**CITY COMMISSION AGENDA**
**CITY HALL COMMISSION CHAMBERS**
**300 W. Plant Street**

**REGULAR MEETING MAY 10, 2012 6:30 P.M.**

**CALL TO ORDER**
Determination of a Quorum
Invocation and Pledge of Allegiance

1. **APPROVAL OF MINUTES**
   Regular Meeting of April 26, 2012

2. **PRESENTATIONS**
   A. Presentation of 2012 Drop Savers Awards
   B. West Orange Airport Presentation

3. **FIRST READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**
   A. **Ordinance 12-24:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REPEALING ORDINANCE 12-02 AND REPLACING IT WITH THE AMENDMENTS TO ARTICLE V OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES CONTAINED WITHIN THIS ORDINANCE; PROVIDING FOR THE AMENDMENT OF ARTICLE V OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES ENTITLED "PLANNED UNIT DEVELOPMENTS" CREATING URBAN VILLAGE PLANNED UNIT DEVELOPMENTS; PROVIDNG REQUIREMENTS FOR MIXTURE OF USES AND URBAN DEVELOPMENT CRITERIA FOR ALL PROPOSED PLANNED DEVELOPMENT PROJECTS IN THE URBAN VILLAGE PLANNED UNIT DEVELOPMENT ZONING DISTRICT; CLARIFYING, UPDATING, AND REMOVING REDUNDANT LANGUAGE FOR RESIDENTIAL PLANNED UNIT DEVELOPMENTS; PROVIDING FOR REVISIONS TO PLANNED UNIT DEVELOPMENT REVIEW PROCESS AND APPROVAL CRITERIA; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE. **with the second reading and public hearing being scheduled for May 24, 2012** – Community Development Director Williams
   B. **Ordinance 12-28:** AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING ARTICLE II OF CHAPTER 30, ARTICLE II OF CHAPTER 26, AND ARTICLE IV OF CHAPTER 38 OF THE WINTER GARDEN CODE OF ORDINANCES TO REMOVE REFERENCES AND APPLICABILITY OF SUCH PROVISIONS TO THE REGULATION OF FIREARMS AND AMMUNITION IN ACCORDANCE WITH SECTION 790.33, FLORIDA STATUTES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE **with the second reading and public hearing being scheduled for May 24, 2012** – City Manager Bollhoefer

4. **SECOND READING AND PUBLIC HEARING OF PROPOSED ORDINANCES**
   A. **Ordinance 12-17:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.14 ± ACRES LOCATED AT 176 WATER STREET; ON THE SOUTH SIDE OF WATER STREET EAST OF WALKER STREET 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 – Community Development Director Williams
   B. **Ordinance 12-18:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 0.14 ±

ACRES OF LAND LOCATED AT 176 WATER STREET; ON THE SOUTH SIDE OF WATER STREET EAST OF WALKER STREET FROM ORANGE COUNTY LOW MEDIUM DENSITY RESIDENTIAL TO CITY COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – Community Development Director Williams

C. **Ordinance 12-19:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.14 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT 176 WATER STREET; ON THE SOUTH SIDE OF WATER STREET EAST OF WALKER STREET FROM ORANGE COUNTY R-2 RESIDENTIAL DISTRICT TO CITY C-2 ARTERIAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – Community Development Director Williams

D. **Ordinance 12-20:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.23 ± ACRES LOCATED AT THE SOUTHEAST CORNER OF WALKER STREET AND WATER STREET 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 – Community Development Director Williams

E. **Ordinance 12-21:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 0.23 ± ACRES OF LAND LOCATED AT THE SOUTHEAST CORNER OF WALKER STREET AND WATER STREET FROM ORANGE COUNTY LOW MEDIUM DENSITY RESIDENTIAL TO CITY COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – Community Development Director Williams

F. **Ordinance 12-22:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.23 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF WALKER STREET AND WATER STREET FROM ORANGE COUNTY R-2 RESIDENTIAL DISTRICT TO CITY C-2 ARTERIAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE – Community Development Director Williams

5. **REGULAR BUSINESS**

6. **MATTERS FROM CITIZENS** (*Limited to 3 minutes per speaker)*

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

8. **MATTERS FROM CITY MANAGER** – Mike Bollhoefer
   A. Discussion on expanding senior citizen discount to low income residents with disabilities
   B. Discussion on revisions to noise ordinance
   C. Sale of City-owned mobile home

9. **MATTERS FROM MAYOR AND COMMISSIONERS**

**ADJOURN** to a Regular Meeting on May 24, 2012 at 6:30 p.m. in City Hall Commission Chambers, 300 W. Plant Street, 1st floor

NOTICE: In accordance with Florida Statutes 286.0105, if any person decides to appeal any decision made by said body with respect to any matter considered at such meeting, he/she will need a record of the proceedings and, for that purpose, he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City of Winter Garden does not prepare or provide such record.

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| | Those needing assistance to participate in any of these proceedings should contact the City Clerk's Office at least 48 hours in advance of the meeting (407) 656-4111 x2254. | | Help for the hearing impaired is available through the Assistive Listening System. Receivers can be obtained at the meeting from the Information Technology Director. |

# CITY OF WINTER GARDEN

**CITY COMMISSION**
**REGULAR MEETING MINUTES**
April 26, 2012

A **REGULAR MEETING** of the Winter Garden City Commission was called to order by Mayor Rees at 6:30 p.m. at City Hall, 300 West Plant Street, Winter Garden, Florida. The invocation and Pledge of Allegiance were given.

**Present:** Mayor John Rees, Commissioners Bob Buchanan, Kent Makin and Robert Olszewski and Colin Sharman

**Also Present:** City Manager Mike Bollhoefer, City Attorney Kurt Ardaman, Assistant City Clerk Angee Grimmage, Assistant to the City Manager for Administrative Services Frank Gilbert, Public Services Director Don Cochran, Community Development Director Ed Williams, Police Chief George Brennan, Fire Chief John Williamson, Building Official Skip Lukert, Economic Development Director Tanja Gerhartz, Recreation Director Jay Conn, City Engineer Art Miller, and Orlando Sentinel Reporter Stephen Hudak

1. **APPROVAL OF MINUTES**
   **Motion by Commissioner Buchanan to approve the regular meeting minutes of April 12, 2012, as submitted. Seconded by Commissioner Olszewski and carried unanimously 5-0.**

2. **PRESENTATIONS**
   A. **Proclamation 12-07** was read and presented by Mayor Rees declaring April as Water Conservation Month to Water Conservation and Recycling Coordinator Angela Ewanitz.
   B. **Proclamation 12-09** was read and presented by Mayor Rees declaring May 6 through 12, 2012 as North American Occupational Safety and Health (NAOSH) week and May 9, 2012 as Occupational Safety and Health Professional Day (OSHP) to Chad Murray.

3. **FIRST READING OF PROPOSED ORDINANCE**
   A. **Ordinance 12-23:** AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA CREATING A NEW CHAPTER 27 OF THE CODE OF ORDINANCES REGARDING PARKS, RECREATION AND COMMUNITY FACILITIES; PROVIDING FOR RULES AND REGULATIONS CONCERNING CITY PARKS, RECREATIONAL FACILITIES AND COMMUNITY FACILITIES; PROVIDING FOR USE PERMITS AND SPECIAL EVENTS PERMITS AND ASSOCIATED STANDARDS, CONDITIONS AND FEES; AMENDING SECTION 50-151 OF THE CODE OF ORDINANCES TO DELETE APPLICABILITY

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OF PROHIBITED ACTIVITIES IN PARKS AND RECREATIONAL FACILITIES TO AVOID CONFLICTS WITH NEW CHAPTER 27 OF THE CODE OF ORDINANCES; AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES TO DELETE ARTICLE III. MUSICAL OR ENTERTAINMENT FESTIVALS, SECTIONS 10-241, 10-242, 10-243, 10-244 AND 10-245 TO AVOID CONFLICTS WITH NEW CHAPTER 27 OF THE CODE OF ORDINANCES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-23 by title only. Parks and Recreation Director Conn stated that this is a new ordinance that will help define new regulations and policies to deal with parks and other public areas throughout the City. It will expand the language in the current ordinance. Staff recommends approval.

Mr. Conn highlighted a few items in the ordinance such as the definition of special events, playground use, limits on signage and sound amplification, requiring pets to be on a leash, picnic shelter usage by reservation and rental functions such as prohibiting alcohol in certain areas.

City Manager Bollhoefer noted that there is a section in this ordinance that addresses possessing or discharging firearms and staff will be changing the terminology to weapons.

Mr. Bollhoefer also noted the ordinance changes park usage time from 6:00 a.m. to 7:00 a.m. He noted that the City will use passive enforcement because there are many people using the park before 7:00 a.m.

Commissioner Olszewski inquired as to whether the City would be compliant with first amendment assembly issues.

City Attorney Ardaman replied that the ordinance has been crafted in such a way that we are in compliance but that does not mean that the City will not get a challenge. The City actually received some complaints with the existing parks system, which are being addressed. If there are any changes which might be appropriate between now and the second reading, they can be made as long as they are consistent with the same title.

Mr. Bollhoefer also suggested adding "unless otherwise posted at the park" when referencing park hours.

**Motion by Commissioner Buchanan to approve Ordinance 12-23 with the second reading and public hearing being scheduled for May 24, 2012. Seconded by Commissioner Olszewski and carried unanimously 5-0.**

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

A. **Ordinance 12-15:** AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL

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LANDS GENERALLY DESCRIBED AS APPROXIMATELY 4.93 ± ACRES LOCATED AT 13045 REAVES ROAD ON THE EAST SIDE OF REAVES ROAD, SOUTH OF ROPER ROAD AND NORTH OF STONEYBROOK WEST PARKWAY 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 Attorney Ardaman read Ordinance 12-15 by title only. Community Development Director Williams stated that this is a request for annexation by the Hodgkins who work and own a business in the City. They have purchased their second home which is a ranch on Reaves Road and is approximately 4.9 acres. They prefer the City's services and taxes.

Commissioner Buchanan asked if anyone else in that area was interested in annexing. Mr. Williams replied yes. The Hodgkins are speaking with all of their neighbors and encouraging several of them to annex.

Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Olszewski to adopt Ordinance 12-15. Seconded by Commissioner Sharman and carried unanimously 5-0.**

B. **Ordinance 12-16**: AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 4.93 ± ACRES OF LAND LOCATED AT 13045 REAVES ROAD ON THE EAST SIDE OF REAVES ROAD, SOUTH OF ROPER ROAD AND NORTH OF STONEYBROOK WEST PARKWAY FROM ORANGE COUNTY RURAL 1-10 TO CITY LOW DENSITY RESIDENTIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

City Attorney Ardaman read Ordinance 12-16 by title only. Community Development Director Williams stated that this is the same property from the previous hearing. It establishes the future land use designation on the future land use map. It changes from county rural, one house per ten acres, to City low-density residential. If the applicant ever decides to redevelop the property it will be controlled by that zoning, but they are intending to keep it agriculturally zoned with the one house and a barn.

Commissioner Buchanan asked if they are keeping it agriculturally zoned for property taxes. Mr. Williams replied that they do not have an agricultural exemption on the property, which requires an active agricultural business on the property to get that exemption. He noted that it would be difficult to do on a five acre parcel.

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Mayor Rees opened the public hearing; hearing and seeing none, he closed the public hearing.

**Motion by Commissioner Olszewski to adopt Ordinance 12-16. Seconded by Commissioner Sharman and carried unanimously 5-0.**

5. **REGULAR BUSINESS**

A. **Resolution 12-06**: A RESOLUTION OF THE CITY COMMISSION OF THE CITY WINTER GARDEN, FLORIDA, APPOINTING A MAYOR PRO-TEM

City Attorney Ardaman read Resolution 12-06 by title only.

Commissioner Buchanan asked Commissioner Sharman if he was interested in the position of Mayor Pro-Tem. Commissioner Sharman shared that with his current work schedule he would have some difficulty being available to fill in when the Mayor could not. Commissioner Buchanan expressed that he thought that Commissioner Sharman, as the longest sitting commissioner, should have the first choice at the position. Commissioner Buchanan stated that if Commissioner Sharman was not available to hold the position he would be glad to.

**Motion by Commissioner Sharman to adopt Resolution 12-06 appointing Commissioner Bob Buchanan as Mayor Pro-Tem. Seconded by Commissioner Olszewski and carried unanimously 5-0.**

6. **MATTERS FROM CITIZENS** - There were no items.

7. **MATTERS FROM CITY ATTORNEY –** There were no items.

8. **MATTERS FROM CITY MANAGER**

**Resolution Opposing Airport**

City Manager Bollhoefer distributed a resolution he received from the Town of Oakland that was approved at their last town meeting that opposes an airport being built near the Lake County border. Mr. Bollhoefer stated that he is providing the resolution for the City Commission's review and possible future discussion.

Commissioner Makin inquired as to Lake County's Commission response to the resolution. Mr. Bollhoefer replied that they delayed the item and did not make a decision.

City Manager Bollhoefer also noted that there is no seat on the MetroPlan as previously offered to the City. The seat was given away about six years ago and does not exist.

Commissioner Buchanan stated that he attended the meeting at Tanner Hall pertaining to this issue. The information regarding the reinstatement of the airport needs to be heard by the

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City Commission. He spoke of problems that building the airport would bring to the restoration efforts the City has previously made around the lake.

City Manager Bollhoefer suggested inviting speakers in order to give both sides a fair chance to address the airport issue. He noted that Mr. Gilbert as the City's representative on the board member could also provide some information.

Commissioner Olszewski noted that the City Commission does not have to make a resolution. It is at the City Commissions discretion.

**HB 1013**

City Manager Bollhoefer stated that there is a house bill currently sitting on the Governor's desk called HB 1013 that has been infamously labeled the Substandard Infrastructure Protection Act. He described the circumstances stemming around the bill and noted there is overwhelming opposition. Mr. Bollhoefer and City Attorney Ardaman suggested reviewing the Orlando Sentinel editorial two weeks ago regarding this issue.

**Staff efforts during Bloom 'N Grow**

City Manager Bollhoefer thanked staff for a successful effort on their part in the Bloom 'N Grow event. He especially noted how staff is more than just competent and professional but has great attitude, is very polite and very helpful.

## 9. MATTERS FROM MAYOR AND COMMISSIONERS

**Commissioner Sharman** shared that he had a nice trip to Minnesota but was excited to be back.

**Commissioner Olszewski** thanked City staff for an amazing Bloom 'N Grow event and also for an outstanding Relay for Life event. He especially thanked the Fire and Police departments for a very touching opening lap.

Commissioner Olszewski thanked the Foundation Academy for the tour of their campus. He noted that the basketball coach is former NBA player Andrew DeClerk. He announced that on May 7, 2012 Foundation Academy will have a fundraiser at West Orange Country Club.

Commissioner Olszewski announced that the Winter Garden Montessori Charter School's Greenfest event was rained out and will be held this Saturday from 1:00 p.m. to 5:00 p.m.

Commissioner Olszewski noted that he was at the unveiling of the Lynx bus for the Garden Theatre.

Commissioner Olszewski thanked Charlie Mae Wilder and the rest of the West Orange Community Action Committee for their wonderful health fair this past weekend at the Magic Gym which was very successful. He stated that it was very moving to see so many volunteers care for our citizens and especially the kids.

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Commissioner Olszewski thanked the East Winter Garden Community Development Corporation for inviting him to their meeting.

Commissioner Olszewski noted that he was invited to attend a dinner and mass with the Diocese of Orlando Bishop John Newnan who celebrated mass last night here in Winter Garden.

**Commissioner Buchanan** noted that the Bloom 'N Grow was a fantastic event. He stated that the staff looked very good out there.

**Commissioner Makin** commended staff for the Relay for Life event participation in spite of the rain.

**Mayor Rees** stated that he would echo the comments previously given by the Commissioners. He noted that the City of Winter Garden had a lot going on the last few weeks between Bloom 'N Grow, Relay for Life, and the Art Exhibit at the City Hall. The comment he keeps hearing around town is how appreciative the citizens are of the City's staff. He noted that there is a lot of work to put these events on and then a lot of work when these events are over. The attitudes of the staff and their efforts do not go un-noticed; he gets stopped often and is told this by the citizens. He again thanked the staff for their efforts.

The meeting adjourned at 7:07 p.m.

APPROVED:

_____
Mayor John Rees

ATTEST:

_____
City Clerk Kathy Golden, CMC

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**THE CITY OF WINTER GARDEN**

**CITY COMMISSION AGENDA ITEM**

**From:** Don Cochran, Public Services

**Via:** City Manager Mike Bollhoefer

**Date:** May 2, 2012 **Meeting Date:** May 10, 2012

**Subject:** Presentation of 2012 Drop Savers Awards

**Issue:** The City of Winter Garden supports the nationally proclaimed Drinking Water Week, May 6 through May 12, 2012, which recognizes the vital role water plays in our daily lives. In an effort to promote public education on water conservation, the Public Services Department is participating in the Annual Drop Saver's Contest. The contest invites students to design a poster promoting water conservation. Students from Whispering Oaks Elementary, Tildenville Elementary, and Dillard Elementary competed in the contest. The winners will receive a tee shirt with their design printed on it as well as certificates and other prizes from the City.

**Recommended action:**

Staff recognizing the following contest winners:

**School Winners**:

Tessa Wolfe (Division 2) - Dillard Elementary
Eumica Eugene (Division 3) - Whispering Oaks
Christine Nguyen (Division 2) - Whispering Oaks
Fermin Medina (Division 3) - Tildenville Elementary

**City Winners**:

Christine Nguyen - Whispering Oaks
Fermin Medina - Tildenville Elementary

**State Winner**:

Fermin Medina - Tildenville Elementary

**THE CITY OF WINTER GARDEN**

**CITY COMMISSION AGENDA ITEM**

**From:** Ed Williams, Community Development Director

**Via:** City Manager Mike Bollhoefer

**Date:** **May 3, 2012** **Meeting Date: May 10, 2012**

**Subject:** Ordinance 12-24

**Issue:** Repealing Ordinance 12-02 and replacing it with the amendments to Article V of Chapter 118 of the City of Winter Garden Code of Ordinances.

**Discussion:** On January 26, 2012, the City Commission adopted Ordinance 12-02 amending Article V of Chapter 118, City of Winter Garden Code of Ordinances. There has been a claim asserted that the adoption of Ordinance 12-02 was not properly advertised. Repealing Ordinance 12-02 and replacing it with the amendments to Article V of Chapter 118, City of Winter Garden Code of Ordinances contained in this Ordinance is in an effort to avoid litigation relating to such allegation and the costs associated with such litigation and to make further amendments deemed to be in the best interests of the City and consistent with the Comprehensive Plan

**Recommended Action:**

First reading of Ordinance 12-24 for repealing Ordinance 12-02 and creating the Urban Village Planned Unit Development Zoning Designation, with second reading and adoption on May 24, 2012.

**Attachments/References:**

Ordinance 12-24

ORDINANCE 12-24

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, REPEALING ORDINANCE 12-02 AND REPLACING IT WITH THE AMENDMENTS TO ARTICLE V OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES CONTAINED WITHIN THIS ORDINANCE; PROVIDING FOR THE AMENDMENT OF ARTICLE V OF CHAPTER 118 OF THE WINTER GARDEN CODE OF ORDINANCES ENTITLED "PLANNED UNIT DEVELOPMENTS" CREATING URBAN VILLAGE PLANNED UNIT DEVELOPMENTS; PROVIDNG REQUIREMENTS FOR MIXTURE OF USES AND URBAN DEVELOPMENT CRITERIA FOR ALL PROPOSED PLANNED DEVELOPMENT PROJECTS IN THE URBAN VILLAGE PLANNED UNIT DEVELOPMENT ZONING DISTRICT; CLARIFYING, UPDATING, AND REMOVING REDUNDANT LANGUAGE FOR RESIDENTIAL PLANNED UNIT DEVELOPMENTS; PROVIDING FOR REVISIONS TO PLANNED UNIT DEVELOPMENT REVIEW PROCESS AND APPROVAL CRITERIA; PROVIDING FOR CODIFICATION; PROVIDING FOR CONTROL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, on January 26, 2012, the City Commission of the City of Winter Garden adopted Ordinance 12-02 amending Article V of Chapter 118, City of Winter Garden Code of Ordinances;

**WHEREAS**, since the adoption of Ordinance 12-02, there has been a claim asserted that the adoption of Ordinance 12-02 was not properly advertised and such claim is denied by the City;

**WHEREAS**, the City Commission desires to repeal Ordinance 12-02 and replace it with the amendments to the Article V of Chapter 118, City of Winter Garden Code of Ordinances adopted by this Ordinance in an effort to avoid litigation relating to such allegation and the costs associated with such litigation and to make further amendments deemed to be in the best interests of the City and consistent with the Comprehensive Plan; and

**WHEREAS**, the adoption of this Ordinance shall not be construed as an admission that the aforesaid claim has merit or is correct; and

**WHEREAS,** the City Commission of 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 Chapters 163 and 166, Florida Statutes;

**WHEREAS,** the Zoning Ordinance as set forth in the Land Development Regulations of the City of Winter Garden Code of Ordinances must be consistent with the provisions of the City of Winter Garden Comprehensive Plan by furthering and moving the City in the direction of accomplishing the objectives, goals and policies of the Comprehensive Plan; and

**WHEREAS**, the provisions of this Ordinance implement the provisions of Policy 1-1.2.18 of the City of Winter Garden Comprehensive Plan, as well as other objectives, goals and policies of the City's Comprehensive Plan, and provide for the application of sound and generally accepted land use principles in order to promote and protect the quality of life of the citizens of the City while imposing reasonable regulations upon the development of private property; and

**WHEREAS,** after public notice and due consideration of public comment given at advertised public hearings, the City Commission has determined the hereafter described amendments to Chapter 118, Article V of the City of Winter Garden Code of Ordinances are warranted to ensure consistency with the City of Winter Garden Comprehensive Plan.

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

**SECTION 1:** That Division 1 (titled: Generally) of Chapter 118, Article V, Planned Unit Developments 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; sections and provisions not included are not being amended):

**ARTICLE V. PLANNED UNIT DEVELOPMENTS**

**DIVISION 1. GENERALLY**

**Sec. 118-826. - Review by planning and zoning board**.

~~All proposed planned development projects shall be referred to the planning and zoning board for its review and recommendation in conformance with subdivision II of division 3 of this article. The planning and zoning board shall proceed as set forth in subdivision II of division 3 of this article.~~

The planning and zoning board shall review a planned unit development (PUD) application and its associated preliminary development plan to determine its conformity with the comprehensive plan and the requirements of this article. The planning and zoning board shall recommend to the city commission the approval, approval subject to conditions and modifications, or disapproval of the a planned unit development zoning application and its associated preliminary development plan. In making its recommendation to the city commission, the planning and zoning board shall consider the criteria specified in section 118-828. It is not necessary for planning and zoning board to make findings of fact in support of its recommendation to the city commission concerning planned unit development applications and associated preliminary development

plans.

**Sec. 118-827. - Ordinance requirements.**

~~The plan unit development classification is a zoning district that is allowed in all future land use categories.~~ Property rezoned to the PUD classification must meet the requirements of the rezoning procedure to include proper notification and the adoption of an ordinance approving the PUD ~~(hereinafter know as the "Parcel Specific PUD Ordinance")~~. No part of the ~~following~~ PUD requirements of this article may be eliminated except with the specific approval of the city commission through the adoption of an ordinance approving the PUD. ~~the Parcel Specific PUD Ordinance.~~

**Sec. 118-828. Approval Criteria.**

The city commission may approve a proposed planned unit development (PUD) and its associated preliminary development plan only after competent, substantial evidence has been presented that allows the city commission to make the following ~~findings~~ determination:

(1) The ~~request~~ proposed PUD is consistent with the land development regulations, comprehensive plan and the future land use map;

(2) The proposed ~~rezoning~~ PUD will not substantially devalue or prevent reasonable use and enjoyment of the adjacent properties;

(3) Adequate public infrastructure facilities and water and sewer service to support the development of the proposed PUD are available or an ~~development~~ agreement or binding conditions ~~has~~ have been established that will provide these facilities, improvements and services in a reasonable time frame;

(4) The proposed ~~rezoning~~ PUD will not allow a type or intensity of development that is premature or presently out of character in relationship to the surrounding area;

~~(5) The rezoning will not interfere with an adjacent property owner's reasonable expectation of use or enjoyment; and~~

(5) ~~The rezoning will not significantly increase the vehicular traffic in adjacent residential neighborhoods.~~ There is availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed PUD and the surrounding area, or an agreement or binding conditions have been established that will provide such transportation facilities to support said traffic in a reasonable time frame; and

**Sec. 118-831. Summary of steps for receiving final approval of a residential or urban village planned unit development.**

Four steps are generally required to obtain final approval for a residential or urban village planned unit development:

(1) Preliminary conference;

(2) Preliminary development plan submission and application for planned unit development zoning;

(3) Preliminary plat submission; and

(4) Final development plan submission

**Sec. 118-832. Preliminary conference.**

The preliminary conference for a residential or urban village planned unit development shall generally include the following: the city planner, city engineer, building official, fire marshal, city public services director, and the developer.

**Sec. 118-833. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Common open space:* a parcel of land or a combination of land and water within the site designated as a planned unit development, and designed and intended for the use or enjoyment of residents of the planned unit development. All common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the planned unit development.

*Developer*: a person, firm, association, syndicate, partnership or corporation who owns land which is developed or proposed to be developed into a planned unit development and who is actually involved in the construction and creation of a planned unit development.

*Development plan*: the total site plan of a planned unit development drawn in conformity with the requirements of this division. The development plan shall specify and clearly illustrate the location, relationship, design, nature and character of all primary and secondary uses, public and private easements, structures, parking areas, public and private roads, and common open space.

*Development schedule*: a comprehensive statement showing the type and extent of development to be completed within the various practicable time limits and the order in which development is to be undertaken. A development schedule shall contain an exact description of the specific buildings, facilities, common open space, and other improvements to be developed at the end of each time period.

*Final development plan*: the development plan approved by the city commission and recorded with the clerk of the circuit court of the county according to this division.

*Final development plan application*: the application for approval of the final development plan and for approval of the required exhibits as specified in this division.

*Planned unit development or PUD*: an area of land developed as a single entity, or in approved

stages or phases by a developer or group of developers acting jointly, which is planned and approved in accordance with this article. A planned unit development approved under any division of this article is sometimes generally referred to as a PUD.

*Preliminary development plan*: means the development plan approved by the city commission and filed with approval of the city for a planned unit development zone.

*Preliminary development plan application*: the application for approval of the use of a site as a planned unit development and for approval of the required exhibits as specified in this division.

*Residential clustering*: the grouping of residential structures on a portion of the available land, reserving a significant amount of the site as protected open space.

*Site*: means the actual physical area to be developed as a planned unit development, including the natural and created characteristics of the area.

*Stage or phase*: means a specified portion of the planned unit development that may be developed as an independent entity. It must be delineated in the preliminary development plan, defined in the final development plan, and specified within the development schedule.

*Village center*: that portion of the properties within the urban village future land use classification which allow retail and commercial uses. Residential uses may also be located in the village center.

*Zero lot line*: means a residential development of single-family detached dwelling units in which each dwelling unit abuts one side lot line with no two dwelling units abutting a common side lot line, and the maximum height of units in the development is 30 feet.

**Sec. 118-834. Preliminary development plan application.**

(a) For residential and urban village planned unit development rezonings, a preliminary development plan along with a zoning application shall be submitted to the city by the developer requesting approval of the site as a PUD. The preliminary plan and application shall contain the name of the developer and the architect, surveyor and engineer who prepared the development plan.

(b) The following generally shall be included on the preliminary development plan with the zoning application:

(1) Proposed name or title of the project; the name of the surveyor, engineer, architect, and developer.

(2) North arrow, scale of one inch equals 200 feet or larger, date and legal description of the site.

(3) Boundaries of the site shown with bearings, distances, closures and bulkhead lines. All existing easements, section lines and property lines, all existing streets, rights of ways, natural waterbodies, karst features, wetlands and physical features in and adjoining the project, and the existing zoning.

(4) Names and locations of adjoining developments and subdivisions.

(5) Any proposed parks, school sites, and other public and private open space.

(6) Vehicular and pedestrian circulation systems.

(7) Site data including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the types of uses, the proposed total number of dwelling units, the proposed lot size(s) and minimum house size(s), the proposed square footage of nonresidential uses, and the proposed building setbacks and building elevation renderings.

(8) Proposed setbacks and buffering between uses within the PUD; and proposed setbacks and buffering at the perimeter of the PUD.

(9) Proposed common open space, including proposed improvements and proposed common open space structures and the tabulation of the percent of the total area of the project to be devoted to common open space. Areas proposed to qualify for common open space shall be specifically designated on the preliminary development plan.

(10) Delineation of specific areas designated as a proposed stage or phase.

(11) General statement indicating proposed means of drainage for the site to ensure conformity with natural drainage within the area or with the drainage plan established or to be established within the vicinity.

(12) General location within the site of each residential and/or nonresidential use.

(13) The proposed method of dedication and administration of proposed common open space.

(14) Vicinity map.

(c) Submittal requirements and procedures are as follows:

(1) *Prints required.* The application shall include the required number of prints of the preliminary development plan and an electronic copy.

(2) *Certified survey.* Two copies of a certified survey must also accompany the application.

(3) *Application review.* The preliminary development plan shall be reviewed by the Development Review Committee in accordance with Chapter 98, Article VI of the City of Winter Garden Code of Ordinances, and any other city division or department as deemed necessary by the city to determine the feasibility and suitability of the plan prior to the submission of the planned unit development zoning application to the planning and zoning board. The planning and zoning board shall then review the PUD and its associated preliminary development plan and recommend to the city commission the approval, approval subject to conditions and modifications, or disapproval of such application. Upon receiving the recommendation of the planning and zoning board, the city commission shall review the recommendation and the PUD and associated preliminary development plan application and either approve, approve subject to conditions and modifications, or disapprove the proposed PUD and associated preliminary development plan.

(4) *Approval Criteria.* In addition to the approval criteria set forth in Section 118-828, the proposed PUD should address, to the extent deemed applicable by the city, the following:

a. The degree of departure or conformity of the proposed PUD with surrounding areas in terms of character and density.

b. Compatibility of uses and improvements within the PUD and the relationship with surrounding existing or proposed developments.

c. Prevention of erosion and degrading or enhancement of the surrounding areas.

d. Provision for recreation facilities, surface drainage, flood control and soil conservation as shown in the preliminary development plan.

e. The nature, intent and compatibility of any common open space, including the proposed method for the maintenance and conservation of the common open space.

f. The feasibility and compatibility of the specified stage(s) or phase(s) contained in the preliminary development plan to exist as an independent development.

g. The availability of existing or planned reclaimed water service to support the proposed PUD.

h. The benefits within the proposed PUD development and to the general public to justify the requested departure from standard land use requirements inherent in a PUD classification.

i. The conformity and compatibility of the proposed common open space, residential and/or nonresidential uses within the proposed PUD.

j. Architectural characteristics of proposed residential and/or nonresidential development.

k. A listing of the specific types of nonresidential uses to be allowed.

(5) *Recordation of PUD.* If the proposed PUD and its associated preliminary development plan application is approved by the city commission, a copy of the approved PUD and preliminary development plan shall be signed by the mayor and attested by the city clerk, and a certified copy or original of such shall be filed with the city clerk as a permanent record.

**Sec. 118-835. Preliminary plat.**

(a) Procedures for preliminary plat submission will comply with chapter 110 pertaining to subdivisions.

(b) Additional information on the preliminary plat should include the following for the residential or urban village planned unit development or the portion thereof which is the subject of the preliminary plat:

(1) Any proposed residential use other than single-family.

(2) The proposed location of the residential use and/or nonresidential use.

(3) Acreage in each of the residential and/or nonresidential use areas.

(4) Proposed setbacks and buffering between uses within the PUD; and proposed setbacks and buffering at the perimeter of the PUD.

(5) Phasing or development schedule.

(6) Number of units, both total and by type, and total square footage of any nonresidential

uses and by type.

(7) The proposed method of maintenance of the storm drainage system.

(c) A topographical map shall be submitted with the preliminary development plan. The topographical map shall be drawn at a scale of not less than 100 feet to one inch by a registered professional engineer or registered land surveyor showing the following:

(1) The location of existing property lines, streets, buildings, watercourses, transmission lines, sewers, bridges, culverts and drain pipes, water mains, city limit lines and all public utility easements and rights of ways.

(2) Wooded areas, marshes, wetlands, karst features and any other physical conditions affecting the site.

(d) Engineering drawings and specifications of the following proposed utility system improvements must be presented to the city engineer no less than 30 days prior to the intended commencement of construction of such improvements. Construction of such improvements shall not commence until the city engineer approves the drawings and specifications submitted. Engineering drawings must include the following:

(1) Potable water.

(2) Sanitary sewer.

(3) Storm sewer.

(4) Reclaimed water

(5) Sidewalks and bicycle paths.

(6) Streets.

(7) Lot grading plan.

(8) Drainage.

(9) Lighting.

**Sec. 118-836. Final development plan.**

(a) *Time limits for submission*. Unless otherwise specified by the planned unit development zoning ordinance or extended under section 118-829, the developer shall have three (3) years from the adoption date of the PUD zoning ordinance in which to:

(1) File and obtain approval of a final plat of a residential or urban village planned unit development, or any portion thereof; or

(2) File and obtain approval of a final development plan of a residential or urban village planned unit development, or a portion thereof and commence construction contemplated by such plan. Site clearing and tree removal activities do not constitute commencement of construction for the purposes of this subsection.

Residential planned unit developments adopted prior to September 30, 2009 are hereby granted an extension to allow three years from September 30, 2009 in order to satisfy the conditions under section (1) or (2) above.

(b) *Site plan.* A site plan must be presented in accordance with division 2 of article II of this chapter.

(c) *Plat.* A plat must be presented which complies with chapter 110.

(d) *Additional exhibits.* Additional exhibits required for the final development plan may include the following:

(1) *Development schedule.* The development schedule shall contain the following information for the urban village planned unit development or the portion thereof which is the subject of the final development plan:

a. The order of construction of the proposed stages or phases delineated in the development plan.

b. The proposed date for the beginning of construction on the stages or phases.

c. The proposed date for the completion of the stages or phases.

d. The proposed schedule for the construction and improvement of common open space within the stages or phases, including any complementary buildings.

(2) *Deed restriction.* Deed restriction proposals to preserve the character and purpose of the common open space. The deed restrictions shall include, among other provisions a prohibition against partition by any residential property owner.

(3) *Association or nonprofit corporation.* If the developer elects this method of administering common open space, the proposed bylaws of the association, articles of incorporation and other controlling documents shall be submitted for approval by the city attorney.

(4) *Instruments.* Instruments dedicating all rights-of-way, easements and other public lands shown on the final development plan from all persons and entities having any interest in the land and instruments indicating that all necessary off-site easements or dedications have been acquired. In lieu of originals, certified copies of the relevant documents will be accepted if the recording information from the public records of the county is included thereon.

(5) *Bill of sale.* A bill of sale, conveying to the city water and sewer utility lines, mains, lift stations, and other improvements required to be installed by this Code.

(6) *Title opinion.* A title opinion from an attorney showing the status of the title to the site encompassed by the final development plan and all liens, taxes, encumbrances, easements, agreements, and other documents affecting title.

(7) *Tax receipts.* Paid receipts from the city and county indicating taxes and required fees have been paid in full up to and including the current period.

(e) *Procedure.*

(1) A fee established by the city commission shall accompany the final development plan application for the purpose of administration.

(2) The city engineer and the city planner shall recommend the approval, approval subject to conditions and modifications, or disapproval of the final development plan application

based upon the conformity of the final development plan with the preliminary development plan, sufficiency and accurateness of the required exhibits, and the requirements and purposes of this division and ordinances and regulations of the city.

(3) The planning and zoning board and the city commission shall review these recommendations at regular public meetings and shall approve, approve subject to conditions and modifications, or deny the final development plan application.

(f) *Recording of final development plan.*

(1) After approval of the city commission of the final development plan application, it shall be recorded in the public records of the county. No final development plan of a planned unit development, or any portion thereof, within the city shall be recorded unless it shall have the approval of the city commission inscribed thereon.

(2) The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of or other use of a final development plan of a planned unit development or portion thereof that has not been given final approval by the city commission and recorded in the official records of the county is prohibited. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such documents.

**Sec. 118-837. Physical review.**

The city shall have the right to evaluate the physical layout, architectural characteristics, and amenities of the planned unit development and to require changes or modifications designed to create compatibility and conformity in the variety of uses within the development to ensure, protect and promote the health, safety and general welfare of the property owners of the planned unit development and the residents of the city.

**Sec. 118-838. Building permit.**

No building permit shall be issued by the city until the final development plan has been approved and duly recorded as provided in this division.

**Sec. 118-839. Enforcement.**

In addition to any other method of enforcement, the city shall have the power to enforce this division by a suit in equity.

Secs. 118-840—118-855. Reserved

**SECTION 2:** That Division 2 (titled: Residential Planned Unit Developments) of Chapter 118, Article V, Planned Unit Developments 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; sections and provisions not included are not being amended):

## DIVISION 2. RESIDENTIAL PLANNED UNIT DEVELOPMENTS

### Subdivision I. In General

Sec. 118-857. – Reserved. ~~Definitions.~~

~~The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Common open space* means a parcel of land or a combination of land and water within the site designated as a planned unit development, and designed and intended for the use or enjoyment of residents of the planned unit development. All common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the planned unit development.~~

~~*Developer* means a person, firm, association, syndicate, partnership or corporation who owns land which is developed or proposed to be developed into a planned unit development and who is actually involved in the construction and creation of a planned unit development.~~

~~*Development plan* means the total site plan of a planned unit development drawn in conformity with the requirements of this division. The development plan shall specify and clearly illustrate the location, relationship, design, nature and character of all primary and secondary uses, public and private easements, structures, parking areas, public and private roads, and common open space.~~

~~*Development schedule* means a comprehensive statement showing the type and extent of development to be completed within the various practicable time limits and the order in which development is to be undertaken. A development schedule shall contain an exact description of the specific buildings, facilities, common open space, and other improvements to be developed at the end of each time period.~~

~~*Final development plan* means the development plan approved by the city commission and recorded with the clerk of the circuit court of the county according to this division.~~

~~*Final development plan application* means the application for approval of the final development plan and for approval of the required exhibits as specified in this division.~~

~~*Planned unit development or PUD* means an area of land developed as a single entity, or in approved stages in conformity with a final development plan by a developer or group of developers acting jointly, which is totally planned to provide for a variety of residential and compatible uses and common open space.~~

~~*Preliminary development plan* means the development plan approved by the city commission and filed with approval of the city for a planned unit development zone.~~

~~*Preliminary development plan application* means the application for approval of the use of a site as a planned unit development and for approval of the required exhibits as specified in this division.~~

~~*Site* means the actual physical area to be developed as a planned unit development, including the natural and created characteristics of the area.~~

~~*Stage or phase* means a specified portion of the planned unit development that may be developed as an independent entity. It must be delineated in the preliminary development plan, defined in the final development plan, and specified within the development schedule.~~

~~*Zero lot line* means a residential development of single-family detached dwelling units in which each dwelling unit abuts one side lot line with no two dwelling units abutting a common side lot line, and the maximum height of units in the development is 30 feet.~~

~~**Subdivision II. Administration***~~

~~***Cross references:** Administration, ch. 2.~~

~~**Sec. 118-886. Summary of steps for receiving final approval.**~~

~~Four steps are generally required to obtain final approval for a residential planned unit development:~~

~~(1) Preliminary conference;~~

~~(2) Preliminary development plan submission and application for zoning request;~~

~~(3) Preliminary plat submission, which may be omitted if the phase is not platted; and~~

~~(4) Final development plan submission (if platted, the final plat; if not platted, a site plan with engineering drawings listed in subsection 118-889(e)).~~

~~(Code 1988, § 24-45(g))~~

~~**Sec. 118-887. Preliminary conference.**~~

~~The preliminary conference for a residential planned unit development includes the following:~~

~~(1) City planner, city engineer.~~

~~(2) Building official and fire marshal.~~

~~(3) Public works director and utilities director.~~

~~(4) Developer.~~

~~(Code 1988, § 24-45(g)(1))~~

~~**Sec. 118-888. Preliminary development plan application.**~~

~~(a) For a residential planned unit development, a preliminary plan along with a zoning application shall be submitted to the city clerk by the developer requesting approval of the site as a PUD. The preliminary plan and application shall contain the name of the developer and the architect, surveyor or engineer who prepared the development plan.~~

~~(b) The following shall be included with the preliminary application:~~

~~(1) Proposed name or title of the project; the name of the surveyor, engineer, architect, and developer.~~

~~(2) North arrow, scale of one inch equals 200 feet or larger, date and legal description of the proposed site.~~

~~(3) Boundaries of the tract shown with bearings, distances, closures and bulkhead lines. All existing easements, section lines and property lines, all existing streets and physical features in and adjoining the project, and the existing zoning.~~

~~(4) Names and locations of adjoining developments and subdivisions.~~

~~(5) Proposed parks, school sites, and other public and private open space.~~

~~(6) Vehicular and pedestrian circulation systems.~~

~~(7) Site data including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of primary residential and secondary nonresidential uses, and the total number of dwelling units.~~

~~(8) Proposed common open space, including the proposed improvements and any complementary structures and the tabulation of the percent of the total area devoted to common open space. Areas qualifying for common open space shall be specifically designated on the site plan.~~

~~(9) Delineation of specific areas designated as a proposed stage.~~

~~(10) General statement indicating proposed means of drainage for the site to ensure conformity with natural drainage within the area or with the drainage plan established within the vicinity.~~

~~(11) General location within the site of each primary residential use, secondary nonresidential use, and the proposed amount of land to be devoted to individual ownership.~~

~~(12) The proposed method of dedication and administration of proposed common open space.~~

~~(13) Vicinity map.~~

~~(c) Submittal requirements and procedures are as follows:~~

~~(1) *Time limits.* The PUD zoning application and preliminary development plan shall be submitted to the city clerk at least 30 days prior to any scheduled~~

~~meetings of the planning and zoning board.~~

~~(2) *Prints required.* The application shall include the required number of black- or blue-line prints of the development plan and a reproducible copy.~~

~~(3) *Certified survey.* Two copies of a certified survey must also accompany the application.~~

~~(4) *Application review.* The preliminary development plan shall be reviewed formally by the city engineer and the city planner and any other city division or department as necessary to determine the feasibility and suitability of the plan prior to the submission of the PUD zoning application to the planning and zoning board. The planning and zoning board shall then review the preliminary development plan to determine its conformity with the official plans and policies of the city and the requirements of this division. Upon completion of its review, the planning and zoning board shall recommend to the city commission the approval, approval subject to conditions, or disapproval of the preliminary development plan application and the PUD zoning.~~

~~(5) *Review criteria.* The decision of the planning and zoning board on the preliminary development plan application shall include the findings of fact that serve as a basis for its recommendation. In making its recommendation, the planning and zoning board shall consider the following facts:~~

~~a. The degree of departure of the proposed planned unit development from surrounding residential areas in terms of character and density.~~

~~b. Compatibility within the planned unit development and the relationship with surrounding neighborhoods.~~

~~c. Prevention of erosion and degrading of the surrounding area.~~

~~d. Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the preliminary development plan.~~

~~e. The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.~~

~~f. The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.~~

~~g. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development and the surrounding area.~~

~~h. The availability and adequacy of water and sewer service to support the proposed planned unit development.~~

~~i. The benefits within the proposed development and to the general public to justify the requested departure from standard land use requirements~~

~~inherent in a planned unit development classification.~~

~~j. The conformity and compatibility of the planned unit development with the comprehensive plan of the city.~~

~~k. The conformity and compatibility of the proposed common open space, primary residential and secondary nonresidential uses within the proposed planned unit development.~~

~~l. Architectural characteristics of proposed nonresidential development when available.~~

~~m. A listing of the specific types of secondary nonresidential or commercial uses to be allowed.~~

~~(6) *Review by city commission.* Upon receiving the recommendation of the planning and zoning board, the city commission shall, at a regularly scheduled public meeting, review the recommendation and preliminary development plan and either approve, approve subject to conditions, or disapprove the preliminary development plan application. Approval of the preliminary development plan includes the approval of the PUD zoning. The decision of the city commission shall be based upon a consideration of the facts specified as review criteria for the planning and zoning board.~~

~~(7) *Recordation of preliminary application.* If the preliminary development plan application is approved by the city commission, a copy of the application and required exhibits shall be certified by the city clerk and signed by the mayor, and the certified copy shall be filed with the city clerk as a permanent record.~~

~~(Code 1988, § 24-45(g)(2))~~

~~**Sec. 118-889. Preliminary plat.**~~

~~(a) For a residential planned unit development, or any portion thereof, the preliminary plat may be omitted if the parcel, or applicable portion thereof, is not to be platted.~~

~~(b) The developer may request plat approval of the entire PUD or any portion thereof (a minimum of 20 acres).~~

~~(c) Procedures for preliminary plat submission will comply with chapter 110 pertaining to subdivisions.~~

~~(d) Additional information on the preliminary plat should include the following for the residential planned unit development or the portion thereof which is the subject of the preliminary plat:~~

~~(1) The proposed residential use other than single-family.~~

~~(2) The proposed location of the primary residential use and secondary nonresidential use.~~

~~(3) Acreage in each of the primary residential and secondary nonresidential uses.~~

~~(4) Phasing or development schedule.~~

~~(5) Number of units, both total and by type.~~

~~(6) The proposed method of maintenance of the storm drainage system.~~

~~(e) A topographic data map may be submitted with the preliminary development plan if the property is not to be platted. The topographic data map shall be drawn at a scale of not less than 100 feet to one inch by a registered professional engineer or registered land surveyor showing the following:~~

~~(1) The location of existing property lines, streets, buildings, watercourses, transmission lines, sewers, bridges, culverts and drain pipes, water mains, city limit lines and any public utility easements.~~

~~(2) Wooded areas, marshes and any other physical conditions affecting the site.~~

~~(f) Engineering drawings of the following proposed utility system improvements must be presented to the city engineer no less than 30 days prior to commencement of construction of such improvements. Further, the improvements must be constructed and approved by the city engineer prior to presenting the final development plan to the planning and zoning board, unless an acceptable developer's agreement and bond are provided to the city by the developer in accordance with the requirements of this Code. Engineering drawings must include the following:~~

~~(1) Water.~~

~~(2) Sanitary sewer.~~

~~(3) Storm sewer.~~

~~(4) Sidewalks and bicycle paths.~~

~~(5) Streets.~~

~~(6) Lot grading plan.~~

~~(7) Drainage.~~

~~(Code 1988, § 24-45(g)(3); Ord. No. 09-19, § 7, 10-8-09)~~

**~~Sec. 118-890. Final development plan.~~**

~~(a) *Time limits for submission.* Unless otherwise specified by the PUD zoning ordinance, the developer shall have three years from the adoption date of the PUD zoning ordinance in which to:~~

~~i. File and obtain approval of a final plat of a residential planned unit development, or any portion thereof; or~~

~~ii. File and obtain approval of a final development plan of a residential planned unit development, or a portion thereof and commence construction contemplated by such plan. Site clearing and tree removal activities do not constitute commencement of construction for the purposes of this subsection.~~

~~Residential planned unit developments adopted prior to September 30, 2009 are hereby granted an extension to allow three years from September 30, 2009 in order to satisfy the conditions~~

~~under subsection i. or ii. above.~~

~~(b) *Site plan.* If not platted, a site plan must be presented in accordance with division 2 of article II of this chapter.~~

~~(c) *Plat.* If platted a plat must be presented which complies with chapter 110.~~

~~(d) *Additional exhibits.* Additional exhibits required for the final development plan may include the following:~~

~~(1) *Development schedule.* The development schedule shall contain the following information for the residential planned unit development or the portion thereof which is the subject of the final development plan:~~

~~a. The order of construction of the proposed stages delineated in the development plan.~~

~~b. The proposed date for the beginning of construction on the stages.~~

~~c. The proposed date for the completion of the stages.~~

~~d. The proposed schedule for the construction and improvement of common open space within the stages, including any complementary buildings.~~

~~(2) *Deed restriction.* Deed restriction proposals to preserve the character of the common open space. The deed restrictions shall include a prohibition against partition by any residential property owner.~~

~~(3) *Association or nonprofit corporation.* If the developer elects this method of administering common open space, the proposed bylaws of the association or the certificate of incorporation and the corporate bylaws of the nonprofit corporation shall be submitted for approval by the city attorney.~~

~~(4) *Instruments.* Instruments dedicating all rights-of-way, easements and other public lands shown on the final development plan from all persons having any interest in the land and instruments indicating that all necessary off-site easements or dedications have been acquired. In lieu of originals, certified true copies will be accepted if the recording information from the public records of the county is included thereon.~~

~~(5) *Bill of sale.* A bill of sale, conveying to the city water and sewer utility lines, mains, lift stations, and other personal property required to be installed by this Code.~~

~~(6) *Title opinion.* A title opinion from an attorney showing the status of the title to the site encompassed by the final development plan and all liens, encumbrances and defects, if any.~~

~~(7) *Tax receipts.* Paid receipts from the city and county indicating taxes have been paid in full up to and including the current period.~~

~~(e) *Procedure.*~~

~~(1) A fee established by the city commission shall accompany the final development plan application for the purpose of administration.~~

~~(2) The city engineer and the city planner shall recommend the approval, approval subject to conditions, or disapproval of the final development plan application based upon the conformity of the final development plan with the preliminary development plan, sufficiency and accurateness of the required exhibits, and the requirements and purposes of this division and ordinances and regulations of the city.~~

~~(3) The planning and zoning board and the city commission shall review these recommendations at regular public meetings and shall approve, approve subject to conditions, or deny the final development plan application.~~

~~(f) *Recording of final development plan.*~~

~~(1) After approval of the city commission of the final development plan application, it shall be recorded in the public records of the county. No final development plan of a planned unit development, or any portion thereof, within the city shall be recorded unless it shall have the approval of the city commission inscribed thereon.~~

~~(2) The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of or other use of a final development plan of a planned unit development or portion thereof that has not been given final approval by the city commission and recorded in the official records of the county is prohibited. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such documents.~~

~~(Code 1988, § 24-45(g)(4); Ord. No. 09-19, § 2, 10-8-09)~~

**~~Sec. 118-891. Physical review.~~**

~~The city shall have the right to evaluate the physical layout, architectural characteristics, and amenities of the residential planned unit development and to require changes or modifications designed to create compatibility and conformity in the variety of uses within the development to ensure, protect and promote the health, safety and general welfare of the property owners of the planned unit development and the residents of the city.~~

~~(Code 1988, § 24-45(h))~~

**~~Sec. 118-892. Building permit.~~**

~~No building permit shall be issued by the city until the final development plan has been approved and duly recorded as provided in this division.~~

~~(Code 1988, § 24-45(i))~~

**~~Sec. 118-893. Reserved.~~**

~~**Editor's note:** Ord. No. 09-19, § 3, adopted October 8, 2009, repealed § 118-893, which pertained to termination of PUD zone and derived from § 24-45(j) of the 1988 Code.~~

~~**Sec. 118-894. Enforcement.**~~

~~In addition to any other method of enforcement, the city shall have the power to enforce this division by an appropriate suit in equity.~~

~~(Code 1988, § 24-45(k))~~

~~Secs. 118-895 – 118-920. Reserved~~

Secs. 118-886--118-920. Reserved.

~~**Subdivision III. Land Use Regulations**~~

**Subdivision II. Land Use Regulations**

**SECTION 3:** That Chapter 118, Article V, Planned Unit Developments of the City of Winter Garden Code of Ordinances is hereby amended to create a new Division 4, titled: Urban Village Planned Unit Development (UVPUD) as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

**DIVISION 4. URBAN VILLAGE PLANNED UNIT DEVELOPMENT (UVPUD)**

**Subdivision I. In General**

**Sec. 118-1063. Intent/description/design features.**

(a) This division is intended to implement the policies of the comprehensive plan concerning the urban village future land use classification.

(b) Development within the urban village future land use classification shall be designed based on an urban development pattern which encourages the formation of a suburban village. Through the urban village planned unit development process, which may involve the approval of multiple UVPUDs, all development within the urban village future land use classification shall follow the general design principles of:

(1) creating a series of walkable residential neighborhoods;

(2) developing an integrated park and trail system to facilitate pedestrian travel and recreation;

(3) developing a comprehensive network of roads and traffic calming solutions to complement and support the existing Marsh Road infrastructure;

(4) establishing connectivity to natural systems while preserving wetlands and other natural resources and protecting water quality and quantity;

(5) creating a mixed-use character through the integration of a diversity of uses; and

(6) creating a focus center within the urban village.

(c) The urban village planned unit development shall provide a compact integrated development pattern with a park or central feature located within a ¼ mile walking distance of the majority of residences in each neighborhood.

(d) To ensure adequate housing diversity, urban village planned unit development should generally contain a variety of housing types which may include both attached and detached housing product with ownership and rental opportunities, as well as live/work housing.

(e) The street network shall be designed to create a hierarchy of interconnected streets and traffic calming solutions to allow travel through and between neighborhoods and beyond the urban village planned unit development. Roadway cross sections shall be designed to accommodate multiple modes of transportation.

(f) Emphasis shall be placed on pedestrian and bike paths and shall be incorporated in street cross sections and open spaces.

(g) The standards and procedures of the urban village planned unit development are intended to promote flexibility of design and to permit planned diversification and integration of uses and structures, while retaining in the city commission the absolute authority to establish such limitations and regulations as it deems necessary to protect and promote the public health, safety and general welfare.

(h) Consistent with the goal of ensuring the entirety of lands designated with the urban village future land use designation developing in such a way as to meet the goals and policies of the comprehensive plan, the city commission shall have the flexibility in deciding whether to require a mixture of residential and non-residential uses and a variety of housing types and lot sizes within individual urban village planned unit developments based on anticipated development patterns.

**Sec.118.1064. General requirements.**

(a) The urban village planned unit development shall be located in the urban village future land use designation as defined in the city's comprehensive plan, or in such other areas as determined by city commission.

(b) All development proposals within an urban village planned unit development shall, as determined by the city commission, be consistent with the requirements and/or guidelines of the Sixth Amendment to the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden (Dated January 24, 2007) as approved by the city commission, as such may be amended from time to time.

(c) All development within the urban village planned unit development shall comply with the Wekiva Parkway and Protection Act, and shall meet or exceed the standards of the Resource Protection Overlay as established by the City's Comprehensive Plan. In the event of a conflict or conflicts between the Urban Village Planned Unit Development zoning district and the Resource Protection Overlay, the Resource Protection Overlay shall control to the extent such conflict exists.

(d) Maximum density in the urban village planned unit development for any neighborhood shall be four dwelling units per gross acre except in the village center where the density may be up to 12 dwelling units per gross acre. However, certain neighborhoods may use residential clustering while maintaining the overall maximum density for the neighborhood. Maximum intensity for non residential development is 0.3 floor area ratio.

(e) Stormwater facilities within the urban village residential planned unit development shall generally be designed as amenities and low impact design (LID) techniques will be used where practical.

(f) New development shall connect to City utilities, potable water, sanitary sewer, and reclaimed water when available.

(g) Residential and nonresidential uses are allowed in the village center and may occupy the same building where nonresidential occupies the first floor with residential on the upper floors.

(h) Accessory dwelling units, not to exceed 850 square feet, above garages shall be allowed for a maximum of 50% of the residential units in the urban village planned unit development. These additional accessory units shall not be counted towards the density.

**Sec. 118-1065. Permitted uses.**

Uses permitted in the urban village residential planned unit development may include and shall be limited to the following:

(1) *Primary residential uses.* Primary residential uses permitted are single-family detached and multifamily residential dwelling units, including apartments, in semidetached, attached, and multistoried structures.

(2) *Nonresidential uses.* Nonresidential uses include religious, public or semipublic uses, cultural, recreational, retail, schools, personal service, offices and professional centers providing services to residents of the urban village planned unit development and to residents of surrounding properties. The nonresidential uses shall be compatible with the primary residential use. No building devoted primarily to a commercial use shall be built or established prior to the primary residential buildings or uses it is designed or intended to serve. These uses shall be located in the village center and shall be accessible from all primary residential use areas.

**Sec. 118-1066. Unified ownership or control.**

For an urban village planned unit development, unified ownership or control is not required. An urban village planned unit development can be made up of numerous property owners. However,

parcels that do not contain non-residential uses must have direct pedestrian and vehicular access to the village center and other commercial and institutional areas.

**Sec. 118-1067. Common open space.**

(a) All common open spaces in urban village planned unit developments shall be preserved for their intended purpose as expressed in the final development plan. The developer shall choose one of the following methods of administering common open space:

(1) Public dedication to the city of the common open space. This method is subject to formal acceptance by the city and in its sole discretion.

(2) Establishment of an association or nonprofit corporation or entity which must include all individuals, corporations and entities owning property within the urban village planned unit development to ensure the maintenance of all common open space.

(b) All privately owned common open space shall continue to conform to its intended purpose and remain as expressed in the final development plan through its inclusion in all deeds with appropriate restrictions to ensure that the common open space is permanently preserved. The deed restrictions shall run with the land and shall be for the benefit of present as well as future property owners and shall contain a prohibition against partition.

(c) All common open space and recreational facilities shall be specifically included in the development schedule and shall be constructed and fully improved by the developer at an equivalent or greater rate than the construction of residential structures.

(d) If the developer elects to administer common open space through an association or nonprofit corporation or other entity, the organization shall conform to the following requirements:

(1) The developer must establish the association or nonprofit corporation prior to the sale or transfer of any lots.

(2) Membership in the association or nonprofit corporation or other entity shall be mandatory for all property owners within the urban village planned unit development.

(3) The association or nonprofit corporation or other entity shall manage all common open space and recreational and cultural facilities that are not dedicated to the City or public; shall provide for the maintenance, administration and operation of the land and improvements and any other land and improvements within the urban village planned unit development not publicly or privately owned; and shall secure adequate liability insurance on the land and improvements, and provide adequate reserves for operation, maintenance and replacement of improvements.

(4) If the developer elects an association or nonprofit corporation or other entity as a method of administering common open space, the title to all property owners in the planned unit development shall include undivided rights and obligations in all common open space.

(5) Association documents shall be reviewed and approved by the city.

Secs. 118-1068—118-1079. Reserved

**Subdivision II. Land Use Regulations**

**Sec. 118-1080. Minimum size; dwelling units.**

There are no minimum acreage requirements for the urban village planned unit development zoning.

**Sec. 118-1081. Maximum development.**

The average density permitted in each planned unit development shall be established by the city commission upon recommendation of the planning and zoning board. Maximum density in the urban village planned unit development shall be four dwelling units per gross acre except in the village center where the density may be up to 12 dwelling units per acre. Maximum intensity for non residential development is 0.3 floor area ratio.

**Sec. 118-1082. Minimum common recreation and open space.**

(a) For the urban village planned unit development, all new development and redevelopment shall be subject to the Resource Protection Overlay and Wekiva Study Area Open Space standards and requirements as follows:

(1) Minimum open space shall be 25% for both residential and non residential development, all open space shall consist of Wekiva Study Area Open Space. Wekiva Study Area Open space shall be preserved through the use of conservation easements, deed restriction, plats and/or dedication to the appropriate governmental agency, environmental association or homeowners association as required by the City. Open space shall be connected to the greatest extent possible on-site and to natural areas and open space within adjacent property or corridors.

(2) Wekiva Study Area Open space shall be defined as land area within the Resource Protection Overlay that remains undisturbed or minimally disturbed such as trails and boardwalks, as part of a natural resource preserve or passive recreation area and shall include land preserved for Conservation purposes. Wekiva Study Area Open Space may include dry retention, passive recreation, school playgrounds and buffers. Up to fifty percent (50%) of the Wekiva Study Area Open Space requirement may be met with dry stormwater retention areas. None of the 25% WSA Open Space may be chemically treated with pesticides or fertilizers; provided, however, a development that creates sensitive natural habitat may be allowed limited use of pesticides and fertilizers to establish sensitive natural habitat. Wekiva Study Area Open Space shall not include setback areas, private yards, street right of way, parking lots, impervious surfaces or active recreation areas.

(b) Common recreation space shall be provided to the extent necessary to complement the residential uses and may contain compatible and complementary structures for the benefit and enjoyment of the residents of the PUD. Drainage ditches, if allowed by the city commission, parking areas, road rights-of-way and minimum yards and spacing between dwelling units may not be included in determining usable recreation space. Water areas including wet bottom retention, dry retention, and wetland areas which are aesthetically and functionally designed for active or passive recreational use may be considered to partially

fulfill recreation requirements. In no case, however, shall there be less than five percent of the total developable land area set aside for active, dry-land recreational use.

**Sec. 118-1083. Minimum lot area, frontage and setbacks.**

(a) A minimum lot size of 90 feet wide by 120 feet deep shall be required for lakefront lots within the urban village planned unit development district. No minimum lot size shall be required for non-lakefront lots; however residential areas within an urban village planned unit development must provide a mixture of lot sizes.

(b) Each dwelling unit or other permitted use shall have access to a public street either directly or indirectly via a private road or other area dedicated to public or private use guaranteeing access. Permitted uses are not required to front on a publicly dedicated road. The city shall be allowed access on privately owned roads, easements and common open space.

(c) The minimum distance between structures and side yards shall be as follows:

(1) For single-family platted lots, minimum side yard requirements shall be as follows:

a. For lot width less than 70 feet: five feet.

b. For lot width 70 feet to 84 feet: 7 1/2 feet or five feet if unobstructed by equipment.

c. For lot width greater than 84 feet: ten feet or 7 ½ feet if unobstructed by equipment.

d. For zero lot line single-family detached development: ten feet.

(2) For townhouses, unplatted residential development, commercial development, and all development other than single-family platted lots, the distance between structures shall be as follows:

a. Between structures of 20 feet in height or less: 15 feet.

b. Between structures of 20 and 30 feet in height: 20 feet.

c. Between structures of 30 feet and 40 feet in height: 25 feet.

d. Between structures over 40 feet in height: 40 feet, plus five feet for each additional ten feet of height or fraction thereof over 40 feet.

e. Between structures of varying heights, the larger distance separation shall be required.

(d) A minimum 25-foot yard shall be required from the nearest part of any building wall to the edge of any public right-of-way or private street, and all structures shall have a minimum 20-foot rear yard. A minimum 25-foot yard shall be maintained between the walls of all structures and the perimeter of the UVPUD. Additional perimeter yard requirements for multistory buildings shall be figured at five additional feet for each ten feet of height over the first story.

(e) Maximum height shall be 50 feet, not to exceed 3 stories, unless approved by special exception by the city commission in addition to a finding by the city commission that height in excess of 50 feet will be compatible with adjacent uses and will substantially further the health, safety or general welfare of the citizens of the city.

(f) Accessory buildings or structures may only be placed in the rear yard according to the requirements of this chapter.

(g) Building setbacks from water areas and lakes shall be 30 feet from the normal high water line.

**Sec. 118-1084. Maximum length of structure.**

The maximum length of a structure in the urban village planned unit development is 200 feet. Units constructed under the zero lot line concept with common walls shall be considered as one structure and shall not exceed 200 feet.

**Sec. 118-1085. Minimum floor area per unit.**

In a residential planned unit development, the minimum floor area per unit shall be as follows:

(1) Single family dwellings, 1,000 square feet.

(2) Multifamily dwellings including townhouses:

a. Efficiency, 450 square feet.

b. One bedroom, 550 square feet.

c. Two bedrooms, 650 square feet.

d. Three bedrooms, 800 square feet.

**Sec. 118-1086. Off-street parking.**

All uses in the urban village planned unit development shall meet the city's parking and landscaping requirements.

**Sec. 118-1087. Underground utilities.**

Within the residential planned unit development, all utilities including telephone, television cable and electrical systems shall be installed underground unless physical and technical conditions require aboveground installation. Primary facilities providing service to the site of the PUD may be exempted from this section. Large transformers shall be placed on the ground, and such transformers and all utilities not installed underground shall be contained within landscaped enclosures or vaults. Any required substations shall be screened by walls resembling a structure which is compatible with the design of the PUD.

**Sec. 118-1088. Development standards.**

For the urban village planned unit development, the minimum construction requirements for streets or roads, sidewalks, sewer and water facilities, drainage and all utilities shall be in compliance with the requirements of chapter 78, chapter 110 and the manual in appendix A to this Code.

Secs. 118- 1089--118-1100. Reserved.

**SECTION 4**. REPEAL. The repeal of Ordinance 12-02 is not intended to and shall not affect the legal status of any planned unit development ordinance adopted in accordance with the provisions of Ordinance 12-02.

**SECTION 5.** CONTROL. In the event of a conflict or conflicts between this Ordinance and other Ordinances, this Ordinance shall control to the extent such conflict exists.

**SECTION 6.** SEVERABILITY. If any portion of this Ordinance is determined to be void, unconstitutional, or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

**SECTION 7.** CODIFICATION. Sections 1, 2 and 3 of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; the Sections of this Ordinance may be renumbered or relettered to accomplish such intention; and the word *"Ordinance"* may be changed to *"Section"*, *"Article"*, or other appropriate word.

**SECTION 8.** EFFECTIVE DATE. This Ordinance shall become effective upon approval of the City Commission at its second reading.

READ FIRST TIME AND PUBLIC HEARING HELD: _____, 2012.

READ SECOND TIME AND PUBLIC HEARING HELD: _____, 2012.

APPROVED:

_____
JOHN REES, Mayor/Commissioner

ATTEST:

_____
KATHY GOLDEN, City Clerk

**THE CITY OF WINTER GARDEN**

**CITY COMMISSION AGENDA ITEM**

**From:** Michael Bollhoefer, City Manager

**Date:** May 3, 2012 **Meeting Date:** May 10, 2012

**Subject:** Ordinance 12-28 amending City Code to comply with Florida State Statutes

**Issue:** Florida Statutes relating to firearms changed on October 1, 2011. The new law gave the State complete authority to regulate firearms preempting any local laws. As of October 1, 2011, we stopped enforcing our existing firearms laws as was required by the new statute. This ordinance removes the unenforceable provisions from our code.

**Recommended action:** Approve Ordinance 12-28 with the second reading on May 24, 2012.

**ORDINANCE 12-28**

**AN ORDINANCE OF THE CITY OF WINTER GARDEN AMENDING ARTICLE II OF CHAPTER 30, ARTICLE II OF CHAPTER 26, AND ARTICLE IV OF CHAPTER 38 OF THE WINTER GARDEN CODE OF ORDINANCES TO REMOVE REFERENCES AND APPLICABILITY OF SUCH PROVISIONS TO THE REGULATION OF FIREARMS AND AMMUNITION IN ACCORDANCE WITH SECTION 790.33, FLORIDA STATUTES; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Winter Garden enacts this ordinance pursuant to its authority under § 2(b), Article VIII of the Constitution of the State of Florida, and Chapter 166, Florida Statutes;

**WHEREAS**, § 790.33, Fla. Stat., states that the Legislature has occupied "the whole field of regulation of firearms and ammunition, including the purchase, sale, transfer, taxation, manufacture, ownership, possession, storage, and transportation thereof, to the exclusion of all existing and future county, city, town, or municipal ordinances or any administrative regulations or rules adopted by local or state government relating thereto," and that "[a]ny such existing ordinances, rules, or regulations are hereby declared null and void;"

**WHEREAS,** according to HB 45, effective October 1, 2011, the state legislature intends to deter and prevent violations of the existing state preemption against local government enactment and enforcement of ordinances, administrative regulations, or rules related to firearms, ammunition, or components thereof;

**WHEREAS,** HB 45 amends § 790.33(3)(a), Fla. Stat., to provide that "[a]ny person, county, agency, municipality, district, or other entity that violates the Legislature's occupation of the whole field of regulation of firearms and ammunition . . . by enacting or causing to be enforced any local ordinance or administrative rule or regulation impinging upon such exclusive occupation of the field shall be liable" for any such violations;

**WHEREAS,** HB 45 imposes penalties for person and local governments that violate the state firearms and ammunition preemption by enacting or enforcing any local ordinance or administrative rule or regulation impinging upon such exclusive occupation of the field;

**WHEREAS,** an appointed or elected local government official or official or administrative agency head responsible for a violation of § 790.33, Fla. Stat., may be assessed a civil fine of up to $5,000.00 and may have his/her employment or contract terminated or be otherwise removed from office by the Governor;

**WHEREAS,** a person or an organization whose membership is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order, or policy promulgated or caused to be enforced in violation of § 790.33, Fla. Stat., may file suit against any local government for declaratory and injunctive relief, actual damages caused by the violation up to $100,000.00, and reasonable attorney's fees and costs, including a contingency multiplier;

**WHEREAS,** the City desires to avoid the new liabilities imposed by HB 45 by amending the City Code of Ordinances to conform to the preemption requirements of § 790.33, Fla. Stat., and removing all Code references to firearms and ammunition that may or could be construed as a violation of § 790.33, Fla. Stat.;

**WHEREAS,** removal of references to firearms and ammunition and City Code provisions concerning same will further decrease the likelihood that any elected or appointed city official, city employee, or contractor will, whether purposefully or inadvertently, violate § 790.33, Fla. Stat., by attempting to enforce any such provision;

**WHEREAS,** regardless of the amendments contained herein, firearms and ammunition shall continue to be subject to state and federal regulatory oversight and state and federal laws, regulations, and restrictions governing the possession, use, and sale thereof; and

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

**Section I.** The City of Winter Garden hereby amends §§ 30-26 and 30-29 of Chapter 30, Article II, Winter Garden Code of Ordinances as follows (words that are ~~stricken out~~ are deletions; words that are <u>underlined</u> are additions):

**Sec. 30-26. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic beverage* means a liquor, wine, beer or other intoxicating substance, containing more than 3.2 percent of alcohol by weight.

~~*Firearm* means any revolver, pistol, automatic loading pistol, shotgun, rifle, machine gun, submachine gun or machine pistol~~.

*State of emergency* means to consist of the actual existence or clear and present danger of the following to such an extent that extraordinary measures should or must be taken to protect the public health, safety and welfare:

(1) Riot or other general public disorder;

(2) Widespread disobedience of law, characterized by the use of force or violence or any threat to employ force or violence; or

(3) Any natural disaster or manmade calamity, including but not limited to flood, conflagration, cyclone, tornado, earthquake and explosion, within or seriously affecting the city, and resulting in the death or injury of persons or the destruction of property.

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**Sec. 30-29. Automatic emergency measures.**

Whenever the city manager declares that a state of emergency exists pursuant to § 870.043, Fla. Stat. ~~this article~~, ~~the following~~ the emergency measures contained in § 870.044, Fla. Stat., shall be effective throughout the City. ~~shall be prohibited during the period of the emergency throughout the jurisdiction:~~

~~(1) The sale of or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description.~~

~~(2) The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description.~~

~~(3) The intentional possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of his duty.~~

**Section II.** The City of Winter Garden hereby amends § 26-35 of Chapter 26, Article II, Winter Garden Code of Ordinances as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

**Sec. 26-35. Conduct in cemetery.**

(a) The cemetery will be open to visitors at all times between the hours of 8:00 a.m. and 5:00 p.m. Permission to enter the cemetery at any other time must be obtained from the supervisor.

(b) No person shall break or injure any tree or shrub, pick any wild or cultivated flowers or mar any landmark, marker, or memorial or in any way deface the grounds of the cemetery.

(c) No boxes, shells, toys, discarded glassware, sprinkling cans, receptacles or similar articles will be permitted on any grave, lot or tree.

(d) Persons within the cemetery grounds shall use only the established avenues, walkways and roads, and are forbidden to trespass on cemetery lots.

(e) Children under 16 years of age shall not be permitted within the cemetery or its buildings, unless accompanied by an adult.

~~(f) No person may discharge a firearm in or adjacent to the cemetery. This prohibition shall not apply to authorized volleys at military or other burial services.~~

(~~g~~f) No person may use any form of advertisement on cemetery grounds.

(~~h~~g) No person shall permit any dog or other domestic animal to enter or remain in the cemetery.

(~~i~~h) No person may consume refreshments or liquors within the cemetery or carry such into the premises.

(~~j~~i) No person shall throw rubbish or debris on walks, drives or any part of cemetery grounds.

(~~k~~j) Unauthorized persons shall not loaf or lounge in any of the buildings in the cemetery or otherwise use any of the grounds, graves or monuments thereon.

(~~l~~k) No loud talking shall be permitted on the cemetery grounds within hearing distance of funeral services.

(~~m~~l) No money shall be paid the attendants at the entrance or on the grounds. The entire time of the persons regularly employed on the grounds belongs to the cemetery; visitors and owners must not otherwise engage them, unless authorized by the city manager.

(~~n~~m) Any person found on the grounds after dark will be considered a trespasser.

(~~o~~n) All orders, inquiries and complaints by visitors or owners must be reported to the director of public works.

**Section III.** The City of Winter Garden hereby amends § 38-153 of Chapter 38, Article IV, Winter Garden Code of Ordinances as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

**Sec. 38-153. Terminology, standards and definitions.**

(a) *Terminology and standards.* All technical acoustical terminology and standards used in this article which are not defined in subsection (b) of this section shall be read or construed in conformance with applicable publications of the American National Standards Institute, Inc. (ANSI), or its successor body.

(b) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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*Impulsive sound* means a sound of short duration, usually less than one second and of high intensity, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts, ~~the discharge of firearms,~~ the barking of dogs, and the beating of drums.

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**Section IV** *Codification.* Sections I, II, and III of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances and all sections and subsections may be renumbered or relettered as necessary to achieve such purposes.

**Section IV** *Conflicts.* In the event of a conflict or conflicts between this ordinance and other ordinances, this Ordinance shall control to the extent of such conflict.

**Section V** *Severability.* It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed to render invalid or unconstitutional the remaining provisions of this Ordinance.

**Section VI** *Effective Date.* This Ordinance shall become effective upon adoption by the City Commission.

**FIRST READING:** _____ , 2012.

**SECOND READING AND PUBLIC HEARING**: _____ , 2012.

**ADOPTED** this _____ day of _____, 2012, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

_____
JOHN REES, Mayor/Commissioner

**ATTEST:**

_____
KATHY GOLDEN, City Clerk

# THE CITY OF WINTER GARDEN

## CITY COMMISSION AGENDA ITEM

**From:** Ed Williams, Community Development Director

**Via:** City Manager Mike Bollhoefer

**Date:** **May 3, 2012** **Meeting Date: May 10, 2012**

**Subject:** **176 Water Street**
(Fleming - Annexation-Zoning-FLU Amendment)
**Ordinance 12-17**
**Ordinance 12-18**
**Ordinance 12-19**
**PARCEL ID #** 23-22-27-8104-00-331

**Issue:** The applicant is requesting voluntary Annexation into the City of Winter Garden, Zoning, and a Future Land Use Amendment.

**Discussion:**

The applicant is requesting to annex the existing property into the City, Rezoning the property from R-2 (Orange County) to City C-2, and a Future Land Use Amendment to change the land use designation from Orange County Low Medium Residential to City Commercial. City Staff recommend approval of the proposed Ordinances. (See attached Staff Report).

**Recommended Action:**

Staff recommends approval of Ordinance 12-17, Ordinance 12-18 and Ordinance 12-19, subject to the following conditions:

1. When the property is developed, they will need to aggregate with the property to the south;
2. All access for any future development on this property shall be from State Road 50. No access will be allowed from Walker Street or Water Street;
3. To protect the single family homes to the north, a six foot masonry wall and a minimum ten foot landscape buffer consistent with the requirements of Section 118-1524 Table 3.1.4 will be required on the north property line.

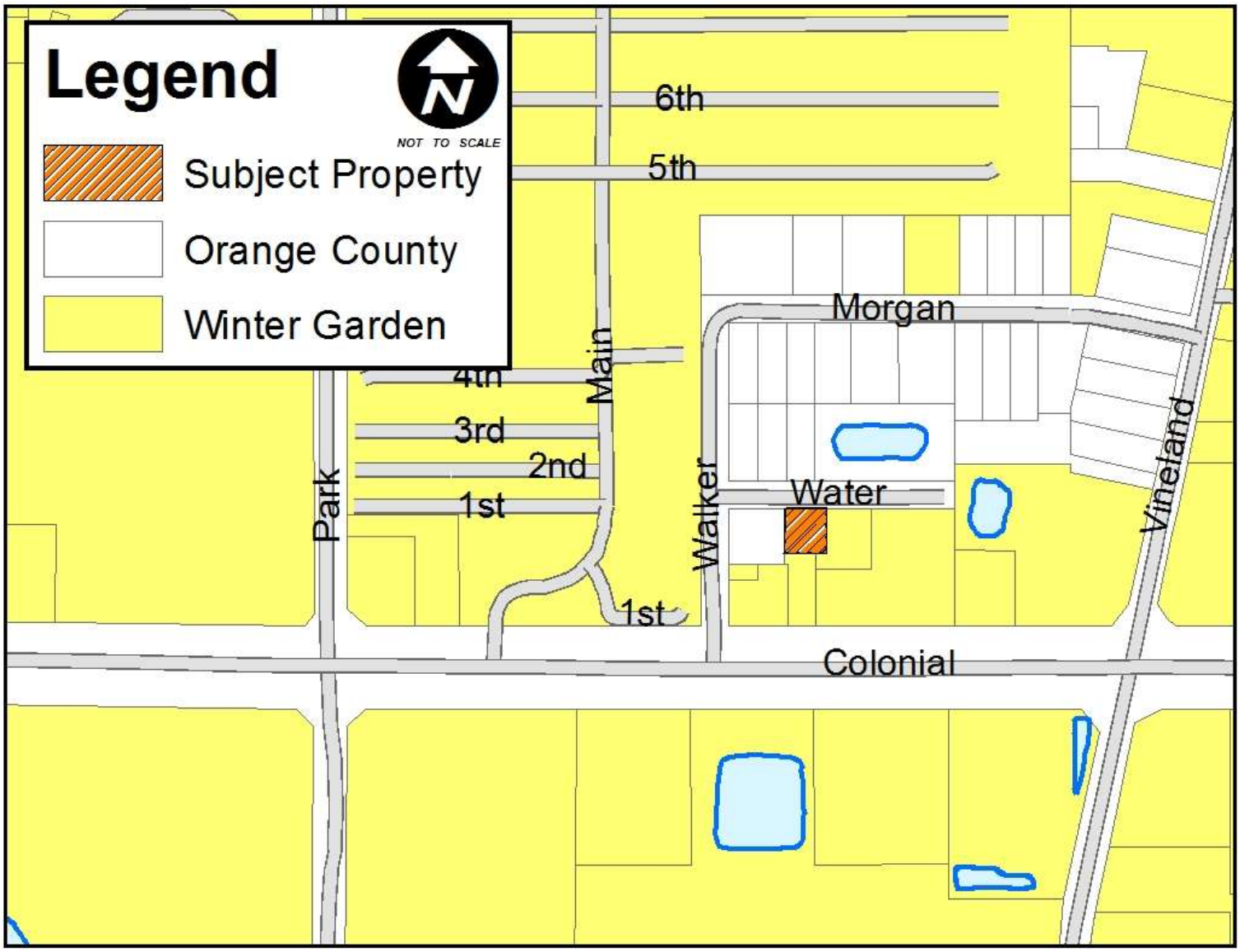
**Attachments/References:**

Location Map
Ordinance 12-17
Ordinance 12-18
Ordinance 12-19
Staff Report

# LOCATION MAP

Ordinance 12-17; 12-18; and 12-19

## 176 Water Street - 0.14 +/- Acres



ORDINANCE 12-17

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.14 ± ACRES LOCATED AT 176 WATER STREET; ON THE SOUTH SIDE OF WATER STREET EAST OF WALKER STREET 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 owner of the land, generally described as approximately 0.14 ± acres located at 176 Water Street; on the south side of Water Street east of Walker Street and legally described in Section 2 of this Ordinance, which land is reasonably compact and contiguous to the corporate limits of the City of Winter Garden, Florida ("City"), has, pursuant to the prerequisites and standards set forth in § 171.044, Fla. Stat., petitioned the City Commission for voluntary annexation;

**WHEREAS**, the petition for voluntary annexation referenced herein bears the signatures of all owners of the property or properties described in Section 2 of this Ordinance (*i.e.*, the property or properties to be annexed); and

**WHEREAS**, the City has determined that the property described in Section 2 of this Ordinance is located in an unincorporated area of the County and that annexation of such property will not result in the creation of an enclave.

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

**SECTION 1**: *Annexation.* 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, Fla. Stat. and has held a public hearing and said petition and made certain findings.

**SECTION 2**: *Description of Area Annexed.* 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.

**SECTION 3**: *Effect of Annexation.* 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 the inhabitants thereof, and property therein, as it does and have over its present corporate limits and laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all territory had been part of said City at

the time of the passage of such laws, ordinances, and resolutions.

**SECTION 4**: *Apportionment of Debts and Taxes.* Pursuant to § 171.061, Fla. Stat., the area annexed to the City shall be subject to all taxes and debts of the City upon the effective date of 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:** *Instructions to Clerk.* Within seven (7) days following the adoption of this Ordinance, the City Clerk or his/her designee is directed to file a copy of this ordinance, including ATTACHMENT "A" hereto, with the clerk of the circuit court and the chief administrative officer of Orange County as required by § 171.044(3), Fla. Stat.

**SECTION 6**: *Severability.* 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 7**: *Effective Date.* This Ordinance shall become effective upon adoption at its second reading.

**FIRST READING AND PUBLIC HEARING:** _____ , 2012.

**SECOND READING AND PUBLIC HEARING**: _____ , 2012.

**ADOPTED** this _____ day of _____, 2012, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

_____
JOHN REES, Mayor/Commissioner

**ATTEST:**

_____
KATHY GOLDEN, City Clerk

**ATTACHMENT "A"**

# LEGAL DESCRIPTION

PARCEL ID#: 23-22-27-8104-00-341

THE EAST 4 FEET OF THE NORTH 80 FEET OF LOT 34 AND THE NORTH 80 FEET OF LOT 35, ALSO THE WEST 21 FEET OF THE NORTH 80 FEET OF LOT 36, OF G.T. SMITH SUBDIVISION NO.4 AS RECORDED IN PLAT BOOK "L", PAGE 120 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF WALKER STREET (A 50-FOOT RIGHT OF WAY) WITH THE SOUTHERLY RIGHT OF WAY LINE OF WATER STREET (A 50-FOOT RIGHT OF WAY) AND RUN NORTH 89° 51' 45" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF WATER STREET, A DISTANCE OF 101.56 FEET TO THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING THUS DESCRIBED CONTINUE NORTH 89° 51' 45" EAST, ALONG LAST SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 75.00 FEET; THENCE SOUTH 00° 05' 31" EAST, ALONG THE EAST LINE OF SAID WEST 21 FEET OF LOT 36, A DISTANCE OF 80.00 FEET; THENCE SOUTH 89° 51' 45" WEST, ALONG THE SOUTH LINE OF THE NORTH 80 FEET OF SAID LOTS 36, 35, AND 34, A DISTANCE OF 75.00 FEET; THENCE NORTH 00° 05' 31" WEST, ALONG THE WEST LINE OF THE EAST 4 FEET OF SAID LOT 34, A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.14 ACRES, MORE OR LESS.

ORDINANCE 12-18

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 0.14 ± ACRES OF LAND LOCATED AT 176 WATER STREET; ON THE SOUTH SIDE OF WATER STREET EAST OF WALKER STREET FROM ORANGE COUNTY LOW MEDIUM DENSITY RESIDENTIAL TO CITY COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**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 on the 24th of June, 2010, the City Commission of the City of Winter Garden adopted Ordinance 10-19 readopting and amending the Comprehensive Plan for the City of Winter Garden;

**WHEREAS**, the owner of that certain real property generally described as 0.14± acres of land located at 176 Water Street; on the south side of Water Street east of Walker Street, and legally described in ATTACHMENT "A" (the "Property") has petitioned the City to amend the Winter Garden Comprehensive Plan to change the Future Land Use classification from Orange County Low Medium Density Residential to City Commercial; and

**WHEREAS**, the City of Winter Garden's Local Planning Agency and City Commission have conducted the prerequisite advertised public hearings pursuant to Chapter 163, Florida Statutes, regarding the adoption of this ordinance; now, therefore,

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

**SECTION I.** *FLUM Amendment.* The City of Winter Garden hereby amends the Future Land Use Map of the City of Winter Garden Comprehensive Plan by designating the aforesaid Property to City Commercial within the West State Road 50 Commercial Activity Center as set forth in ATTACHMENT "B".

**SECTION II.** *Effective Date.* Provided that the Property described herein is annexed into the City of Winter Garden pursuant to Ordinance 12-17, this Ordinance shall become effective 31 days after adoption, unless the Ordinance is timely challenged pursuant to § 163.3187(5), Fla. Stat., in which case, the Ordinance shall not be effective until the state land planning agency or the Administrative Commission, respectively, issues a final order

determining that the adopted Ordinance is in compliance.

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

**FIRST READING AND PUBLIC HEARING:** _____ , 2012.

**SECOND READING AND PUBLIC HEARING**: _____ , 2012.

**ADOPTED** this _____ day of _____, 2012, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

_____
JOHN REES, Mayor/Commissioner

**ATTEST:**

_____
KATHY GOLDEN, City Clerk

**ATTACHMENT "A"**

# LEGAL DESCRIPTION

PARCEL ID#: 23-22-27-8104-00-341

THE EAST 4 FEET OF THE NORTH 80 FEET OF LOT 34 AND THE NORTH 80 FEET OF LOT 35, ALSO THE WEST 21 FEET OF THE NORTH 80 FEET OF LOT 36, OF G.T. SMITH SUBDIVISION NO.4 AS RECORDED IN PLAT BOOK "L", PAGE 120 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF WALKER STREET (A 50-FOOT RIGHT OF WAY) WITH THE SOUTHERLY RIGHT OF WAY LINE OF WATER STREET (A 50-FOOT RIGHT OF WAY) AND RUN NORTH 89° 51' 45" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF WATER STREET, A DISTANCE OF 101.56 FEET TO THE POINT OF BEGINNING.

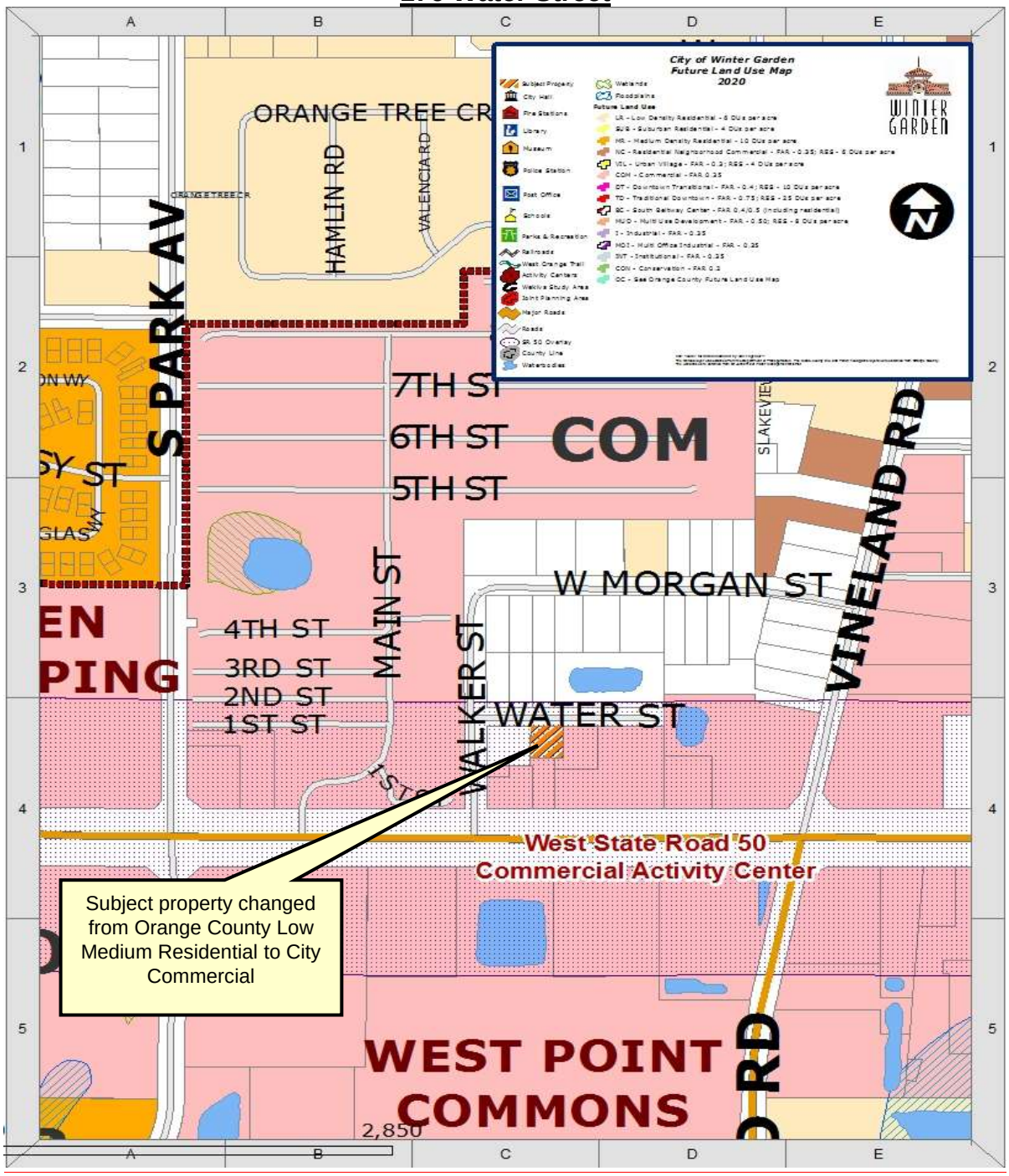
FROM THE POINT OF BEGINNING THUS DESCRIBED CONTINUE NORTH 89° 51' 45" EAST, ALONG LAST SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 75.00 FEET; THENCE SOUTH 00° 05' 31" EAST, ALONG THE EAST LINE OF SAID WEST 21 FEET OF LOT 36, A DISTANCE OF 80.00 FEET; THENCE SOUTH 89° 51' 45" WEST, ALONG THE SOUTH LINE OF THE NORTH 80 FEET OF SAID LOTS 36, 35, AND 34, A DISTANCE OF 75.00 FEET; THENCE NORTH 00° 05' 31" WEST, ALONG THE WEST LINE OF THE EAST 4 FEET OF SAID LOT 34, A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.14 ACRES, MORE OR LESS.

**ATTACHMENT "B"**

**FUTURE LAND USE MAP**

**176 Water Street**



ORDINANCE 12-19

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.14 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT 176 WATER STREET; ON THE SOUTH SIDE OF WATER STREET EAST OF WALKER STREET FROM ORANGE COUNTY R-2 RESIDENTIAL DISTRICT TO CITY C-2 ATERIAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the owner of that certain real property generally described as 0.14 ± acres of land located at 176 Water Street; on the south side of Water Street east of Walker , and legally described in Section 1 of this ordinance has petitioned the City to rezone said property from Orange County R-2 Residential District to the City's C-2 Arterial Commercial District zoning classification, therefore;

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

**SECTION 1:** *Rezoning.* After due notice and public hearing, the zoning classification of real property legally described on ATTACHMENT "A," is hereby rezoned from Orange County R-2 Residential District to City C-2 Arterial Commercial District in the City of Winter Garden, Florida.

**SECTION 2:** *Zoning Map.* 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:** *Non-Severability.* Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

**SECTION 4:** *Effective Date.* This Ordinance shall become effective simultaneously upon the effective date of Ordinance 12-18 which is an amendment to the Future Land Use Map of the City of Winter Garden Comprehensive Plan that allows the property described herein to be zoned as provided in this Ordinance.

**FIRST READING AND PUBLIC HEARING:** _____ , 2012.

**SECOND READING AND PUBLIC HEARING**: _____ , 2012.

**ADOPTED** this _____ day of _____, 2012, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

_____
JOHN REES, Mayor/Commissioner

**ATTEST:**

_____
KATHY GOLDEN, City Clerk

**ATTACHMENT "A"**

# LEGAL DESCRIPTION

PARCEL ID#: 23-22-27-8104-00-341

THE EAST 4 FEET OF THE NORTH 80 FEET OF LOT 34 AND THE NORTH 80 FEET OF LOT 35, ALSO THE WEST 21 FEET OF THE NORTH 80 FEET OF LOT 36, OF G.T. SMITH SUBDIVISION NO.4 AS RECORDED IN PLAT BOOK "L", PAGE 120 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF WALKER STREET (A 50-FOOT RIGHT OF WAY) WITH THE SOUTHERLY RIGHT OF WAY LINE OF WATER STREET (A 50-FOOT RIGHT OF WAY) AND RUN NORTH 89° 51' 45" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF WATER STREET, A DISTANCE OF 101.56 FEET TO THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING THUS DESCRIBED CONTINUE NORTH 89° 51' 45" EAST, ALONG LAST SAID SOUTHERLY RIGHT OF WAY LINE, A DISTANCE OF 75.00 FEET; THENCE SOUTH 00° 05' 31" EAST, ALONG THE EAST LINE OF SAID WEST 21 FEET OF LOT 36, A DISTANCE OF 80.00 FEET; THENCE SOUTH 89° 51' 45" WEST, ALONG THE SOUTH LINE OF THE NORTH 80 FEET OF SAID LOTS 36, 35, AND 34, A DISTANCE OF 75.00 FEET; THENCE NORTH 00° 05' 31" WEST, ALONG THE WEST LINE OF THE EAST 4 FEET OF SAID LOT 34, A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.14 ACRES, MORE OR LESS.

# CITY OF WINTER GARDEN

## PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 ● (407) 656-4111

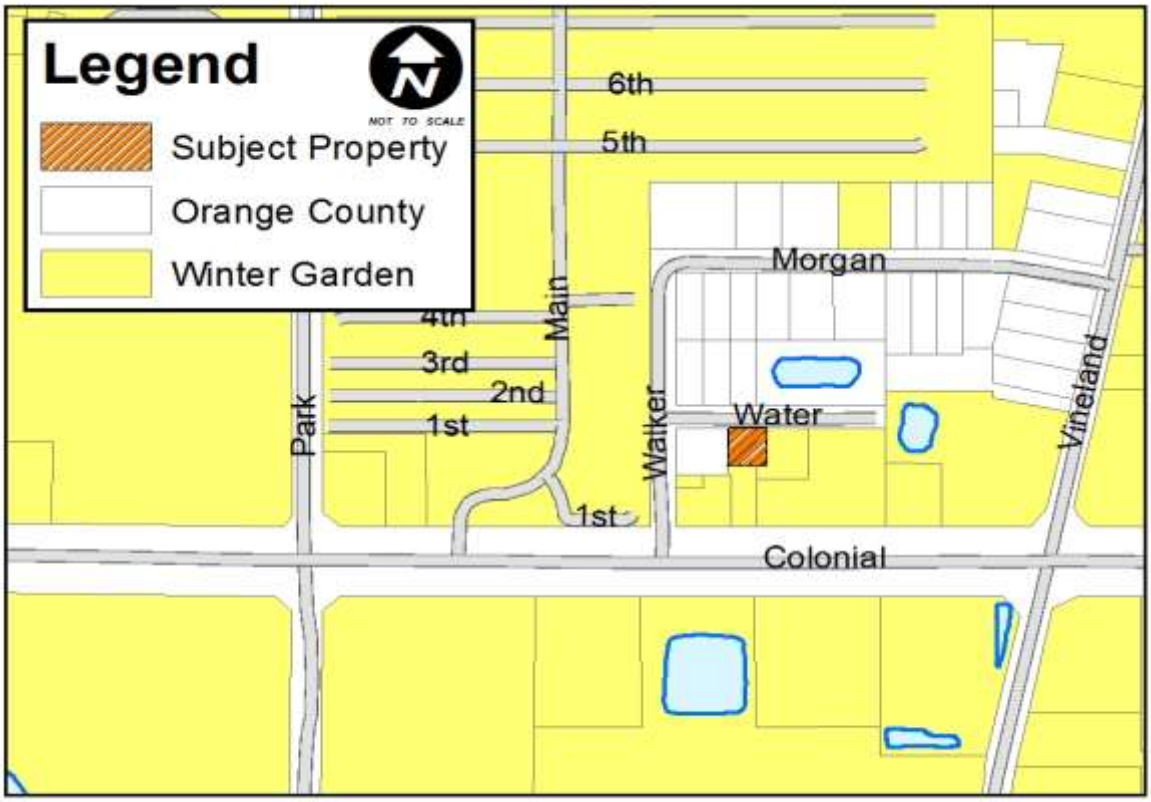
# STAFF REPORT

**TO:** PLANNING AND ZONING BOARD
**PEPARED BY:** STEVE PASH, SENIOR PLANNER
**DATE:** MARCH 15, 2011
**SUBJECT:** ANNEXATION - REZONING - FLU AMENDMENT
**176 WATER STREET (0.14 +/- ACRES)**
**PARCEL ID #:** 23-22-27-8104-00-341
**APPLICANT:** BURNESE FLEMMING, ALLEN STEPHENS, & QUEEN FOWLER

## INTRODUCTION

The purpose of this report is to evaluate the proposed project for compliance with the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property is located at 176 Water Street and is approximately 0.14 ± acres. The map below depicts the proximity of the subject property to the City's jurisdictional limits:



The applicant has requested annexation into the City, amendment to the Future Land Use Map (FLUM) of the City's Comprehensive Plan to designate the property as Comercial, and rezoning the property to C-2 Commercial Arterial District. This property is also within the West State Road 50 Overlay, which has additional development standards.

The subject property is located within the West State Road 50 Commercial Activity Center which allows for the following land use categories: Commercial, Medium Density Residential, Industrial, and Multi Use Development. The majority of the properties located within the West State Road 50 Commercial Activity Center are designated Commercial on the Future Land Use Map, with the only exceptions being several apartment complexes and a senior living facility on the south side of the road at the western edge of the city limits, which are designated Medium Density Residential on the Future Land Use Map and total about 35 acres of land.

In accordance with the City's Comprehensive Plan, permitted uses within the Commercial land use include retail, service, and professional activities. The zoning classifications that are consistent with the Commercial land use designation include C-1, C-2, C-3, C-4, PCD, and INT.

The City endorses infill of its jurisdictional limits through voluntary annexation of enclaves. The elimination of enclaves through voluntary annexation furthers the goals, objectives, and policies of the City's Comprehensive Plan.

## EXISTING USE

The subject property is currently developed with an 812 square foot single family house.

## ADJACENT LAND USE AND ZONING

The property located to the north is a single family house, zoned R-2 and located in Orange County. The property located to the east is vacant, zoned C-2 and located in the City. The properties to the south are developed as commercial buildings, zoned C-2 and located in the City. The property to the west is developed with a single family house, zoned R-2, located in Orange County, and has also requested annexation into the City of Winter Garden.

## PROPOSED USE

The owner is proposing to annex the property for future development. In order to develop the subject site, this property will need to be aggregated with property to the south. Staff will require aggregating these properties so that access to the site will only occur from State Road 50. Access will only be allowed from State Road 50 to help limit the impact of commercial development next to the single family homes on the north side of Water Street. Current access is to Water Street which would not be appropriate for commercial development. Due to the close proximity of single family homes, the development will also require additional buffering along the north property line.

## PUBLIC FACILITY ANALYSIS

The City will provide water, sewer, garbage collection, police protection, and all other services regularly provided to City of Winter Garden residents including building permits. The property will be served by both Orange County Fire and Rescue and the City of Winter Garden Fire Department under the First Response System.

## SUMMARY

City Staff recommends approval of the proposed Ordinances, subject to the following conditions:

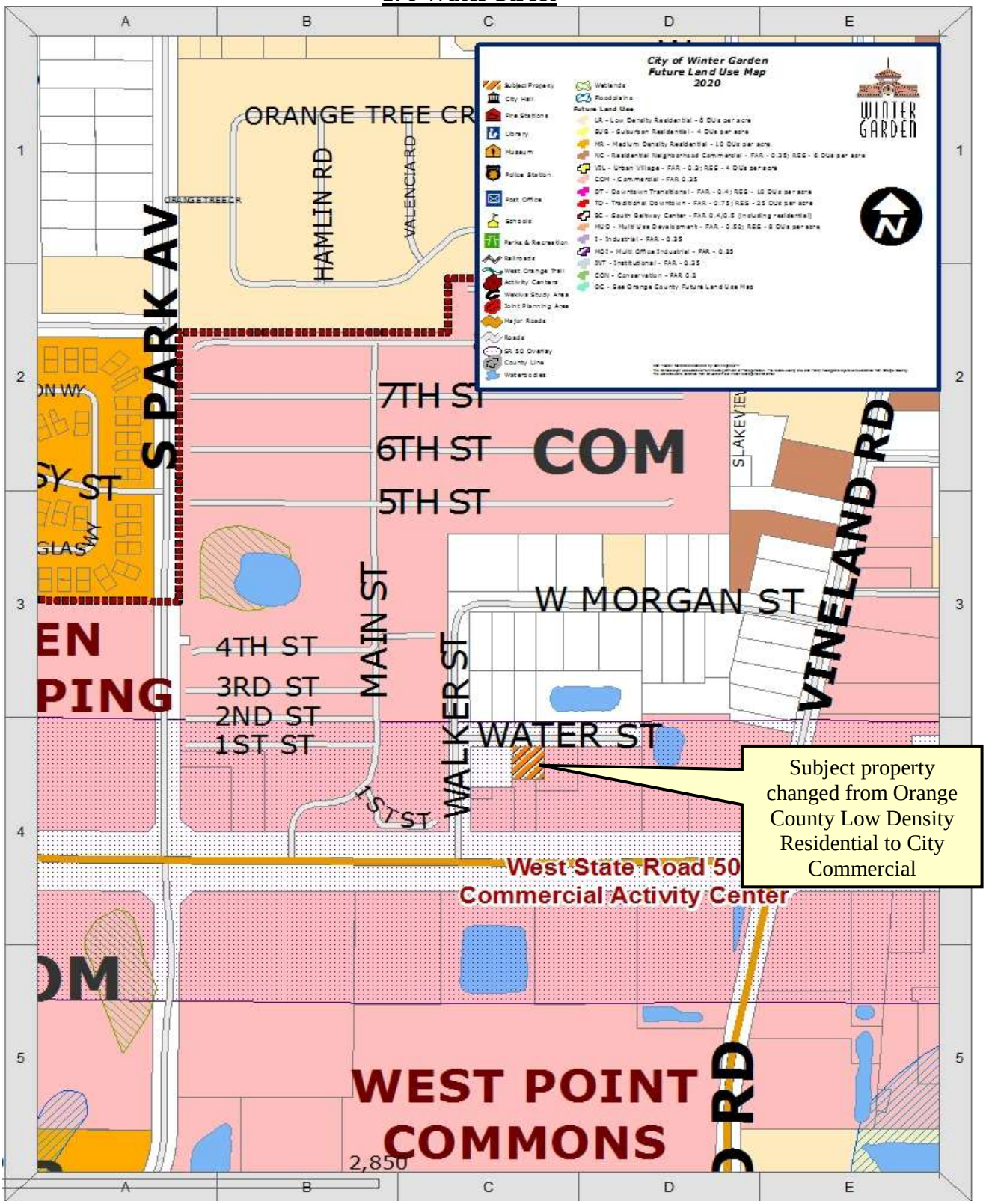
1. When the property is developed, they will need to aggregate with the property to the south.
2. All access for any future development on this property shall be from State Road 50. No access will be allowed from Water Street.
3. To protect the single family homes to the north, a six foot masonry wall and a minimum ten foot wide landscape easement consistent with the requirements of section 118-1524 table 3.1.4 will be required on the north property line.

## MAPS

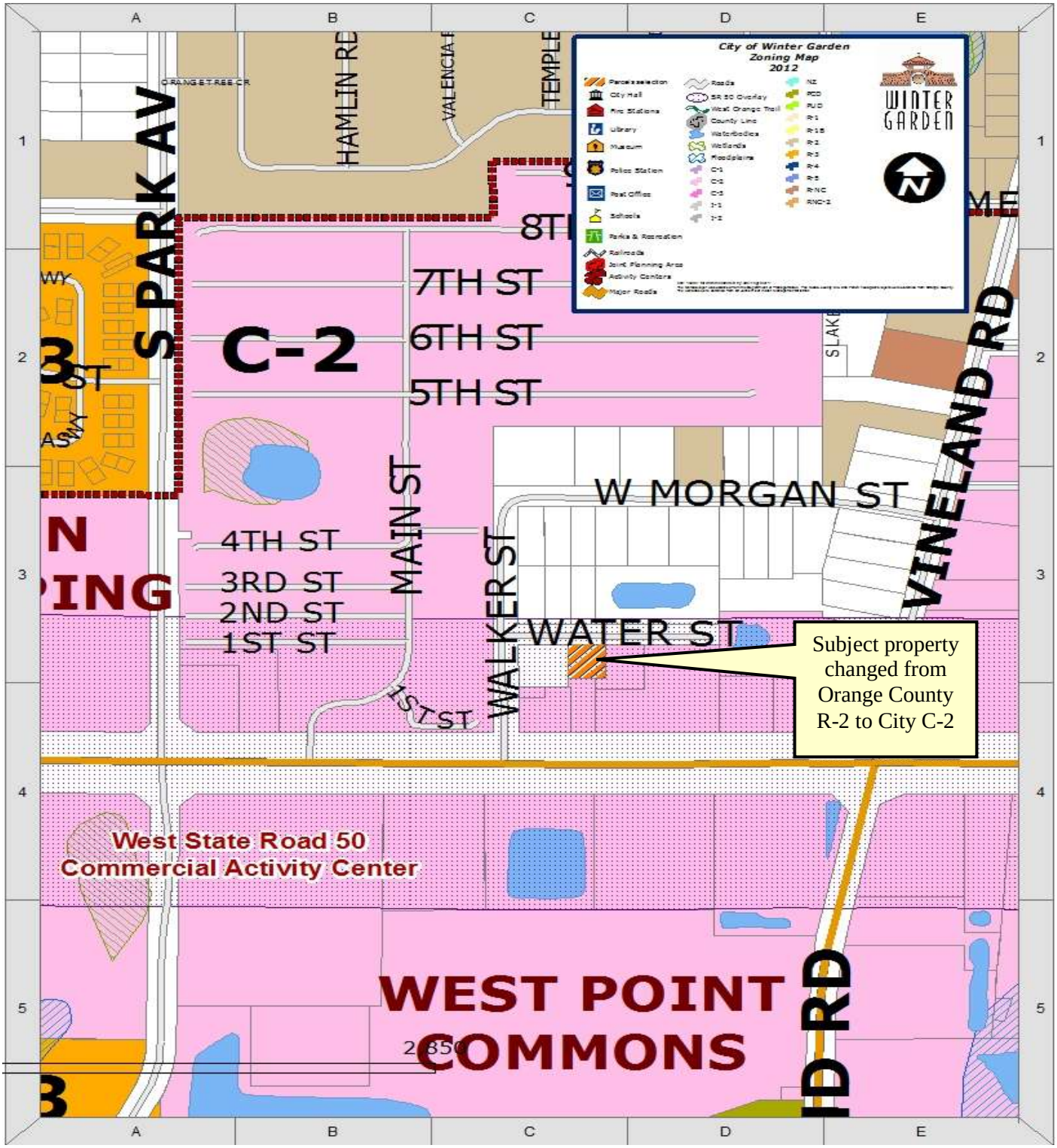
### AERIAL PHOTO

### 176 Water Street

**FUTURE LAND USE MAP**
**176 Water Street**



**ZONING MAP**
**176 Water Street**




**END OF STAFF REPORT**

# THE CITY OF WINTER GARDEN

## CITY COMMISSION AGENDA ITEM

**From:** Ed Williams, Community Development Director

**Via:** City Manager Mike Bollhoefer

**Date:** **May 3, 2012** **Meeting Date: May 10, 2012**

**Subject:** **1089 Walker Street**
(Bori - Annexation-Zoning-FLU Amendment)
**Ordinance 12-20**
**Ordinance 12-21**
**Ordinance 12-22**
**PARCEL ID #** 23-22-27-8104-00-331

**Issue:** The applicant is requesting voluntary Annexation into the City of Winter Garden, Zoning, and a Future Land Use Amendment.

**Discussion:**

The applicant is requesting to annex the existing property into the City, Rezoning the property from R-2 (Orange County) to City C-2 , and a Future Land Use Amendment to change the land use designation from Orange County Low Medium Residential to City Commercial. City Staff recommend approval of the proposed Ordinances. (See attached Staff Report).

**Recommended Action:**

Staff recommends approval of Ordinance 12-20, Ordinance 12-21 and Ordinance 12-22, subject to the following conditions:

1. When the property is developed, they will need to aggregate with the property to the south;
2. All access for any future development on this property shall be from State Road 50. No access will be allowed from Walker Street or Water Street;
3. To protect the single family homes to the north, a six foot masonry wall and a minimum ten foot landscape buffer consistent with the requirements of Section 118-1524 Table 3.1.4 will be required on the north property line.

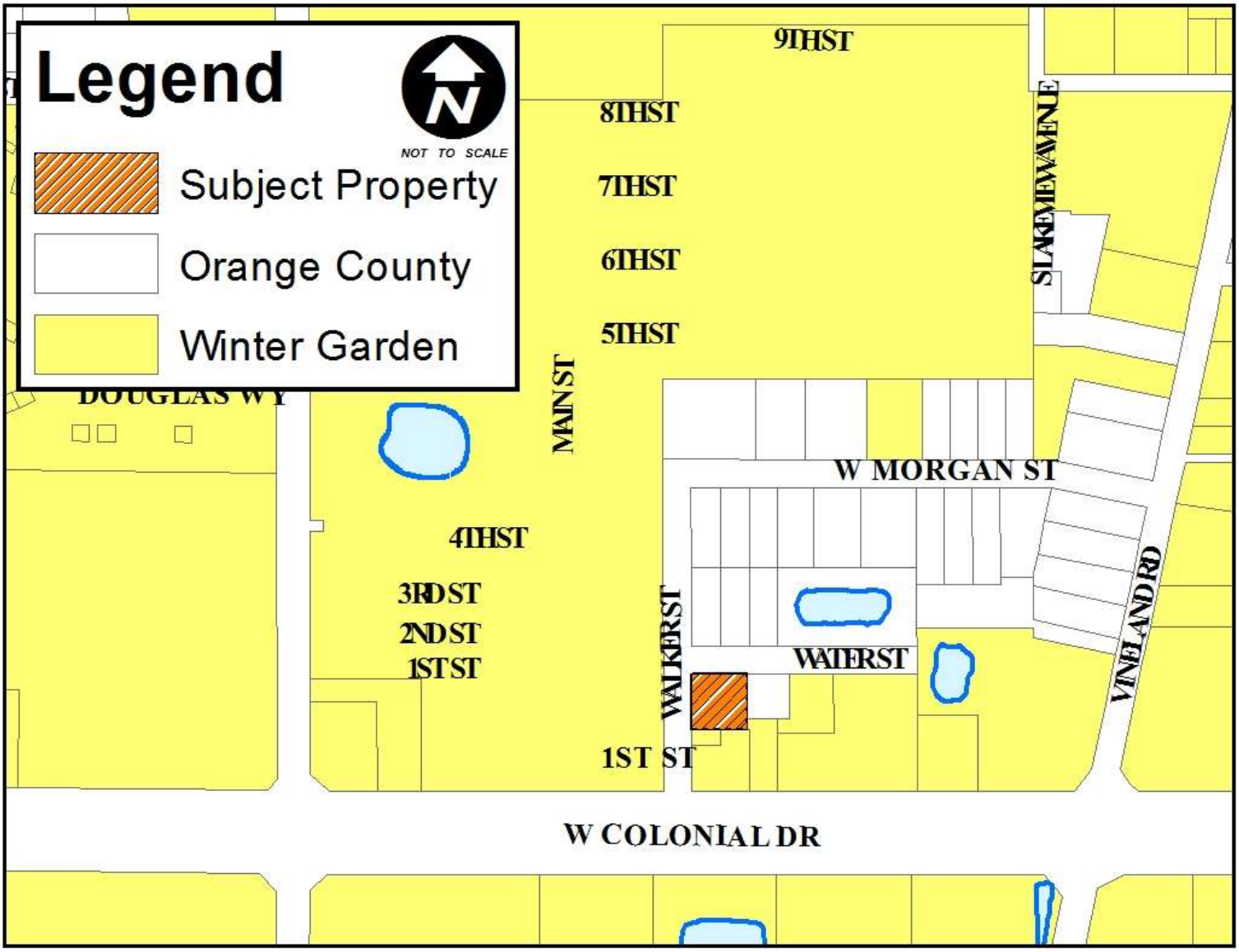
**Attachments/References:**

Location Map
Ordinance 12-20
Ordinance 12-21
Ordinance 12-22
Staff Report

# LOCATION MAP

Ordinance 12-20; 12-21; and 12-22

## 1089 Walker Street - 0.23 +/- Acres



ORDINANCE 12-20

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA PROVIDING FOR THE ANNEXATION OF CERTAIN ADDITIONAL LANDS GENERALLY DESCRIBED AS APPROXIMATELY 0.23 ± ACRES LOCATED AT THE SOUTHEAST CORNER OF WALKER STREET AND WATER STREET 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 owner of the land, generally described as approximately 0.23 ± acres located at the southeast corner of Walker Street and Water Street and legally described in Section 2 of this Ordinance, which land is reasonably compact and contiguous to the corporate limits of the City of Winter Garden, Florida ("City"), has, pursuant to the prerequisites and standards set forth in § 171.044, Fla. Stat., petitioned the City Commission for voluntary annexation;

**WHEREAS**, the petition for voluntary annexation referenced herein bears the signatures of all owners of the property or properties described in Section 2 of this Ordinance (*i.e.*, the property or properties to be annexed); and

**WHEREAS**, the City has determined that the property described in Section 2 of this Ordinance is located in an unincorporated area of the County and that annexation of such property will not result in the creation of an enclave.

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

**SECTION 1**: *Annexation.* 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, Fla. Stat. and has held a public hearing and said petition and made certain findings.

**SECTION 2**: *Description of Area Annexed.* 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.

**SECTION 3**: *Effect of Annexation.* 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 the inhabitants thereof, and property therein, as it does and have over its present corporate limits and laws, ordinances, and resolutions of said City shall apply and shall have equal force and effect as if all territory had been part of said City at

the time of the passage of such laws, ordinances, and resolutions.

**SECTION 4**: *Apportionment of Debts and Taxes.* Pursuant to § 171.061, Fla. Stat., the area annexed to the City shall be subject to all taxes and debts of the City upon the effective date of 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:** *Instructions to Clerk.* Within seven (7) days following the adoption of this Ordinance, the City Clerk or his/her designee is directed to file a copy of this ordinance, including ATTACHMENT "A" hereto, with the clerk of the circuit court and the chief administrative officer of Orange County as required by § 171.044(3), Fla. Stat.

**SECTION 6**: *Severability.* 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 7**: *Effective Date.* This Ordinance shall become effective upon adoption at its second reading.

**FIRST READING AND PUBLIC HEARING:** _____ , 2012.

**SECOND READING AND PUBLIC HEARING**: _____ , 2012.

**ADOPTED** this _____ day of _____, 2012, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

_____
JOHN REES, Mayor/Commissioner

**ATTEST:**

_____
KATHY GOLDEN, City Clerk

**ATTACHMENT "A"**

# LEGAL DESCRIPTION

PARCEL ID#: 23-22-27-8104-00-331

THE NORTH 100 FEET OF LOT 33 AND THE NORTH 100 FEET OF LOT 34 (LESS THE EAST 4 FEET OF SAID LOT 34), OF G.T. SMITH SUBDIVISION NO.4 AS RECORDED IN PLAT BOOK "L", PAGE 120 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF BEGINNING COMMENCE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF WALKER STREET (A 50-FOOT RIGHT OF WAY) WITH THE SOUTHERLY RIGHT OF WAY LINE OF WATER STREET (A 50-FOOT RIGHT OF WAY) AND RUN NORTH 89° 51' 45" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF WATER STREET, A DISTANCE OF 101.56 FEET; THENCE SOUTH 00° 05' 31" EAST, ALONG THE WEST LINE OF THE EAST 4 FEET OF SAID LOT 34, A DISTANCE OF 100.00 FEET; THENCE SOUTH 89° 51' 45" WEST, ALONG THE SOUTH LINE OF SAID NORTH 100 FEET OF LOTS 34 AND 33, A DISTANCE OF 101.56 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF WALKER STREET; THENCE NORTH 00° 05' 31" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.23 ACRES, MORE OR LESS.

ORDINANCE 12-21

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE WINTER GARDEN COMPREHENSIVE PLAN BY CHANGING THE LAND USE DESIGNATION OF REAL PROPERTY GENERALLY DESCRIBED AS 0.23 ± ACRES OF LAND LOCATED AT THE SOUTH EAST CORNER OF WALKER STREET AND WATER STREET FROM ORANGE COUNTY LOW MEDIUM DENSITY RESIDENTIAL TO CITY COMMERCIAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**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 on the 24th of June, 2010, the City Commission of the City of Winter Garden adopted Ordinance 10-19 readopting and amending the Comprehensive Plan for the City of Winter Garden;

**WHEREAS**, the owner of that certain real property generally described as 0.23± acres of land located at the south east corner of Walker Street and Water Street, and legally described in ATTACHMENT "A" (the "Property") has petitioned the City to amend the Winter Garden Comprehensive Plan to change the Future Land Use classification from Orange County Low Medium Residential to City Commercial; and

**WHEREAS**, the City of Winter Garden's Local Planning Agency and City Commission have conducted the prerequisite advertised public hearings pursuant to Chapter 163, Florida Statutes, regarding the adoption of this ordinance; now, therefore,

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

**SECTION I.** *FLUM Amendment.* The City of Winter Garden hereby amends the Future Land Use Map of the City of Winter Garden Comprehensive Plan by designating the aforesaid Property to City Commercial within the West State Road 50 Commercial Activity Center as set forth in ATTACHMENT "B".

**SECTION II.** *Effective Date.* Provided that the Property described herein is annexed into the City of Winter Garden pursuant to Ordinance 12-20, this Ordinance shall become effective 31 days after adoption, unless the Ordinance is timely challenged pursuant to § 163.3187(5), Fla. Stat., in which case, the Ordinance shall not be effective until the state land planning agency or the Administrative Commission, respectively, issues a final order determining that the adopted Ordinance is in compliance.

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

**FIRST READING AND PUBLIC HEARING:** _____ , 2012.

**SECOND READING AND PUBLIC HEARING**: _____ , 2012.

**ADOPTED** this _____ day of _____, 2012, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

_____
JOHN REES, Mayor/Commissioner

**ATTEST:**

_____
KATHY GOLDEN, City Clerk

**ATTACHMENT "A"**

# LEGAL DESCRIPTION

PARCEL ID#: 23-22-27-8104-00-331

THE NORTH 100 FEET OF LOT 33 AND THE NORTH 100 FEET OF LOT 34 (LESS THE EAST 4 FEET OF SAID LOT 34), OF G.T. SMITH SUBDIVISION NO.4 AS RECORDED IN PLAT BOOK "L", PAGE 120 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

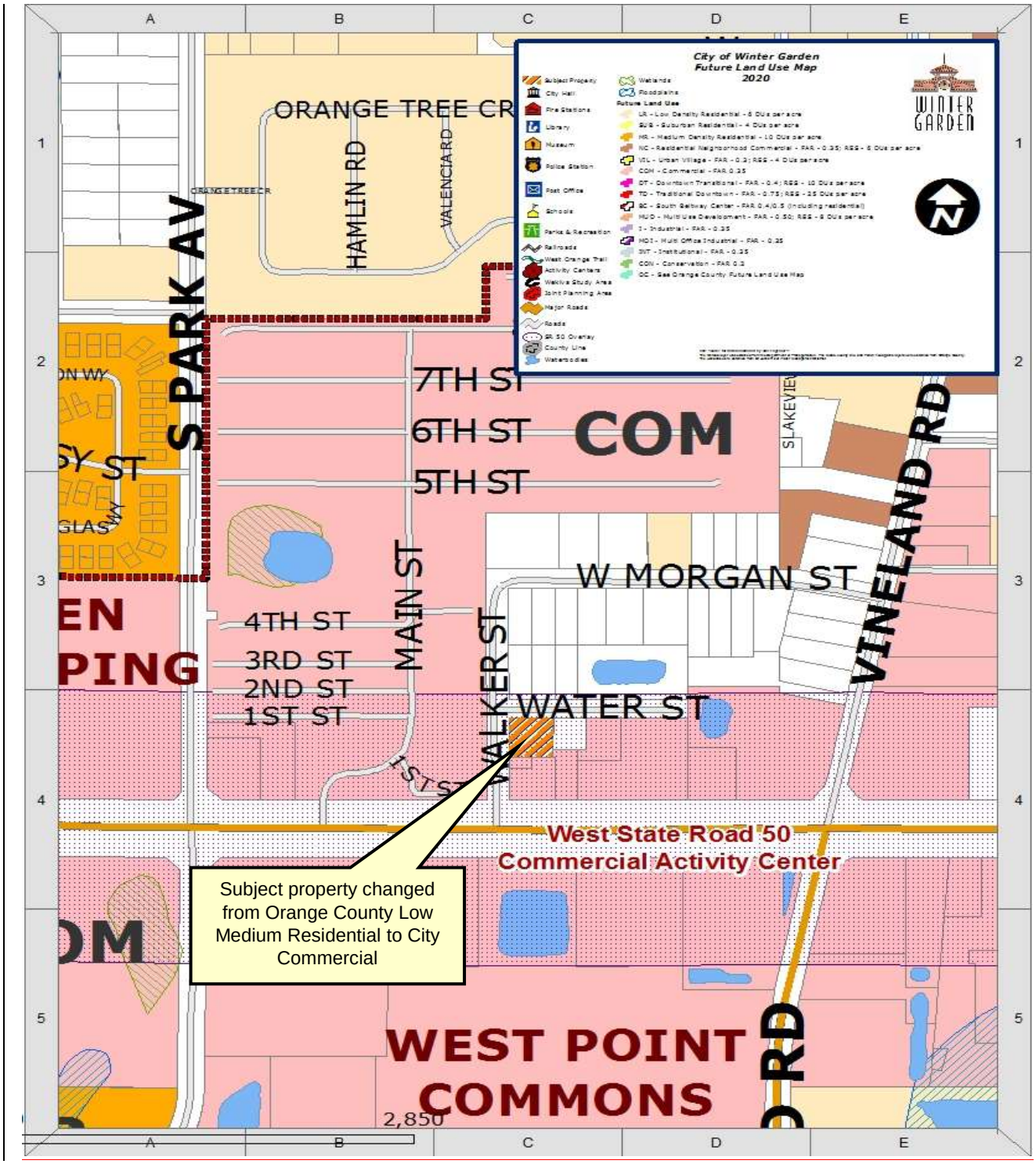
FOR A POINT OF BEGINNING COMMENCE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF WALKER STREET (A 50-FOOT RIGHT OF WAY) WITH THE SOUTHERLY RIGHT OF WAY LINE OF WATER STREET (A 50-FOOT RIGHT OF WAY) AND RUN NORTH 89° 51' 45" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF WATER STREET, A DISTANCE OF 101.56 FEET; THENCE SOUTH 00° 05' 31" EAST, ALONG THE WEST LINE OF THE EAST 4 FEET OF SAID LOT 34, A DISTANCE OF 100.00 FEET; THENCE SOUTH 89° 51' 45" WEST, ALONG THE SOUTH LINE OF SAID NORTH 100 FEET OF LOTS 34 AND 33, A DISTANCE OF 101.56 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF WALKER STREET; THENCE NORTH 00° 05' 31" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.23 ACRES, MORE OR LESS.

**ATTACHMENT "B"**

**FUTURE LAND USE MAP**

**<u>1089 Walker Street</u>**



ORDINANCE 12-22

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA REZONING APPROXIMATELY 0.23 ± ACRES OF REAL PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF WALKER STREET AND WATER STREET FROM ORANGE COUNTY R-2 RESIDENTIAL DISTRICT TO CITY C-2 ARTERIAL COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the owner of that certain real property generally described as 0.23 ± acres of land located at the southeast corner of Walker Street and Water Street, and legally described in Section 1 of this ordinance has petitioned the City to rezone said property from Orange County R-2 Residential District to the City's C-2 Arterial Commercial District zoning classification, therefore;

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

**SECTION 1:** *Rezoning.* After due notice and public hearing, the zoning classification of real property legally described on ATTACHMENT "A," is hereby rezoned from Orange County R-2 Residential District to City C-2 Arterial Commercial District in the City of Winter Garden, Florida.

**SECTION 2:** *Zoning Map.* 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:** *Non-Severability.* Should any portion of this Ordinance be held invalid, then the entire Ordinance shall be null and void.

**SECTION 4:** *Effective Date.* This Ordinance shall become effective simultaneously upon the effective date of Ordinance 12-21 which is an amendment to the Future Land Use Map of the City of Winter Garden Comprehensive Plan that allows the property described herein to be zoned as provided in this Ordinance.

**FIRST READING AND PUBLIC HEARING:** _____ , 2012.

**SECOND READING AND PUBLIC HEARING**: _____ , 2012.

**ADOPTED** this _____ day of _____, 2012, by the City Commission of the City of Winter Garden, Florida.

**APPROVED:**

_____
JOHN REES, Mayor/Commissioner

**ATTEST:**

_____
KATHY GOLDEN, City Clerk

**ATTACHMENT "A"**

# LEGAL DESCRIPTION

PARCEL ID#: 23-22-27-8104-00-331

THE NORTH 100 FEET OF LOT 33 AND THE NORTH 100 FEET OF LOT 34 (LESS THE EAST 4 FEET OF SAID LOT 34), OF G.T. SMITH SUBDIVISION NO.4 AS RECORDED IN PLAT BOOK "L", PAGE 120 OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF BEGINNING COMMENCE AT THE INTERSECTION OF THE EASTERLY RIGHT OF WAY LINE OF WALKER STREET (A 50-FOOT RIGHT OF WAY) WITH THE SOUTHERLY RIGHT OF WAY LINE OF WATER STREET (A 50-FOOT RIGHT OF WAY) AND RUN NORTH 89° 51' 45" EAST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF WATER STREET, A DISTANCE OF 101.56 FEET; THENCE SOUTH 00° 05' 31" EAST, ALONG THE WEST LINE OF THE EAST 4 FEET OF SAID LOT 34, A DISTANCE OF 100.00 FEET; THENCE SOUTH 89° 51' 45" WEST, ALONG THE SOUTH LINE OF SAID NORTH 100 FEET OF LOTS 34 AND 33, A DISTANCE OF 101.56 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF WALKER STREET; THENCE NORTH 00° 05' 31" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.23 ACRES, MORE OR LESS.

# CITY OF WINTER GARDEN

## PLANNING & ZONING DIVISION

300 West Plant Street - Winter Garden, Florida 34787-3011 ● (407) 656-4111

# STAFF REPORT

**TO:** PLANNING AND ZONING BOARD
**PEPARED BY:** STEVE PASH, SENIOR PLANNER
**DATE:** MARCH 15, 2011
**SUBJECT:** ANNEXATION - REZONING - FLU AMENDMENT
**1089 WALKER STREET (0.23 +/- ACRES)**
**PARCEL ID #:** 23-22-27-8104-00-331
**APPLICANT:** GEORGE L. & MARIA P. BORI

## INTRODUCTION

The purpose of this report is to evaluate the proposed project for compliance with the City of Winter Garden Code of Ordinances and Comprehensive Plan.

The subject property is located at 1089 Walker Street and is approximately 0.23 ± acres. The map below depicts the proximity of the subject property to the City's jurisdictional limits:

The applicant has requested annexation into the City, amendment to the Future Land Use Map (FLUM) of the City's Comprehensive Plan to designate the property as Comercial, and rezoning the property to C-2 Commercial Arterial District. This property is also within the West State Road 50 Overlay, which has additional development standards.

The subject property is located within the West State Road 50 Commercial Activity Center which allows for the following land use categories: Commercial, Medium Density Residential, Industrial, and Multi Use Development. The majority of the properties located within the West State Road 50 Commercial Activity Center are designated Commercial on the Future Land Use Map, with the only exceptions being several apartment complexes and a senior living facility on the south side of the road at the western edge of the city limits which are designated Medium Density Residential on the Future Land Use Map and total about 35 acres of land.

In accordance with the City's Comprehensive Plan, permitted uses within the Commercial land use include retail, service, and professional activities. The zoning classifications that are consistent with the Commercial land use designation include C-1, C-2, C-3, C-4, PCD, and INT.

The City endorses infill of its jurisdictional limits through voluntary annexation of enclaves. The elimination of enclaves through voluntary annexation furthers the goals, objectives, and policies of the City's Comprehensive Plan.

## EXISTING USE

The subject property contains a 1,936 square foot single family home.

## ADJACENT LAND USE AND ZONING

The property located to the north is a single family house, zoned R-2 and located in Orange County. The property located to the east is developed with a single family house, zoned R-2, located in Orange County, and has also requested annexation into the City fo Winter Garden. The properties to the south are developed as commercial buildings, zoned C-2 in the City. The property to the west is the Orlando Winter Garden RV Resort, zoned C-2 in the City.

## PROPOSED USE

The owner is proposing to annex the property for future development. In order to develop the subject site, this property will need to be aggregated with the property to the south. Staff will require aggregating these properties so that access to the site will occur only from State Road 50. Access will only be allowed from State Road 50 to help limit the impact of commercial development next to the single family homes on the north side of Water Street. Current access is to Walker Street, which would not be appropriate for commercial access. Due to the close proximity of single family homes, the development will also require additional buffering along the north property line.

## PUBLIC FACILITY ANALYSIS

The City will provide garbage collection, police protection, and all other services regularly provided to City of Winter Garden residents including building permits. The property will be served by both Orange County Fire and Rescue and the City of Winter Garden Fire Department under the First Response System.

## SUMMARY

City Staff recommends approval of the proposed Ordinances, subject to the following conditions:

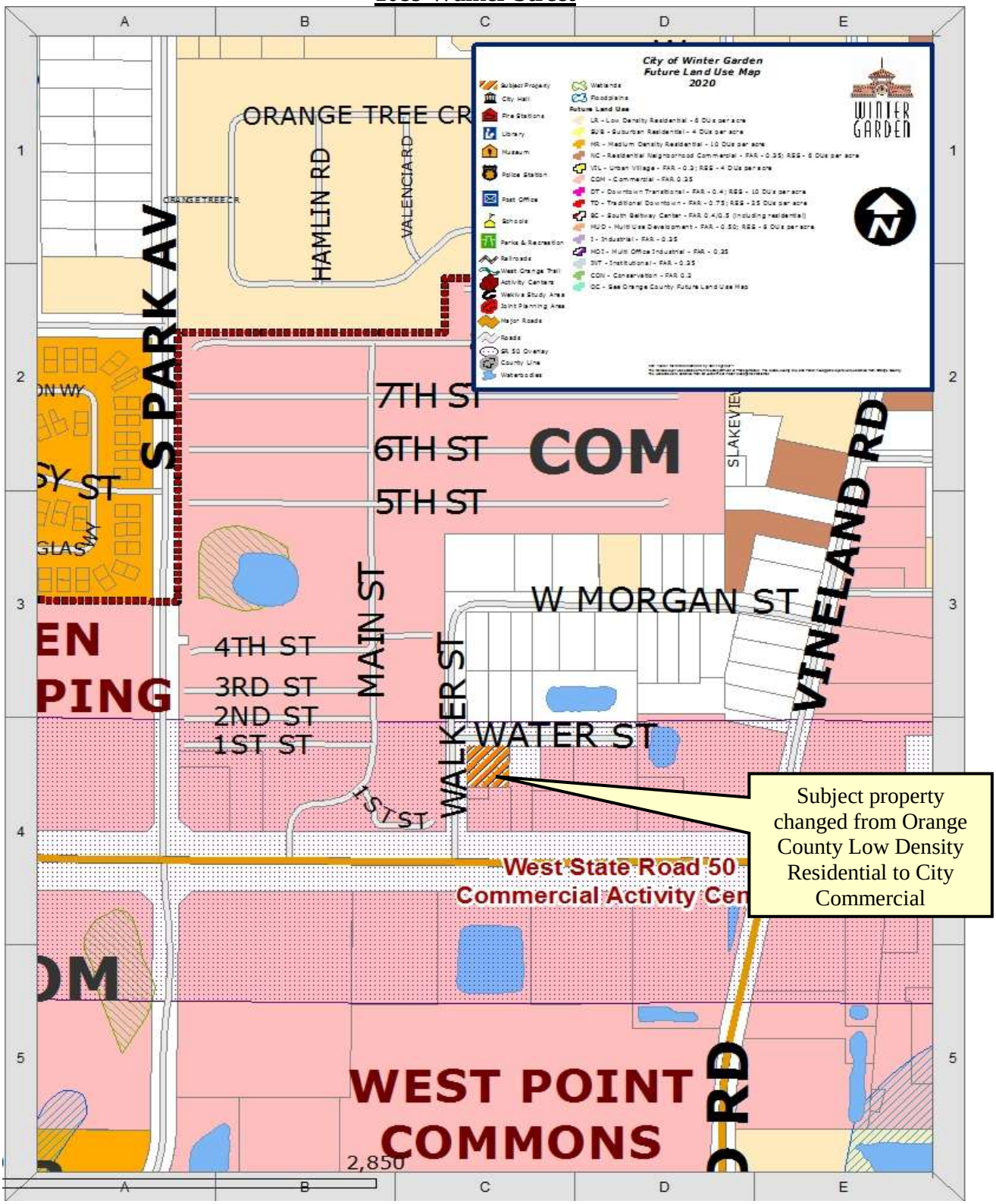
1. When the property is developed, they will need to aggregate with the property to the south.
2. All access for any future development on this property shall be from State Road 50. No access will be allowed from Walker Street or Water Street.
3. To protect the single family homes to the north, a six foot masonry wall and a mimum 10 foot wide landscape easement consistent with the requirements of Section 118-1524 table 3.1.4 will be required on the north property line.

## MAPS

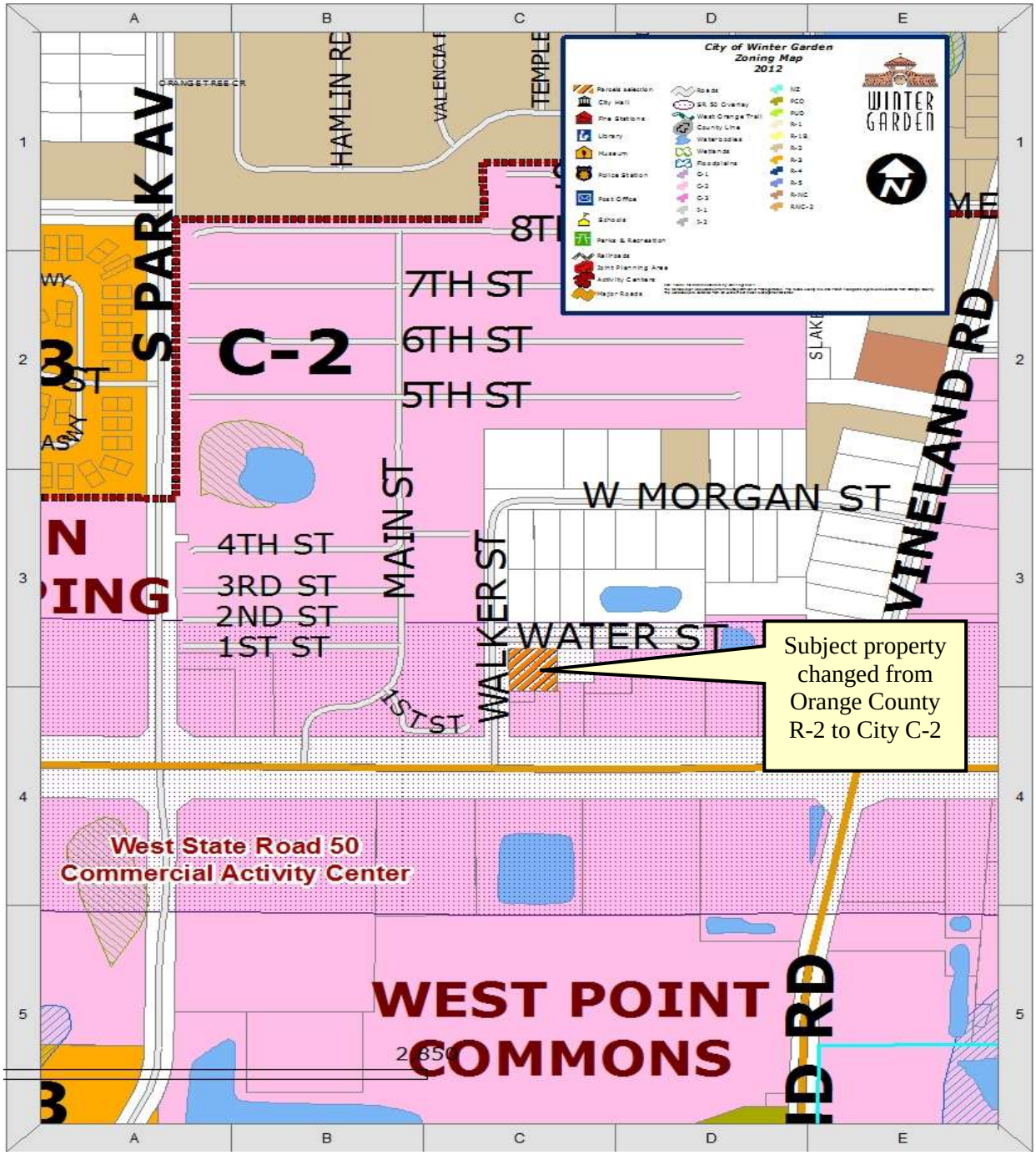
### AERIAL PHOTO

### 1089 Walker Street

**FUTURE LAND USE MAP**
**1089 Walker Street**



**ZONING MAP**
**1089 Walker Street**




**END OF STAFF REPORT**

**THE CITY OF WINTER GARDEN**

**CITY COMMISSION AGENDA ITEM**

**From:** City Manager, Mike Bollhoefer

**Date:** 05/04/12 **Meeting Date:** 05/10/12

**Subject:** Sale of City-owned mobile home

**Issue:** The City owns a 1964 thirty-one-foot mobile home/trailer located in Trailer City at 18 Holly Drive. The mobile home was recently turned over to the City by the family of its deceased resident.

The clear title is in the City's name, and can now be listed and sold to an individual on the open market. A fair asking price for the mobile home would be $5,000.00.

**Recommended action:** Approve the listing and sale of the mobile home for $5,000.00.

Mail Lien Satisfaction to: Dept of Highway Safety and Motor Vehicles, Neil Kirkman Building, Tallahassee, FL 32399-0500

T# 702335823
B# 742920

| Identification Number | Year | Make | Body | WT-L-BHP | Vessel Regis. No. | Title Number |
|---|---|---|---|---|---|---|
| 2232 | 1964 | TAMP | HS | 31' | | 2138107 |

Registered Owner:

CITY OF WINTER GARDEN
21 E CREST AVE
WINTER GARDEN, FL 34787

Date of Issue 03/26/2012

Lien Release
Interest in the described vehicle is hereby released
By_____
Title_____
Date_____

**IMPORTANT INFORMATION**

1. When ownership of the vehicle described herein is transferred, the seller MUST complete in full the Transfer of Title by Seller section at the bottom of the certificate of title.
2. Upon sale of this vehicle, the seller must complete the notice of sale on the reverse side of this form.
3. Remove your license plate from the vehicle.
4. See the web address below for more information and the appropriate forms required for the purchaser to title and register the vehicle, mobile home or vessel: http://www.hsmv.state.fl.us/html/titlinf.html

Mail To:

CITY OF WINTER GARDEN
21 E CREST AVE
WINTER GARDEN, FL 34787

STATE OF FLORIDA

LIEN SATISFACTION

# CERTIFICATE OF TITLE

| Identification Number | Year | Make | Body | WT-L-BHP | Vessel Regis. No. | Title Number |
|---|---|---|---|---|---|---|
| 2232 | 1964 | TAMP | HS | 31' | | 2138107 |

| Prev State | Color | Primary Brand | Secondary Brand | No of Brands | Use | Prev Issue Date |
|---|---|---|---|---|---|---|
| FL | UNK | | | | PRIVATE | 11/13/1995 |

| Odometer Status or Vessel Manufacturer or OH use | Hull Material | Prop | Date of Issue |
|---|---|---|---|
| | | | 03/26/2012 |

Lien Release
Interest in the described vehicle is hereby released
By_____
Title_____
Date_____

Registered Owner
CITY OF WINTER GARDEN
21 E CREST AVE
WINTER GARDEN, FL 34787

1st Lienholder
NONE

VOID IF ALTERED

DIVISION OF MOTORIST SERVICES TALLAHASSEE FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Sandra Lambert
Director

Julie L. Jones
Executive Director

Control Number 099756297

7 /4 099756297

TRANSFER OF TITLE BY SELLER (This section must be completed at the time of sale.)

Federal and/or state law require that the seller state the mileage, purchaser's name, selling price and date sold in connection with the transfer of ownership.
Failure to complete or providing a false statement may result in fines and/or imprisonment.
This title is warranted to be free from any liens except as noted on the face of the certificate and the motor vehicle or vessel described is hereby transferred to:

Seller Must Enter Purchaser's Name:_____ Address:_____

Seller Must Enter Selling Price:_____ Seller Must Enter Date Sold:_____

I/We state that this ☐ 5 or ☐ 6 digit odometer now reads |_|_|_|_|,|_|_|_|_|.|_X_| (no tenths) miles, date read_____ and I hereby certify that to the best of my knowledge the odometer reading:
☐ 1. reflects ACTUAL MILEAGE. ☐ 2. is IN EXCESS OF ITS MECHANICAL LIMITS. ☐ 3. is NOT THE ACTUAL MILEAGE.

**UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT ARE TRUE.**

SELLER Must
Sign Here:_____
Print Here:_____

CO-SELLER Must
Sign Here:_____
Print Here:_____

Selling Dealer's License Number:_____ Tax No.:_____ Tax Collected:_____

Auction Name:_____ License Number:_____

PURCHASER Must
Sign Here:_____
Print Here:_____

CO-PURCHASER Must
Sign Here:_____
Print Here:_____

**NOTICE: PENALTY IS REQUIRED BY LAW IF NOT SUBMITTED FOR TRANSFER WITHIN 30 DAYS AFTER DATE OF PURCHASE.**

# FLORIDA MOBILE HOME REGISTRATION

CO/AGY 7 / 4

T# 702336350
B# 742920

DECAL **18016325**

Expires **Midnight Mon 12/31/2012**

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| YR/MK | **1964/TAMP** | BODY | **HS** | COLOR | **UNK** | Reg. Tax | 28.85 | Class Code | 51 |
| VIN | **2232** | | | TITLE | **2138107** | Init. Reg. | | Tax Months | 11 |
| LENGTH | **31'** | LOCATION | **7 52** | | | County Fee | 3.00 | Back Tax Mos | |
| | | | | | | Mail Fee | | Credit Class | |
| DL/FEID | - | | | | | Sales Tax | | Credit Months | |
| Date Issued | **3/26/2012** | | | | | Voluntary Fees | | | |
| | | | | | | Grand Total | 31.85 | | |

**CITY OF WINTER GARDEN**
**21 E CREST AVE**
**WINTER GARDEN, FL 34787**

IMPORTANT INFORMATION

1. Your registration must be updated to your new address within 20 days of moving.
2. Registration renewals are the responsibility of the registrant and shall occur during the 30-day period prior to the expiration date shown on this registration. Renewal notices are provided as a courtesy and are not required for renewal purposes.

| | | | | |
|---|---|---|---|---|
| | 8.25 | 77.50 | 0.00 | 85.75 |

**Action Requested:** TRANSFER TITLE

**Brands:**

| PREV. STATE | DATE ACQUIRED | NEW | USED | ODOMETER / VESSEL MANUFACTURER | ODOMETER DECLARATION CERTIFICATION |
|---|---|---|---|---|---|
| FL | 02/29/2012 | | XX | | ☐ |

| LIEN INFORMATION | DATE OF LIEN | RECEIVED DATE | FEID # OR FL / DL AND SEX AND DATE OF BIRTH | DMV ACCOUNT # |
|---|---|---|---|---|