

*****AMENDED*****
CITY COMMISSION AGENDA
CITY OF WINTER GARDEN
TANNER HALL
29 W. Garden Avenue

REGULAR MEETING

February 23, 2006

6:30 P.M.

CALL TO ORDER

Roll Call and Determination of a Quorum
Invocation and Pledge of Allegiance

1. **APPROVAL OF MINUTES**

Regular Meeting of January 26, 2006 and postponement of Regular Meeting of February 9, 2006

2. **PRESENTATION** on Commuter Rail by Orange County and MetroPlan

3. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 06-13:** VACATING THE NORTHERLY FOUR FEET OF THE TWENTY FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE SOUTHERNMOST PROPERTY LINE, LESS 10 FEET ON THE EASTERN AND WESTERN PROPERTY LINES OF 2008 HARBOR COVE WAY, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE **with the Second Reading and Public Hearing being scheduled for March 9, 2006** – City Planner Cechman

B. **Ordinance 06-14:** VACATING THE NORTHERLY THREE FEET OF THE TWENTY FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE SOUTHERNMOST PROPERTY LINE, LESS 10 FEET ON THE EASTERN AND WESTERN PROPERTY LINES OF 2014 HARBOR COVE WAY, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE **with the Second Reading and Public Hearing being scheduled for March 9, 2006** – City Planner Cechman

4. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

A. **Ordinance 06-09:** AMENDING THE DEVELOPMENT ORDER OF THE WINTER GARDEN VILLAGE AT FOWLER GROVES DEVELOPMENT OF REGIONAL IMPACT, CONSISTING OF APPROXIMATELY 174.8 ACRES OF LAND LOCATED NORTH OF THE WESTERN BELTWAY AND EAST OF COUNTY ROAD 535; PROVIDING FOR APPROVAL AND EXECUTION OF FIRST AMENDMENT TO CITY OF WINTER GARDEN DEVELOPMENT ORDER FOR WINTER GARDEN VILLAGE AT FOWLER GROVES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE **with the Second Reading and Public Hearing being scheduled for March 9, 2006** – City Planner Cechman

5. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**

A. **Ordinance 06-10:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE WINTER GARDEN COMPREHENSIVE GROWTH MANAGEMENT PLAN IN ACCORDANCE WITH A STIPULATED SETTLEMENT AGREEMENT BETWEEN THE CITY OF WINTER GARDEN AND THE FLORIDA DEPARTMENT OF

COMMUNITY AFFAIRS BY AMENDING POLICY 3.3 OF THE CAPITAL IMPROVEMENTS ELEMENT BY PROVIDING FOR PROPORTIONAL SHARE CONTRIBUTIONS FOR TRANSPORTATION IMPROVEMENTS AND ADDRESSING TRANSPORTATION CONCURRENCY PERTAINING TO THE FOWLER GROVES DEVELOPMENT OF REGIONAL IMPACT; ADDING POLICY 1.4 TO THE CAPITAL IMPROVEMENTS ELEMENT TO PROVIDE FOR MAJOR CAPITAL EXPENDITURES TO DANIELS ROAD AND STATE ROAD 50 RESULTING FROM DEVELOPMENT OF A DEVELOPMENT OF REGIONAL IMPACT; AMENDING THE FUTURE TRAFFIC CIRCULATION MAP OF THE TRANSPORTATION ELEMENT BY DEPICTING THE SEGMENT OF DANIELS ROAD THROUGH THE FOWLER PROPERTY AS A SIX-LANE ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Fowler Remedial Comprehensive Plan Amendment) – City Planner Cechman

- B. **Ordinance 06-01:** REZONING APPROXIMATELY 2 ACRES OF CERTAIN REAL PROPERTY LOCATED AT 942 WEST STORY ROAD AND MORE SPECIFICALLY DESCRIBED HEREIN FROM R-2 TO CITY R-1B; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (New Hope Primitive Baptist Church) – City Planner Cechman
- C. **Ordinance 06-05:** REZONING APPROXIMATELY 232 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE AVALON ROAD AND HARTWOOD MARSH ROAD FROM COUNTY A-1 TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Hickory Hammock PUD)– City Planner Cechman
- D. **Ordinance 06-03:** ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.68 ACRES LOCATED AT SOUTHWEST CORNER OF NINTH STREET AND STORY ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (**Postponed from February 9, 2006**) – City Planner Cechman

6. **REGULAR BUSINESS**

- A. Withdrawal of request postponed on February 9, 2006 for sponsorship by purchasing an advertisement for the West Orange High School Theatre Department – Tina Aldrich
- B. Request for donation for the West Orange High School Theatre Department to attend the state competition - Tina Aldrich
- C. Request for donation by the Winter Garden Elks Lodge #2165 – Mike Jernigan
- D. **RESOLUTION 06-06:** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, EXPRESSING THE DECISION OF THE CITY COMMISSION OF SAID CITY TO MAKE APPLICATION FOR A RECREATIONAL TRAIL CONSTRUCTION GRANT – Recreation Director Conn
- E. **RESOLUTION 06-07:** CHANGING THE NAME OF CHARLEMANGE COURT LOCATED IN THE TUSCANY SUBDIVISION TO CHARLEMAGNE COURT; PROVIDING FOR AN EFFECTIVE DATE – City Planner Cechman
- F. Recommendation to approve West Orange Business Center site plans – City Planner Cechman
- G. Recommendation to approve Foundation Academy Site Plan and Development Agreement – City Planner Cechman

- H. Recommendation to approve West Point Commons Lot 3 Site Plan located at the Publix Shopping Center on W. Colonial Drive – City Planner Cechman
- I. Appointments to three seats expiring on the Code Enforcement Board – City Clerk Golden
- J. Discussion and possible action regarding Canvassing Board criteria for absentee and provision ballots in the coming election – City Clerk Golden
- * K. Recommendation to approve a contribution of \$8,676 to the Early Learning Coalition of Orange County – City Manager Bollhoefer

7. MATTERS FROM CITIZENS

8. MATTERS FROM CITY ATTORNEY

- 9. MATTERS FROM CITY MANAGER** – Michael Bollhoefer
- A. Financial Statement for January 2006

10. MATTERS FROM MAYOR AND COMMISSIONERS

ADJOURN to a regular meeting on Thursday, March 9, 2006, 6:30 p.m. at Tanner Hall

Please Note: In accordance with Florida Statutes 286.0105: Any person who desires to appeal any decision at this meeting will need a record of the proceedings and for this purpose may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is based, which such written record is not provided by the City of Winter Garden.

Also, in accordance with Florida Statute 286.26: Persons with disabilities needing assistance to participate in any of these proceedings should contact the Office of the City Clerk, 251 W. Plant Street, Winter Garden, FL 34787, (407) 656-4111 x 2254 48 hours in advance of the meeting.

Ord. 06-01

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 2 ACRES OF CERTAIN REAL PROPERTY LOCATED AT 942 WEST STORY ROAD AND MORE SPECIFICALLY DESCRIBED HEREIN FROM R-2 TO CITY R-1B; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the owner of real property generally described as approximately 2 acres located at 942 W. Story Road and legally described in Section 1 of this ordinance has petitioned the City to zone said property from R-2 to the City's R-1B zoning classification, therefore;

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: After due notice and public hearing, the zoning classification of real property legally described on ATTACHMENT "A," is hereby rezoned from R-2 to R-1B in the City of Winter Garden, Florida.

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

SECTION 3: Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION 4: This Ordinance shall become effective upon the amendment of the City of Winter Garden Comprehensive Land Use Plan for the property described herein providing for a land use designation which allows the zoning that is to be established by this ordinance.

FIRST READING: _____ 2006.

SECOND READING AND PUBLIC HEARING: _____ 2006.

APPROVED:

JACK QUESINBERRY, Mayor/Commissioner

ATTESTED:

KATHY GOLDEN, City Clerk

(New Hope Primitive Baptist rezone 2/21/2006)

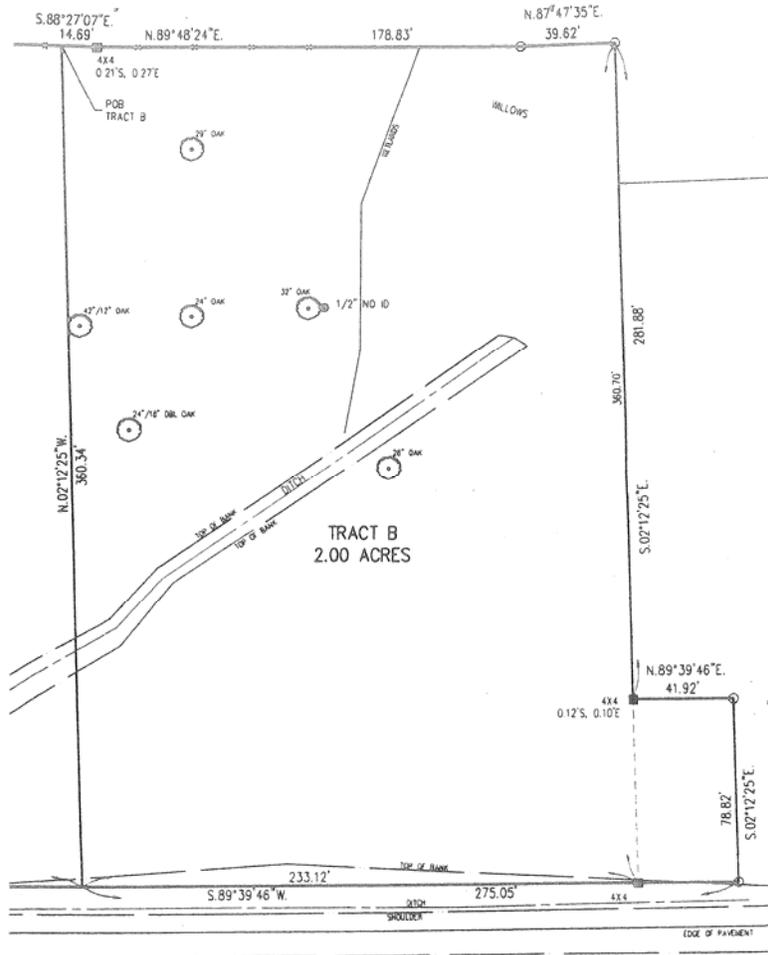
Attachment "A"

DESCRIPTION - TRACT B

COMMENCE AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 22 SOUTH, RANGE 27 EAST, ORANGE COUNTY, FLORIDA; THENCE N 89°39'46" E 1576.94 FEET ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4; THENCE N 00°20'14" W 15.00 FEET; THENCE N 05°04'16" E 15.07 FEET TO A POINT BEING 30 FEET NORTH OF, AS MEASURED AT RIGHT ANGLES, TO SAID SOUTH LINE; THENCE CONTINUE N 05°04'16" E 354.83 FEET TO A POINT ON A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 1186.70 FEET; THENCE FROM A TANGENT BEARING OF N 47°52'08" E RUN NORTHEASTERLY 257.56 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 12°26'07" TO THE POINT OF TANGENCY; THENCE N 60°18'15" E 103.10 FEET; THENCE S 00°11'45" E 185.03 FEET; THENCE S 88°27'07" E 249.42 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S 88°27'07" E 14.89 FEET; THENCE N 89°48'24" E 178.83 FEET; THENCE N 87°47'35" E 39.82 FEET; THENCE S 02°12'25" E 360.70 FEET, PARALLEL WITH AND 194.87 FEET, MEASURED AT RIGHT ANGLES, WEST OF THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION; THENCE S 89°39'46" W 233.12 FEET PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST 1/4; THENCE N 02°12'25" W 360.34 FEET, PARALLEL WITH THE EAST LINE OF SAID NORTHWEST 1/4 TO THE POINT OF BEGINNING.

AND

THE WEST 41.90 FEET OF THE EAST 194.87 FEET OF THE NORTH 78.73 FEET OF THE SOUTH 108.75 FEET OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 22, TOWNSHIP 22 SOUTH, RANGE 27 EAST, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA.



ORDINANCE 06-05

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 232 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE AVALON ROAD AND HARTWOOD MARSH ROAD FROM COUNTY A-1 TO CITY PUD; PROVIDING FOR CERTAIN PUD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Hickory Hammock PUD)

WHEREAS, the owners of real property of approximately 232 acres of land generally LOCATED ON THE NORTHWEST CORNER OF THE AVALON ROAD AND HARTWOOD MARSH ROAD and legally defined herein desire to rezone their property from COUNTY A-1 TO CITY PUD,

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

Section I –

After due notice and public hearing, the zoning classification of real property legally described in ATTACHMENT "A" (herein after known as Hickory Hammock or Property) is hereby rezoned from COUNTY A-1 TO CITY PUD in the City of Winter Garden, Florida with the following provisions and restrictions:

- a. **Conceptual Plan** - All development on Hickory Hammock must substantially conform to the requirements identified in ATTACHMENT "B" (the Hickory Hammock Planned Unit Development Plan created by Canin Associates and revised on November 7, 2005).
- b. **Zoning** - Unless specifically noted otherwise in ATTACHMENT "B", all residential development in the Subject Property (to include accessory buildings and structures) must comply with the general zoning requirements of the R-1 zoning district for any single family house that is developed on the site and R-3 (to include the townhome section of the City Land Development Regulations) for any townhome that is developed on the property. These requirements include any approval procedure of the R-1 and R-3 zoning districts.
- c. **JPA** - All development of the Property must conform with the requirements of the Fifth Amendment to the Restated Interlocal Agreement as recorded by the Orange County Board of Commissioners on November 9, 2004.
- d. **Reuse** - Any irrigation on the development shall be designed to be supplied by reclaimed water once it is made available. This will include installation of reuse water mains (purple pipe) and meters that will initially be supplied by domestic water via a jumper. Reuse connection point(s) shall be shown on construction plans; irrigation/reuse plans shall be submitted, reviewed and approved by the City prior to installation.
- e. **Architectural Standards** – All development must significantly comply with the Hickory Hammock Architectural Guidelines (ATTACHMENT "C").
- f. **No Spite Strips** – The east-west cul-de-sac road located just north of Hartwood Marsh Road must legally extend to the property owner to the west on the final plat. If this property to the west develops

into a City residential neighborhood, this road shall connect to the parcel to the west, if required, for emergency and pedestrian access only.

- g. Tree Removal Permits** – No trees may be removed without a tree removal permit.
- h. Three Stories Maximum** – In addition to the height restriction identified on ATTACHMENT “B”, no building may be higher than three (3) stories.

Section II –

- (1) **Staff Conditions** – All development must comply with the conditions identified in ATTACHMENT “D” (December 27, 2005 memorandum from the City Engineer).
- (2) **Stand Alone Clause** - Each phase of development must operate as an individual unit in that each particular phase will be able to stand-alone in the event no other phase is developed.
- (3) **Utilities and equipment** - All utilities must be underground. All utility equipment (i.e. transformers, etc.) must be well screened.
- (4) **Dark Sky** - All street lights will comply with Orange County’s “Dark Sky” requirements
- (5) **Amendments** – Minor amendments to this ordinance will be achieved by Resolution of the City Commission. Major amendments will need to be approved by the City Commission by Ordinance.

Section III The City Clerk and the City Manager are hereby authorized and directed to amend the Official Winter Garden Zoning Map in accordance with the provisions of this ordinance.

Section IV All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section V This Ordinance shall become effective upon approval by the City Commission.

FIRST READING: _____ 2006.

SECOND READING AND PUBLIC HEARING: _____ 2006.

APPROVED:

Jack Quesinberry, Mayor/Commissioner

ATTESTED:

KATHY GOLDEN, City Clerk
{Hickory Hammock 02/21/2006}

Ord. 06-03

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 0.68 ACRES LOCATED AT SOUTHWEST CORNER OF NINTH STREET AND STORY ROAD, AND MORE SPECIFICALLY DESCRIBED HEREIN INTO THE CITY OF WINTER GARDEN FLORIDA; REDEFINING THE CITY BOUNDARIES TO GIVE THE CITY JURISDICTION OVER SAID PROPERTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owners of the lands generally described 0.68 ACRES LOCATED AT SOUTHWEST CORNER OF NINTH STREET AND STORY ROAD and legally described in Section 2 of this Ordinance, which land is contiguous to the corporate limits of the City of Winter Garden, Florida, have pursuant to the prerequisites and standards as set forth in Chapter 171, F.S., petitioned the City Commission of the City of Winter Garden for voluntary annexation;

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1: That the City Commission has conducted an investigation to determine whether the described property meets the prerequisites and standards set forth in Chapter 171, F.S. and has held a public hearing on said petition and made certain findings.

SECTION 2: That, after said public hearing and having found such petition meets said prerequisites and standards, the property legally defined in ATTACHMENT "A" and graphically shown on the attached map shall be annexed into the City of Winter Garden, Florida, and

SECTION 3: That the City of Winter Garden, Florida, shall have all of the power, authority, and jurisdiction over and within the land as described in Section 2 hereof, and of the inhabitants thereof, and property therein, as it does and have over its present corporate limits and all laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all the territory had been part of said City at the time of the passage of such laws, ordinances, and resolutions.

SECTION 4: The area annexed to the City shall be subject to the taxes and debts of the City upon the effective date of the annexation. However, the annexed area shall not be subject to municipal ad valorem taxation for the current year if the effective date of the annexation falls after the City levies such tax.

SECTION 5: Should any portion of this Ordinance be held invalid, then such portions as are not declared invalid shall remain in full force and effect.

SECTION 6: This Ordinance shall become effective upon adoption at its second reading.

READ FIRST TIME: _____, 2006.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2006.

APPROVED:

JACK QUESINBERRY, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk
(*ninth and story annex .ord 2/21/2006*)

SCHEDULE "A"

ESTATE: Fee Simple
 PURPOSE: Road Right of Way

DESCRIPTION

A portion of the Northeast 1/4 of Block S, Overstreet Crute Subdivision, Plat Book F, Page 9, Public Records of Orange County, Florida, lying in the Southeast 1/4 of Section 23, Township 22 South, Range 27 East, being more particularly described as follows:

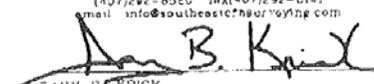
Commence at the East 1/4 of said Section 23, thence along the East line of said Southeast 1/4 of Section 23, South 00°01'09" West, 30.00 feet; thence North 89°55'24" West, 30.00 feet to the POINT OF BEGINNING.

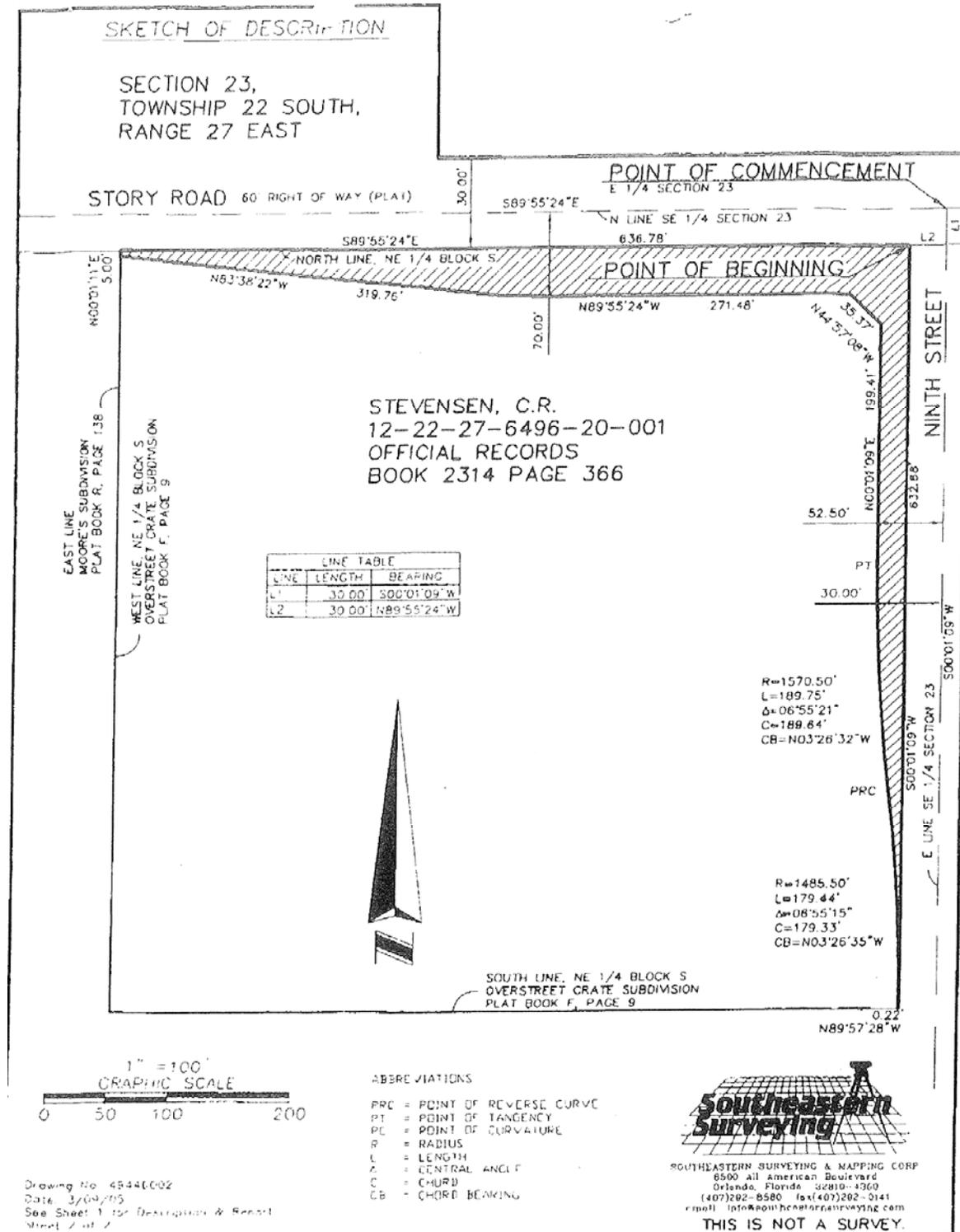
thence parallel with said East line, South 00°01'09" West, 632.68 feet to the South line of said Northeast 1/4 of Block S; thence along said South line, North 89°57'28" West, 0.22 feet to a point on a non-tangent curve concave West, having a radius of 1,485.50 feet, a central angle of 06°55'15", a chord of 179.33 feet which bears North 03°26'35" West; thence Northerly along the arc of said curve, a distance of 179.43 feet to the point of reverse curve of a curve concave East, having a radius of 1,570.50 feet, a chord of 189.64 feet which bears North 03°26'32" West a central angle of 06°55'21"; thence Northerly along the arc of said curve, a distance of 189.75 feet to the point of tangency being 52.50 perpendicular measurement to said East line, thence parallel with said East line, North 00°01'09" East, 199.41 feet; thence North 44°57'08" West, 35.37 feet to a point 70.00 feet perpendicular distance to the North line of said Southeast 1/4 of Section 23; thence parallel with said North line, North 89°55'24" West, 271.48 feet; thence North 83°38'22" West, 319.76 feet to the West line of said Northeast 1/4 of Block S; thence along said West line, North 00°01'11" East, 5.00 feet to the North line of said Northeast 1/4, Block S; thence along said North line, South 89°55'24" East, 636.78 feet to the POINT OF BEGINNING.

Containing 29,494 square feet or 0.68 acres, more or less.

SURVEYORS REPORT

1. Bearings shown hereon are based on state plane coordinates—Florida East Zone, using Orange County control points O/S 114 and O/A 5 H, with a bearing between them being S27°57'45"E
2. Not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper
3. I hereby certify that the "Sketch of Description" of the above described property is true and correct to the best of my knowledge and belief as recently drawn under my direction and that it meets the Minimum Technical Standards for Land Surveying CH 61G17-6 requirements.

| | | | |
|--|--|------------------|--|
| DESCRIPTION FOR PROFESSIONAL ENGINEERING CONSULTANTS, INC | Date 03-09-05 DCS | | CERT NO LB2108  SOUTHEASTERN SURVEYING & MAPPING CORP 6600 All American Boulevard Orlando Florida 32810-4360 (407)292-8050 fax(407)292-0161 email info@southeastcsurveying.com  GARY HERRICK Registered Land Surveyor No 4245 |
| | Job No 49446002 | Scale 1"=100' | |
| | CH 61G17-6, Florida Administrative Code requires that a legal description drawing bear the notation that THIS IS NOT A SURVEY. | | |
| | SHEET 1 OF 2 SEE SHEET 2 FOR SKETCH | | |



ORDINANCE 06-09

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE DEVELOPMENT ORDER OF THE WINTER GARDEN VILLAGE AT FOWLER GROVES DEVELOPMENT OF REGIONAL IMPACT, CONSISTING OF APPROXIMATELY 174.8 ACRES OF LAND LOCATED NORTH OF THE WESTERN BELTWAY AND EAST OF COUNTY ROAD 535; PROVIDING FOR APPROVAL AND EXECUTION OF FIRST AMENDMENT TO CITY OF WINTER GARDEN DEVELOPMENT ORDER FOR WINTER GARDEN VILLAGE AT FOWLER GROVES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, it is the intent of the State of Florida, as expressed in Chapter 380, Florida Statutes, to protect the natural resources and environment of the state, facilitate orderly and well planned development, and protect the health, welfare, safety and quality of life of the residents of the state; and

WHEREAS, the State of Florida has established land and water management policies to guide and coordinate local decisions relating to growth and development, and has determined that such policies should, to the maximum possible extent, be implemented by local governments through existing processes for the guidance of growth and development, and has also determined that all the existing rights of private property shall be preserved in accord with the constitutions of the State of Florida and the United States; and

WHEREAS, the Development of Regional Impact (“DRI”) review program has been established by the State of Florida in recognition that certain development projects will, because of their character, magnitude or location, have a substantial effect on the health, safety or welfare of the citizens of more than one county; and

WHEREAS, Isabel T. Fowler (as to her life estate) and Fowler Groves Limited Partnership, a Florida limited partnership (as to its fee simple interest), collectively hereinafter referred to as the “Owners”, are the Owners of that certain real property consisting of approximately 174.8 acres of land located north of the western beltway and east of County Road 535 located in Winter Garden, Florida, being more particularly described on attached Exhibit “A” incorporated herein by this reference (the “Property”); and

WHEREAS, Sembler Florida, Inc., a Florida corporation (hereinafter referred to as the “Developer”), is the contact purchaser and developer of the Property; and

WHEREAS, Developer is authorized to act as agent for Owners in connection with obtaining necessary approvals and permits for developing the Property and executing agreements in connection therewith; and

WHEREAS, the Developer intends to develop a regional shopping center and other compatible uses on the Property as more specifically described in the "City of Winter Garden Development Order for Winter Garden Village At Fowler Groves," adopted pursuant to Ordinance No. 05-22 on September 7, 2005 (the "Development Order"), which said project is presently known as the "Winter Garden Village at Fowler Groves" (the "Project"); and

WHEREAS, subsequent to the approval of Ordinance No. 05-22, the Developer and the City entered into the Daniels Road Northern Extension Agreement, as recorded in Official Records Book 8371, Page 3625, Public Records of Orange County, Florida, setting forth, inter alia, the responsibilities of the Developer and the City in regards to the extension and widening of Daniels Road ("Daniels Road Agreement"); and

WHEREAS, subsequent to the approval of Ordinance No. 05-22, the Developer and the Florida Department of Transportation entered into a Transportation Proportionate Share Agreement, as recorded in Official Records Book 8437, Page 4276, Public Records of Orange County, Florida, establishing the Project's "Proportionate Share" to mitigate the Project traffic impacts to State Road 50 and allow the Developer to comply with Rule 9J-2.045(7)(a)3, Florida Administrative Code ("FDOT Agreement"); and

WHEREAS, Developer desires to amend the Development Order to, inter alia, address the Department of Community Affairs concerns regarding inclusion of the Daniels Road Agreement and FDOT Agreement as exhibits to the Development Order and to include the Master Development Plan (Map H) as an exhibit to the Development Order; and

WHEREAS, Developer also desires to address certain scrivener's errors in the Development Order that were not resolved when the project was downsized late in the application/approval process, memorialize certain Developer commitments for payments to City for recreational facilities, pedestrian facilities and fire facilities; and

WHEREAS, on January 19, 2006, the Developer submitted to the City, the East Central Florida Regional Planning Council, and the Bureau of State Planning, Department of Community Affairs, its Notification of a Proposed Change To a Previously Approved Development of Regional Impact with respect to the Project pursuant to subsection 380.06(19), Florida Statutes (the "NOPC"); and

WHEREAS, the NOPC has been reviewed by the East Central Florida Regional Planning Council and the City of Winter Garden, in accordance with the requirements of Chapter 380, Florida Statutes; and

WHEREAS, after public notice, due consideration of public comment at a public hearing, and consideration of the provisions of paragraphs (a) and (e), the thresholds set forth in paragraph (b), and the presumptions set forth in paragraphs (c) and (d) and subparagraph (e)3., all of section 380.06, Florida Statutes, the City Commission of the City of Winter Garden hereby finds and declares the changes proposed by Developer in the NOPC do not constitute a substantial deviation pursuant to section 380.06(19), Florida Statutes, and no further development of regional impact review is required as to said proposed changes; now, therefore,

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION 1. The City of Winter Garden has the authority to adopt this Ordinance pursuant to Chapters 166 and 380, Florida Statutes.

SECTION 2. The City of Winter Garden hereby amends the Development Order as provided for in the First Amendment To City of Winter Garden Development Order For Winter Garden Village At Fowler Groves attached hereto as Exhibit "B" and incorporated herein by this reference (the "First Amendment") and hereby authorizes the Mayor, or in his absence, the Vice-Mayor, to execute the First Amendment after the execution thereof by Developer and Owners.

SECTION 3. The provisions of this Ordinance, including attached Exhibits "A" and "B", are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall, for any reason, be held invalid, unlawful or unconstitutional, such decision shall not be held to impair the validity, force or effect of the remaining sections, sentences, clauses or phrases or part thereof of this Ordinance. It being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 4. Effective Date. This Ordinance shall become effective immediately upon its passage, however, the Development Order, as amended by the First Amendment, shall be effective as provided in Article VII, "Period of Effectiveness," of the aforementioned Development Order.

READ FIRST TIME AND PUBLIC HEARING HELD: _____, 2006.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2006.

PASSED AND ORDAINED this ____ day of _____, 2006, by the City Commission of the City of Winter Garden, Florida.

ATTEST:

JACK QUESINBERRY, Mayor/Commissioner

KATHY GOLDEN, City Clerk

EXHIBIT “A”—LEGAL DESCRIPTION OF FOWLER PROPERTY

EXHIBIT “B”—FIRST AMENDMENT

ORDINANCE 06-10

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING THE WINTER GARDEN COMPREHENSIVE GROWTH MANAGEMENT PLAN IN ACCORDANCE WITH A STIPULATED SETTLEMENT AGREEMENT BETWEEN THE CITY OF WINTER GARDEN AND THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS BY AMENDING POLICY 3.3 OF THE CAPITAL IMPROVEMENTS ELEMENT BY PROVIDING FOR PROPORTIONAL SHARE CONTRIBUTIONS FOR TRANSPORTATION IMPROVEMENTS AND ADDRESSING TRANSPORTATION CONCURRENCY PERTAINING TO THE FOWLER GROVES DEVELOPMENT OF REGIONAL IMPACT; ADDING POLICY 1.4 TO THE CAPITAL IMPROVEMENTS ELEMENT TO PROVIDE FOR MAJOR CAPITAL EXPENDITURES TO DANIELS ROAD AND STATE ROAD 50 RESULTING FROM DEVELOPMENT OF A DEVELOPMENT OF REGIONAL IMPACT; AMENDING THE FUTURE TRAFFIC CIRCULATION MAP OF THE TRANSPORTATION ELEMENT BY DEPICTING THE SEGMENT OF DANIELS ROAD THROUGH THE FOWLER PROPERTY AS A SIX-LANE ROAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. (Fowler Remedial Comprehensive Plan Amendment)

WHEREAS, on the 13th of June, 1991, the City Commission of the City of Winter Garden adopted Ordinance 91-16 which adopted a new Comprehensive Plan for the City of Winter Garden; and

WHEREAS, the owner of that certain real property generally described as 174.8 acres of land located north of the western beltway and east of CR 535, being more particularly described on ATTACHMENT "A" and generally known as the Fowler Property petitioned the City to amend the Winter Garden Comprehensive Plan as follows:

1. Establish a new land use classification, Beltway Center, to allow for a mix of commercial, office, and residential uses at the Roper/Fowler property at the Beltway (SR 429); and
2. Revise Policy 9.3.2.4 to identify the subject property [Fowler Property] as an appropriate site for Beltway Center (BC); and
3. Revise the Future Land Use Map to designate the Roper/Fowler Property as Beltway Center (BC); and
4. Add a new policy to the Capital Improvement Element to allow proportionate share payments to mitigate transportation impacts.

WHEREAS, the aforesaid requested changes to the City's Comprehensive Plan were documented in Ordinance 05-02; and

WHEREAS, on September 7, 2005, the City Commission adopted Ordinance 05-02 (hereinafter known as "the Amendment"); and

WHEREAS, on November 30, 2005, the Department of Community Affairs (DCA) issued a Notice to find the amendment to the Future Land Use Map and Future land Use Element Policy 1.3(a)(4) and Police 9.3.2.4 "not in compliance"; and

WHEREAS, pursuant to Section 163.3184(10), Florida Statutes, DCA initiated an administrative proceeding challenging the Amendment; and

WHEREAS, the City and the DCA agreed to enter into a Stipulated Settlement Agreement providing, among other things, the remedial actions necessary to bring the Amendment into compliance and for the dismissal of the administrative proceeding; and

WHEREAS, among the remedial actions required by the DCA are the comprehensive plan amendments provided for herein; now, therefore,

BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I. The City of Winter Garden hereby amends Policy 3.3 of the Capital Improvements Element to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Policy 3.3: At the City's discretion, a multi-use development of regional impact ("DRI") meeting the criteria of Section 163.3180(12), Florida Statutes, may use the standards and procedures set forth in that statute to satisfy the City's transportation concurrency requirements and transportation mitigation requirement under Section 380.06, Florida Statutes, by payment of a proportionate share contribution. Any proportionate share contribution for a DRI pursuant to this policy shall be stated in the DRI Development Order and shall be subject to the conditions stated in the Development Order.

If the affected roadway is on the State Highway System or the Orange County system, the FDOT or Orange County, as the case may be, must agree to accept payment of proportionate share contribution as adequately mitigating the impacts of development. In order to address transportation concurrency, the City will contact and request that Metro Plan Orlando and FDOT ensure that the necessary improvements are prioritized in the next appropriate update to the Transportation Improvement Program (TIP). When appropriate, the City's 5-Year Capital Improvement Plan will be amended to include the necessary improvements to be funded through the Developer's proportionate share contribution.

In many cases, a FDOT proportionate share payment is not sufficient to cover the cost of the entire needed improvement. Although FDOT may receive enough from the proportionate share payment to actually make a single improvement in a larger needed construction project, the agency often does not and cannot commit to a date certain during which either the single improvement or the larger construction project will be constructed. Operationally, such large construction projects cannot be approached on a piecemeal basis and the funding for such large-scale projects is uncertain. Finally, in many areas of the State, the Transportation Planning Organizations (TPO) may play a role in the timing of improvements.

Developments of Regional Impact utilizing Proportionate Share impact mitigation standards include the following:

a. Winter Garden Village at Fowler Groves DRI shall implement the following requirements to mitigate for transportation improvements:

(1). For Phase 1 of the project, Developer and FDOT entered into a Transportation Proportionate Share Agreement on January 16, 2006, which commits Developer to pay FDOT \$8,991,835 prior to issuance of its first building permit for vertical construction or on March 27, 2007, whichever occurs earlier. The City will contact and request that MetroPlan Orlando and FDOT apply the funds contributed by Developer to expedite the 6-laning of SR 50 from CR 545 to Clarke Road. Said proportionate share payment by Developer is deemed sufficient to pay for the transportation benefit to a regionally significant transportation facility pursuant to Chapter 9J-2 FAC and s. 163.3180(12), F.S. If transportation facility improvements are necessary in Phase 2 of the project, this portion of the project may not be permitted by the City of Winter Garden until Developer has mitigated significant and adverse impacts, if any, to this segment of SR 50 to provide adequate public facilities. If mitigation funds are committed, then the 5-Year Capital Improvement Plan will be amended to reflect such commitment of funds.

(2). Traffic studies show that the level of service on CR 535 south of SR 429 is not adverse through Phase 1 of the project and available capacity exists. Traffic studies will be prepared for Phase 2. Phase 2 of the project shall not be permitted by the City of Winter Garden until Developer has satisfied Orange County and the City that any significant and adverse transportation impacts at buildout, if any, have been mitigated. If transportation facility improvements are necessary to provide adequate public facilities for Phase 2, then the 5-Year Capital Improvement Plan will be amended to reflect such commitment of funds.

(3). The City and Developer entered into that certain Daniels Road Northern Extension Agreement dated December 8, 2006, which commits Developer, subject to certain contingencies provided for in said Agreement, to pay for construction of Daniels Road from a point 450 feet south of the south right-of-way line of the Florida Turnpike to SR 50 and also commits the City to pay for relocating utilities within the right-of-way of the roadway.

SECTION II. The City of Winter Garden hereby amends Policy 1.4 of Objective 1 of the Capital Improvements Element to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Police 1.4 Additional Road Improvements – In addition to the Capital Improvements identified in the yearly budget, the following improvements are also acknowledged:

(Attachment "B")

SECTION III. The City of Winter Garden hereby amends the Traffic Circulation Element's Future Traffic Circulation Map to depict the segment of Daniels Road which runs through the Fowler Property as a six-lane road as set forth in ATTACHMENT "C".

SECTION IV. This Ordinance shall become effective upon the later of:

- (i) adoption at its second reading; and
- (ii) the date the Department of Community Affairs issues a cumulative notice of intent in accordance with section 163.3184(16)(e), Florida Statutes; and
- (iii) the administrative proceedings filed by the Department of Community Affairs are finally dismissed; and
- (iv) when a final order issued by the Department of Community Affairs finding the amendment to be in compliance is accordance with Chapter 163.3184, F.S., or

the date a final order is issued by the Administration Commission finding the amendment to be in compliance in accordance with Chapter 163.3184, F.S.

The Department's Notice of Intent to find an amendment in compliance is deemed a final order if no timely petition challenging the amendment is filed.

READ FIRST TIME AND PUBLIC HEARING HELD: _____, 2006.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2006.

APPROVED:

JACK QUESINBERRY, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT "A"
(Description of Fowler Groves Property)

ATTACHMENT "B"
**(Five-Year Capital Improvement Budget-Additions
Resulting From Winter Garden Village At Fowler Groves)**

ATTACHMENT "C"
(Future Traffic Circulation Map)

ORDINANCE 06-13

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; VACATING THE NORTHERLY FOUR FEET OF THE TWENTY FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE SOUTHERNMOST PROPERTY LINE, LESS 10 FEET ON THE EASTERN AND WESTERN PROPERTY LINES OF 2008 HARBOR COVE WAY, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owner of property generally known as 2008 Harbor Cove Way, Winter Garden, Florida, has petitioned the City of Winter Garden to vacate the northerly four feet of the twenty foot drainage and utility easement adjacent to the northernmost side of said property, and

WHEREAS, after due consideration of public comment given at an advertised public hearing, the City has determined that the aforesaid easement is not needed,

THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I - The City of Winter Garden hereby vacates all interest in the aforesaid easement as legally identified as follows:

The northerly four feet of the southerly twenty foot drainage and utility easement, less ten feet on the eastern and western property lines, of lot 20 of Windermere Harbor Subdivision, Phase II, as recorded in Plat Book 48, Page 21 of the Public Records of Orange County, Florida.

SECTION II - Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION III: This Ordinance shall become effective upon adoption at its second reading.

READ FIRST TIME: _____, 2006.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2006.

APPROVED:

JACK QUESINBERRY, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk
(2008 Harbor Cove Way. VACATION Ord)

ORDINANCE 06-14

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA; VACATING THE NORTHERLY THREE FEET OF THE TWENTY FOOT DRAINAGE AND UTILITY EASEMENT LOCATED ADJACENT TO THE SOUTHERNMOST PROPERTY LINE, LESS 10 FEET ON THE EASTERN AND WESTERN PROPERTY LINES OF 2014 HARBOR COVE WAY, WINTER GARDEN, FLORIDA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the owner of property generally known as 2014 Harbor Cove Way, Winter Garden, Florida, has petitioned the City of Winter Garden to vacate the northerly three feet of the twenty foot drainage and utility easement adjacent to the northernmost side of said property, and

WHEREAS, after due consideration of public comment given at an advertised public hearing, the City has determined that the aforesaid easement is not needed,

THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I - The City of Winter Garden hereby vacates all interest in the aforesaid easement as legally identified as follows:

The northerly three feet of the southerly twenty foot drainage and utility easement, less ten feet on the eastern and western property lines, of lot 19 of Windermere Harbor Subdivision, Phase II, as recorded in Plat Book 48, Page 21 of the Public Records of Orange County, Florida.

SECTION II - Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

SECTION III: This Ordinance shall become effective upon adoption at its second reading.

READ FIRST TIME: _____, 2006.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2006.

APPROVED:

JACK QUESINBERRY, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

RESOLUTION 06-06

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, EXPRESSING THE DECISION OF THE CITY COMMISSION OF SAID CITY TO MAKE APPLICATION FOR A RECREATIONAL TRAIL CONSTRUCTION GRANT

WHEREAS, the City of Winter Garden, Florida, proposes to construct a project in the vicinity of said City, said project consisting of a linear trail providing for all forms of recreational trail use; and,

WHEREAS, there is a possibility that such project may be eligible for State and Federal financial assistance under the Transportation Equity Act for the 21st Century with funds administered by the Florida Department of Environmental Protection Office of Greenways and Trails through the Recreational Trails Program; and,

WHEREAS, the Commission of the City of Winter Garden hereby desires to provide increased access to safe recreational trails throughout said City for use by its residents and visitors.

NOW, THEREFORE BE IT RESOLVED by the City Commission of the City of Winter Garden, Florida, that it is the decision of the City Commission of the City of Winter Garden, Florida to make application to the State of Florida, acting by and through the Florida Department of Environmental Protection Office of Greenways and Trails, for a construction grant pursuant to the Transportation Equity Act for the 21st Century and to do all things necessary for the execution of said application and, in the event such application is approved to accept the offer of the State of Florida, acting by and through the Department of Environmental Protection to provide such financial assistance to comply with such terms and conditions attendant on such grant offer as may be required, pursuant thereto.

BE IT FURTHER RESOLVED that the City of Winter Garden does hereby indicate its intent to amend its current Capital Improvement Plan to include the construction cost of the Newton Park Trail Extension project for Fiscal Year 2007 of the municipal budget of the City of Winter Garden, Florida should said City successfully receive grant funds from the State of Florida Department of Environmental Protection through the Recreational Trails Program.

BE IT FURTHER RESOLVED that the City Manager of the City of Winter Garden, Florida, Mike Bollhoefer, be and he is hereby authorized to act on behalf of said City by applying for grant funds administered by the Florida Department of Environmental Protection Office of Greenways and Trails through the Recreational Trails Program.

PASSED AND RESOLVED this 23 day of February 2006, by the City Commission of the City of Winter Garden, Florida.

APPROVED:

Jack Quesinberry, Mayor/Commissioner

ATTEST:

Kathy Golden, City Clerk

RESOLUTION 06-07

A RESOLUTION OF THE CITY OF WINTER GARDEN, FLORIDA;
CHANGING THE NAME OF CHARLEMANGE COURT LOCATED IN
THE TUSCANY SUBDIVISION TO CHARLEMAGNE COURT;
PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 13, 1990, the City of Winter Garden approved the plat for the Tuscany Subdivision (PB 26; P 107), and

WHEREAS, said plat contained a "Charlemange Court" as one of the street names, and

WHEREAS, the City has been petitioned by the property owners along Charlemange Court to change the name to the correct historical spelling of "Charlemagne Court",

THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I - The foregoing recitals are true and correct and are incorporated herein.

SECTION II – "Charlemange Court" located in the Tuscany Subdivision is hereby renamed as "Charlemagne Court".

SECTION III This resolution shall take effect immediately upon its final adoption by Winter Garden City Commission.

PASSED AND RESOLVED this _____ day of _____, 2006, by the City Commission of the City of Winter Garden , Florida.

Jack Quesinberry, Mayor
Commissioner

ATTEST:

Kathy Golden, City Clerk