



# PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY

REGULAR MEETING AGENDA  
WEDNESDAY, JUNE 5, 2019 AT 5:30 PM

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

## CALL TO ORDER

Roll Call  
Invocation  
Pledge of Allegiance  
Approval of the Agenda

## 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. The Office Of The City Clerk Requests That The Planning And Zoning Board/Local Planning Agency Review And Approve The Wednesday, April 3, 2019 Planning And Zoning Board/Local Planning Agency Regular Meeting Minutes.

Attachments: [Minutes](#)

## **PUBLIC HEARINGS AGENDA**

400. Ordinance 2019-09 regarding the Application, Notice, and Review Criteria Procedures for Special Zoning Permits

Attachments: [Ordinance 2019-09](#)  
[Legal Advertisement](#)  
[Exhibit A](#)

## **REGULAR AGENDA**

500. Not Used

## **REPORTS**

## **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*.

CITY OF WINTER SPRINGS, FLORIDA  
MINUTES  
**PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY**  
REGULAR MEETING  
APRIL 3, 2019

**CALL TO ORDER**

The Regular Meeting of Wednesday, April 3, 2019 of the Planning and Zoning Board/Local Planning Agency was called to Order at 5:30 p.m. by Chairperson Kok Wan Mah in the Commission Chambers (City Hall, 1126 East State Road 434, Winter Springs, Florida 32708).

**Roll Call:**

Chairperson Kok Wan Mah present  
Vice-Chairperson Kevin McCann, present  
Board Member James Evans, present  
Board Member Michael Ferrante, present  
Board Member Bart Phillips, present  
City Attorney Anthony A. Garganese, present  
Assistant to the City Clerk, Antonia DeJesus, present

A moment of silence was followed by the Pledge of Allegiance.

Mr. Tim McClendon, AICP, Director, Community Development Department, indicated that **PUBLIC HEARINGS “401”** and **“402”** were being pulled due to necessary administrative changes.

**AWARDS AND PRESENTATIONS**

**AWARDS AND PRESENTATIONS**

**100. Not Used**

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**INFORMATIONAL AGENDA**

**INFORMATIONAL**

**200. Not Used**

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## **PUBLIC INPUT**

*Chairperson Mah opened “Public Input”.*

*Mr. Dan Edwards, Vice President of Land, Central Florida Division, Dream Finders Homes, 8529 Southpark Circle, Orlando, Florida:* introduced himself as a representative of Dream Finders Homes and expressed his interest in receiving feedback related to aesthetic aspects of an upcoming project.

City Attorney Anthony A. Garganese reiterated that **PUBLIC HEARINGS “402”** was pulled from the Agenda and noted, “It’s not ready for the Board’s consideration.”

Discussion followed on a possible Special Meeting and Mr. Shawn Boyle, Director, Finance and Administrative Services, noted, “We’ll do everything in our powers to expedite this and get it before you.” Brief comments.

*Chairperson Mah closed “Public Input”.*

## **CONSENT AGENDA**

CONSENT

**300. Office Of The City Clerk**

**The Office Of The City Clerk Requests That The Planning And Zoning Board/Local Planning Agency Review And Approve The Wednesday, March 6, 2019 Planning And Zoning Board/Local Planning Agency Regular Meeting Minutes.**

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**“MOTION TO APPROVE ITEM ‘300’.” MOTION BY BOARD MEMBER EVANS.  
SECONDED BY BOARD MEMBER PHILLIPS. DISCUSSION.**

**VOTE:**

**VICE-CHAIRPERSON McCANN: AYE**

**BOARD MEMBER: EVANS: AYE**

**CHAIRPERSON MAH: AYE**

**BOARD MEMBER FERRANTE: AYE**

**BOARD MEMBER PHILLIPS: AYE**

**MOTION CARRIED.**

## **PUBLIC HEARINGS AGENDA**

### **PUBLIC HEARINGS**

#### **400. Community Development Department – Planning Division The Community Development Department - Planning Division Requests That The Local Planning Agency Hold A Public Hearing To Consider EAR Based Amendments To The Comprehensive Plan (Ordinance 2019-XXX), Amending The Comprehensive Plan Related To Intergovernmental Coordination Element.**

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Mr. McClendon gave a historical background of the EAR (Evaluation and Appraisal Review) process and referenced the Florida Growth Management Act. Continuing, Mr. McClendon explained the series of events leading to the present regarding the EAR process.

Further, Mr. McClendon stated, “The proposed changes presented here before this board tonight will bring the Intergovernmental Coordination Element into compliance with the EAR and all the other state rules.” Additional comments followed on compliance, additional elements, and correspondence with the State. Mr. McClendon noted staff’s recommendation for approval.

Brief discussion followed on the approval process regarding the Comprehensive Plan and compliance.

*Chairperson Mah opened “Public Input”.*

No one spoke.

*Chairperson Mah closed “Public Input”.*

**“AT THIS TIME, I MOVE TO APPROVE ITEM ‘400’.” MOTION BY BOARD MEMBER EVANS. SECONDED BY BOARD MEMBER FERRANTE. DISCUSSION.**

#### **VOTE:**

**BOARD MEMBER PHILLIPS: AYE**

**VICE-CHAIRPERSON McCANN: AYE**

**BOARD MEMBER: EVANS: AYE**

**CHAIRPERSON MAH: AYE**

**BOARD MEMBER FERRANTE: AYE**

**MOTION CARRIED.**

PUBLIC HEARINGS

**401. Community Development Department – Planning Division**

**The Community Development Department - Planning Division Requests That The Local Planning Agency/Planning And Zoning Board Hold A Public Hearing To Consider The Aesthetic Review, Final Engineering Plans, And Special Exception Requests For The Winter Springs Town Center Retail Building/Ocean Bleu.**

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This Agenda Item was not discussed.

PUBLIC HEARINGS

**402. Community Development Department – Planning Division**

**The Community Development Department Requests That The Local Planning Agency/Planning And Zoning Board Hold A Public Hearing To Consider The Aesthetic Review, Final Engineering Plans, And Special Exception Request For The Winter Springs Town Center Townhomes.**

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There was no discussion on this Agenda Item.

PUBLIC HEARINGS

**403. Community Development Department – Planning Division**

**The Planning & Zoning Board Shall Conduct A Public Hearing And Make Recommendation Regarding Ordinance No. 2019-05.**

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City Attorney Anthony A. Garganese introduced the Agenda Item and provided some context on the first moratorium ordinance adoption and its subsequent veto as well as the direction provided by the City Commission. Attorney Garganese noted, “It’s virtually the same ordinance that was previous recommended with that one additional substantive change.”

Discussion followed on the four (4) exceptions from the temporary moratorium, the timeframe surrounding the City Commission’s willingness to implement a moratorium, the impact of the moratorium to developers and their projects, and the retroactive application of new rules to ongoing projects.

Board Member James Evans inquired if there had been an influx on applications for special zoning permits since the initial discussion of the moratorium. Mr. McClendon replied, “Nothing out of the ordinary; nothing’s been submitted.” Much discussion ensued on the impact of the moratorium.

*Chairperson Mah opened “Public Input”.*

*Mr. Bryan Schultz, 6414 Montclair Bluff Lane, Windermere, Florida:* introduced himself as the developer for the Starbucks parcels. In response to the discussion of the moratorium and its impact, Mr. Schultz noted, “We do have two (2) concepts that we’ve been trying to apply – since this proposed moratorium on December 10 that we haven’t submitted that we were informed we’re not to submit anything that needs a special exception.” Mr. Schultz commented further on the moratorium on its impact to his projects.

Discussion ensued on the first moratorium, its impact, project application procedures regarding special exceptions, the purpose of the moratorium and its parameters, pre-application meetings, Mr. Schultz’s projects, the uncertain nature of the rules through the City Code’s revision process, and the potential length of the second moratorium.

With much discussion on the potential length of the second moratorium, Attorney Garganese pointed out, “In essence, doing another ninety (90) days is – assuming that the first ordinance wasn’t vetoed – it’s like the Commission taking the ninety (90) day extension which was in the original ordinance.”

On the topic of extensions, Attorney Garganese indicated, “The direction that we received from the Commission was to represent the ordinance as originally enacted with that one (1) additional exception.”

Comments followed various recommendations, pending developments, effects of moratoriums, residents’ concerns, terminology regarding special exceptions, city infrastructure and schools, the Town Center District Code’s functionality, workshops, and a community survey.

Much deliberation followed on possible moratorium extensions and the terms and conditions of the ordinance.

*Chairperson Mah closed “Public Input”.*

Mr. Boyle commented on the moratorium time frames that would affect staff and their capacity and ability to work within them. With further comments, Mr. Boyle emphasized, “It is staff’s number one priority to move this process - get it completed.”

Much debate followed on the length of the moratorium time frame.

**“I’D LIKE TO MAKE A MOTION THAT WE APPROVE THE MORATORIUM LIMITED TO SIXTY (60) DAYS, IN THE INITIAL.” MOTION BY BOARD MEMBER FERRANTE. SECONDED BY VICE-CHAIRPERSON McCANN. DISCUSSION.**

**VOTE:**

**CHAIRPERSON MAH: AYE  
BOARD MEMBER EVANS: NAY  
BOARD MEMBER FERRANTE: AYE  
VICE-CHAIRPERSON McCANN: AYE  
BOARD MEMBER PHILLIPS: NAY  
MOTION CARRIED.**

**REGULAR AGENDA**

REGULAR  
**500. Not Used**

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**600. REPORTS**

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Remarks followed on recent city events.

**PUBLIC INPUT**

*Chairperson Mah opened “Public Input”.*

No one spoke.

*Chairperson Mah closed “Public Input”.*

Brief comments followed on local students in attendance.



## ADJOURNMENT

Chairperson Mah adjourned the Regular Meeting at 7:03 p.m.

*RESPECTFULLY SUBMITTED:*

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ANTONIA DEJESUS  
ASSISTANT TO THE CITY CLERK

UNAPPROVED

NOTE: These Minutes were Approved at the \_\_\_\_\_, 2019 Planning And Zoning Board/Local Planning Agency Regular Meeting.



# PUBLIC HEARINGS AGENDA ITEM 400

PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY  
JUNE 5, 2019 | REGULAR MEETING

## TITLE

Ordinance 2019-09 regarding 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 Ordinance will also provide greater public awareness opportunities for the public regarding many proposed development projects.

On May 6, 2019, the City Commission considered an initial draft of Ordinance No. 2019-09 and provided comments. The comments were considered by the City Attorney and additional changes to the Ordinance have been made since the May 6<sup>th</sup> meeting. On May 13<sup>th</sup> the City Commission approved Ordinance 2019-09 upon First Reading.

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, limited administrative 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 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 certain defined new development projects, conditional uses and redevelopment projects 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 commercial development, new residential subdivisions of ten (10) or more lots, conditional uses, existing commercial buildings being altered by 50 percent or greater of the original floor area or seating capacity and requiring a modified site plan, or development agreements processed 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, site and final engineering plans and subdivisions, 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. The City Attorney and City Manager are requesting that the City Commission consider passing the Ordinance on First Reading and referring the Ordinance to the City's Land Planning Agency/ Planning & Zoning Board for their review and recommendation pursuant to the Community Planning Act.

### **RECOMMENDATION**

The Planning & Zoning Board shall conduct a public hearing and make recommendation regarding Ordinance No. 2019-05.

**ORDINANCE NO. 2019-09**

**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 June 5, 2019; 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, limited administrative 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, certain limited administrative 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, limited administrative 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 article ~~division~~.

(b) For applications having one or more complex relevant and material evidentiary issues or multiple interested parties with standing to present relevant and material evidence, 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 on a case-by-case basis. 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 shall consider the hearing officer's report at a public hearing. At the

hearing, the applicant, interested parties and the public shall be permitted to comment on the findings, conclusions and recommendations contained in the report. The city commission shall also take such additional relevant and material testimony at the public hearing as deemed necessary by the city commission to complete the hearing on the subject application, or the city commission may refer the application back to the hearing officer to take additional relevant and material evidence if necessary. 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 on the application 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 seven (7) calendar days prior to any required planning & zoning board hearing and at least twenty (20) calendar days prior to any required city commission hearing unless otherwise provided by subsections (d) and (e). ~~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 on a sign form provided by the city.
  - (2) Posting at city hall.
  - (3) Notifying, by U.S. mail, all owners of real property adjacent to and within approximately five one-hundred fifty (150-500) feet of the subject property based on the information contained in the property appraiser's or similar property database. In addition, all neighborhood homeowner's associations registered with the City and located within one-half-mile of the property shall likewise be provided notice by U.S. mail. Said mailing shall only be required for the initial public hearing and shall not be required for hearings that are continued to a date certain by the planning & zoning board or city commission.
  - (4) Posting on the city's website and social media platform.

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.

(d) Public hearings initially noticed as required by this section and then continued by the planning & zoning board or city commission may be continued to a date certain without compliance with the minimum seven (7) and twenty (20) calendar day requirement.



(e) Applications regarding an existing single-family home shall be publicly noticed for at least seven (7) calendar days prior to any required planning & zoning board or city commission hearing, and shall not require posting of the affected property.

**Sec. 20-28.1. – Conceptual Plan Review – Non-Binding and Binding by Development Agreement.** 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.** A prospective applicant, who desires to submit an application for a development project which will require a community workshop under Section 20-29-1, shall be required to schedule and attend a pre-application meeting with the community development department in order to discuss the application process and the proposed project. For all other projects, it is recommended that applicants meet with the community development department prior to submitting an application. 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. Applications for non-binding conceptual plan review shall 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 binding development agreements

including binding conceptual plan approval, and administrative appeals shall be accompanied by the applicable application fee adopted by the city commission and shall contain the following information which shall be considered by the City when evaluating the applicable review criteria:

- (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 commercial development, new residential subdivisions of ten (10) or more lots, conditional uses, waiver, variance, existing commercial buildings being altered by 50 percent or greater of the original floor area or seating capacity and requiring a modified site plan, or development agreements processed under section 20-28.1 of the City Code, or as otherwise deemed applicable by the city to relevantly and competently examine an application for compliance with the city code and the affect and impact the proposed use will have on neighborhood and surrounding properties, applicants shall be required to submit with the application the following information except as provided by subsection (11):
  - 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 both the estimated impact of the proposed project on the neighborhood and surrounding properties and 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, and the proximity and transportation routes of the proposed development to the elementary, middle and high schools assigned by the School District.
  - (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.
  - (11) The application requirements set forth in subsection (7) shall only apply to existing single family homes, conditional uses, waivers and variances if the city determines that such information is necessary for the City to relevantly and competently evaluate an application for compliance with the City Code and the affect and impact the proposed application will have on neighborhood and surrounding properties using applicable review criteria.
  - (12) Application requirements for administrative appeals are governed by section 20-35 of the City 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. Extensions of time may be granted by the city for good cause shown. 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, waivers, limited administrative waivers, and appeals approved herein shall be binding on the use of the property. As a condition of approval by the city commission, all development projects requiring a community workshop pursuant to section 20-29-1 of the City Code, 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 commercial development, new residential subdivisions of ten (10) or more lots, conditional uses, existing commercial buildings being altered by 50 percent or greater of the original floor area or seating capacity and requiring a modified site plan, or development agreements processed under section 20-28.1 of the City Code, the applicant shall be responsible for conducting a community workshop to inform neighboring property owners of the proposed application and answer questions relevant to the proposed application. At a minimum, preliminary demonstrative concept plans, development schedules, and specifications of the proposed development project such as land uses, size and height of buildings, intensity and density, new roads, and other primary features and amenities shall be presented to the public. The workshop shall be held in a location approved by the City, which shall be generally near the subject property, and shall be held in a facility that is ADA compliant. At the applicant's expenses, the City shall provide notification by mail to all owners of property located within 500 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 City shall mail these notices with proper postage at least twenty (20) calendar days before the workshop date, and provide proof of same to the city manager or designee. The City shall also publish notice on the City's website and social media platform at least twenty (20) calendar days before the date of the workshop.
- (b) The workshop date and time shall be scheduled in coordination with the City and shall start between 6:00 p.m. and 8:00 p.m. on a weekday or with the approval of the city manager 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 as may be required in this article. 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 workshop 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) Speculative rezoning of land is very disfavored by the City. In conjunction with a rezoning application, the applicant shall be required to fully disclose any proposed new development project that will be pursued by the applicant if the proposed rezoning request is approved, and all applicable application information shall be submitted for the proposed new development project. The proposed development project shall be deemed to have been relied on by City in reaching its decision concerning the proposed change of zoning. Said site plan or concept plan shall be deemed to be binding on the subject property affected by the rezoning and site plan or concept plan, and any change of zoning shall be deemed to be granted in reliance on said site plan or concept plan, even though said site plan or concept plan imposes greater or stricter standards on said property than does other provisions of the City Code for the other lots, tracts, or parcels of land in like land use classifications. Such greater or stricter standards shall be deemed appropriate when unique or peculiar site and locational characteristics are evident and shall be deemed to exist when such site plan or concept plan is relied upon by the planning and zoning board and the city commission. The proposed new development project shall be evaluated in accordance with the review criteria set forth in this subsection and the applicable review criteria for conditional uses set forth in section 20-33. Mitigative techniques and plans required to support any change of zoning may be addressed pursuant to the restricted rezoning provisions set forth in subsection (e) and a binding development agreement.
- (17) If the proposed rezoning will allow residential uses or increase the possible density of residential uses, the proposed rezoning shall not potentially cause negative impacts on school capacity (K-12), school overcrowding (K-12), accessibility and convenience (e.g., walking distance, travel time, private and public transportation, and quality of route environment) to the majority of the K-12 school population projected for the property and that will be drawn from any proposed residential project, and the integration of future residents of any proposed residential project into the existing city of Winter Springs community in a sustainable manner.

(18) 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 would 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 the 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 sire 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 exit 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) If the proposed conditional use is a residential use, whether the elementary, middle and high schools (K-12) that will be initially assigned to the residential project by the School District at the time the city commission considers final approval of the conditional use have both sufficient capacity, are in close proximity to the project so as to make each of the assigned schools accessible and convenient (e.g., walking distance, travel time, private and public transportation, and quality of route environment) to the majority of the school population that will be drawn from the project, and promote and support the integration of future residents of the project into the existing city of Winter Springs community in a sustainable manner.
- (14) 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. 10-33.1. – Site and Final Engineering Plans.**

(a) Site and final engineering plans and the subdivision of land shall also be subject to the technical requirements set forth in Chapter 9 of the City Code. It is the intent of this Section to apply to applications for site and final engineering plans and to any subdivision of land requiring a plat, if applicable, and does not include review and approval of a lot split application.

(b) Except in situations involving one single-family home, the planning and zoning board shall be required to review all site and final engineering plan and subdivision of land 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 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) Except in situations involving one single-family home, all site and final engineering plan and subdivision recommendations and final decisions shall be based on whether the site and final engineering plan and subdivision of land complies with all the technical requirements set forth in Chapter 9 of the City Code and the following criteria to the extent applicable:

(1) Whether the applicant has demonstrated the site and final engineering plan and subdivision of land, 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 plan, 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 site and final engineering plan 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 the site and final engineering plan and subdivision of land will have an adverse impact on the local economy, including governmental fiscal impact, employment, and property values.

(4) Whether the proposed the site and final engineering plan and subdivision of land 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 the site and final engineering plan and subdivision of land 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 the site and final engineering plan and subdivision of land 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 site and final engineering plan and subdivision of land, and related 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.
- (8) Whether the proposed the site and final engineering plan and subdivision of land 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 the site and final engineering plan and subdivision of land 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 sire elements.
- (10) Whether the applicant has provided an acceptable security plan for the proposed establishment to be located on the site and final engineering plan and subdivision of land 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 on the site and final engineering plan and subdivision of land 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 site and final engineering plan and subdivision of land 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.
  - ~~(2)~~ The proposed development plan is in substantial compliance with this chapter and in compliance with the comprehensive plan.
  - ~~(3)~~ The proposed development plan will significantly enhance the real property.
  - ~~(4)~~ The proposed development plan serves the public health, safety, and welfare.
  - ~~(5)~~ The waiver will not diminish property values in or alter the essential character of the surrounding neighborhood.
  - ~~(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.
  - ~~(7)~~ 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 500 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.
- (~~b~~c) Appeals shall be taken within thirty (30) calendar 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 sixty (60) calendar days and transmit all documents, plans, papers, transcripts 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.
- (~~e~~d) The planning and zoning board shall be required to review all administrative appeals and make a recommendation to the city commission.
- (~~d~~e) 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; 2) the written decision of the administrative official and accompanying information; and (3) any transcript of the meeting or proceeding in which the written decision was made. 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 twenty percent (20%) 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 Aschman 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.~~

~~(c) — *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.~~

~~c. — 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. Conforming Amendments to Town Center Land Use Matrix.** 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. Consequently, the special exception land use identified in the Town Center Land Use Matrix is being relabeled a conditional use. Therefore, Section 20-323 Land Use Matrix attached hereto as **EXHIBIT “A”** is hereby amended as follows (underlined type indicates additions and ~~strikeout~~ type indicates deletions):

**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 10th day of June, 2019.

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**Charles Lacey, Mayor**

**ATTEST:**

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**Andrea Lorenzo-Luaces, City Clerk**

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

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Anthony A. Garganese, City Attorney

Legal Ad: May 29, 2019  
First Reading: May 13, 2019  
Second Reading: June 10, 2019



## EXHIBIT "A"

### Sec. 20-323. - Permitted uses.

	T1	T2	T3	T4	T5	C/P
Administrative public buildings				P	P	P
Adult congregate living facility			<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Advertising agencies			<del>SE</del> <u>CU</u>	P	P	
Alcoholic beverage sales (package)				P	P	
Alcoholic beverage on-premises consumption				P	P	
Alterations and tailoring			P	P	P	
Amusement enterprises, private commercial				<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Antique and gift shop			P	P	P	
Appliances, sales and service				P	P	
Artists' studios			P	P	P	
Automobile Repair Shops (routine service)					<del>SE</del> <u>CU</u>	
Automotive accessories sales				<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	

Bakery, wholesale and retail			P	P	P	
Bed and breakfast inn			P	P	P	
Bicycles, sales and service			P	P	P	
Bookkeepers			P	P	P	
Bookstores, stationery, newsstands				P	P	
Bus terminal (exclusive of bus stops)					<del>SE</del> <u>CU</u>	
Bridal shops				P	P	
Butcher shop, retail only			P	P	P	
Carpets, rugs and linoleum				P	P	
Churches (with or without educational and recreational buildings and facilities)		<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>
Cleaners (Retail)			P	P	P	
Coin dealers			P	P	P	
Computers, hardware and software sales and service			P	P	P	
Confectionery and ice cream stores			P	P	P	
Convention center				<del>SE</del> <u>CU</u>	P	P
Corner store or neighborhood convenience store without gas pumps			P	P	P	
Corner store or neighborhood convenience store with gas pumps					<del>SE</del> <u>CU</u>	

Dance and music studios			P	P	P	
Day care centers			<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Drug and sundry stores				P	P	
Dry cleaner				P	P	
Equestrian facilities	<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>				<del>SE</del> <u>CU</u>
Employment agencies				P	P	
Financial institutions, banks, savings and loan				<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Florist and gift shops			P	P	P	
Furniture, retail, new and used				P	P	
Gas Stations				<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Grocers, retail and wholesale			<del>SE</del> <u>CU</u>	P	P	
Gun shop (retail, no gun range)			<del>SE</del> <u>CU</u>	P	P	
Hair, nail and tanning salons			P	P	P	
Hardware stores				P	P	
Health food			P	P	P	



Hobby and craft shops			P	P	P	
Home occupations			P	P	P	
Hospitals and nursing homes				<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Hotel					P	
Inn				P	P	
Insurance			P	P	P	
Interior decorating and draperies			P	P	P	
Jewelry stores			P	P	P	
Launderettes and Laundromats				<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Libraries				P	P	P
Loan companies				<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Locksmiths			P	P	P	
Luggage shops			P	P	P	
Manufacturing and assembly of scientific and optical precision instruments			<del>SE</del> <u>CU</u>	P	P	
Medical clinics and laboratories				P	P	
Municipal buildings			<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	P



P—Permitted Use					
SE—Special Exception required					
Quick printers			P	P	
Radio and TV broadcasting studios, excluding towers			P	P	
Radio and TV sales and service			P	P	
Reception facilities (meeting rooms, etc.)			P	P	P
Rental stores, excluding auto/truck rentals			P	P	P
Retirement homes, including independent living through assisted living			SE <u>CU</u>	SE <u>CU</u>	SE <u>CU</u>
Residential, single family (attached)			P	P	P
Residential, single family (detached)			P	P	SE <u>CU</u>
Residential, multifamily				SE <u>CU</u>	SE <u>CU</u>
Restaurants			P	P	P
Schools				SE <u>CU</u>	SE <u>CU</u>
Shoe repair shops			P	P	P
Sidewalk cafes			P	P	P
Skating rinks				SE <u>CU</u>	SE <u>CU</u>

Snack shops			P	P	P	
Sporting goods, retail			P	P	P	
Stadiums and arenas					<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>
Swimming pools; sales, service and supplies			<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Tailoring shops			P	P	P	
Taxidermists				<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Theaters, not drive-ins				<del>SE</del> <u>CU</u>	P	P
Title companies			<del>SE</del> <u>CU</u>	P	P	
Tobacco shops				<del>SE</del> <u>CU</u>	<del>SE</del> <u>CU</u>	
Town Center marketing and sales center			P	P	P	P
Toy stores			P	P	P	
Trail heads	P	P	P	P	P	P
Travel agencies			P	P	P	
Veterinary clinics (no overnight boarding)				<del>SE</del>	<del>SE</del>	

			<u>CU</u>	<u>CU</u>	
Wearing apparel stores			P	P	P
Any other similar retail store or business enterprise permitted in the relevant transect, provided the proposed use is not specifically limited to a different Town Center transect or some other zoning district within the city and provided a <u>conditional use special-exception</u> is approved by the city commission. Approved <del>special-exceptions</del> <u>conditional use</u> may be conditioned upon a required development agreement at the discretion of the City Commission <u>or as required by the City Code</u> to address development terms and conditions related to the approved <u>conditional use special-exception</u> use.			<del>SE</del>	<del>SE</del>	<del>SE</del>
			<u>CU</u>	<u>CU</u>	<u>CU</u>

**P—Permitted by right.**

**CU—Conditional Use.**

**~~SE—Special exception required~~**