

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

REGULAR MEETING

June 28, 2007

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 14, 2007

2. FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCE

A. **Ordinance 07-22:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 88 OF THE CODE OF ORDINANCES, CITY OF WINTER GARDEN, FLORIDA; PROVIDING FOR THE ASSESSMENT OF COSTS, EXPENSES AND FEES INCURRED BY THE CITY OF WINTER GARDEN IN REVIEWING REQUESTS RELATING TO DEVELOPMENT; PROVIDING FOR FEE SCHEDULES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE (postponed from June 14, 2007) **with the second reading and public hearing being scheduled for July 12, 2007** - City Planner Williams

3. SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES

A. **Ordinance 07-09:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 1.43 ± ACRES LOCATED AT 12728 WEST COLONIAL DRIVE, 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 – City Planner Williams

B. **Ordinance 07-10:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REZONING APPROXIMATELY 1.43 ± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 12728 WEST COLONIAL DRIVE FROM ORANGE COUNTY C-3 TO CITY C-2; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – City Planner Williams

C. **Ordinance 07-11:** AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY COMMERCIAL TO CITY COMMERCIAL FOR PROPERTY GENERALLY DESCRIBED AS 1.43 ± ACRES LOCATED AT 12728 WEST COLONIAL DRIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – City Planner Williams

4. REGULAR BUSINESS

A. Recommendation to approve the site plan for Phase 1 of the Zion Evangelical Lutheran Church with the conditions in the Engineering Department's memorandum of June 14, 2007 - City Planner Williams

- B. Recommendation to approve the final plat for Daniels Road Business Park with the conditions in the Engineering Department's memorandum of May 11, 2007, the Legal Department's letter dated May 2, 2007 and the City Surveyor's letter of May 9, 2007 - City Planner Williams
- C. Discussion and possible action regarding consolidating the 2008 general election (Mayor and District 1) with the Presidential Primary on January 29, 2008 – City Clerk Golden

5. MATTERS FROM CITIZENS

6. MATTERS FROM CITY ATTORNEY – Kurt Ardaman

7. MATTERS FROM CITY MANAGER – Mike Bollhoefer
A. Financial Statement for May 2007

8. MATTERS FROM MAYOR AND COMMISSIONERS

9. ADJOURN to a regular City Commission meeting on Thursday, July 12, 2007 at 6:30 p.m.

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. 07-22

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 88 OF THE CODE OF ORDINANCES, CITY OF WINTER GARDEN, FLORIDA; PROVIDING FOR THE ASSESSMENT OF COSTS, EXPENSES AND FEES INCURRED BY THE CITY OF WINTER GARDEN IN REVIEWING REQUESTS RELATING TO DEVELOPMENT; PROVIDING FOR FEE SCHEDULES; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Winter Garden (hereinafter referred to as the “City”) pursuant to the Code of Ordinances and State law has the authority to review applications and proposals for development, such as subdivisions, planned unit developments, site plans, rezonings, special exceptions, variances, development agreements, plat approvals, comprehensive plan amendments, concurrency, development of regional impact determinations, annexations, and projects relating to development (hereinafter collectively referred to as “Applications”) and to consider the impacts of development which may occur pursuant to such Applications on the citizens, infrastructure, lands, businesses and well being of the City and to ensure that conditions required for approval have been met; and

WHEREAS, the City has the authority to review, inspect and regulate the foregoing; and

WHEREAS, substantial costs, fees and expenses are incurred by the City, directly and solely caused by and related to the review, inspection and regulation of development pursuant to Applications; and

WHEREAS, in order to efficiently and effectively carry out the review of such Applications and the inspection and regulation of development, it is necessary that the City employ competent Staff and professional consultants and/or otherwise contract with others to perform such services and to offer legal and technical expertise; and

WHEREAS, the City Commission finds that the costs, expenses and fees incurred by the City, which are caused directly and solely by such development, should be incurred by those responsible for said development and not by the taxpayers in general; and

WHEREAS, the fees, costs and expenses recoverable by the City under this Ordinance are less than the fees, costs and expenses actually incurred by the City for review, inspection and regulation of development; and

WHEREAS, the City Commission has determined that this Ordinance is necessary and appropriate to have a substantial portion of the costs, expenses and fees incurred for the review, regulation, and inspection of development and Applications borne by those responsible for such; and

WHEREAS, to accomplish the objectives of this Ordinance and to fairly and properly assess the fees, costs and expenses incurred by the City due to development, the framework set forth in this Ordinance is necessary; and

WHEREAS, after public notice and due consideration of public comment given at an advertised public hearing, the City Commission has determined that this Ordinance is necessary to advance and serve the health, safety and general welfare of the citizens of Winter Garden, Florida.

NOW THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:

SECTION I: Authority. The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

SECTION II: Adoption. Chapter 88 of the City of Winter Garden Code of Ordinances is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Section 88-8. Fee Collection and Schedule. The Site Plan Review Fees, Platting Review Fees, Zoning Plan Amendments, Other Permits Associated With Development of Property Fees and Advertising Costs, respectively located below in subparagraphs A, B and C, as such may be amended from time to time, establish the Flat Fee for the matters referenced therein, which flat fees in addition to any Review Deposit required pursuant to section 88-3 shall be paid by the applicant to the City upon submittal of any application to the City. The City shall ensure the required flat fee is collected, and, if applicable, the Review Deposit is posted to an account for said application. The City Finance Director or his designee shall also notify the City Manager or appropriate City Staff of the applicant's proof of payment of the flat fee and, if applicable, the posting of the Review Deposit.

Should the City Manager or his designee determine that the required Review Deposit for an Application is inadequate to cover the reasonably anticipated fees, costs and expenses to be required by the City, the City Manager shall direct the City Finance Director or his designee to increase the minimum deposit to the minimum extent necessary to cover such reasonably anticipated fees, costs, and expenses. The Flat Fees are established as follows:

1. *Site Plan Review Fees.*
 - a. Communication antenna site plan approval.
 1. New communication tower greater than or equal to 35 feet in total height: \$1,000.00.
 2. New antenna less than 35 feet in total height: \$200.00.

3. Alteration of an existing antenna, alteration plus building permits, special exception (if required) and/or variance fees (if required):
\$200.00.
- b. De minimis industrial or commercial site plan review (less than 300 square feet of building or 500 square feet of impervious surface). No flat fee required (considered part of building permit fee).
- c. Major industrial, commercial, or institutional site plan approval (the addition of greater than 4,000 square feet of building or 5,000 square feet of impervious surface).
 1. Site plan review fee: \$200.00, plus \$20.00 per 1,000 square feet of the total of both building area and impervious surface.
 2. Site inspection fee: An additional fee of one and one-half percent of the cost of the improvements, including, but not limited to, materials, labor, and construction of the site (parking areas, lighting, landscaping, stormwater retention areas, and water and sewer utilities) or \$200.00, whichever is greater, will be collected prior to the time of the issuance of building permits.
- d. Minor industrial, commercial, or institutional site plan approval (all site plans smaller than a major industrial or commercial site plan review but greater than a de minimis industrial or commercial site plan review). The site plan review fee and inspection fee shall be ~~\$200.00~~ \$500.00 each.
- e. Multi-family site plan review.
 1. Site plan review fee: \$300.00, plus ten dollars (\$10.00) per unit.

2. Site inspection fee: An additional fee of one and one-half percent of the cost of construction of the site improvements (parking areas, lighting, landscaping, stormwater retention areas, and water and sewer utilities) or \$200.00, whichever is greater, will be collected prior to the time of the issuance of building permits.

f. Single-family residential. No site plan review fees are required, except for platting fees.

2. *Platting Review Fees.*

a. Preliminary plat review fees. The fee for plans review shall be \$250.00 plus ten dollars per residential lot, ~~five~~ five-hundred dollars per nonresidential lot.

b. Plat construction plan review. \$500.00, plus two dollars per residential lot; ~~ten~~ two-hundred and fifty dollars per nonresidential lot for the first two revisions. An additional ten dollars per residential lot or ~~\$30.00~~ five-hundred dollars per nonresidential lot will be charged for each successive revision.

c. Plat infrastructure inspections: One and one-half percent of the construction cost of the infrastructure to include but not limited to roads, stormwater facilities, water facilities and wastewater facilities to be paid prior to final plat approval.

d. Final Plat Review. The fee shall be \$250.00, plus ten dollars per residential lot; ~~five~~ one-hundred dollars per nonresidential lot plus actual City Consultant review cost, fees and expenses, and recording fees.

- e. Addressing and signage fees. The applicant will be responsible to reimburse the City for any addressing and signage fees.

3. *Zoning, Plan Amendments, and Other Permits Associated With Development of Property Fees.*

- a. Adult entertainment establishments (development of): See Chapter 10 titled Amusements and Entertainment.
- b. Annexation, infill (annexation of infill lot of five acres or less) No fee
- c. Annexation, large scale (annexation of a lot or parcel great than five acres) ~~\$400.00~~ \$1,000.00
- d. Deannexation \$2,500.00
- e. Appeal to the planning and zoning board of an administrative interpretation ~~\$25.00~~ \$100.00
- f. Appeal to the City Commission of a decision made by the Planning and Zoning Board \$300.00
- g. Building permits: As identified in Resolution No. 96-09 as amended.
- h. Comprehensive plan amendment, small scale and in conjunction with an infill (annexation less than five acres) No fee
- i. Comprehensive plan amendment, small scale and not in conjunction with an infill (annexation less than ~~five~~ ten acres) \$ 700.00
- j. Comprehensive plan amendment, large scale or text

	amendment	\$1,000.00	<u>\$2,500.00</u>
k.	Concurrency review	No fee	<u>City Consultant Cost</u>
l.	Development of regional impact (DRI) review: \$8,000.00, plus all other associated development review fees (i.e., platting, annexation, comprehensive plan amendment and site plan review) plus City Consultant fees, costs, and expenses.		
m.	Development agreement: Actual City Consultant fees, costs, and expenses.		
n.	Impact fees: As identified in Chapter 42 of this Code.		
o.	Lot clearing not associated with any other development permit:		
	Residential (per lot)		\$25.00
	Nonresidential (per lot)		\$100.00
p.	Planned unit development (PUD):		
	Rezoning	\$750.00	<u>\$1,000.00</u>
	Amendment		\$750.00
q.	Rezoning in conjunction with an infill annexation five acres or less		No fee
r.	Rezoning not in conjunction with an infill annexation five acres or less.		\$500.00
s.	Special exception or conditional use permit		
	For-profit Business		\$500.00
	Not-for-profit Business		\$200.00
	Extension of Permit		\$200.00
t.	Tree removal permit, per lot or parcel		\$ 10.00

u.	Variance request:	
	For a single-family residential additions and substandard lots (per variance request)	\$100.00
	For residential fences, sheds, and other non-habitable structures (per variance request)	\$75.00
	For all other variances (per variance request)	\$150.00
v.	Vacation of public property (plus City Consultant fees, expenses, and costs)	\$250.00
w.	Identification of all nonconforming characteristics letter (existing development)	\$300.00
x	Lot Split	\$100.00
y.	Open Air Vendor Permit	\$250.00
z.	Zoning Verification Letter	\$100.00

(plus costs such as copy charges and City Staff time)

Section 88-13. Amendments. This chapter shall periodically be reviewed and may be amended by ordinance, however, fees and fee schedule may be amended by resolution.

SECTION III: Severability. If any portion of this Ordinance is determined to void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

SECTION IV: Effective Date. This Ordinance shall take effect upon adoption by City Commission and shall apply to fees, costs and expenses incurred by the City after the effective date and to Applications and projects submitted after the effective date.

SECTION V: Codification. That Section II of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances of the City of Winter Garden. Sections of this Ordinance may be renumbered or relettered and the word “Ordinance” may be changed to “Section,” “Article” or such other appropriate word or phase in order to accomplish such intentions. Typographical errors which do not effect the intent and purpose of this Ordinance may be authorized by the City Manager, or his designee, without the need of public hearing by filing a corrected or recodified copy of the same with the City Clerk.

READ FIRST TIME AND PUBLIC HEARING HELD _____, 2007.

READ SECOND TIME AND PUBLIC HEARING HELD _____, 2007.

JACK QUESINBERRY, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ORDINANCE 07-09

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS 1.43 ± ACRES LOCATED AT 12728 WEST COLONIAL DRIVE, 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 land generally described as 1.43 ± acres located at 12728 West Colonial Drive 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 through its Planning and Zoning Board 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: _____, 2007.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2007.

APPROVED:

JACK QUESINBERRY, Mayor/Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ORDINANCE 07-10

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA,
REZONING APPROXIMATELY 1.43 ± ACRES OF CERTAIN REAL
PROPERTY LOCATED AT 12728 WEST COLONIAL DRIVE FROM
ORANGE COUNTY C-3 TO CITY C-2; PROVIDING FOR SEVERABILITY;
PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the owner of real property generally described as approximately 1.43 ± acres located at 12728 West Colonial Drive and legally described in Section 1 of this ordinance has petitioned the City to zone said property from Orange County C-3 to the City's C-2 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 Orange County C-3 to City C-2 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: _____ 2007.

SECOND READING AND PUBLIC HEARING: _____ 2007.

APPROVED:

JACK QUESINBERRY, Mayor/Commissioner

ATTESTED:

KATHY GOLDEN, City Clerk

ORDINANCE 07-11

AN ORDINANCE AMENDING THE FUTURE LAND USE MAP OF THE CITY OF WINTER GARDEN'S COMPREHENSIVE PLAN BY CHANGING THE DESIGNATION FROM ORANGE COUNTY COMMERCIAL TO CITY COMMERCIAL FOR PROPERTY GENERALLY DESCRIBED AS 1.43 ± ACRES LOCATED AT 12728 WEST COLONIAL DRIVE; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

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 1.43 ± acres located at 12728 West Colonial Drive have petitioned the City to amend the Future Land Use Map of the Comprehensive Plan by changing the designation of said property from "ORANGE COUNTY COMMERCIAL" to "CITY 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 Exhibit "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: _____, 2007.

READ SECOND TIME: _____, 2007.

APPROVED:

JACK QUESINBERRY, Mayor /Commissioner

ATTEST:

KATHY GOLDEN, City Clerk

ATTACHMENT “A”