete masonry units with stucco (C.B.S.)
- Reinforced concrete with stucco
- Wrought iron
- Brick

* * *

RETAIL STOREFRONT AREAS ONLY:

In order to provide clear views of merchandise in stores and to provide natural surveillance of exterior street spaces, the ground-floor along the building frontage shall have transparent storefront windows covering no less than fifty (50) percent of the wall area. Storefronts facing Main Street, parks and squares shall remain unshuttered at night and shall utilize transparent glazing material, and shall provide view of interior spaces lit from within. Doors or entrances with public access shall be provided at intervals no greater than fifty (50) feet, unless otherwise approved by the city commission development review committee.

* * *

Sec. 20-327.1. - Signs.

- (a) *General requirements.* All signs shall be subject to a discretionary aesthetic appropriateness review in accordance with section 9-600 of the City Code ~~by the DRC~~ in order that signs are consistent and in harmony with the Winter Springs Town Center. The ~~DRC~~ city shall use graphics in this section as nonbinding guidelines, but shall make a determination of appropriateness on a case by case basis.