

**CITY COMMISSION AGENDA
CITY OF WINTER GARDEN
TANNER HALL
29 W. Garden Avenue, Winter Garden, Florida**

REGULAR MEETING

June 22, 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 June 8, 2006

2. **OATH OF OFFICE** to new Police Officer – Police Chief Brennan

3. **FIRST READING OF PROPOSED ORDINANCES**

A. **Ordinance 06-25:** AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-31, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 54-35, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 54-40, DISTRIBUTION OF BENEFITS; AMENDING SECTION 54-47, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; AMENDING SECTION 54-52, DEFERRED RETIREMENT OPTION PLAN; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE **with the Second Reading and Public Hearing being scheduled for July 27, 2006** – City Manager Bollhoefer

B. **Ordinance 06-26:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE III, PENSION PLAN FOR FIREFIGHTERS AND POLICE OFFICERS, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-186, DEFINITIONS, TO AMEND THE DEFINITION OF "CREDITED SERVICE"; AMENDING SECTION 54-189, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 54-195, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 54-201, DISTRIBUTION OF BENEFITS; AMENDING SECTION 54-209, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE **with the Second Reading and Public Hearing being scheduled for July 27, 2006** – City Manager Bollhoefer

C. **Ordinance 06-21:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM LOW DENSITY RESIDENTIAL TO COMMERCIAL OF PROPERTY GENERALLY DESCRIBED AS .31 ACRES OF LAND LOCATED AT 160 S. MAIN STREET: PROVIDING FOR AN EFFECTIVE DATE (160 S. Main St. SSCPA) **with the Second Reading and Public Hearing being scheduled for July 27, 2006** - City Planner Cechman

- D. **Ordinance 06-22:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY .31 ACRES OF CERTAIN REAL PROPERTY LOCATED AT 160 S. MAIN STREET AND MORE SPECIFICALLY DESCRIBED HEREIN FROM R-2 TO CITY C-1; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (160 S. Main Street Rezoning) **with the Second Reading and Public Hearing being scheduled for July 27, 2006** - City Planner Cechman
- E. **Ordinance 06-23:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 4.3 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF DILLARD STREET JUST NORTH OF HIGHWAY 50, FROM CITY C-2 AND TO CITY PCD; PROVIDING FOR CERTAIN PCD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Dillard Commons) **with the Second Reading and Public Hearing being scheduled for July 27, 2006** - City Planner Cechman

4. **REGULAR BUSINESS**

- A. Recommendation to approve Final Plat for Belle Meade Phase 2 – City Planner Cechman
- B. Recommendation to approve Preliminary Plat for Hickory Hammock – City Planner Cechman

5. **PUBLIC HEARING**

- A. Request for waiver from Charter Review Committee Member Derek Blakeslee to appointing Commissioner Theo Graham

6. **MATTERS FROM CITIZENS**

7. **MATTERS FROM CITY ATTORNEY** – A. Kurt Ardaman

8. **MATTERS FROM CITY MANAGER** – Michael Bollhoefer

- A. Financial Statement for May 2006

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

- A. Replacement appointment for Richard Hudson on Charter Review Committee due to his resignation – Commissioner Graham
- B. Annual Community Action Board recognition dinner – Commissioner Dixon

ADJOURN to a regular meeting on Thursday, July 13, 2006 at 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.

ORDINANCE NO. 06-25

AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE II, PENSION PLAN FOR GENERAL EMPLOYEES, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-31, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 54-35, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 54-40, DISTRIBUTION OF BENEFITS; AMENDING SECTION 54-47, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; AMENDING SECTION 54-52, DEFERRED RETIREMENT OPTION PLAN; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1: That Chapter 54, Pensions and Retirement, Article II, Pension Plan for General Employees, of the City of Winter Garden Code of Ordinances, is hereby amended by amending Section 54-31, Benefit amounts and eligibility, subsection (d) to read as follows:

(d) *Early retirement benefit.* A member retiring hereunder on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

(1) A deferred monthly retirement benefit which shall commence on the first day of the month coincident with or next following attainment of age 65 ~~what would have been his normal retirement date had he continued employment as a general employee~~ and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on his normal retirement date except that credited service and average final compensation shall be determined as of his early retirement date; or

(2) An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in paragraph (1) above, reduced by five percent for each year by which the commencement of benefits precedes the date on which the general employee would have reached age 65.

SECTION 2: That Chapter 54, Pensions and Retirement, Article II, Pension Plan for General Employees, of the City of Winter Garden Code of Ordinances, is hereby amended by amending Section 54-35, Optional forms of benefits, subsection (a)(2) to read as follows:

(a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a member, upon written request to the board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

- (1) A retirement income of a monthly amount payable to the retiree for his lifetime, but with 120 monthly payments guaranteed in any event.
- (2) A retirement income of a modified monthly amount, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100 percent, 75 percent, 66 2/3 percent or 50 percent of such monthly amount payable to a joint pensioner for his lifetime. Except where the retiree's joint pensioner is his spouse, ~~the present value of payments to the retiree shall not be less than 50 percent of the total present value of payments to the retiree and his joint pensioner.~~ the payments to the joint pensioner as a percentage of the payments to the Retiree shall not exceed the applicable percentage provided for in the applicable table in the Treasury regulations.

* * *

SECTION 3: That Chapter 54, Pensions and Retirement, Article II, Pension Plan for General Employees, of the City of Winter Garden Code of Ordinances, is hereby amended by amending Section 54-40, Distribution of benefits, to read as follows:

Sec. 54-40. Minimum Distribution of benefits.

~~Notwithstanding any other provision of this system to the contrary, a form of retirement income payable from this system after the effective date of this article [July 8, 1999], shall satisfy the following conditions:~~

- ~~(1) If the retirement income is payable before the member's death:
 - a. It shall either be distributed or commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70 1/2, or the calendar year in which member retires.~~

~~b. — The distribution shall commence not later than the calendar year defined above; and a), shall be paid over the life of the member or over the lifetimes of the member and spouse, issue or dependent, or b), shall be paid over the period extending not beyond the life expectancy of the member and spouse, issue or dependent.~~

~~Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the member dies before his entire interest in the system has been distributed, the remaining portion of such interest in the system shall be distributed no less rapidly than under the form of distribution in effect at the time of the member's death.~~

~~(2) — If the member's death occurs before the distribution of his interest in the system has commenced, the member's entire interest in the system shall be distributed within five years of the member's death, unless it is to be distributed in accordance with the following rules:~~

~~a. — The member's remaining interest in the system is payable to his spouse, issue or dependent;~~

~~b. — The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and~~

~~c. — Such distribution begins within one year of the member's death unless the member's spouse shall receive the remaining interest in which case the distribution need not begin before the date on which the member would have attained age 70 ½ and if the spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the member.~~

~~(a) General rules.~~

~~(1) Effective date. The provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.~~

~~(2) Precedence. The requirements of this section will take precedence over any inconsistent provisions of the plan.~~

~~(3) Requirements of treasury regulations incorporated. All distributions required under this~~

section will be determined and made in accordance with the treasury regulations under section 401(a)(9) of the code.

(4) TEFRA section 242(b)(2) elections. Notwithstanding the other provisions of this section other than this subsection (a)(4), distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that related to section 242(b)(2) of TEFRA.

(b) Time and manner of distribution.

(1) Required beginning date. The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date which shall not be later than April 1 of the calendar year following the later of the calendar year in which the member attains age seventy and one-half (70 ½) or the calendar year in which the member retires unless otherwise provided for in the plan or required by law.

(2) Death of member before distributions begin. If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed no later than as follows:

a. If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by December 31 of the calendar year in which the member would have attained age 70 ½, if later.

b. If the member's surviving spouse is not the member's sole designated beneficiary, then, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the member died.

c. If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the

surviving spouse begin, this subsection (b)(2), other than subsection (b)(2)a., will apply as if the surviving spouse were the member.

For purposes of this subsection (b)(2) and subsection (e), distributions are considered to begin on the member's required beginning date or, if subsection (b)(2)d. applies, the date of distributions are required to begin to the surviving spouse under subsection (b)(2)a. If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (b)(2)a.) the date distributions are considered to begin is the date distributions actually commence.

(3) *Form of distribution.* Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance of subsections (c), (d) and (e) of this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the code and treasury regulations. Any part of the member's interest which is in the form of an individual account described in section 414(k) of the code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the code and treasury regulations that apply to individual accounts.

(c) *Determination of amount to be distributed each year.*

(1) *General annuity requirements.* If the member's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:

a. The annuity distributions will be paid in periodic payments made at intervals not longer than one year.

b. The distribution period will be over a life (or lives) or over a period certain not longer than the period described in subsection (d) or (e).

c. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.

d. Payments will either be nonincreasing or increase only as follows:

1. By an annual percentage increase that does not exceed the cumulative annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics or by a fixed annual increase of five percent or less.

2. To the extent of the reduction in the amount of the member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subsection (d) dies or is no longer the member's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p).

3. To provide cash refunds of accumulated contributions upon the member's death.

4. To pay increased benefits that result from a plan amendment.

(2) Amount required to be distributed by required beginning date. The amount that must be distributed on or before the member's required beginning date (or, if the member dies before distributions begin, the date distributions are required to begin under subsection (b)(2)a. or (b)(2)c.) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

(3) Additional accruals after first distribution calendar year. Any additional benefits accruing to the member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(d) Requirements for annuity distributions that commence during a member's lifetime.

(1) Joint life annuities where the beneficiary is not the member's spouse. If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated beneficiary after the member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary and a period certain annuity, the requirements in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(2) Period certain annuities. Unless the member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime may not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age 70, the applicable distribution period for the member is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the treasury regulations plus the excess of 70 over the age of the member as of the member's birthday in the year that contains the annuity starting date. If the member's spouse is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the member's applicable distribution period, as determined under this subsection (d)(2), or the joint life and last survivor expectancy of the member and the member's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the treasury regulations, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.

(e) Requirements for minimum distributions where member dies before date distributions begin.

(1) Member survived by designated beneficiary. If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in subsection (b)(2)a. or (b)(2)b., over the life of the designated beneficiary or over a period certain not exceeding:

a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death.

b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year the contains the annuity starting date.

(2) No designated beneficiary. If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(3) Death of surviving spouse before distributions to surviving spouse begin. If the member dies before the date distribution of his interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection (e) will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to subsection (b)(2)a.

(f) Definitions.

(1) Designated beneficiary. The individual who is designated as the beneficiary under the plan and is the designated beneficiary under section 401(a)(9) of the code and section 1.401(a)(9)-1, Q&A-4, of the treasury regulations.

(2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to subsection (b)(2).

(3) Life expectancy. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the treasury regulations.

(4) Required beginning date. The date specified in subsection (b)(1).

SECTION 4: That Chapter 54, Pensions and Retirement, Article II, Pension Plan for General Employees, of the City of Winter Garden Code of Ordinances, is hereby amended by amending Section 54-47, Direct transfers of eligible rollover distributions, to read as follows:

Sec. 54-47. Direct transfers of eligible rollover distributions; Elimination of mandatory distributions.

* * *

(c) Elimination of mandatory distributions. Notwithstanding any other provision herein to the contrary, in the event this plan provides for a mandatory (involuntary) cash distribution from the plan not otherwise required by law, for an amount in excess of one-thousand dollars (\$1,000.00), such distribution shall be made from the plan only upon written request of the member and completion by the member of a written election on forms designated by the board, to either receive a cash lump sum or to rollover the lump sum amount.

SECTION 5: That Chapter 54, Pensions and Retirement, Article II, Pension Plan for General Employees, of the City of Winter Garden Code of Ordinances, is hereby amended by amending Section 54-52, Deferred retirement option plan, subsection (d), *Distribution of DROP accounts on termination of employment*, to read as follows:

(d) *Distribution of DROP accounts on termination of employment.*

(1) *Eligibility for benefits.* A member shall receive the balance in his DROP account in accordance with the provisions of this subsection (d) upon his termination of employment as a

general employee. Except as provided in subsection (d)~~(4)~~(5), no amounts shall be paid to a member from the DROP prior to his termination of employment as a general employee.

(2) *Form of distribution.*

a. Unless the member elects otherwise, distribution of his DROP account shall be made in a lump sum, subject to the direct rollover provisions set forth in subsection (d)~~(7)~~(6). A member may elect, however, in such time and manner as the board shall prescribe, that his DROP distribution be used to purchase a nonforfeitable fixed annuity payable in such form as the member may elect. Elections under this paragraph shall be in writing and shall be made in such time or manner as the board shall determine. ~~If the annuity form selected is not a qualified joint and 50 percent survivor annuity with the member's spouse as the beneficiary, the annuity payable to the member and thereafter to his beneficiary shall be subject to the incidental death benefit rule as described in Section 401(a)(9)(G) of the Code and its applicable regulations.~~

b. If a member dies before his benefit is paid, his DROP account shall be paid to his beneficiary in such optional form as his beneficiary may select. If no beneficiary designation is made, the DROP account shall be distributed to the member's estate.

(3) *Date of payment of distribution.* Except as otherwise provided in this subsection (d), distribution of a member's DROP account shall be made as soon as administratively practicable following the member's termination of employment. Distribution of the amount in a Member's DROP account will not be made unless the Member completes a written request for distribution and a written election, on forms designated by the Board, to either receive a cash lump sum or a rollover of the lump sum amount.

~~(4) — Age 70 1/2 required distribution. In no event shall the provisions of subsection (d) operate so as to allow the distribution of a member's DROP account to be later than the April 1 following the later of the calendar year in which he terminates his employment as a general employee or he attains age 70 1/2.~~

~~(4)(5)~~ *Proof of death and right of beneficiary or other person.* The board may require and rely upon such proof of death and such evidence of the right of any beneficiary or other person to receive the value of a deceased member's DROP account as the board may deem proper and its determination of the right of that beneficiary or other person to receive payment shall be conclusive.

~~(5)(6)~~ *Distribution limitation.* Notwithstanding any other provision of this subsection (d), all distributions from the DROP shall conform to the “Minimum Distribution Of Benefits” provisions as provided for herein.~~regulations issued under Section 401(a)(9) of the Code, including the incidental death benefit provisions of Section 401(a)(9)(G) of the Code. Further, such regulations shall override any DROP provision that is inconsistent with Section 401(a)(9) of the Code.~~

~~(6)(7)~~ *Direct rollover of certain distributions.* This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the DROP to the contrary, a distributee may elect to have any portion of an eligible rollover distribution paid in a direct rollover as otherwise provided under the system in section 54-47.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 7: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 8: That this Ordinance shall become effective upon adoption.

PASSED ON FIRST READING, this _____ day of _____, 2006.

PASSED AND ADOPTED ON SECOND READING, this _____ day of _____, 2006.

APPROVED:

JACK L. QUESINBERRY, MAYOR/COMMISSIONER

ATTEST:

KATHY GOLDEN, CITY CLERK

vaw\wtg\gen\03-29-06.ord

ORDINANCE NO. 06-26

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 54, PENSIONS AND RETIREMENT, ARTICLE III, PENSION PLAN FOR FIREFIGHTERS AND POLICE OFFICERS, OF THE CODE OF ORDINANCES OF THE CITY OF WINTER GARDEN; AMENDING SECTION 54-186, DEFINITIONS, TO AMEND THE DEFINITION OF "CREDITED SERVICE"; AMENDING SECTION 54-189, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 54-195, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 54-201, DISTRIBUTION OF BENEFITS; AMENDING SECTION 54-209, DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1: That Chapter 54, Pensions and Retirement, Article III, Pension Plan for Firefighters and Police Officers, of the Code of Ordinances of the City of Winter Garden, Section 54-186, Definitions, is hereby amended by amending the definition of *Credited service* to read as follows:

Sec. 54-186. Definitions.

(a) As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

* * *

Credited service means the total number of years and fractional parts of years of service as a firefighter or police officer with member contributions, when required, omitting intervening years or fractional parts of years when such member was not employed by the city as a firefighter or police officer. A member may voluntarily leave his accumulated contributions in the fund for a period of five years after leaving the employ of the fire or police department pending the possibility of being reemployed as a firefighter or police officer, without losing credit for the time that he was a member of the system. If a vested member leaves the employ of the fire or police department, his accumulated contributions will be returned only upon his written request. If a member who is not vested is not reemployed as a firefighter or police officer with the fire or police department within five years, his accumulated contributions, if one-thousand dollars (\$1,000.00) or less, shall be returned. If a Member who is not vested is not reemployed within five (5) years, his Accumulated Contributions, if more than one-thousand dollars (\$1,000.00), will be returned only upon the written request of the Member and upon completion of a written election to receive a cash lump sum or to rollover

the lump sum amount on forms designated by the Board. Upon return of a member's accumulated contributions, all of his rights and benefits under the system are forfeited and terminated. Upon any reemployment, a member shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his accumulated contributions from the fund, unless the member repays into the fund the contributions he has withdrawn, with interest, as determined by the board, within 90 days after his reemployment. Current members shall be permitted to repurchase prior service pursuant to the previous sentence if the request to repurchase and the payment of the required amount is made within six months from the effective date of the ordinance adopting this provision. The years or fractional parts of a year that a member serves in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily, after separation from employment as a firefighter or police officer with the city to perform training or service, shall be added to his years of credited service for all purposes, including vesting, provided that:

- (a) The member must return to his employment as a firefighter or police officer within one year from the earlier of the date of his military discharge or his release from active service.
- (b) The member is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), (P.L. 103--353).
- (c) The maximum credit for military service pursuant to this paragraph shall be five years.

In the event that a member of this system has also accumulated credited service in another pension system maintained by the city, then such other credited service shall be used in determining vesting as provided for in section 54-194, and for determining eligibility for early or normal retirement. Such other credited service will not be considered in determining benefits under this system. Only his credited service under this system on or after his date of membership in this system will be considered for benefit calculation. In addition, any benefit calculation for a member of this system who is or becomes eligible for a benefit from this system after he has become a member of another pension system maintained by the city, shall be based upon the member's average final compensation, credited service and benefit accrual rate as of the date the member ceases to be a firefighter or police officer.

* * *

SECTION 2: That Chapter 54, Pensions and Retirement, Article III, Pension Plan for Firefighters and Police Officers, of the Code of Ordinances of the City of Winter Garden, is hereby amended by amending subsection (6)b.6. of Section 54-189, Finances and fund management, to read as follows:

Sec. 54-189. Finances and fund management.

Establishment and operation of fund:

* * *

(6) The board shall have the following investment powers and authority:

* * *

b. All monies paid into or held in the fund shall be invested and reinvested by the board and the investment of all or any part of such funds shall be limited to:

* * *

6. Real estate, provided the board shall not invest more than ten percent at cost in real property or real estate. The Board may invest in real estate directly or through an investment vehicle approved by the Board.

* * *

SECTION 3: That Chapter 54, Pensions and Retirement, Article III, Pension Plan for Firefighters and Police Officers, of the Code of Ordinances of the City of Winter Garden, is hereby amended by amending subsection (a)(2) of Section 54-195, Optional forms of benefits, to read as follows:

Sec. 54-195. Optional forms of benefits.

(a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a member, upon written request to the board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

* * *

(2) A retirement income of a modified monthly amount, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100 percent, 75 percent, 66 2/3 percent or 50 percent of such monthly amount payable to a joint pensioner for his lifetime. Except where the retiree's joint pensioner is his spouse, ~~the present value of payments to the retiree shall not be less than 50 percent of the total present value of payments to the retiree and his joint pensioner,~~ the payments to the joint pensioner as a percentage of the payments to the Retiree shall not exceed the applicable percentage provided for in the applicable table in the Treasury regulations.

* * *

SECTION 4: That Chapter 54, Pensions and Retirement, Article III, Pension Plan for Firefighters and Police Officers, of the Code of Ordinances of the City of Winter Garden, is hereby amended by amending Section 54-201, Distribution of benefits, to read as follows:

Sec. 54-201. Minimum Distribution of benefits.

~~Notwithstanding any other provision of this system to the contrary, a form of retirement income payable from this system after the effective date of this article [December 31, 1999], shall satisfy the following conditions:~~

~~(1) If the retirement income is payable before the member's death:~~

~~a. It shall either be distributed or commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70 ½, or the calendar year in which member retires.~~

~~b. The distribution shall commence not later than the calendar year defined above; and a), shall be paid over the life of the member or over the lifetimes of the member and spouse, issue or dependent, or b), shall be paid over the period extending not beyond the life expectancy of the member and spouse, issue or dependent.~~

~~Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the member dies before his entire interest in the system has been distributed, the remaining portion of such interest in the system shall be distributed no less rapidly than under the form of distribution in effect at the time of the member's death.~~

~~(2) If the member's death occurs before the distribution of his interest in the system has commenced, the member's entire interest in the system shall be distributed within five years of the member's death, unless it is to be distributed in accordance with the following rules:~~

~~a. The member's remaining interest in the system is payable to his spouse, issue or dependent;~~

~~b. The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and~~

~~c. Such distribution begins within one year of the member's death unless the member's spouse shall receive the remaining interest in which case the distribution need not begin before the date on which the member would have attained age 70 ½ and if the spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the member.~~

(a) General Rules.

(1) Effective Date. The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

(2) Precedence. The requirements of this Section will take precedence over any inconsistent provisions of the Plan.

(3) Requirements of Treasury Regulations Incorporated. All distributions required under this Section will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Code.

(4) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Section other than this subsection (a)(4), distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that related to Section 242(b)(2) of TEFRA.

(b) Time and Manner of Distribution.

(1) Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's required beginning date which shall not be later than April 1 of the calendar year following the later of the calendar year in which the Member attains age seventy and one-half (70 ½) or

the calendar year in which the Member retires unless otherwise provided for in the Plan or required by law.

(2) *Death of Member Before Distributions Begin.* If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed no later than as follows:

a. If the Member's surviving spouse is the Member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70 ½, if later.

b. If the Member's surviving spouse is not the Member's sole designated beneficiary, then, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.

c. If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

d. If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this subsection (b)(2), other than subsection (b)(2)a., will apply as if the surviving spouse were the Member. For purposes of this subsection (b)(2). and subsection (e), distributions are considered to begin on the Member's required beginning date or, if subsection (b)(2)d. applies, the date of distributions are required to begin to the surviving spouse under subsection (b)(2)a. If annuity payments irrevocably commence to the Member before the Member's required beginning date (or to the Member's surviving spouse before the date distributions are required to begin to the

surviving spouse under subsection (b)(2)a.) the date distributions are considered to begin is the date distributions actually commence.

(3) *Form of Distribution.* Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance of subsections (c),(d) and (e) of this Section. If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and Treasury regulations that apply to individual accounts.

(c) *Determination of Amount to be Distributed Each Year.*

(1) *General Annuity Requirements.* If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

a. The annuity distributions will be paid in periodic payments made at intervals not longer than one year.

b. The distribution period will be over a life (or lives) or over a period certain not longer than the period described in subsection (d) or (e).

c. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.

d. Payments will either be nonincreasing or increase only as follows:

1. By an annual percentage increase that does not exceed the cumulative annual percentage increase in a

cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics or by a fixed annual increase of five percent or less.

2. To the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in subsection (d) dies or is no longer the Member's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p).

3. To provide cash refunds of Accumulated Contributions upon the Member's death.

4. To pay increased benefits that result from a Plan amendment.

(2) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Member's required beginning date (or, if the Member dies before distributions begin, the date distributions are required to begin under subsection (b)(2)a. or (b)(2)c.) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's required beginning date.

(3) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(d) Requirements for Annuity Distributions That Commence During a Member's Lifetime.

(1) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse.

If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary, annuity payments to be made on or after the Member's required beginning date to the designated beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary and a period certain annuity, the requirements in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(2) Period Certain Annuities. Unless the Member's spouse is the sole

designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Member reaches age 70, the applicable distribution period for the Member is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Member as of the Member's birthday in the year that contains the annuity starting date. If the Member's spouse is the Member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this subsection (d)(2), or the joint life and last survivor expectancy of the Member and the

Member's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Member's and spouse's attained ages as of the Member's and spouse's birthdays in the calendar year that contains the annuity starting date.

(e) Requirements for Minimum Distributions Where Member Dies Before Date Distributions Begin.

(1) Member Survived by Designated Beneficiary. If the Member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in subsection (b)(2)a. or (b)(2)b., over the life of the designated beneficiary or over a period certain not exceeding:

a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death.

b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year the contains the annuity starting date.

(2) No designated Beneficiary. If the Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Member dies before the date distribution of his interest begins, the Member's surviving spouse is the Member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection

(e) will apply as if the surviving spouse were the Member, except that the time by which distributions must begin will be determined without regard to subsection (b)(2)a.

(f) Definitions.

(1) Designated Beneficiary. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(2) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's required beginning date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to subsection (b)(2).

(3) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(4) Required Beginning Date. The date specified in subsection (b)(1).

SECTION 5: That Chapter 54, Pensions and Retirement, Article III, Pension Plan for Firefighters and Police Officers, of the Code of Ordinances of the City of Winter Garden, is hereby amended by adding subsection (c) to Section 54-209, Direct transfers of eligible rollover distributions, to read as follows:

Sec. 54-209. Direct transfers of eligible rollover distributions; Elimination of mandatory distributions.

* * *

(c)Elimination of Mandatory Distributions. Notwithstanding any other provision herein to the contrary, in the event this Plan provides for a mandatory (involuntary) cash distribution from the Plan not otherwise required by law, for an amount in excess of one-thousand dollars (\$1,000.00), such distribution shall be made from the Plan only upon written request of the Member and completion by the Member of a written election on forms designated by the Board, to either receive a cash lump sum or to rollover the lump sum amount.

SECTION 6: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 7: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 8: That this Ordinance shall become effective upon adoption.

PASSED ON FIRST READING, this _____ day of _____, 2006.

PASSED AND ADOPTED ON SECOND READING, this _____ day of _____, 2006.

APPROVED:

JACK L. QUESINBERRY, MAYOR/COMMISSIONER

ATTEST:

KATHY GOLDEN, CITY CLERK

vaw\wtg\pf\11-28-05.ord

ORDINANCE 06-21

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM LOW DENSITY RESIDENTIAL TO COMMERCIAL OF PROPERTY GENERALLY DESCRIBED AS .31 ACRES OF LAND LOCATED AT 160 S. MAIN STREET: PROVIDING FOR AN EFFECTIVE DATE. (160 S. Main St. SSCPA)

WHEREAS, on the 13 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 owners of land generally described as approximately .31 acres located at 160 S. Main Street have petitioned the City to amend the Future Land Use Map of the Comprehensive Plan by changing the designation of said property from "Low Density Residential" to "Commercial", and

WHEREAS, the City Commission has conducted the prerequisite advertised public hearings as per Chapter 163 regarding the adoption of this ordinance for a Small Scale Comprehensive Plan Amendment, and

WHEREAS, the aforesaid petition complies with the Florida Statutes as a Small Scale Comprehensive Plan Amendment,

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

SECTION 1: The City of Winter Garden hereby amends The Future Land Use Map of the Comprehensive Plan with ATTACHMENT A.

SECTION 2: The City Planner is hereby authorized and directed to amend the Official Winter Garden Future Land Use 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 later of:

- (i) adoption at its second reading; and
- (ii) the date the Department of Community affairs renders a letter identifying the Department will not conduct a compliance review or issue a Notice of Intent in accordance with procedures contained in Section 163.3187(3)(a), Florida Statutes,

or

- (iii) 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
- (iv) 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: _____, 2006.

READ SECOND TIME: _____, 2006.

APPROVED:

JACK QUESINBERRY, Mayor /Commissioner

ATTEST:

KATHY GOLDEN, City Clerk
(160 S. Main Street _ sscpa ord 6/16/2006)

ORDINANCE 06-22

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY .31 ACRES OF CERTAIN REAL PROPERTY LOCATED AT 160 S. MAIN STREET AND MORE SPECIFICALLY DESCRIBED HEREIN FROM R-2 TO CITY C-1; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (160 S. Main Street Rezoning)

WHEREAS, the owner of real property generally described as approximately .31 acres located at 160 S. Main Street and legally described in Section 1 of this ordinance has petitioned the City to zone said property from R-2 to the City's C-1 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 C-1 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

(160 S. Main Street rezone 6/16/2006)

ORDINANCE 06-23

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 4.3 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF DILLARD STREET JUST NORTH OF HIGHWAY 50, FROM CITY C-2 AND TO CITY PCD; PROVIDING FOR CERTAIN PCD REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the owners of real property generally described as APPROXIMATELY 4.3 ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED ON THE EAST SIDE OF DILLARD STREET JUST NORTH OF HIGHWAY 50, (hereinafter known as the Owners) desire to rezone their property from City C-2 to City PCD, and

WHEREAS, said property is identified in the Future Land Use Map of the Comprehensive Plan as Commercial, and

WHEREAS, the City desires to rezone said property to PCD with certain restrictions, then

WHEREAS, the City and the property owner have agreed to the specific PCD requirements identified herein, therefore;

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

Section I – PCD Rezoning

After due notice and public hearing, the zoning classification of real property legally described in ATTACHMENT “A”.

is hereby rezoned from City C-2 to City PCD in the City of Winter Garden, Florida with the following provisions and restrictions:

Section II – General Requirements

- (1) **Concept Plan** – All development on the subject property must substantially conform to ATTACHMENT “B” (the conceptual site plan) and the architectural rendering depicted on the conceptual site plan.
- (2) **Zoning** - Unless specifically noted otherwise within this ordinance, all development must comply with the general zoning requirements of the C-2 zoning district. These requirements include any approval procedure of the C-2 zoning district.
- (3) **Setbacks & Height Restrictions** - The setbacks for the subject property will be:
 - 40 feet in the front yard
 - 20 feet on each side yard (15 feet when adjacent to a public street)
 - 20 feet in the rear yard

The maximum height of any building will be 50 feet.

- (4) **Permitted Uses** - The permitted uses allowed on the subject property are those allowed in the C-2 zoning district with the addition of residential uses restricted to the 20 residential condominium units.
- (5) **Special Exception Uses** - The Special Exception uses allowed on the subject property are those allowed in the C-2 zoning district with a Special Exception Permit.
- (6) **Prohibited Uses:** - The prohibited uses on the subject property are those prohibited in the C-2 zoning district with the exception of residential uses.
- (7) **Vehicular Connections** – Principal access to the property will be from Dillard Street .. The location of a cross access easement to the property to the north must be indicated for future connections and access, from said property.
- (8) **Pedestrian Connections** – Bicycle and pedestrian connections must be provided to adjacent properties including vehicular walkways, and pedestrian access and circulations. Trash receptacles, bike racks and benches must be provided. A 6 foot sidewalk is required to provide internal access from Dillard Street.
- (9) **Recreation Facilities** - A dedicated recreation area must be provided between the two garages for the condo residents.
- (10) **Utilities and equipment** - All utilities must be underground. All utility equipment (i.e. transformers, etc.) must be properly screened with landscaping or hidden from public view if on top of a roof.
- (11) **Retention Ponds** – All retention ponds must comply with State Road 50 Overlay Commercial Development Standards, ordinance 03-30, City Code Section 118.400.
- (12) **Impervious Surface Ratio**- The maximum impervious surface ratio shall not exceed 80% per PCD approval. .
- (13) Design Criteria – **The following design criteria shall be applicable to the entire subject site. Must comply with the West State Road 50 Overlay Commercial Development Standards; Ordinance 03-30, City Code Section 118.400 which includes lighting, buffers, fencing, architectural details, curbing, dumpsters, and signage.**

The Planning and Zoning Board shall approve the specific architectural details at the time the site plan is approved.

- (14) **Recording** - The Developer will pay for the recording of this ordinance.
- (15) **Outdoor Storage** – Outdoor storage of materials or equipment is a prohibited use.
- (16) **Orange County Public Schools** – The Developer will be required to obtain a Capacity Enhancement Agreement from Orange County Public Schools prior to obtaining the building permit for the first building containing residential units.

(17) **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 Ordinances.

Section VI 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 VII The restrictions in this ordinance may be amended via a resolution approved by the City Commission.

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

Section IX 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

{Dillard Commons PCD ord/ 06/16/2006}