WINTER HAVEN
THE CHAIN OF LAKES CITY

PLANNING COMMISSION MEETING

DATE: Tuesday, July 9, 2024, 6:00 p.m.

LOCATION: City Hall, John Fuller Auditorium
451 Third Street NW
Winter Haven, FL 33881

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1. Call to Order

2. Roll Call

3. Invocation and Pledge of Allegiance

4. Approval of Minutes

4.A **June 4, 2024 Meeting Minutes**

Staff Contact: *Jordan Warren, Planning Assistant, jwarren@mywinterhaven.com*

June 4, 2024 Meeting Minutes DRAFT.pdf

5. Explanation of Hearings by Chair

6. Hearings - Old Business

6.A **P-24-06-S - Request by JSK Consulting for Special Use Approval for personal storage in the Commercial- Highway (C-3) zoning district. General Location: A portion of a parcel located at the southwest corner of the intersection of Eloise Loop Road, Thompson Nursery Road, West Lake Ruby Drive, and Coon Lake Road. The area covered by this request is 7.00Â± acres.**

Staff Contact: *Heather Reuter, Senior Planner, hreuter@mywinterhaven.com*

Summary - Case Number P-24-06-S

7. Hearings - New Business

7.A **P-24-10-S - Request by Catherine Vega for Special Use Approval for a childcare facility in the Commercial- Downtown (C-1) zoning district. General Location: 236 Avenue D, SW. The area covered by this request is 0.28Â± acres.**

Staff Contact: *Heather Reuter, Senior Planner, hreuter@mywinterhaven.com*

Request to Withdraw Application

7.B **P-24-30 and P-24-31 - Request by Peterson and Myers, PA to assign Neighborhood Suburban Future Land Use to an annexed parcel, and to assign Multi-Family Residential- Low Density (R-3) zoning district to an annexed parcel. General Location: A parcel generally located north of Ware Avenue, NE and south of Lake Smart. The area covered by this request is 56.74 Â± acres.**

Staff Contact: *Heather Reuter, Senior Planner, hreuter@mywinterhaven.com*

Summary - Case Numbers P-24-30 and P-24-31

7.C **Case Number P-24-23- Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article VII, Section 21-439 relating to the submittal and review of engineered site plans**

Staff Contact: *Sean Byers, Planning Manager, sbyers@mywinterhaven.com*

Summary - Case Number P-24-23
Section 21-439 Revised language 6-25-2024

7.D **Case Number P-24-32- Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article III, Section 21-142 and Chapter 21, Article VIII, Division 3 relating the addition of language supporting the development of affordable housing and clean-up of existing language**

Staff Contact: *Sean Byers, Planning Manager, sbyers@mywinterhaven.com*

Summary - Case Number P-24-32

7.E **Case Number P-24-33- Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article II, Section 21-83, Article VI, Division 1, and Article VII, Division 5 for the purpose of revising language relating to permitting model homes and establishing a preliminary plat approval process**

Staff Contact: *Sean Byers, Planning Manager, sbyers@mywinterhaven.com*

Summary - Case Number P-24-33

8. Other Business

8.A **Comments from Staff**

8.B **Comments from Planning Commissioners**

8.C **Comments from the Public**

9. Adjournment

If a person decides to appeal any decision made by the Commission with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings, and that, for such purpose, they may need to ensure that a verbatim record of the proceeding is made which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105). In accordance with the Americans with Disabilities Act and Florida Statutes, Section 286.26, persons with disabilities needing special accommodations to participate in this proceeding, should contact the City Clerk's Office, 451 Third Street, NW, Winter Haven, Florida 33881, in writing, not later than 48 hours prior to the proceeding; if not in writing, then not later than four (4) days prior to the proceeding at (863) 291-5600. Vision or hearing impaired please call (800) 955-8771 for assistance.

CITY OF WINTER HAVEN
PLANNING COMMISSION MEETING MINUTES
June 4, 2024

1. **CALL TO ORDER**
Chair Wells called the meeting to order at 6:00 p.m.

2. **ROLL CALL**
Commissioners Present: Chair Colin Wells, Vice-Chair Wendy Venters, David Lane, Tina Summerlin, Craig Fuller, Mario Manago, Elizabeth Davis, and Ed Smith

Commissioners Absent: Jennifer Fasking

Mrs. Warren confirmed a quorum.

Staff Present:
Eric Labbe, Economic Opportunity & Community Investment Director; Heather Reuter, Senior Planner; Chris Young, Senior Planner; and Jordan Warren, Planning Assistant

3. **INVOCATION AND PLEDGE OF ALLEGIANCE**
Invocation and Pledge of Allegiance led by Chair Wells.

4. **APPROVAL OF MINUTES**
Chair Wells asked for a motion to approve the May 7, 2024 Planning Commission Meeting Minutes. Motion was made by Commissioner Lane for approval of the May 7, 2024 Planning Commission Meeting Minutes; Commissioner Smith seconded the motion. Motion carried by a unanimous voice vote. (8:0)

5. **EXPLANATION OF HEARINGS**

Chair Wells provided the explanation of hearings.

6. **HEARINGS – OLD BUSINESS**

A. Case Number P-24-22: Request by Landmark Investments, Inc. to amend Planned Unit Development Ordinance O-89-04. **General Location:** 800 Havendale Boulevard. The area covered by this request is 13.58± acres.

Mrs. Reuter gave an overview of the request via a slideshow presentation. Mrs. Reuter recommended approval of the request with conditions.

Chair Wells asked the Commissioners if there were any questions for staff.

Commissioner Lane questioned where the parking for the tenants would be located and what the minimum parking spaces needed would be for this development. Discussion ensued.

Commissioner Lane stated he lives in the area.

Commissioner Lane stated there are big trailers that enter and exit from Spring Lake Plaza and thinks there would be a problem with the addition of multi-family using the same access. He questioned what the New York State highway department has planned for the area and would like to see a report from the state highway on traffic in the area.

Commissioner Lane stated this request does not state if this is going to be a 55+ community or not which could add several hundred children living there.

Commissioner Lane stated his concern about the increase of traffic and questioned where the entrances for the multi-family development would be located. Discussion ensued.

Chair Wells asked for clarification that all parking requirements would have to be met during the site plan approval process. Ms. Reuter confirmed required parking would have to be demonstrated during site plan. Discussion ensued.

Commissioner Fuller questioned if the current PUD had any traffic calculations connected to its approval. Discussion ensued.

Chair Wells questioned if the requested portion of land had any existing structures or if it was open land. Discussion ensued.

Commissioner Fuller questioned if the neighboring parcel allowed for multi-family and if it is the same developer as this request. Discussion ensued.

Commissioner Fuller asked if this development could lead to redevelopment within the area. Discussion ensued.

Commissioner Lane questioned if the developer would have access to Lake Spring and if the tenants would have the ability to own a boat. Discussion ensued.

Commissioner Lane stated his concern of environmental impact to Lake Spring. Discussion ensued.

Chair Wells asked the Commissioners if there were any questions for staff. Seeing and hearing none, Chair Wells closed the regular meeting and opened the public hearing, asking anyone wishing to speak for or against this request to come to the podium, and if they have not yet done so, state their name and address for the record.

Jason Bullard of 324 New Broad Street, Orlando, FL and hereafter known as Agent Bullard stated the following:

- Requesting 100 units, but may not developed at the maximum allowed
- There will be a buffer created between Lake Spring and the development as there is an existing stormwater pond they plan to have remain
- No dock is currently in design, although it is permitted
- Proposed use is a reduction in impact to the area
- Stands for any questions

Commissioner Lane questioned if there is a need for condominiums in Winter Haven.

Agent Bullard stated this is request is for apartments not condominiums.

Chair Wells asked if there was anyone else wishing to speak for or against this request to come to the podium.

Bette Hoffman of 1776 6th Street NW, Apt. 806, Winter Haven, FL (the address listed is what is found in public records) and hereafter known as Citizen Hoffman stated the following:

- Refused to state her address for the record
- Concerned the developers are not stating if the proposed use would be low income
- Gave a history background of Landmark Investments and previous nightclub activity in the Spring Lake Plaza
- Concerned who her new neighbors will be
- Concerned about the traffic increase

Mrs. Reuter addressed the comments made and provided information of how the proposed PUD conditions would provide greater review of any drinking establishment wanting to open.

Chair Wells questioned if City staff sees this as Landmark attempting to improve the current PUD and what is permitted. Discussion ensued.

Chair Wells asked if there was anyone else wishing to speak for or against this request to come to the podium.

Michael and Deborah Griffin of 112 Mirror Lane, NW, Winter Haven, FL and hereafter known as Citizen Michael and Citizen Deborah stated the following:

- Questioned how many stories the buildings would be
- Traffic concerns on Highway 17 and Havendale Boulevard and traffic cutting through the shopping plaza
- Concerned about the multi-family already approved adjacent to this request
- Questioned where the entrances and exits would be located
- Questioned if there was a difference between a boat marina and a dock
- Concerned about children living on this lake with gators in the lake
- Concerned about the duck hunting issues on Lake Spring

Mrs. Reuter and Mr. Labbe addressed the comments made.

Chair Wells asked if there was anyone else wishing to speak for or against this request to come to the podium.

Deborah Anderson of 13th Street NW, Winter Haven, FL (citizen did not provide complete address) and hereafter known as Citizen Anderson stated the following:

- Lake Spring is a spring fed lake and worried about a dock being built

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- Was informed by some residents that this case was not properly noticed
- Would like to see houses not multi-family on this property
- She is speaking for four neighbors who could not attend
- Thinks this meeting should address lights and traffic concerns and not at the time of site plan approval
- Questioned if ADA requirements will be required

Chair Wells and Commissioner Fuller stated this request is a major reduction in capacity to what is allowed under the current PUD.

Mr. Labbe addressed the comments made regarding the timeline for reviewing traffic concerns in a development. Mr. Labbe stated ADA requirements would be met.

Mrs. Reuter stated for the record this case was properly noticed for the May 7, 2024 Planning Commission meeting, and at the properly noticed meeting, the Planning Commission took action to continue this case to the June 4, 2024 Planning Commission meeting.

Citizen Michael questioned if Agent Bullard knew if the developer planned to have condominiums, apartments, low-income, or 55+ community. Discussion ensued.

Chair Wells asked if there was anyone else wishing to speak for or against this request to come to the podium.

Marilyn Amaral of Kings Crossing, Winter Haven, FL (citizen did not provide complete address) and hereafter known as Citizen Amaral stated the following:

- Questioned when enough is enough development
- Does not see where the hospitals, schools, or roads are being improved
- Will not drink the water from her house
- Concerned with all the trees being cut down and global warming
- Concerned Florida will run out of water
- Concerned about traffic issues
- Growth within Florida is a high concern
- Current lack of ability to shop in Spring Lake Square Plaza

Commissioner Fuller gave examples of projects underway to support the growth.

Mr. Labbe addressed the comments made related to growth.

Chair Wells stated the revision in the current PUD allows for the City to have more say in what is allowed in Spring Lake Square Plaza.

Chair Wells asked if there was anyone else wishing to speak for or against this request to come to the podium. Hearing and seeing none, Chair Wells closed the public hearing and reopened the regular meeting.

Chair Wells asked if there were any other questions for commissioners.

Commissioner Manago questioned if the final site plan is made public. Discussion ensued.

Chair Wells asked if there were any other questions for commissioners. Hearing and seeing none, Chair Wells sought a motion for the case. Motion was made by Commissioner Manago to approve Case Number P-24-22 in accordance with the fact sheet and conditions stated. Commissioner Fuller seconded the motion. Motion carried by a voice vote (7:1) with Commissioner Lane opposing.

7. **HEARINGS – NEW BUSINESS**

A. Case Number P-24-06-S: Request by JSK Consulting for Special Use Approval for personal storage in the Commercial- Highway (C-3) zoning district. **General Location:** A portion of a parcel located at the southwest corner of the intersection of Eloise Loop Road, Thompson Nursery Road, West Lake Ruby Drive, and Coon Lake Road. The area covered by this request is 7.00± acres.

Mrs. Reuter recommended this case be continued to the July 2024 Planning Commission meeting.

Chair Wells sought a motion for the case. Motion was made by Commissioner Fuller to continue Case Number P-24-06-S to the July 2024 Planning Commission meeting. Commissioner Smith seconded the motion. Motion carried by a unanimous voice vote. (8:0)

B. Case Number P-24-07-S: Request by Rivercard, LLC for Special Use Approval for a banquet hall located in the Planned Unit Development (PUD) zoning district subject to PUD Ordinance O-24-01. **General Location:** 1977 and 1983 21st Street, NW. The area covered by this request is 0.05± acres.

Mrs. Reuter gave an overview of the request via a slideshow presentation. Mrs. Reuter recommended approval of the request.

Chair Wells asked the Commissioners if there were any questions for staff. Seeing and hearing none, Chair Wells closed the regular meeting and opened the public hearing, asking anyone wishing to speak for or against this request to come to the podium, and if they have not yet done so, state their name and address for the record.

Peter Carrerou of 1136 First Street South, Winter Haven, FL and hereafter known as Agent Carrerou stated the following:

- Excited to see what the tenants do
- Stands for any questions

Chair Wells asked if there was anyone else wishing to speak for or against this request to come to the podium, and if they have not yet done so, state their name and address for the record. Hearing and seeing none, Chair Wells closed the public hearing and reopened the regular meeting.

Chair Wells asked if there were any other questions for commissioners. Hearing and seeing none, Chair Wells sought a motion for the case. Motion was made by Vice-Chair Venters to approve Case Number P-24-07-S in accordance with the fact sheet. Commissioner Summerlin seconded the motion. Motion carried by a unanimous voice vote. (8:0)

C. Case Number P-24-08-S: Request by Bond Clinic, P.A. for Special Use Approval for an accessory pharmacy in a medical clinic in the Mixed Use (MX) zoning district. **General Location:** 500 East Central Avenue. The area covered by this request is 2.56± acres.

Mrs. Reuter gave an overview of the request via a slideshow presentation. Mrs. Reuter recommended approval of the request.

Chair Wells asked the Commissioners if there were any questions for staff.

Commissioner Manago questioned if the pharmacy was located inside Bond Clinic. Discussion ensued.

Chair Wells asked the Commissioners if there were any questions for staff. Seeing and hearing none, Chair Wells closed the regular meeting and opened the public hearing, asking anyone wishing to speak for or against this request to come to the podium, and if they have not yet done so, state their name and address for the record.

Ashely Scanlan of 500 East Central Avenue, Winter Haven, FL and hereafter known as Agent Scanlan stated the following:

- Wanted to come on the record to thank staff and the City
- Stands for any questions

Chair Wells asked if there was anyone else wishing to speak for or against this request to come to the podium. Hearing and seeing none, Chair Wells closed the public hearing and reopened the regular meeting.

Chair Wells asked if there were any other questions for commissioners. Hearing and seeing none, Chair Wells sought a motion for the case. Motion was made by Commissioner Manago to approve Case Number P-24-08-S in accordance with the fact sheet. Vice-Chair Venters seconded the motion. Motion carried by a unanimous voice vote. (8:0)

D. Case Number P-24-09-S: Request by Wellie Liao for Special Use Approval for a large scale drinking establishment in the Commercial- Downtown (C-1) zoning district. **General Location:** 254 West Central Avenue. The area covered by this request is 0.05± acres.

Mrs. Reuter gave an overview of the request via a slideshow presentation. Mrs. Reuter recommended approval of the request with conditions.

Chair Wells asked the Commissioners if there were any questions for staff.

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Chair Wells questioned if this location already had a Special Use approval granted. Discussion ensued.

Commissioner Fuller questioned if this was the same owner as Obscure Wine and if the business was moving locations. Discussion ensued.

Chair Wells asked the Commissioners if there were any questions for staff. Seeing and hearing none, Chair Wells closed the regular meeting and opened the public hearing, asking anyone wishing to speak for or against this request to come to the podium, and if they have not yet done so, state their name and address for the record. Hearing and seeing none, Chair Wells closed the public hearing and reopened the regular meeting.

Chair Wells asked if there were any other questions for commissioners. Hearing and seeing none, Chair Wells sought a motion for the case. Motion was made by Commissioner Manago to approve Case Number P-24-09-S in accordance with the fact sheet and conditions stated. Commissioner Smith seconded the motion. Motion carried by a unanimous voice vote. (8:0)

8. **Other Business**

A. Comments from Staff
- Mrs. Reuter asked the Commissioners about their availability for the next Planning Commission meeting in July.
- **Chair Wells made a motion to move July's Planning Commission meeting to July 9, 2024. Commissioner Manago seconded the motion. Motion carried by unanimous vote (8:0).**
- Mrs. Reuter stated for the record Case Number P-24-06-S which was continued to the July Planning Commission meeting would be heard July 9, 2024.

B. Comments from Commissioners – NONE

C. Comments from the Public – NONE

9. **Adjournment** – 7:09 p.m.

CITY OF WINTER HAVEN, FLORIDA
PLANNING COMMISSION

_____
Chair

ATTEST:

_____
Planning Commission Clerk

DRAFT

DATE: May 6, 2024

TO: Winter Haven Planning Commissioners

VIA: Eric Labbe, Economic Opportunity and Community Investment Director
Sean Byers, Planning Manager

FROM: Heather Reuter, Senior Planner

SUBJECT: Case Number P-24-06-S: Request by JSK Consulting for Special Use Approval for personal storage in the Commercial- Highway (C-3) zoning district. General Location: A portion of a parcel located at the southwest corner of the intersection of Eloise Loop Road, Thompson Nursery Road, West Lake Ruby Drive, and Coon Lake Road. The area covered by this request is 7.00± acres.

BACKGROUND

JSK Consulting, petitioner, requests the Planning Commission grant Special Use Approval for personal storage in the Commercial- Highway (C-3) zoning district. The subject property, totaling 7.00± acres, is a portion of a parcel generally located at the southwest corner of the intersection of Eloise Loop Road, Thompson Nursery Road, West Lake Ruby Drive, and Coon Lake Road. The petitioner proposes to develop the property with personal storage. Personal storage is permitted by Special Use Approval in the C-3 zoning district.

Based on the non-intensive nature of the proposed use, minimal impacts on supporting infrastructure are expected. Additionally, the use of property for personal storage represents a significant reduction in public infrastructure demands from the maximum potential commercial permitted by the C-3 zoning district. As this is a new development, a site plan review will be required and concurrency for water, sewer, and transportation will be determined at that time.

SURROUNDING USES

The subject property is surrounded by a church to the west; Winter Haven Fire Station No. 3 and a Dollar General store to the north across Eloise Loop Road; a retention pond and the Verandahs townhomes subdivision to the east across unimproved Coon Lake Road; and the Savanna Pointe single-family subdivision to the south.

NOTIFICATION

All notification requirements for this request were met.

CONCLUSION

Upon review of this request, the following conclusions have been reached:

- The development of the subject property for personal storage instead of other more intense uses permitted in the C-3 zoning district will decrease the demands on public infrastructure;

- Additionally, the proposed personal storage will be developed on the southern portion of the parcel, which will provide a buffer between the single-family residential to the south and the more intense C-3 uses which will be developed on the northern portion of the parcel; and

- The addition of personal storage on the subject property will support the developed or proposed residential units located within a short distance of the site, potentially reducing the number and length of vehicle trips onto the supporting roadway network.

RECOMMENDATION

Staff recommends the Planning Commission approve this request subject to the following conditions:

A. Design Standards.

1. Any covered canopy outdoor storage structures fronting Eloise Loop Road and/or Coon Lake Road shall have a solid façade along the frontage of the roadway as to appear similar to an enclosed storage building from the frontage.

2. The façade of the elevations of the enclosed buildings or covered canopy outdoor storage structures fronting Eloise Loop Road and/or Coon Lake Road, or located adjacent to the Savanna Pointe subdivision shall be designed in such a way as to appear to have alcoves, projections, and/or windows. Elevations for these buildings shall be submitted for approval to the Planning Division as part of the site plan review process. Where building projections are utilized, an encroachment into the building setback up to 3 feet shall be permitted.

3. The exterior façade of all enclosed buildings and covered canopy outdoor storage structures fronting Eloise Loop Road and/or Coon Lake Road, or located adjacent to the Savanna Pointe subdivision shall consist of either concrete, stucco, split-face masonry, brick, or vinyl/masonry siding mimicking wood siding. Interior facades may be of any material subject to compliance with Building Codes in effect at the time of permitting.

4. All pole-mounted lighting fixtures shall utilize full cut-off luminaires and utilize LED or equivalent energy efficient lighting technologies, positioned to shine onto the property, and meet illumination requirements contained in Section 21-144(l) of the Winter Haven Code of

Ordinances. All building-mounted light fixtures shall be shielded to prevent glare onto adjoining properties.

5. Outdoor uncovered storage shall not be permitted without the areas being screened by a building and a 6-foot opaque wall/fence. The use of chain-link fencing with screening material or inserted slats shall not be permitted.

B. Landscaping.

1. A minimum 10-foot landscape buffer shall be installed along the boundary with Eloise Loop Road and Coon Lake Road. The buffer shall contain, at a minimum, the following elements:

Type	Requirement
Understory Tree	Minimum 7 per 100 linear feet
Large Shrubs	Minimum 15 per 100 linear feet
Optional Fence/Wall	Maximum 6 feet in height, with column up to 7 feet in height

a. Required shrubs may be planted in clusters within the buffer.

b. If a fence shall be installed, the use of chain-link fencing shall not be permitted.

2. A minimum 10-foot landscape buffer shall be installed along the western and southern boundaries. The buffer shall contain, at a minimum, the following elements:

Type	Requirement
Overstory Tree	Minimum 3 per 100 linear feet
Understory Tree	Minimum 7 per 100 linear feet
Large Shrubs	Minimum 15 per 100 linear feet
Opaque Fence/Wall	Minimum 6 feet in height, Maximum 8 feet in height

a. Required shrubs may be planted in clusters within the buffer.

b. The use of chain-link fencing with screening material or inserted slats shall not be permitted.

c. Live oaks are not permitted as part of the overstory tree requirement.

3. The use of Florida Friendly plantings shall be required.

C. Signage.

1. Ground Signs.

   a. The development shall be limited to one (1) ground sign on the Eloise Loop Road frontage. The ground sign shall be a monument sign structure to not exceed eight (8) feet in height nor 80 square feet in area. Maximum sign copy shall not exceed 60 square feet. An electronic message center sign may be included with the sign provided that it does not exceed 33 percent of the sign copy area of the sign. Operation of the electronic message center shall only occur between the hours of 6:30 a.m. and 11:00 p.m. with changes between messages occurring no more frequently than once per ten (10) seconds. The sign shall be setback a minimum of three (3) feet from the property lines.

   b. The development shall be limited to one (1) ground sign on the Coon Lake Road frontage. The ground sign shall be a monument sign structure to not exceed five (5) feet in height nor 25 square feet in area. Maximum sign copy shall not exceed 15 square feet. An electronic message center sign is prohibited as a part of this sign. The sign shall be setback a minimum of three (3) feet from the property lines. This sign shall not be permitted until such time as Coon Lake Road is improved to the point of access from the subject property.

2. Wall Signs. The development shall be limited to 1.5 square feet of sign copy per linear foot of building frontage on Eloise Loop Road, up to a maximum of 65 square feet. Only northern facing wall signage shall be permitted.

D. Transportation.

1. A 6-foot sidewalk shall be installed along the development's frontage with Eloise Loop Road and a 5-foot sidewalk shall be installed along the development's frontage with Coon Lake Road unless precluded by an outside entity. Should the installation be precluded by an outside entity, the developer shall pay a fee in lieu of to be used for construction of sidewalks within the City of Winter Haven. The fee shall be the average cost for the required sidewalk width along the development's frontage as determined by the developer and the City at the time of site plan approval.

2. The developer shall dedicate sufficient right-of-way along Eloise Loop Road as determined by Polk County.

3. The developer shall dedicate sufficient right-of-way along Coon Lake Road to allow for 30 feet to centerline of the right-of-way.

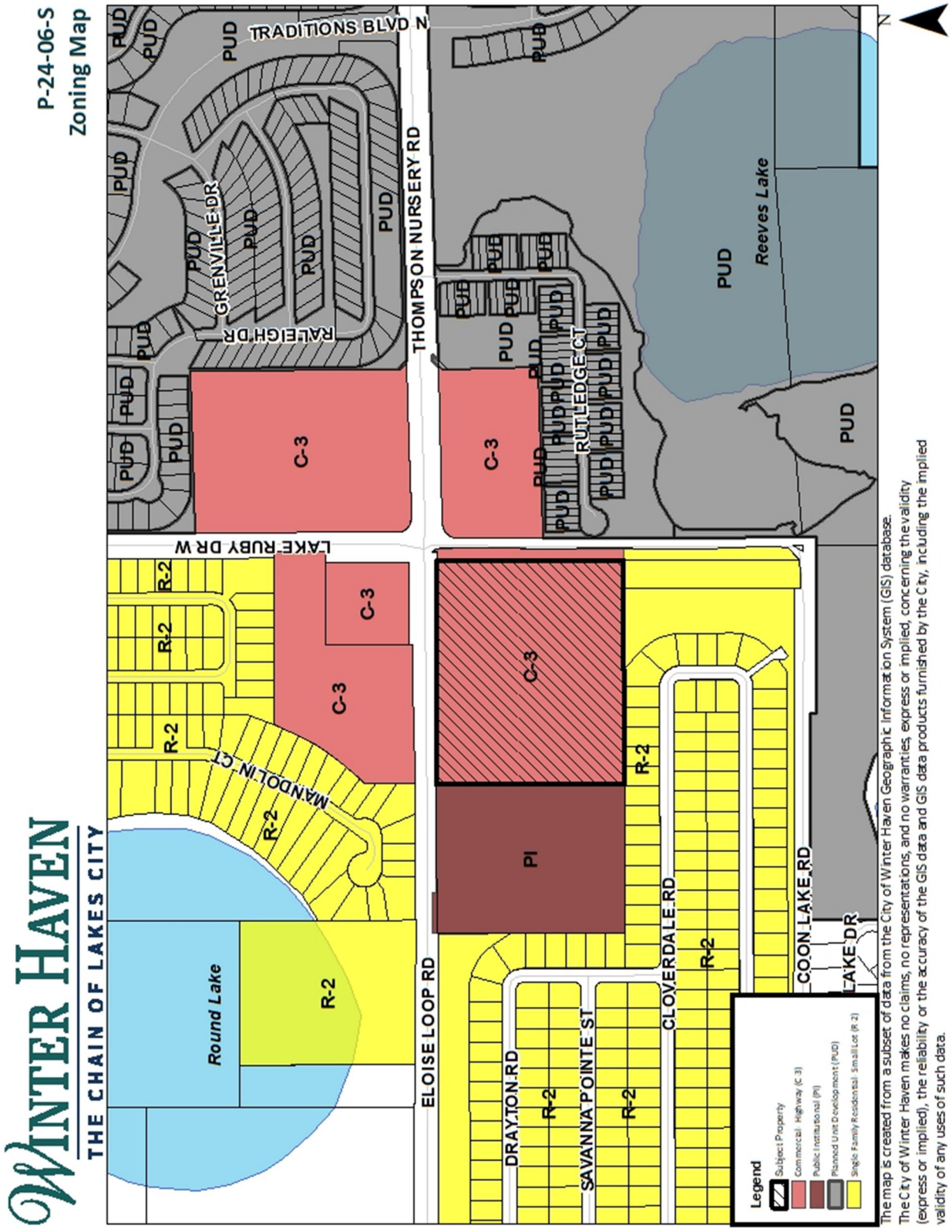
4. Access to the subject property shall be limited to Eloise Loop Road until such time as Coon Lake Road is improved to the point of access from the subject property.

E. All development shall be in general accordance with the attached conceptual plan; however; deviation from the conceptual site plan, including changes which may impact specific building configuration to address safety, design, technical, wetland, or permitting issues identified during formal site plan review may be permitted. The shown layout of buildings and infrastructure is for illustrative purposes.

F. All other code requirements not specifically addressed by this Special Use Approval shall apply.

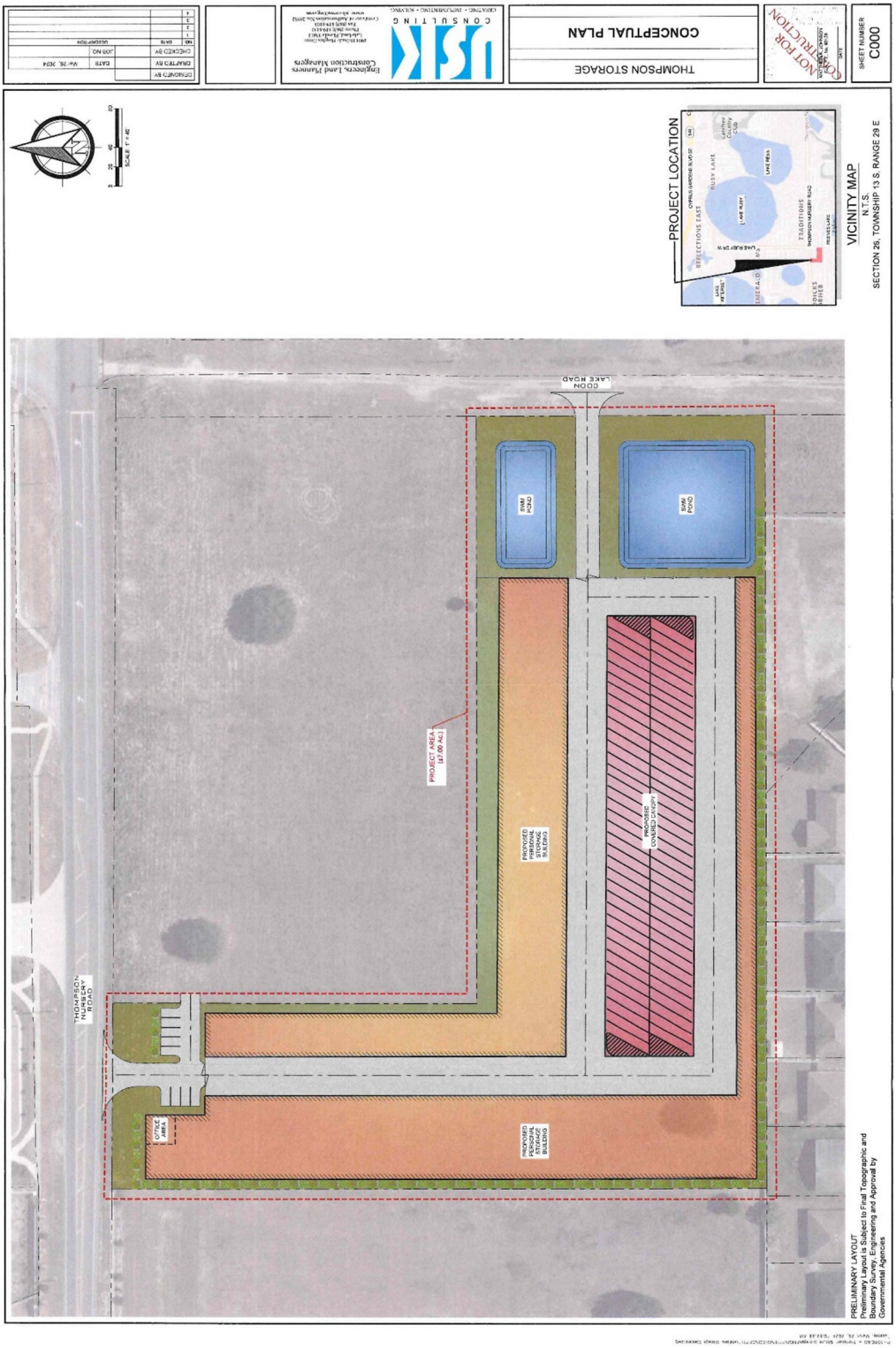
ATTACHMENTS

- Zoning Map
- Aerial Map
- Conceptual Plan


P-24-06-S
Zoning Map
TRADITIONS BLVD N
THOMPSON NURSERY RD
GRENVILLE DR
RALEIGH DR
RUTLEDGE CT
Reeves Lake
LAKE RUBY DR W
MANDOLIN CT
ELOISE LOOP RD
Round Lake
DRAYTON RD
SAVANNA POINTE ST
CLOVERDALE RD
COON LAKE RD
LAKE DR
PUD
C-3
PI
R-2
N
Legend
Subject Property
Commercial Highway (C-3)
Public Institutional (PI)
Planned Unit Development (PUD)
Single Family Residential Small Lot (R-2)
The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database.
The City of Winter Haven makes no claims, no representations, and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the City, including the implied validity of any uses of such data.


P-24-06-S
Aerial Map
WINTER HAVEN
THE CHAIN OF LAKES CITY
TRADITIONS BLVD N
GRENVILLE DR
RALEIGH DR
THOMPSON NURSERY RD
RUTLEDGE CT
Reeves Lake
LAKE RUBY DR W
MANDOLIN CT
Round Lake
ELOISE LOOP RD
DRAYTON RD
SAVANNA POINTE ST
CLOVERDALE RD
COON LAKE RD
HART LAKE DR
N
Legend
Subject Property
The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database.
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Conceptual Plan



DATE: June 21, 2024

TO: Winter Haven Planning Commissioners

VIA: Eric Labbe, Economic Opportunity and Community Investment Director
Sean Byers, Planning Manager

FROM: Heather Reuter, Senior Planner

SUBJECT: Case Number P-24-10-S: Request by Catherine Vega for Special Use Approval for a childcare facility in the Commercial- Downtown (C-1) zoning district. General Location: 236 Avenue D, SW. The area covered by this request is 0.28± acres.

BACKGROUND

On June 21, 2024, Catherine Vega, applicant, requested this item to be withdrawn from considereation.

RECOMMENDATION

Staff recommends the Planning Commission table this item.

DATE: June 17, 2024

TO: Winter Haven Planning Commissioners

VIA: Eric Labbe, Economic Opportunity & Community Investment Director
Sean Byers, Planning Manager

FROM: Heather Reuter, Senior Planner

SUBJECT: Case Number P-24-30: Request by Peterson and Myers, PA to assign Neighborhood Suburban Future Land Use to an annexed parcel. General Location: A parcel generally located north of Ware Avenue, NE and south of Lake Smart. The area covered by this request is 56.74 ± acres; and

Case Number P-24-31: Request by Peterson and Myers, PA to assign Multi-Family Residential- Low Density (R-3) zoning district to an annexed parcel. General Location: A parcel generally located north of Ware Avenue, NE and south of Lake Smart. The area covered by this request is 56.74 ± acres.

BACKGROUND

Shelton Rice requests the City assign Neighborhood Suburban Future Land Use and Multi-Family Residential- Low Density (R-3) zoning district to an annexed parcel. The parcel, totaling 56.74± acres, is generally located north fo Ware Avenue, NE and south of Lake Smart. The subject property currently consists of citrus groves. The parcel was annexed into the City April 8, 2024.

The petitioner proposes to develop the property at approximately 3.7 units per acre with 210 single-family residential units. Properties zoned R-3 and located in the Central Urban Core are permitted to be developed with up to 15 units per acre. However, when R-3 development standards, right-of-ways, stormwater requirements, and existing Duke Energy easements are considered, it would be unlikely for the subject property to be developed at the maximum permitted density.

As these requests contain a large-scale Future Land Use amendment, review by the Florida Department of Economic Opportunity (DEO) and other state and local agencies is required.

SURROUNDING USES

The subject property is surrounded by citrus groves to the east; Hilltop Church of Christ and single-family residential to the south; single-family residential to the west; and Lake Smart to the north. Additionally, around Lake Smart there are two townhome developments (Winter Ridge and Lake Point Landing) and one multi-family development (Villas at Lake Smart) with R-3 zoning designations.

INFRASTRUCTURE

The table below outlines the expected potential demands on the supporting infrastructure for the petitioner's proposed 210 single-family residential units.

Type of Infrastructure	Available Capacity	Vested Demands	Potential Demands	Remaining Capacity
Potable Water and Sewer (as of May 31, 2024)				
Potable Water	2,670,000 gpd	1,780,500 gpd	52,920 gpd	836,580 gpd
Sewer (WWTP 2)	595,000 gpd	175,500 gpd	46,305 gpd	373,195 gpd
Transportation (Background Data from Polk TPO)				
Martin Luther King Boulevard *Eastbound (PM Peak Hour)*	554 trips	39 trips	72 trips	443 trips
Martin Luther King Boulevard *Westbound (PM Peak Hour)*	542 trips	39 trips	75 trips	428 trips
Lucerne Park Road *Eastbound (PM Peak Hour)*	531 trips	152 trips	24 trips	355 trips
Lucerne Park Road *Westbound (PM Peak Hour)*	546 trips	159 trips	25 trips	362 trips

Based on the numbers in the table above, supporting water, sewer, and transportation infrastructure contain sufficient capacity to support the proposed development. Additionally, there is sufficient capacity to support the maximum theoretical demands under the requested designations. However, a final concurrency determination shall be made at the time the property receives site plan approval and is developed.

Public school availability is highly variable due to frequent changes in school enrollments over the course of a year; therefore, available capacity is determined by Polk County Public Schools at the time of final platting for subdivisions or upon final site plan approval for multi-family developments. Availability can be met by having capacity at the zoned schools or an adjacent zoned school as permitted under Florida State Statute. Based on the proposed 210 single-family units, up to 44 elementary, 18 middle, and 30 high school seats may be required.

COMPREHENSIVE PLAN

Prior to annexation, the Polk County Land Use for the subject parcel Residential Low-3 (RL-3) and Residential Low-1 (RL-1). The requested Neighborhood Suburban Future Land Use is consistent with the surrounding City uses and designations. The requested R-3 zoning district is consistent with the Neighborhood Suburban Future Land Use designation and the City designations to the north around Lake Smart.

NOTIFICATION

All notification requirements for these requests were met.

CONCLUSION

Staff's review of these requests yields the following conclusions:

- The assignment of Neighborhood Suburban Future Land Use and R-3 zoning district is consistent with surrounding uses and designations; and

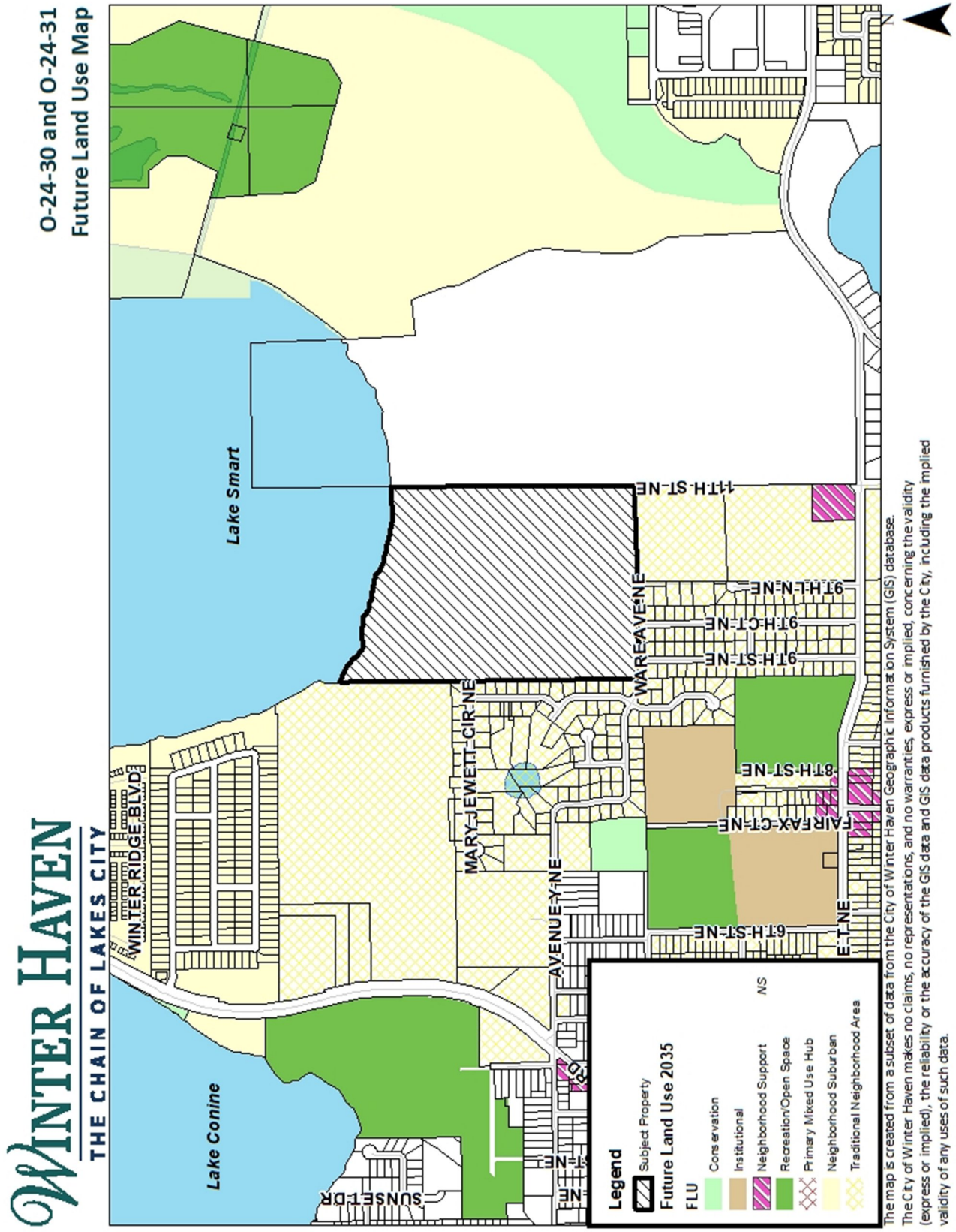
- There is sufficient public infrastructure capacity to accommodate the proposed development, as well as the maximum theoretical development, under R-3.

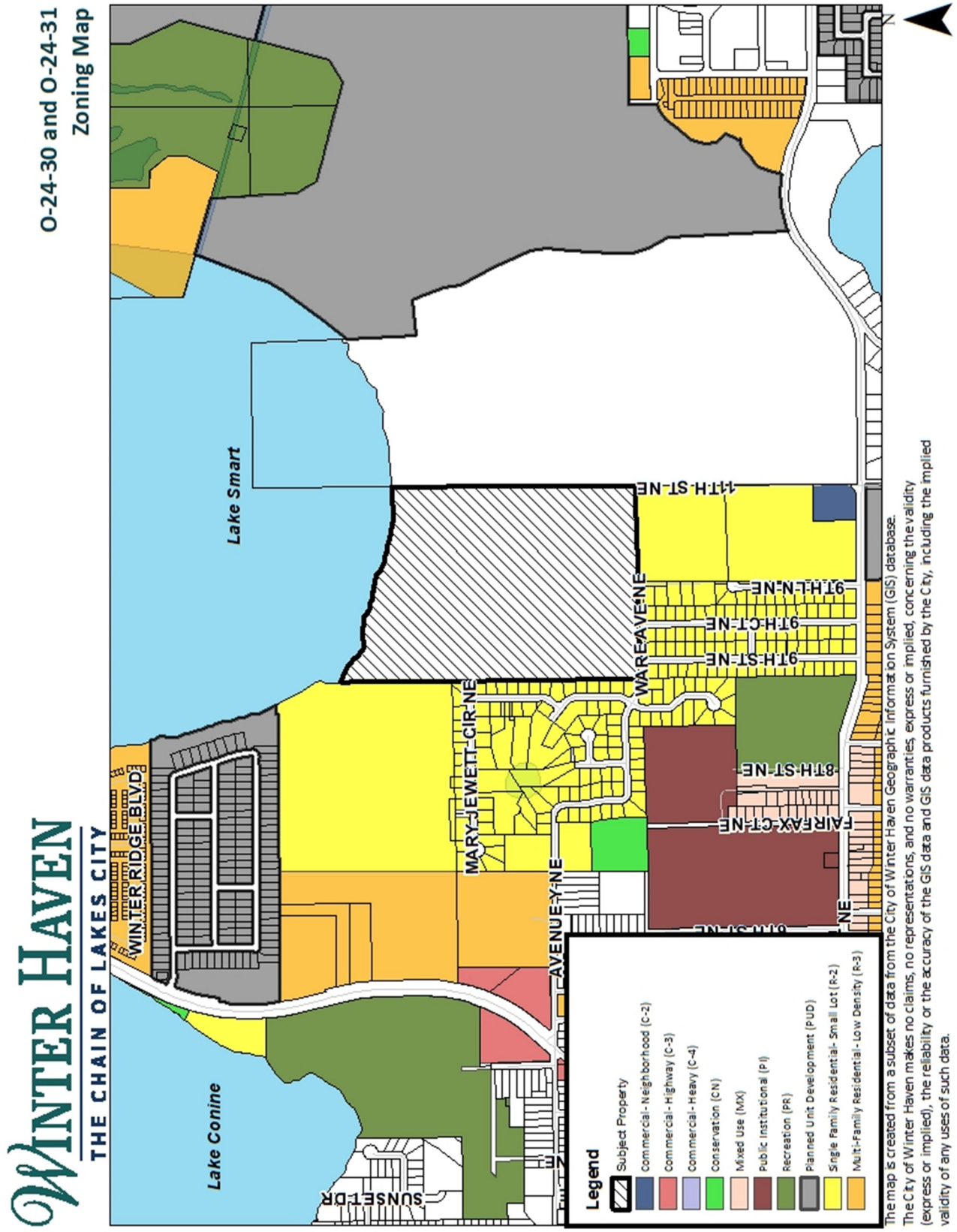
RECOMMENDATION

Staff recommends the Planning Commission recommend approval of these requests and their forwarding to the City Commission for final action.

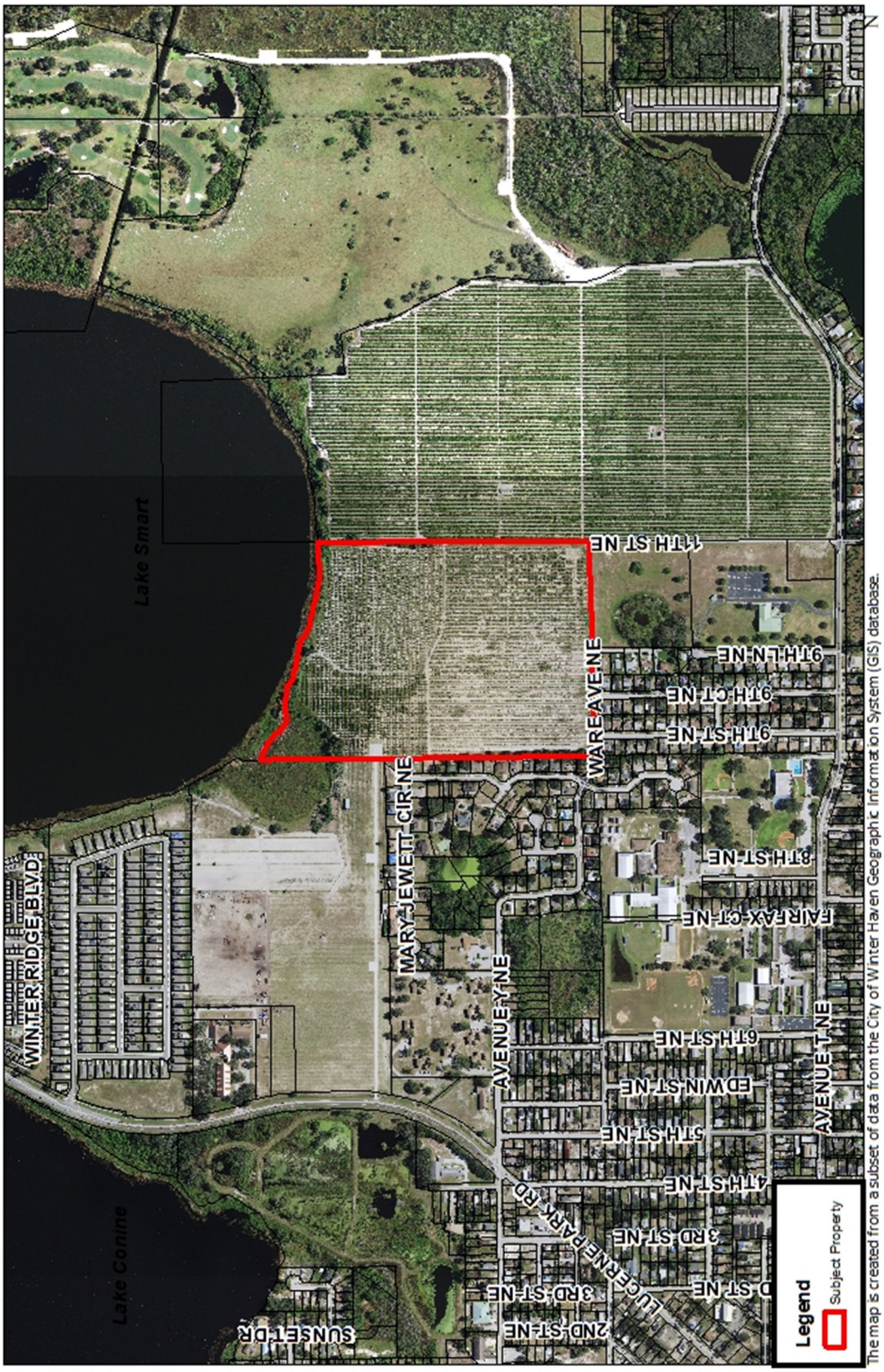
ATTACHMENTS

- Future Land Use Map
- Zoning Map
- Aerial Map
- Polk County Land Use Map


O-24-30 and O-24-31
Future Land Use Map
WINTER HAVEN
THE CHAIN OF LAKES CITY
Lake Smart
Lake Conine
WINTER RIDGE BLVD
MARY J EWETT CIR NE
AVENUE Y NE
WARE AVE NE
11TH ST NE
9TH LN NE
9TH CT NE
9TH ST NE
8TH ST NE
FAIRFAX CT NE
6TH ST NE
SUNSET DR
Legend
Subject Property
Future Land Use 2035
FLU
Conservation
Institutional
Neighborhood Support
Recreation/Open Space
Primary Mixed Use Hub
Neighborhood Suburban
Traditional Neighborhood Area
NS
The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database.
The City of Winter Haven makes no claims, no representations, and no warranties, express or implied, concerning the validity (express or implied), the reliability or the accuracy of the GIS data and GIS data products furnished by the City, including the implied validity of any uses of such data.

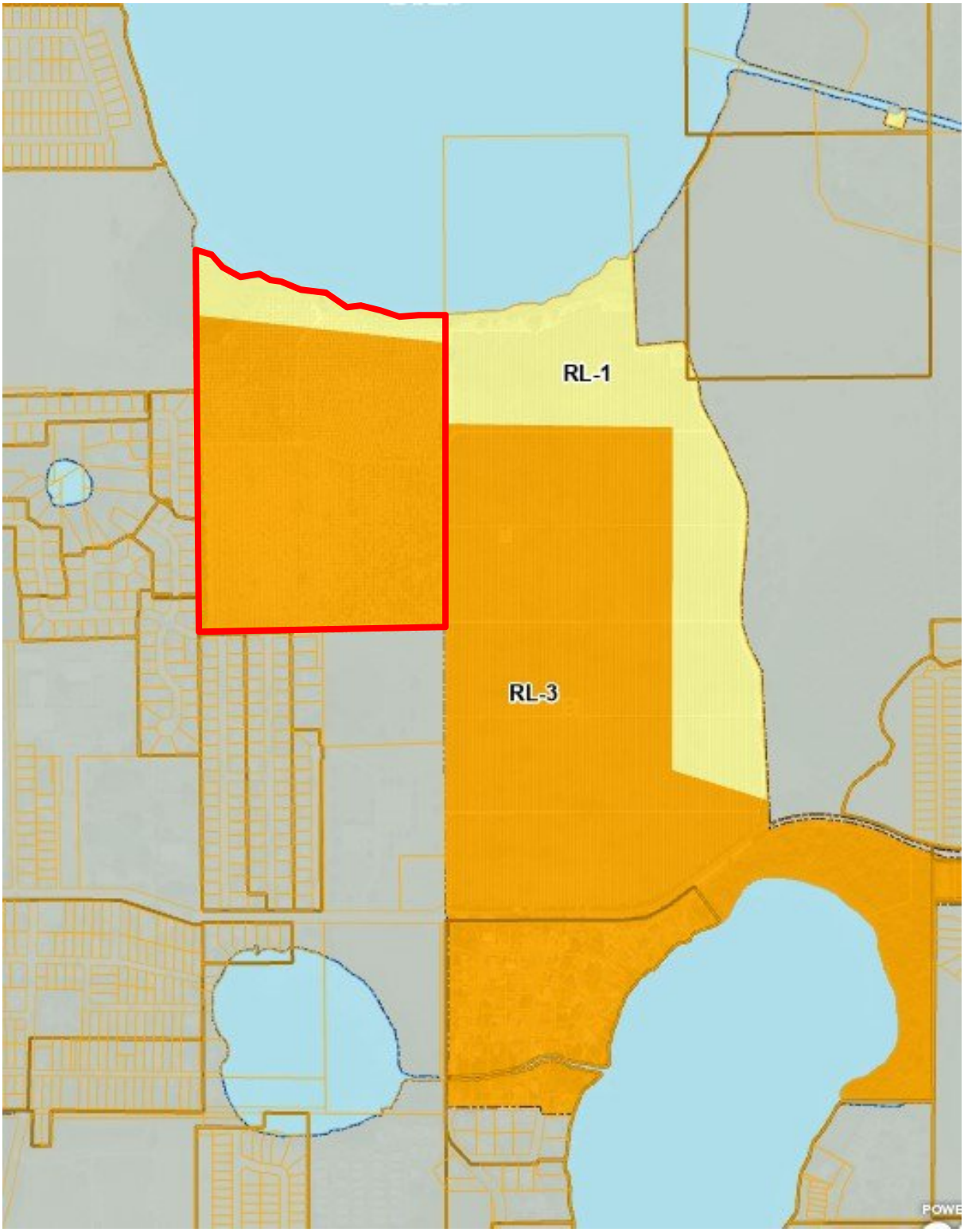

O-24-30 and O-24-31
Zoning Map
WINTER HAVEN
THE CHAIN OF LAKES CITY
Lake Smart
Lake Conine
WINTER RIDGE BLVD
MARY JEWETT CIR NE
AVENUE Y NE
WARE AVE NE
11TH ST NE
9TH LN NE
9TH CT NE
9TH ST NE
8TH ST NE
FAIRFAX CT NE
SUNSET DR
Legend
Subject Property
Commercial - Neighborhood (C-2)
Commercial - Highway (C-3)
Commercial - Heavy (C-4)
Conservation (CN)
Mixed Use (MX)
Public Institutional (PI)
Recreation (PR)
Planned Unit Development (PUD)
Single Family Residential - Small Lot (R-2)
Multi-Family Residential - Low Density (R-3)
The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database.
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O-24-30 and O-24-31
Aerial Map



The map is created from a subset of data from the City of Winter Haven Geographic Information System (GIS) database.
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Polk County Land Use Map



DATE: May 31, 2024

TO: Winter Haven Planning Commissioners

VIA: Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager
Christopher Young, Senior Planner

SUBJECT: Case Number P-24-23: Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article VII, Section 21-439 relating to the submittal and review of engineered site plans.

BACKGROUND

Site plans for commercial, industrial, and institutional projects have been required to be submitted to the City for review since the Landscape Ordinance was adopted in 1988. These early site plans were limited in scope, and generally focussed on landscape buffers and parking and driveway areas. Recognizing a need to conduct more detailed reviews and establish a formal site plan review process, Section 21-439 was formally adopted into the Land Development Code in 2001. In the mid 2000s, the City began review of site plans electronically through the ProjectDox software; however, the formal review process contained in Section 21-439 was never updated.

Given over 20 years has passed since the adoption of the City's formal site plan review process, and with the adoption of electronic review technologies, staff has determined a significant update to this Section is appropriate. Major modifications include:

- Definfing the four types of site plan reviews: Major, Minor, Less than Minor, and Utility Only;
- Eliminating requirements for hard copy site plan submittals;
- Adding minimum standards for prepration of the site plan;
- Increasing the length of time an approved site plan is valid from 12 months to 18 months, and providing an option for a single 12-month extension; and
- Addressing suspended and abandoned development projects.

NOTIFICATION

All public notification requirements for this request were met.

RECOMMENDATION

Staff recommends the Planning Commission recommend approval of this request, and its forwarding to the City Commission for final action.

ATTACHMENT

- Revised Section 21-439

New language is underlined in red and deleted language is ~~stricken through~~ in red. Relocated, unchanged language is underlined in black.

Sec. 21-439. - Site plans.

(a) *Intent and purpose.* ~~The s~~Site plan review ~~procedure~~ shall be required for specified residential and all nonresidential construction to ensure that all development and redevelopment projects meet the requirements of this Code prior to the issuance of a building permit. ~~It is the intent of this section that the site plan process be a part of the building permit application process, in that the site plan is the instrument by which improvements to the site will be constructed and inspected, and by which final inspection and certificate of occupancy shall be issued.~~ ~~However, t~~The building official may, at any time, accept and review building construction plans related to structural, mechanical, electrical and plumbing systems, subject to the condition that no permits may be issued prior to site plan approval.

There are four types of site plan review, each with its own set of review procedures. The four types are:

(1) *Less than Minor* being defined as a simple change in use of a property, which either has a current approved site plan or a site containing existing parking facilities and utility connections; or a multi-family use containing three (3) or four (4) dwelling units;

(2) *Minor* being defined as an expansion of a building, addition of a new use, or creation of additional on-site parking facilities;

(3) *Major* being defined as any new development on undeveloped property or the expansion or redevelopment of an existing use by more than 50 percent; and

(4) *Utilities Only* being defined as a review consisting only of water, sewer, or reuse utility projects.

(b) *Development requiring site plan approval.* Site plan approval shall be required prior to the issuance of a building permit for the following:

(1) An undeveloped parcel of land proposed for a ~~nonresidential~~ commercial, industrial, institutional, recreation use, ~~including hotels, motels, and RV parks~~ or any of these uses in combination with a residential use.

(2) An undeveloped parcel of land proposed for multi~~ple~~-family residential use of three (3) dwelling units or more, or a mobile home park.

(3) Assisted living facilities and group homes housing more than three (3) residents.

(4) Clubhouses or similar facilities built on common property within a subdivision.

(5) Division of an existing development site (such a division shall result in a new or modified site plan for previously existing development, in addition to a separate plan for new development).

(6) An expansion or reconfiguration of any of those types of development which are subject to site plan requirements by greater than ten percent (10%) of the total existing principal building(s) floor area; however, expansions less than ten percent (10%) of the total existing principal building(s) floor area which exceed 1,000 square feet in area shall be required to undergo a minor site plan review.

(7) A change in the use of an existing development site from one (1) land use category to another, as listed in Table 21-32(A).

(8) Any other type of development that the ~~planning director~~ Economic Opportunity and Community Investment Director determines to be appropriate for the site plan review process in order to protect the public health, safety and welfare.

For projects intended to be developed in phases, each phase of the development shall be submitted as a separate site plan for review.

(c) *Submission and review procedures.* ~~Five (5) copies of the site plan, or more if requested, and all necessary attachments shall be submitted to the planning director to initiate processing of the plan. All site plans must accurately show all relevant information about a proposed development to permit it to be reviewed against the requirements of this Code, and to provide a permanent public record as to the type and characteristics of development approved on the site.~~

~~(1) *Site plan preparation requirements.* All site plans shall meet the information and specification requirements established by the departments reviewing them.~~

~~The planning director shall maintain, and provide to each applicant, a specific checklist listing all written, graphic, and engineering information required for reviewing site plans for conformance with chapter 21. All the information on the checklist shall be required unless waived by the applicable department director.~~

~~In addition to~~ All Major, Minor, and Utility Only site plans, ~~addressing the Land Development Code, plans for road construction, grading, drainage, and utilities~~ at a minimum, shall be reviewed by the ~~e~~Engineering Division, Planning Division, Winter Haven Water Department ~~building,~~ and ~~f~~Fire Department ~~and other appropriate City departments~~. Other City Departments may be included in reviews as appropriate. Site plan reviews shall be conducted electronically through computer software obtained for use by the City. ~~A professional engineer registered in the State of Florida shall seal all site plans.~~

Prior to a site plan review commencing, the applicant shall pay review fees as established by resolution of the City Commission. Projects from the City, another governmental agency, or the Polk County School Board shall be exempt from paying site plan review fees.

(1) *Professional engineer.* All Major, Minor, and Utility Only site plans submitted for review and approval, shall be prepared by or under the supervision of a professional engineer registered in the State of Florida. The professional engineer shall sign and seal all site plans.

(2) *Survey required.* All major, minor, and utility only site plan submittals shall be accompanied by a signed and sealed survey prepared within the last three (3) years by a professional surveyor licensed in the State of Florida.

(3) *Required information.* All site plans submitted for review shall contain, at a minimum, the following information:

a. Site plan name;
b. Project location, parcel identification number(s), and legal description;
c. Description of project;
d. Parcel size;

e. Square footage of proposed commercial, institutional, or industrial buildings, number of lots, or number of residential dwelling units;
f. Height, expressed in feet and floors, for all proposed buildings and structures (excluding single-family structures);
g. Current Future Land Use designation;
h. Current Zoning designation;
i. Total impervious surface area expressed in square feet and broken down by building area square feet and parking and driveway area square feet;
j. Number of required parking spaces and number of provided parking spaces;
k. All existing and proposed utility or drainage easements;
l. Any 100-year floodplain or jurisdictional wetland lines with elevations;
m. Locations and number of dumpsters; and
n. Landscaping

(4) *Site Plan Drawings*. All site plan drawings shall adhere to the following standards:

a. All dimensions shown on the site plan shall be shown in feet and decimal fractions to the nearest one-hundredth and all bearings in degrees to the nearest minute; and

b. All site plans shall be drawn to one of the following scales:

1-inch equals 10 feet
1-inch equals 20 feet
1-inch equals 30 feet
1-inch equals 40 feet; or
1-inch equals 50 feet

c. Multiple sheets. When a site plan consists of multiple sheets, the first sheet shall contain an index listing all of the included sheets.

d. Page size. All site plans shall be prepared in a manner to allow printing at the following dimensions:

11 inches x 17 inches
24 inches x 36 inches

Plans submitted for final approval and stamping shall be 24 inches by 36 inches.

(5) *Concurrency Review.* All site plans shall be reviewed to ensure water, wastewater, transportation, and public school capacity is available.

a. Water, Wastewater, and Transportation Facilities.

A binding concurrency application shall be submitted as part of all major, minor, and utility only site plan reviews except those for residential developments requiring a subdivision plat. For those residential developments requiring a subdivision plat, a non-binding concurrency application shall be provided.

b. Public School Facilities.

For all residential developments which do not require a subdivision plat, a binding letter, or similar document, issued by the Polk County School Board indicating available public school capacity shall be submitted. For all residential developments requiring a subdivision plat, a non-binding letter, or similar document, issued by the Polk County School Board indicating available public school capacity shall be submitted.

Non-residential projects are exempt from providing documentation regarding available public school facilities.

(~~2~~6) *Completeness of plans.* Completeness of site plans shall be determined within ~~five~~ seven (~~5~~7) days by the ~~planning director~~ Economic Opportunity and Community Investment Director, or his/her designee, and if complete shall be released for staff review pursuant to paragraph (3) below, and a completeness letter shall be issued to the applicant.

Where the proposed development involves only the expansion of existing structures, or the construction of minor accessory structures, the ~~planning director~~ Economic Opportunity and Community Investment Director, or his/her designee, may reduce or waive certain criteria, data, or other submission requirements upon consultation with the City Engineer. ~~as appropriate provided that the following conditions are met:~~

~~a. No existing structure will be expanded by more than twenty (20) percent of its total floor area and/or seating.~~

~~b. No proposed accessory structure will be constructed which will exceed ten (10) percent of the floor area of the principal structure, or two hundred (200) square feet, whichever is less.~~

~~c. No change in the existing use of the site is proposed.~~

~~d. No existing nonconforming use would be expanded, and all other aspects of the site are in conformity with the requirements of this Code.~~

~~e. The development site will not be reduced in size.~~

(~~3~~7) *Staff review of site plans.*

a. ~~The planning director and other appropriate~~ ~~m~~Members of City staff, as identified by Section 21-439(c), shall review the site plan with specific regard to the codes and ordinances of the City of Winter Haven, and either approve the site plan or deny the site plan and provide written comments to the applicant. Review times for site plan review cycles shall be established by the Economic Opportunity and Community Investment Director. ~~As part of the review process, a pre-application conference may be scheduled at the applicant's request in accordance with section 21-341. The staff review shall identify matters of development policy concern to which the developer shall address particular attention.~~

~~(4)~~ b. Revised plans. After receiving staff review comments, the applicant shall resubmit to the ~~planning director~~ Economic Opportunity and Community Investment Director, or his/her designee, revised site plans in which all concerns of the staff have been addressed. Subsequent site plan reviews shall follow the same review process as set forth by Section 21-439(c)(5). Should a site plan not receive approval after the third review submittal, a mandatory meeting with the City's Development Review Committee shall be required prior to making submittal for the fourth review, and any necessary subsequent reviews. The City Engineer may waive this meeting requirement upon receipt of a written request by the applicant. ~~At the planning director's discretion, the revised plans may be~~

~~considered at a second pre-application conference. City staff members shall submit comments individually to the planning director.~~

(8) *Affordable Housing Projects*. Site Plan reviews for affordable housing projects, as defined by Chapter 163.3177(6)(f)(3), shall be marked as "Affordable Housing," and prioritized for immediate review. Site plan review fees for designated Affordable Housing shall be waived or reduced in accordance with the following:

a. If one-hundred percent (100%) of the proposed units meet the definition of affordable, all site plan review fees shall be waived.

b If a minimum of sixty percent (60%) of the proposed units meet the definition of affordable, seventy-five percent (75%) of all site plan review fees shall be waived.

c. If up to sixty percent (60%) of the of the proposed units meet the definition of affordable, fifty percent (50%) of all site plan review fees shall be waived.

(d) *Approval of site plans.* When all staff comments have been adequately addressed, and all applicable City, state and federal regulations have been met, ~~the applicant may request~~ a ~~d~~*Development* ~~a~~*Approval* ~~c~~*Certificate* from the ~~planning department under the provisions of paragraph (i)~~ Economic Opportunity and Community Investment Department will be issued.

(1) Upon approval of a site plan, four (4) hard copy sets of the complete, approved site plan shall be submitted for stamping.

(2) No building permit shall be ~~granted~~ issued until such time as *a* ~~d~~*Development* ~~a~~*Approval* ~~c~~*Certificate* has been issued by the ~~p~~Planning ~~department~~ Division.

(3) All building and construction permits issued for any project requiring site plan review shall be consistent with the approved site plan and ~~d~~*Development* ~~a~~*Approval* ~~c~~*Certificate*. These approvals shall not under any circumstances be construed to waive or otherwise diminish the applicable City requirements for construction or installation of structures or materials. Whenever a conflict between the site plan and such construction details occurs, the more restrictive or that requiring the higher standard shall prevail.

(4) Approved site plans shall remain valid for a period of ~~one~~ eighteen (18) ~~year~~ months after final approval. A building permit must be obtained or horizontal site work must begin during that time. A single extension of the site plan approval, of up to twelve (12) months, may be granted by the Economic Opportunity and Community Investment Director upon receipt of a written request to extend the site plan approval no later than thirty (30) days prior to expiration of the site plan.

(e) *Modification of site plans.* Any modification, variation or adjustment of an approved site plan shall require ~~approval~~ resubmittal of ~~a~~ the site plan ~~amendment~~ for a minor review. Any such amendment shall be consistent with all applicable provisions of this Code and shall be reviewed, as appropriate, ~~by the planning, engineering, fire and building departments~~ following the same review process as set forth by Section 21-439(c).

Upon approval of any ~~amendment~~ revision to a site plan, the ~~planning directo~~r Economic Opportunity and Community Investment Director, or his/her designee, shall stamp and date the most recent version of the site plan, showing the approved change, and mark all previous copies as "void."

(f) *Integration ~~of~~ with other review procedures.* Any on-site or off-site work required as part of an approved site plan ~~to~~ that will be ~~built~~ constructed in stages or which ~~requiring~~ requires a variance or special use approval, shall be coordinated as set forth below:

(1) *Site ~~D~~development ~~built~~ constructed in stages.* The applicant shall submit a proposed ~~stage~~ construction staging plan, including a schedule for completion of all improvements for any development where site work will not be constructed as a single stage. This plan shall be logical and consistent with the purposes of this Code and the approved site plan, and at a minimum, shall address site grading, erosion control, stormwater management, internal traffic circulation, utility connections, and any other design elements required by the City Engineer. Once a ~~stage~~ construction staging plan has been approved, no land may be used and no building may be occupied except in accordance with such plan. ~~At the planning director's discretion, a new site plan may be required for each successive stage of the development.~~

~~Stage configurations shall be logical and consistent with the purposes of this Code.~~ When necessary to ensure timely completion of same and to effectuate the intent of this Code, the ~~planning director~~ Economic Opportunity and Community Investment Director, or his/her designee, may stipulate that any or all portions of

the required utility connections and extensions, landscaping, bufferyards, parking, drainage or erosion control facilities be provided during the first construction stage of development, even though portions thereof may lie outside the stage. Each stage, at a minimum, must include adequate utilities, parking, drainage facilities, landscaping, and all other features needed to serve that portion of the development.

(2) *Off-site improvements.* Where the applicant ~~has agreed~~ is required to provide off-site improvements, such as traffic signals, turn lanes, sidewalks, easements, right-of-way, and ~~sewer~~ utility lines, the ~~planning director~~ Economic Opportunity and Community Investment Director, or his/her designee may require such improvements to be in place upon completion of any stage of the development, when necessary to ensure timely completion of same and to effectuate the intent of this Code. No Certificates of Occupancy (CO) or Temporary Certificates of Occupancy (TCO) shall be issued until any off-site improvements required by an outside agency have either been completed and accepted by the appropriate agency or that agency provides written consent to allowing the issuance of a CO or TCO.

~~Prior to approval for construction of any one (1) stage, an engineering stage plan shall be submitted to and approved by the City Engineer. This plan shall address site grading, erosion control, stormwater management, internal traffic circulation, and any other design elements required by the City Engineer.~~

(~~2~~3) *Variances.* Those developments requiring the granting of a variance by the Development Special Magistrate from a regulation of this Code in conjunction with site plan review shall have the appropriate request acted upon by the Development Special Magistrate. This shall include existing development sites, proposed for expansion or reconfiguration, which are nonconforming to any requirement of this Code. The site plan may be reviewed concurrently with review and action on the variance request, but the site plan shall not be approved until the variance has been approved.

(~~3~~4) *Special Use Approvals.* For developments requiring Special Use Approval, a request for such approval shall be submitted to the Planning Commission and shall be approved prior to final approval of the site plan. A site plan and a special use approval request may be processed concurrently.

(g) ~~*Noncompliance*. Failure to comply with an approved site plan, or any of the conditions of such approval, shall be cause to deny issuance of a development approval certificate or, where such a certificate has been issued, to render such development approval certificate invalid. Any action, construction, development or use of property undertaken in violation of the approved site plan, and any provisions of this section, shall constitute a violation of this Code and may be subject to a stop work order issued by the building official.~~

Development site to be unified

.

(1) *Internal division of ownership.* Except as provided in this section, the development site shall remain unified by title under one (1) owner, or by multiple owners holding a percentage interest in the site as a whole. Where a development site consists of two (2) or more existing lots under the same ownership, these shall be viewed as a single property. Any future subdivision of such property shall comply with this section and other applicable provisions of this Code.

Where spatial division of ownership within a development site is proposed, the owners of all component properties shall accept the following conditions in receiving site plan approval:

a. No individual property will be used or developed in any way which is not consistent with the approved site plan.

b. Development rights on each parcel are combined with those of the balance of the development site, and no separate development proposals will be considered by the City unless the development site can be divided in accordance with the provisions of this Code.

c. No parcel of land within a development site shall be subdivided, sold or otherwise conveyed for the purpose of new development which is not authorized under the approved site plan.

All owners of property within the development site shall authorize one (1) person, designated as the applicant, to represent them collectively with City officials regarding all matters related to the site plan and development site.

(2) *External ownership.* When the development site is part of a larger parcel of property, of which a portion is not intended to be included within the site plan, this

unused area shall become a separate lot meeting any relevant size and dimensional requirements of the code.

(3) *Development site to be complete.* Generally, the development site shall be designed to provide all required amenities and facilities, including bufferyards, landscaping, parking and stormwater retention. Required features shall not be located off site or on adjacent properties which are leased, rented, or otherwise proposed for use on an informal basis. However, off-site parking may be allowed under the provisions of section 21-143. Drainage and retention facilities may be waived or located off site with the approval of the City Engineer in accordance with section 21-161.

(4) *Division after approval.* No development site, once granted site plan approval, shall be divided except through the site plan amendment process established in paragraph (e).

(h) *Construction Activities.* Upon approval of a site plan, issuance of all other required permits from agencies with jurisdiction, and commencement of construction activities, site work is expected to proceed in accordance with acceptable industry standards until completion.

(1) Suspension of Construction Activities by the Developer. Should the developer of a project subject to an approved site plan stop construction activities for a period of six (6) months or greater from the last inspection date, the developer shall comply with the following requirements prior to resuming construction on the project:

a. Schedule a meeting with the City Engineer, or his/her designee;
b. Payment of Engineering re-inspection fees
c. Removal of any pressure pipe, which has been installed and remained unpressurized for a period exceeding nine (9) months, and replaced with new pressure pipe.

(2) Abandonment of Development Project. Any project where there have been no construction activities for a period of eighteen (18) months from the last inspection date shall be deemed abandoned. Upon a project being declared abandoned, the Economic Opportunity and Community Investment Director shall provide notice to the applicant and engineer of record stating that the project has been declared abandoned.

a. Abandoned projects shall require a new site plan be submitted for review prior to resuming construction on the project.

b. All water, wastewater, and transportation capacity reserved for the project shall be voided and designated as capacity available for all developments.

c. Should no response be received from the project's applicant within three (3) months of being notified their project has been declared abandoned, the site, at a minimum shall be stabilized and restored to prevent erosion and sediment from leaving the development site.

(i) ~~*Development aApproval cCertificates.* No development permitted under this Code, including accessory uses, may be established and no existing building shall be altered with respect to its use until a development approval certificate (DAC) has been issued by the planning department. However, single-family and duplex development shall be exempt from this requirement.~~

~~Issuance of a DAC indicates that the proposal meets all applicable requirements of this Code, as well as other standards and regulations administered by the City. Accordingly, it shall contain an indication of approval by all relevant City departments, including, but not limited to, planning, engineering and fire.~~

~~Where the proposed development consists of the renovation or reconfiguration of an existing site such that no new site plan is required under paragraph (b), the DAC may indicate such information. However, this shall not constitute an exemption from any review by the building, engineering and fire departments which may be required under other regulations.~~

~~Nothing herein shall relieve any applicant of the responsibility of seeking any additional permit required by applicable regulations of the City of Winter Haven, Polk County, the Southwest Florida Water Management District, or the State of Florida.~~

Enforcement. Failure to submit a required site plan or comply with an approved site plan, or any of the conditions of such approval, shall be ~~cause to deny issuance of a development approval certificate or, where such a certificate has been issued, to render such development approval certificate invalid~~ subject to enforcement through procedures adopted by the City's Safe Neighborhoods Division in coordination with the City Engineer; however, the City Engineer shall have the authority to issue a stop work

order for any development activities occurring without an approved site plan or not in accordance with an approved site plan. ~~Any action, construction, development or use of property undertaken in violation of the approved site plan, and any provisions of this section, shall constitute a violation of this Code and may be subject to a stop work order issued by the building official.~~

~~(j) *Procedures.* Prior to requesting a building permit from the building official, the applicant shall contact the planning department to obtain a DAC for the proposed development. In evaluating the request for a DAC, the planning department shall determine that:~~

~~(1) The project has a valid site plan meeting the requirements of paragraph (c) which has been reviewed and approved by all relevant City departments; or, no site plan is required under paragraph (b).~~

~~(2) All comments and issues raised by City staff during the review process have been fully addressed by the applicant and revised copies of the site plan have been provided as needed to City officials.~~

~~(3) The project meets adopted level of service standards established in the Comprehensive Plan and complies with the requirements of article 6, division 1, (Concurrency Management) of this Code.~~

~~Upon issuing a DAC, the planning department shall place an "Approved" stamp on the most up-to-date revision of the site plan. The applicant shall provide no less than six (6) copies of this site plan, all of which shall be stamped "Approved," and a copy of the DAC shall be attached to each. Copies of the DAC and final site plan shall be filed in the offices of the planning, engineering, building, and fire departments. An additional copy shall be given to the applicant for his/her records.~~

~~All building permits shall be consistent with the final version of the site plan attached to the DAC. Any alternate or previous versions of the site plan shall be deemed invalid after a DAC is issued. Changes in site layout or in any element of the site plan shall require a new or amended DAC, to be approved by the planning department.~~

~~The DAC shall become void upon expiration of site plan approval under paragraph (d).~~

DATE: May 30, 2024

TO: Winter Haven Planning Commissioners

VIA: Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager

SUBJECT: Case Number P-24-32: Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article III, Section 21-142 and Chapter 21, Article VIII, Division 3 relating the addition of language supporting the development of affordable housing and clean-up of existing language.

BACKGROUND

The Sadowski Affordable Housing Act as approved by the Florida Legislature and codified as Chapter 420.9076 (2) of the Florida Statutes requires the development of an Affordable Housing Incentive Plan by all local governments electing to participate in the housing production and preservation initiatives authorized by the Act. In preparing the Incentive Plan, the City's Affordable Housing Advisory Committee is required to review eleven affordable housing incentives identified by the State of Florida, and adopt those relavent to Winter Haven. The eleven incetives identified by the State are:

A. Expedited permitting (Mandatory incentive)
B. All allowable fee waivers provided for development of construction of affordable housing (Adopted locally)
C. Density flexibility
D. Reservation of infrastructure
E. Accessory dwelling units (Adopted locally)
F. Parking and setback reductions
G. Flexible lot configuration
H. Street requirements mofifications
I. Ongoing review of Policies, Procedures, Ordinances, and Regulations (Mandatory incentive)
J. Inventory of public land suitable for affordable housing (Adopted locally)
K. Support of development near transportation hubs, job centers, and mixed use development

The *2035 Winter Haven Comprehensive Plan* contains goals, objectives and policies relating to the provision of affordable housing in the City. Specifically, Housing Element Policy 2.1.2 addresses elimination of financial and regulatory barriers to private sector construction of affordable housing; and,

Housing Element Policy 2.2.3 addresses streamlined review and permitting for devlopers committing to construction of 10 percent of their units as affordable.

To implement the affordable housing strategies adopted in the Incentive Plan and the *2035 Winter Haven Comprehensive Plan*, certain portions of Chapter 21 of the Code of Ordinances need to be updated.

Major modifications include:

- Revising Section 21-142 to establish a reduced parking requirement of 1.5 parking spaces per unit for developments containing affordable housing and capping the maximum number of required bicycle spaces;

- Revising Section 21-461 relating to the Planning Commission to update the language relating to the appointment of members and procedures;

- Revising Section 21-462 to update the language addressing the appointment of the Development Special Magistrate and timeline to submit applications; and

- Adding Section 21-464 to address expedited review and fee waivers for development projects containing affordable housing.

NOTIFICATION

All public notification requirements for this request were met.

RECOMMENDATION

Staff recommends the Planning Commission recommend approval of this request, and its forwarding to the City Commission for final action.

ATTACHMENTS

- Revised Section 21-142
- Revised Article VIII, Division 3

Revised Section 21-142

New text is underlined in red and deleted text is ~~stricken through in red~~.

Sec. 21-142. - Number of spaces.

(a) In all zoning districts, unless exempted or modified by this section, off-street parking shall be provided as set forth in Table 21-142A. Table 21-142A establishes minimum requirements necessary. Certain combinations or mixes of uses may require additional off-street spaces to be provided and may require the submittal of an alternative parking analysis acceptable to the growth management director.

Table 21-142A Required Number of Parking Spaces

Land Use and/or Building Type		Required Spaces	Unit of Measure*
Residential and Group Care Uses			
Single-family		2.0	Per dwelling unit
Duplexes		2.0	Per dwelling unit
Multi-family	Low and mid-rise (Up to 6 floors)	1.7	Per dwelling unit
	High-rise (over 6 floors)	1.5	Per dwelling unit
	Senior citizen	1.1	Per dwelling unit
	Affordable Housing (As defined by Chapter 163.3177(6)(f)(3) F.S.)	1.5	Per dwelling unit
Assisted living facility		0.7	Per 1,000 square feet; or
		0.5	Per bed
Boarding House		1.0	Per Room plus 2 spaces for resident manager
Hospital		2.0	Per bed
Nursing Home		0.7	Per bed
Commercial Uses			
Auto, boat, or truck establishments; paint/body shop; repair shop; dealership		5.0	Per 1,000 square feet
	Bowling alley	5.0	Per lane
	Putt-putt golf	1.0	Per hole

Entertainment or Recreational Uses	Theaters, freestanding		0.3	Per seat
	Recreation clubs (golf, yacht, etc.)		5.0	Per 1,000 square feet; or
			6.0	Per hole + 1 per 200 square feet
	Event Venue		4.5	Per 1,000 square feet; or
			0.3	Per seat
Lodging	Bed and Breakfast Inn		1.0	Per Room plus 2 spaces for owner
	Hotel/motel	Rooms	1.25	Per room
		Restaurant	0.2	Per seat
Office	Bank or Financial Institution		2.5	Per 1,000 square feet
	Medical, dental, optical, chiropractor		3.0	Per 1,000 square feet
	Medical clinic (Three or more medical fields)		4.0	Per 1,000 square feet
	Professional office	Up to 2,000 square feet	2.5	Per 1,000 square feet
		Over 2,000 square feet	3.0	Per 1,000 square feet
Personal Services	Beauty Salon/Barber Shop/Nail Salon		2.25	Per chair
	Dry cleaning drop-off		3.0	Per 1,000 square feet
	Laundromat		0.5	Per washing machine plus 1.0 per employee.
Restaurant	Without Bar/lounge		0.4	Per seat
	With Bar/lounge		0.5	Per seat
	Fast Food		0.5	Per seat plus .5 per shift employee
	Walk-up/pick-up only (fewer than 10 seats)		4.0	Per 1,000 square feet
Alcoholic Beverage Establishment	Drinking Establishments Nightclubs Bottle Clubs & Banquet Halls		1.0	Per 70 square feet of gross floor area
Retail	Building materials establishments/ Home Improvement Centers		3.2	Per 1,000 square feet

	Convenience Store	With fuel sales	8.0	Per 1,000 square feet (fuel stations may count as a space)
		Without fuel sales	5.0	Per 1,000 square feet
	Furniture store/ Appliance store		1.5	Per 1,000 square feet
	Retail Sales (up to 5,000 square feet)		3.0	Per 1,000 square feet
	Retail Sales (over 5,000 square feet)		4.0	Per 1,000 square feet
	Shopping Center		4.0	Per 1,000 square feet
	Supermarket, department store, discount store		3.5	Per 1,000 square feet
Schools				
Day care/ preschool/ nursery school			1.3	Per employee
School	Elementary and middle		1.2	Per teacher
	Senior high		0.4	Per student
University or college			1.0	Per daytime student
Industrial Uses				
Industrial park with offices			1.8	Per 1,000 square feet
Light industry			1.8	Per 1,000 square feet
Manufacturing			1.0	Per 1,000 square feet
Mini-Warehouse/Personal Storage			1.0	Per 20 storage units
Warehousing and distribution centers			1.2	Per employee
Other Uses				
Cultural facility			0.3	Per 1,000 square feet
Land area devoted to assembly or visitor use			0.1	Per 1,000 square feet
Religious establishment			0.3	Per seat in main sanctuary

*Square Feet, for the purpose of Table 21-142A, is Gross Leasable Area (SFGLA) and is defined as the floor area of a building, less storage, restrooms, equipment rooms, and similar areas. Storage areas used in conjunction with a manufacturing or industrial use are included.

(b) *Downtown.* Uses within the C-1, Commercial-Downtown zoning district, shall be exempt from providing off-street parking.

(c) *Shared parking.* Notwithstanding any other parking requirements set forth in this section for individual land uses, when any land or building is used for two (2) or more distinguishable purposes (i.e. joint or mixed use development), the minimum number of parking spaces required to serve the combination of all uses may be reduced according to Table 21-142B, Shared Parking Generation, or any similar methodology as approved by the growth management director.

(1) Shared parking spaces located off-site must be located within six hundred sixty (660) feet of the primary entrance of all uses served, unless remote parking shuttle service is provided.

(2) A request must be made to the City as part of a site plan application that clearly demonstrates the feasibility of shared parking. This request must address, at a minimum, the size and type of all proposed development, the composition of tenants/uses, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street spaces. Use of the data in Table 21-142B may be used for calculating shared parking demand.

(3) To calculate the minimum shared parking space requirement, multiply the minimum parking requirements for each individual use as set forth in Table 21-142A by the appropriate percentages as set forth below in Table 21-142B, for each of the five (5) designated time periods, and then add the resulting sums from each vertical column (Where the computation results in a fractional number, a fraction over one-half (½) shall require one (1) space). The column total having the highest total value is the minimum shared parking space requirement for that combination of land uses.

Table 21-142B Shared Parking Generation

	Weekday			Weekend	
Use	Night Midnight to 7:00 a.m.	Day 7:00 a.m. to 5:00 p.m.	Evening 5:00 p.m. to Midnight	Day 7:00 a.m. to 6:00 p.m.	Evening/Night 6:00p.m to 7:00 a.m.
Residential	100%	60%	90%	80%	90%
Office/Industrial	5%	100%	10%	10%	5%
Commercial/Retail	5%	80%	90%	100%	70%

Hotel	70%	70%	100%	70%	100%
Restaurant	10%	50%	100%	50%	100%
Entertainment/recreation (theaters, bowling alleys, bar (lounge) and similar)	10%	40%	100%	80%	100%
Day-Care Facilities	5%	100%	10%	20%	5%
All Other	100%	100%	100%	100%	100%

(4) The applicant may request approval of shared parking based on the latest Urban Land Institute Parking Study or equivalent study as an alternative to the parking demand rates provided in Table 21-142B. The applicant must provide evidence to the satisfaction of the growth management director that the alternative parking demand rates more accurately represent the parking demand and peak parking demand for the development.

(5) A shared parking and access agreement shall be included at site plan review.

(d) *Bicycle parking.* New developments or redevelopments consisting of commercial, industrial, and institutional uses, along with multi-family uses of five (5) or more units, shall provide on-site bicycle parking facilities subject to the following standards:

(1) All uses providing a minimum of ten (10) or more vehicular parking spaces shall also provide the greater of two (2) bicycle spaces or a total number of bicycle parking spaces equal to ten (10) percent of the provided number of vehicular parking spaces; ~~provided~~ however, no use shall be required to provide more than 15 bicycle parking spaces.

(2) Bicycle parking areas shall be located within seventy-five (75) feet of the main entrance to the building.

(3) All bicycle racks shall be anchored to the ground in a manner that will resist removal and constructed of materials that will resist rust or corrosion.

(4) Multi-family uses of five (5) or more units may provide the required bicycle parking facilities within an internal, enclosed and/or secured facility.

(e) *Alternative parking analysis.* The applicant may demonstrate adequate off-street parking, including bicycle parking, either reducing or increasing the number of spaces required by Table

21-142A with the submittal of an alternative parking analysis subject to approval by the growth management director.

(f) *Tree preservation reduction.* Where specimen trees exist within a proposed parking area for a non-residential use, the growth management director may allow a reduction of up to ten (10) percent of the total number of required parking spaces, as necessary to preserve the existing specimen tree(s). In no instance shall this reduction be combined with any other allowable reduction that results in more than a ten (10) percent total reduction of the minimum required parking spaces.

Revised Article VIII, Division 3 Development Boards

New text is underlined in red and deleted text is ~~stricken through in red~~.

Sec. 21-461. - Planning commission.

(a) *Functions, powers and duties.*

(1) Act as local planning agency pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, Part II, Florida Statutes, and perform all functions and duties prescribed in the statute.

(2) The planning commission shall have the power to review and approve special use requests in order to allow uses that are specifically designated as an "S" in Table of Land Uses, Table 21-32(A) of this Code. The procedure for filing an application for a review is found in Article VII, section 21-412, "special use approval."

(3) Review information on population, property values, the land economy, land use and other information necessary to assess the amount, direction and type of development to be expected in the City.

(4) Advise and make recommendations to the City Commission regarding applications for amendments to the official zoning map and requests for conditional uses or other special designations on property within the City.

(5) At the request of the planning and community development director, interpret and determine the intent of provisions of this Code that are unclear or in conflict with other regulations.

(6) Consider the need for revision or addition of regulations in this Code, and recommend changes to the City Commission.

(7) Consider the need for revision of the comprehensive plan and recommend changes to the City Commission.

(b) *Appointment of members.*

(1) The planning commission shall have nine (9) members, to be appointed by the City Commission.

(2) Each member of the planning commission shall reside or be a property owner in the City.

(3) Each member shall be appointed to a three-year term. In the event that all members are appointed at the same time, three (3) members shall be appointed for a term of one (1) year, three (3) members shall be appointed for a term of two (2) years, and three (3) members shall be appointed for a term of three (3) years.

(4) When the unexpired term of any member becomes vacant for any reason, the City Commission shall fill the vacancy by the appointment of a new member.

(5) ~~All~~ Any member~~s~~, whose term has expired or has resigned their seat, ~~shall~~ may continue to serve until their successors are appointed or are reappointed by the City Commission.

(6) Members may be removed without notice and without assignment of cause by a majority vote of the City Commission.

(7) At the first meeting held after ~~January~~ February 1 of each year, the planning commission shall elect a chairman, vice-chairman and such other officers as deemed necessary. The chairman, or in his absence the vice-chairman, shall preside over all meetings of the planning commission. Officers terms shall be in accordance with the by laws of the planning commission.

(8) The chairman ~~will~~ may establish subcommittees and appoint members as needed to carry out the purposes of the planning commission.

(9) Members shall not be compensated, but may be reimbursed, at the discretion of the City Commission, for travel and other expenses incurred on planning commission business.

(10) If any member fails to attend three (3) successive meetings, or six (6) meetings in a twelve (12) month period, the planning commission may declare the member's ~~office~~ seat vacant and shall notify the City Commission of the action taken.

(c) *Procedures.*

(1) The planning commission may adopt procedures to carry out its purposes. All rules must conform to this Code, other City ordinances, and State law.

(2) The planning commission shall meet at least once each month, unless a meeting is canceled by a decision of the planning commission at a regular meeting or by decision of the chairman.

(3) The commission shall keep minutes of its proceedings, indicating at a minimum, the attendance of each member, a summary of any public comments made, and the decision on every ~~question~~ item of business before it.

(4) Five (5) members shall constitute a quorum.

(5) Each decision of the planning commission must be approved by a majority vote of the members present at a meeting in which a quorum is present and voting.

Sec. 21-462. - Development Special Magistrate.

(a) *Intent.*

The intent of this section is to create a position called "Development Special Magistrate" with the authority to act and render administrative decisions on requests for variances and other matters as set forth below and in the City's Code of Ordinances, from established land development regulations and other regulatory matters.

(b) *Appointment and removal.*

(1) The Development Special Magistrate shall be an attorney ~~who resides in the City or has a place of business located in the City~~, who possesses an outstanding reputation for civic pride, interest, integrity, responsibility, and business or professional ability. Appointments shall be made by the City Commission on the basis of experience or interest in local government matters.

(2) Appointment shall be made for a term at the discretion of the City Commission ~~not to exceed a period of three (3) calendar years~~. The Development Special Magistrate may be reappointed at the discretion of the City Commission. There shall be no limit on the number of reappointments that shall be given to the Development Special Magistrate provided, however, that a determination be made for each special magistrate at the end of each of his terms.

(3) The Development Special Magistrate serves at the pleasure of the City Commission and the City Commission shall have the authority to remove the Development Special Magistrate with or without cause. The City Commission may enter into an agreement with the Development Special Magistrate further defining the scope, conditions and timing of removal.

(4) The Development Special Magistrate shall not be a City employee.

(5) The Development Special Magistrate shall be compensated at a rate to be determined by the City Commission and the City Commission may enter into an agreement with the Development Special Magistrate further defining the scope and conditions of compensation, provided however that the City Commission may not, under any circumstance, condition payment of compensation on the outcome of any matter that may come before the Development Special Magistrate for adjudication.

(c) Conduct of hearing and minimum procedures.

(1) *Application.* An application for a variance or other matter necessitating an appearance before the Development Special Magistrate shall be submitted ~~thirty~~ sixty ~~(30)~~(60) days prior to being set for a regularly scheduled meeting agenda. The property owner and applicant, if different, must sign the application.

(2) *Application filing fee.* Applicants will pay a fee, as set by the City Commission, when the application is submitted.

(3) *Notification.* When and at such time as an application to appear before the Development Special Magistrate is made, the application shall be filed with the Planning Division. The Planning Division shall comply with all public hearing requirements under local and state law.

(4) *Public hearing.*

i. Failure of the applicant and/or the applicant's representative to appear at the advertised public hearing. The Development Special Magistrate may continue and table an application to its next regularly scheduled hearing if there is no applicant and/or representative in attendance to address an application at the noticed public hearing. Failure of the applicant and/or representative to appear at the second public hearing may result in the denial of the application. The Development Special Magistrate application fee is nonrefundable.

ii. The City Clerk, or his/her designee, shall administer oaths to all witnesses.

iii. At the hearing, any interested person may be heard upon the subject matter of any application. Members of a specific group or association are requested to appoint a spokesperson who will represent their collective position. Interested persons other than the City and applicant shall not be entitled to any substantive quasi-judicial right or privilege, such as the right of cross examination, other than the ability to be heard. The Development Special Magistrate may, in his/her sound discretion, impose reasonable time limits on the testimony of interested persons, the City and the applicant.

(5) *Decisions and/or recommendations.* The Development Special Magistrate shall, for all applications, reduce to writing his/her findings of fact, his/her conclusions of law and his/her decision as to granting of an application, granting of an application with conditions, or denying an application in an appropriate order.

(6) *Automatic expiration of relief.* Applications for relief that are granted by the Development Special Magistrate and not acted upon within one (1) year of being granted shall automatically expire.

(7) *Written records.* Minutes shall be kept of all hearings by the Development Special Magistrate, and all hearings shall be open to the public. The Planning Division shall provide clerical and administrative personnel as may be reasonably required by the Development Special Magistrate for the proper performance of his/her duties. The minutes of all proceedings, decisions and/or recommendations of the Special Magistrate shall be made public record on file in the office of the City Clerk.

(d) *Powers.*

The Development Special Magistrate shall have the following powers:

(1) To establish rules and regulations not inconsistent with the provisions of this section or other local or state law.

(2) To hear and decide matters assigned by Ordinance of the City of Winter Haven.

(3) To grant dimensional variances, which only include the height or width of a structure or the width, depth or size of yards, where,

i. By reason of the exceptional narrowness, shallowness or unusual shape of a lot, parcel of land or a site, or trees in buildable area;

ii. By reason of exceptional topographic conditions; or

iii. By reason of some other extraordinary situation or condition related to the site, the literal enforcement of this Code would deprive the applicant of reasonable capacity to make use of the land in a manner equivalent to the use permitted other landowners undertaking similar, permitted development in the same zoning district, after finding each fact and condition requirement in section 21-422 of this Code to have been met.

(4) To table or continue a hearing on an application if additional information is needed or requested by the Development Special Magistrate.

(5) To, in any order, prescribe appropriate conditions and safeguards in conformity with the City's land development regulations and ordinances. Violation of such conditions and safeguards, when made a part of the terms of an order, shall be deemed a violation of this Code. The Development Special Magistrate may also prescribe a reasonable time limit within which the action for which the order concerns shall be begun or completed or both, provided however that under no circumstances shall the Special Magistrate enter an order allowing a use not permitted in the parcel in question's applicable zoning district of the City's land development regulations. Nonconforming use of neighborhood lands, structures or buildings in the same zoning district shall not be considered grounds for the authorization of a variance. Financial loss standing alone is not sufficient justification for a variance.

(e) *Reapplication.*

An application for the reconsideration or rehearing of an application which has been previously acted upon by the Development Special Magistrate may be made in the same manner as provided for at original consideration or hearing. However, no appeal or petition by applicant requesting the same relief or approval for the same property shall, without a substantial change as determined by the Development Special Magistrate, be accepted for reconsideration or rehearing for a period of three (3) months following the date of any action taken by the Special Magistrate.

(f) *Rehearing.*

(1) All decisions of the Development Special Magistrate are final. Applications, once acted upon, may not be reheard unless the applicant can demonstrate that the decision resulted from an error in substantive or procedural law, or provides new evidence or information not discoverable prior to the initial hearing. A different or more effective presentation of the same evidence or information shall not be considered grounds for a rehearing. Provided that grounds for rehearing exist, either the City or the applicant may request a rehearing of the decision of the Development Special Magistrate. A request for rehearing shall be made in writing, and shall be delivered to the City Clerk within ten (10) days of the date of rendition of the order sought to be reheard. The written request for rehearing shall specify the precise reasons therefor.

(2) If, after review of a timely written request for rehearing, the Development Special Magistrate determines a rehearing should be granted, the Development Special Magistrate or Alternate Development Special Magistrate may:

i. Schedule a hearing where the parties will be given the opportunity to present limited evidence or argument as to the specific reasons for which the rehearing was granted; or

ii. Modify or reverse the prior order, without receiving further evidence, provided that the change is based on a finding that the prior decision of the Development Special Magistrate resulted from a ruling on a question of law which the Development Special Magistrate has determined to be an erroneous ruling.

(3) Until the request for rehearing has been denied or otherwise disposed of, the order of the Development Special Magistrate shall be stayed, and the time for taking an appeal shall not commence to run until the date upon which the Development Special Magistrate has finally disposed of the request for rehearing by denying the same or otherwise.

(g) *Appeals.*

An aggrieved party, including the City, may appeal a ruling or order of the Development Special Magistrate or Alternate Development Special Magistrate by proceeding in the circuit court for the county, in accordance with the Florida Rules of Appellate Procedure. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed. The nature of the appeal shall be from a final administrative order.

(h) *Ex parte provisions.*

(1) No person who is or may become a party or a witness to a hearing before the Development Special Magistrate shall communicate with him/her concerning any matter pending before him except at the hearings provided for in this section. This restriction shall extend to any person appearing or interceding on behalf of a party, whether or not such person may have a direct, personal or financial interest in the property which is the subject of the alleged violation.

(2) The Development Special Magistrate shall not communicate with any party, witness, representative of a party, or interceding person concerning any matter pending before him except at the hearings provided for in this section.

(i) *Alternate Development Special Magistrates.*

The City Commission may appoint one (1) or more qualified persons to serve as alternative Development Special Magistrates in the event a conflict of interest under Florida law or the Rules Regulating the Florida Bar prevents the Development Special Magistrate from ruling in a particular matter.

Sec. 21-463. - Duties of City Commission related to planning.

(a) Adopt and amend the Comprehensive Plan, including Future Land Use Map.

(b) Adopt and amend the Unified Land Development Code, including Official Zoning Map.

(c) Appoint members of the Planning Commission.

(d) Determine the need for and appoint members of additional boards, committees and subcommittees to investigate and make decisions on various land use and development issues.

(e) Establish, by resolution, fees for comprehensive plan amendments, zoning actions, conditional use reviews, review of requests for variances, review of applications for special exceptions, subdivision plan review, planned unit development review, development agreement review, landscape plan review, review of sign applications and other activities carried out under the provisions of this chapter.

(f) Make final decisions on requested changes to the comprehensive plan, zoning ordinance and map, planned unit developments, conditional uses, and other special designations on property within the City.

(g) Make final decisions on acceptance of public improvements constructed pursuant to the platting of approved subdivisions.

(h) Consider voluntary annexation requests ~~(section 2-190, planning commission action not necessary; Ord. No. 92-03, § 3, 5-13-92)~~.

(i) Consider requests to redirect traffic and to close, abandon, or vacate alleys, streets, and other recorded rights-of-way.

(j) The City Commission shall have the power to hear and decide on appeals where it is alleged there is an error in any order, requirement, decision or determination made by the administrative official in the enforcement of this Code. Such appeal shall be taken within thirty (30) days after rendition of the order, requirement, decision or determination, which is appealed, by filing with the administrative official from whom the appeal is taken, a notice of appeal specifying the grounds therefore.

(k) Appoint and contract with a Development Special Magistrate and alternative Development Special Magistrates.

Section 21-464. Expedited Review of Affordable Housing

To facilitate development of affordable housing within the City, any request providing for the provision of affordable housing, as defined by Chapter 163.3177(6)(f)(3) F.S., shall be entitled to the incentives offered below.

(a) *Expedited review.* Any development identified as providing affordable housing, and requiring an action, as set forth in Chapter 21 of the Code of Ordinances, by the Planning Commission, City Commission, or Development Special Magistrate, shall follow an expedited schedule for hearing.

(b) *Reduced fees.* Any development identified as providing affordable housing shall be subject to reduced or waived application fees in accordance with the following:

(1) If one-hundred percent (100%) of the proposed units meet the definition of affordable, all application fees shall be waived.

(2) If a minimum of sixty percent (60%) of the proposed units meet the definition of affordable, seventy-five percent (75%) of all application fees shall be waived.

(3) If up to sixty percent (60%) of the of the proposed units meet the definition of affordable, fifty percent (50%) of all application fees shall be waived.

DATE: June 17, 2024

TO: Winter Haven Planning Commissioners

VIA: Eric Labbe, Economic Opportunity and Community Investment Director

FROM: Sean Byers, Planning Manager

SUBJECT: Case Number P-24-33 : Administrative request to amend the Winter Haven Code of Ordinances, Chapter 21, Article II, Section 21-83, Article VI, Division 1, and Article VII, Division 5 for the purpose of revising language relating to permitting model homes and establishing a preliminary plat approval process.

BACKGROUND

Earlier this spring, the Florida Legislature passed Senate Bill (SB) 812, which was subsequently signed into law by the Governor, and becomes effective October 1, 2024. SB 812 requires the City to create a process to allow model homes to be constructed on up to fifty percent of the lots in a subdivision prior to approval of a final plat. In addition to addressing model homes, SB 812 requires the City to reintroduce the preliminary plat to the subdivision approval process. Preliminary plats became optional in 1999, and were eliminated in 2000, in an effort to streamline the City's subdivision review and approval process.

To account for the issuance of model home permits prior to approval of a final plat, portions of Chapter 21, Article VI, relating to concurrency and public service allocation are also required to be addressed. Granting of concurrency needs to be advanced in the approval process from the current allocation at the time a final subdivision plat is approved.

Major modifications to Code include:

- Revising Section 21-83 to allow for model homes to be constructed on up to 50 percent of the building lots upon meeting certain requirements;
- Adding more detailed standards to Section 21-83 relating to temporay sales offices in residential subdivisions;
- Establishes requirements for the preliminary plat and for City Commission review and approval of the preliminary plat in Article VII, Section 21-394;

- Provides for a one year period to submit for review site plans setting forth the subdivison's required infrastructure. Should a site plan not be submitted within one year of preliminary plat approval, the preliminary plat will become null and void;

- Updates Article VI, Section 21-315, to provide for concurrency at the preliminary plat approval stage; and

- Makes general updates to Article VI, to address outdated language regarding concurrency and adopted Level of Service standards.

NOTIFICATION

All public notification requirements for this request were met.

RECOMMENDATION

Staff recommends the Planning Commission recommend approval of this request, and its forwarding to the City Commission for final action.

ATTACHMENTS

- Revised Section 21-83, Model Homes and Temporary Sales Offices
- Revised Chapter 21, Artcle VII, Division 5, Subdivision Regulations
- Revised Chapter 21, Article VI, Division 1, Concurrency

Revised Section 21-83, Model Homes and Temporary Sales Offices

New language is underlined in red and deleted language is ~~stricken through in red~~.

Sec. 21-83. - Model homes and temporary sales offices.

(a) Model homes ~~and temporary sales offices~~ may be permitted within residential subdivisions prior to final plat approval by the City commission subsequent to developer's receipt of ~~the City's written concept plan~~ preliminary plat approval in accord with section 21-394 of this Code. The following requirements shall apply to all model homes and ~~temporary sales offices~~ constructed prior to final plat approval:

(1) The number of model homes permitted within a subdivision shall not exceed ~~ten~~ fifty (~~10~~50) percent of the total number of building lots within the subdivision and shall only be constructed on those lots depicted on the preliminary plat for model homes. Developers shall receive approval from the City prior to starting construction of any model homes.

(2) All model homes shall meet all lot area and building setback requirements for the zoning district in which the subdivision is being platted. Failure of a model home to comply with the required setbacks shall result in a refusal to issue a certificate of occupancy for that home.

(3) Fire hydrants and a stabilized road base shall be constructed and approved for use prior to the issuance of any building permits for model homes. The developer shall be responsible for maintaining the stabilized road base in a manner that allows for the safe passage of fire/rescue equipment. Should the road surface be found in an unsafe condition, the building official shall issue a "stop work" order on all model homes under construction until such time the roadway is brought back to a safe condition.

Should the fire hydrants and a stabilized road base not be in place, model homes may be constructed according to the following standards established by NFPA 1141, Standard for Fire Protection in Planned Building Groups:

a. Within three hundred (300) feet of at least one (1) fire hydrant that has been placed in a location acceptable to the City Fire Official, and

b. No portion of the exterior walls of the building shall be more than two (2) hundred (200) feet from a fire hydrant with vehicular access.

(4) To receive/seek final subdivision approval, a scaled drawing of the subdivision showing the locations of all model homes shall be submitted ~~to the engineering division~~ along with the final subdivision plat application.

(5) No model home shall be occupied for residential purposes until the final subdivision plat has been approved by the City and recorded with the clerk of the courts.

~~(6) Model homes may be used as a temporary sales office for the subdivision in which it is located. Model homes and temporary sales offices may continue operating until all lots or houses within that subdivision are sold.~~

~~(7) Signs used for model homes and temporary sales offices shall conform to the requirements set forth by article 4 of this chapter. All signs shall be reviewed for placement, design, and duration by the building official. The sign area shall not exceed thirty-two (2) (32) square feet.~~

(b) Temporary Sales and Leasing Offices.

Temporary sales or leasing offices may be permitted within residential subdivisions subject to the following requirements:

(1) Model homes or modular building may be used as a temporary sales office for the subdivision in which it is located. Model homes and temporary sales offices may continue operating until all lots or houses within that subdivision are sold.

(2) Signs used for model homes and temporary sales offices shall conform to the requirements set forth by Article IV of this chapter. All signs shall be reviewed for placement, design, and duration by the building official. The sign area shall not exceed thirty-two (32) square feet. All signage shall be removed upon removal of the temporary sales office and/or residential occupancy of all model homes.

(3) All temporary sales offices open to the public shall provide a dedicated, off-street, parking area located within 150 feet of the temporary sales office. The parking area shall meet the following design standards:

a. A minimum of four (4) up to a maximum of eight (8) parking spaces shall be provided, including a minimum of one (1), hard surface, ADA accessible parking space meeting the design requirements of Section 21-145.

b. Temporary sales office parking areas shall be constructed of a hard all-weather surface or gravel consisting of #57 stone or larger. Should gravel be used for the parking surface, a concrete apron constructed per City standards and a minimum curb measuring six (6) inches in height shall be installed to contain the stone.

c. All off-street parking areas serving a temporary sales office shall be removed upon permanent closure of the temporary sales office and the area restored to its previous condition.

Chapter 21, Artcle VII, Division 5 Revisions

New language is underlined in red and deleted language is ~~stricken through in red~~.

DIVISION 5. SUBDIVISION REGULATIONS

Section 21-390. Generally.

Section 177.031 of the Florida Statutes defines “subdivision” to mean the division of land into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and resubdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided.

Section 21-391. Purpose and intent.

(a) Chapter 177 of the Florida Statutes establishes consistent minimum requirements and creates such additional powers in local governing bodies to regulate and control the platting of lands; and therefore, Chapter 177 of the Florida Statutes establishes minimum requirements and does not exclude additional provisions or regulations by local ordinance, laws, or regulations.

(b) The purpose~~s~~ of these subdivision regulations are to further the provisions of State legislation that regulates and requires the platting of land for development, to further the goals and policies of the Winter Haven Comprehensive Plan, and to set forth a process for approval of the subdivision of land within the jurisdiction of the City. The provisions of this chapter shall be held to be minimum requirements. It is therefore essential to the promotion of the public health, safety and welfare that the development of subdivisions be conceived, designed and constructed in accordance with the proper minimum standards.

(c) The rules and regulations contained in this chapter are adopted as the City’s subdivision code to guide and coordinate subdivision development within the City. Where provisions for subdividing land are either more restrictive or less restrictive than other land developments codes, resolutions or rules adopted by the City, those provisions which are more restrictive and impose higher standards or requirements shall govern.

(d) A condominium, as defined by Florida law, meeting the definition of a subdivision as defined herein shall be regulated under the provisions of this code.

Section 21-392. Small-scale Subdivision.

To provide opportunities for small, infill redevelopment within the City, subdivisions resulting in five (5) or fewer lots may be platted as a small-scale subdivision.

(a) Minimum requirements.

To qualify as a small-scale subdivision, all the following criteria shall apply:

1. The small-scale subdivision does not create a lot, or lots, that do not meet applicable zoning district standards for width, depth, and area.

2. Each lot within the small-scale subdivision has the minimum required frontage on a paved public road and no new public streets and/or roads are needed to serve any proposed lot.

3. Public water and wastewater lines, meeting current City standards, are available to the small-scale subdivision and no extensions and/or upgraded infrastructure are needed to serve any lot within the small-scale subdivision. Certification shall be provided by a professional engineer registered in the State of Florida.

4. A small-scale subdivision shall connect to the City's water and wastewater lines. The applicant's proposed use of individual sewage treatment systems (septic tank system) shall preclude a development from review as a small-scale subdivision.

5. No onsite or off-site drainage infrastructure, except driveway culverts, is required to serve any proposed lot within the small-scale subdivision. Certification shall be provided by a professional engineer registered in the State of Florida.

(b) Submittal of final plat for a small-scale subdivision.

Upon the written confirmation by both the Economic Opportunity and Community Investment Director and City Engineer that the proposed development satisfies the minimum requirements set forth in subsection (a) and qualifies as a small-scale subdivision, the developer may present a final plat for approval to the City Commission. The final plat may be approved if it meets all requirements as set forth by Chapter 177, F.S. and the following requirements:

(1) *Submission of final plat.*

(a) An application for final plat approval shall be submitted with an appropriate fee established by the City and with accompanying documents as specified herein to the Economic Opportunity and Community Investment Department Director. The Economic Opportunity and Community Investment Department Director shall forward copies of the final plat to the City Engineer, City Attorney, and a surveyor licensed by the State of Florida under the City's employ and/or contract for their review and comments. Upon approval of the final plat by City staff, the Economic Opportunity and Community Investment Department Director shall place the application(s) on the agenda of the City Commission for final review and approval.

(b) Required documents. One (1) electronic copy of the following documents shall be submitted for review of the final plat:

1. Final plat conforming with the requirements as set forth in Chapter 177, Florida Statutes and including, but not limited to, the following items:

   a. Dedications and reservations executed by the developer;

   b. Acknowledgement and joinder for any party accepting a dedication and/or reservation;

   c. Certification by a registered land surveyor;

   d. Statements of endorsement to be signed by the City Engineer, Economic Opportunity and Community Investment Department Director, City's reviewing surveyor, Mayor, and City Clerk.

   The preferred scale of the final plat is one (1) inch equals one hundred (100) feet.

2. Boundary survey of the lands contained within the subdivision.

3. An Autocad file (.dwg) of the final plat and boundary survey.

4. Pursuant to Section 177.041, Florida Statutes (2021), a title opinion or property information report. For purposes of this section, the title opinion or property information report shall be updated within three (3) months of final plat approval and certified no earlier than 30 days prior to the date on which the application is submitted.

5. Documentation establishing, if applicable, that a homeowner's association or property owner's association is legally formed and active for the small-scale subdivision.

6. Copy of any proposed and/or recorded restrictive deeds and covenants for the small-scale subdivision.

(2) *Review and recording.*

(a) The City Commission shall take action to accept or reject the final plat. The City Commission may add reasonable conditions to its approval of a final plat, but if it determines that the developer must make changes to the plat, including changes to exactions or to restrictions on the face of the plat, then it shall be remanded to the City Attorney to review such changes. Approval of the final plat and acceptance of public improvements and dedications shall be by resolution and shall authorize the Mayor and City Clerk to sign the copy of the final plat to be recorded.

(b) Upon approval by the City Commission, three (3) mylars of the final plat shall be filed and recorded with the Clerk of the Circuit Court for Polk County. The City Clerk shall be responsible for recording the final plat and for returning one (1) reproducible copy of the recorded plat to the City Engineer.

Section 21-393. Large-scale subdivision review and approval procedure.

(a) Any subdivision resulting in more than five (5) lots, parcels, or tracts, or any subdivision dedicating public rights-of-way, shall be deemed a large-scale subdivision. Large-scale subdivision approval procedures are set forth herein as a ~~three~~ four-step process:

Step One: ~~Site plan review and approval~~ Preliminary plat approval;

Step Two: ~~Infrastructure construction~~ Site Plan review and approval; ~~and~~

Step Three: ~~Final plat approval~~ Infrastructure construction; and~~.~~

Step Four: Final plat approval.

(b) This process is intended to permit comprehensive review by the City and to benefit the developer by identifying potential problems and their solutions at appropriate times during the review and approval process. As with all stages of the development approval process, it is the responsibility of the developer to check all State and local regulations governing the subdivision of land and to adhere strictly to the procedures therein.

(c) Where the City Commission finds that extraordinary hardships may result from the strict application of the planning and engineering standards set forth in Article III of these regulations, the City Commission may consider conditions that are recommended by the City Manager and that the City Commission determines are necessary to ensure that substantial justice is done and the public interest is upheld. Provided however, the effect of the conditions shall not be to nullify the applicable provisions of this code and/or the policies established by the comprehensive plan of the City.

Sec. 21-394. ~~Site plan review~~ Preliminary plat.

~~(a) *Generally*. Any subdivision involving phased or staged development shall be identified in written and graphic form in the application for site plan review and shall designate, for information purposes only, all construction phases and the proposed development schedule.~~

~~(b) *Independent operation*. All construction phases in a development shall be construed to be capable of independent operation or in conjunction with other constructed phases with respect to drainage, vehicular circulation, utilities, infrastructure and other public improvements and services.~~

~~(c) The purpose and intent of the site plan is to safeguard the developer and City from any unnecessary loss of time and expense(s) involved in having engineering drawings prepared which do not conform to the minimum standards set forth herein. The site plan, therefore, will serve to demonstrate consistency with the City's comprehensive plan and compliance with the City's~~

~~minimum subdivision standards. The site plan does not imply approval of the construction drawings or final plat.~~

~~(d) The developer shall submit a fully engineered site plan to the Economic Opportunity and Community Investment Director. The Economic Opportunity and Community Investment Department Director or designee shall review the site plan as to its consistency with the City's comprehensive plan and conformance with the City's zoning regulations and other applicable land development regulations. The site plan shall show, at minimum, the proposed use; lot and street layout; lot sizes; subdivision boundaries; all infrastructure which includes, but is not limited to, water, wastewater, reuse, stormwater, streets, sidewalks, drainage system(s), retention/detention ponds, and the construction BMPs; and significant physical conditions which include, but are not limited to, lakes and watercourses, wetlands, and floodplains. Initial comments by the Economic Opportunity and Community Investment Department Director, City Engineer, and other City staff reviewing the site plan shall be detailed in a letter to the developer not less than fifteen (15) working days after submission.~~

~~(e) Approval of a site plan shall acknowledge the basic design of the subdivision and consistency with the comprehensive plan and zoning code. It shall not constitute approval of construction drawings or the final plat; it shall not authorize recording or acceptance of improvements or dedications. Upon approval of the site plan, the developer has six (6) months to submit construction drawings. If the construction drawings are not submitted within six (6) months from the date the site plan is approved, then the site plan approval shall expire. The developer may request an extension of the approval for an additional six (6) months, upon written notice provided ten (10) days before the six (6) month expiration date. If site plan approval lapses, all future submittals for site plan approval shall be subject to any changes in the City's rules and/or regulations.~~

The preliminary plat is a document depicting the proposed lot and roadway layout of a subdivision. Upon approval of the preliminary plat, the subdivision's general design is set and becomes the basis for preparing detailed site plans for the construction of supporting infrastructure.

(a) *Requirements.* At a minimum, the preliminary plat shall depict the following information:

1. Proposed subdivision name;
2. North Arrow;
3. Scale;

4. Legal description;
5. Layout and dimensions of proposed building and common lots shown to one-hundredths of a foot;
6. Layout and dimensions of proposed streets shown to one-hundredths of a foot;
7. Street names;
8. Names and locations of adjoining streets; and
9. All Drainage and Utility easements

(b) *Application.* All applications and fees for a preliminary plat shall be submitted to the Economic Opportunity and Community Investment Director or his/her designee for review. Within seven (7) business days, the Economic Opportunity and Community Investment Director or his/her designee shall issue a formal completeness letter indicating the application is complete.

(c) *Review and approval.* Within twenty (20) business days from the issuance of a completeness letter, staff shall provide written comments to the applicant or schedule the preliminary plat for City Commission action.

(d) *Model homes.* Should a developer propose the construction of model homes prior to approval of the final plat, a sheet shall be attached to the preliminary plat depicting the lots upon which model homes may be constructed. Model homes shall only be permitted on the identified lots.

(e) *Validity of preliminary plat.* Preliminary plat approval shall be valid for a period of one (1) year. Site construction plans for the required infrastructure shall be submitted and approved prior to expiration of the preliminary plat. Should the approved site plan expire, the preliminary plat shall be deemed null and void.

Sec. 21-395. - ~~Construction of subdivision infrastructure~~ Site plan approval.

~~(a) *Preconstruction meeting required.* The developer shall schedule a preconstruction meeting with the City Engineer prior to commencing any site work.~~

~~(b) The purpose of the preconstruction meeting is to review and approve of the construction drawings. The review and approval of the construction drawings by the City Engineer is to ensure satisfaction of the City design and specification requirements for the improvements that are to be constructed to serve the subdivision. Prior to the approval of the site plan by the Economic Opportunity and Community Investment Department Director and submission of the final plat,~~

~~the developer shall submit engineered construction drawings for the installation of improvements and infrastructure that are to be constructed to serve the subdivision. Construction drawings, which are consistent with the site plan, may be submitted simultaneously with the site plan.~~

~~(c) Construction drawings shall substantially conform to the approved site plan; provided, however, that the construction drawings shall be subject to subdivision, zoning, environmental, health and all other applicable regulations in effect at the time of construction drawing submission. In the event the City Engineer disapproves of the construction drawings, the applicant has three (3) months from the notification date to make any revisions and resubmit the construction drawings for review. After three (3) months, the construction drawings become subject to any changes in the City's rules and/or regulations.~~

~~(d) Upon approval of the construction drawings, the developer has six (6) months to begin construction of the required improvements as shown on the approved construction drawings. If construction does not begin within six (6) months, the developer may request an extension for a maximum of six (6) months by providing written notice to the City Engineer before the original six (6) months expiration date. Should revisions to the construction drawings be necessary, then a resubmittal of the construction drawings shall be required. If construction drawing approval lapses, the plans become subject to any changes in the City's rules and/or regulations.~~

~~(e) *Construction inspection.* The City shall provide for periodic inspection of required improvements during construction to ensure their satisfactory completion. If it is found that any of the required improvements have not been constructed in accordance with the City's construction standards and specifications, the subdivider shall be responsible for modifying and/or completing the improvements so as to comply with such standards and specifications. Wherever the cost of improvements is covered by a performance bond, the subdivider and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.~~

(a) *Generally*. Any subdivision involving phased or staged development shall be identified in written and graphic form in the application for site plan review and shall designate, for information purposes only, all construction phases and the proposed development schedule.

(b) *Independent operation*. All construction phases in a development shall be construed to be capable of independent operation or in conjunction with other constructed phases with respect

to drainage, vehicular circulation, utilities, infrastructure, and other public improvements and services.

(c) The developer shall submit a fully engineered site plan to the Economic Opportunity and Community Investment Director or his/her designee. The Economic Opportunity and Community Investment Department Director or his/her designee shall review the site plan as to its consistency with the City's comprehensive plan, conformance with the City's zoning regulations, consistency with the approved preliminary plat, and other applicable land development regulations. The site plan shall show, at minimum, the proposed use; lot and street layout; lot sizes; subdivision boundaries; all infrastructure which includes, but is not limited to, water, wastewater, reuse, stormwater, streets, sidewalks, drainage system(s), retention/detention ponds, required off-site improvements, and the construction BMPs; and significant physical conditions which include, but are not limited to, lakes and watercourses, wetlands, and floodplains. Initial comments by the Economic Opportunity and Community Investment Department Director or his/her designee, City Engineer, and other City staff reviewing the site plan shall be detailed in a letter to the developer not less than fifteen (15) business days after submission.

(d) Upon approval of the site plan, the developer has eighteen (18) months to begin construction of the required improvements as shown on the approved site plan. If construction does not begin within eighteen (18) months, the developer may request an extension for a maximum of twelve (12) months by providing written notice to the Economic Opportunity and Community Investment Director before the original eighteen (18) months expiration date. Should revisions to the site plan be necessary, then a resubmittal of the site plan shall be required. If site plan approval lapses, the plans become subject to any changes in the City's rules and/or regulations.

Sec. 21-397. - ~~Final plat~~ Construction of subdivision infrastructure.

~~Upon the acceptance of the construction drawings by the City Engineer of all subdivision improvements, the developer may present a final plat for approval. The final plat shall be approved by the City Commission by resolution if it meets all of the City's established minimum requirements and all other requirements set forth by Chapter 177 of the Florida Statutes.~~

~~(1) *Submission of final plat.*~~

~~(a) An application for final plat approval shall be submitted with an appropriate fee established by the City and with accompanying documents as specified herein to the Economic Opportunity and Community Investment Department Director. The Economic Opportunity and Community Investment Department Director shall forward copies of the final plat to the City Engineer, City Attorney, and a surveyor licensed by the State of Florida under the City's employ and/or contract for their review and comments. Upon approval of the final plat by City staff, the Economic Opportunity and Community Investment Department Director via the City Manager shall place the applications on the agenda of the City Commission for final review and approval.~~

~~(b) Required documents. One (1) electronic copy of the following documents shall be submitted for review of the final plat:~~

~~1. Final plat conforming with the requirements as set forth in Chapter 177, Florida Statutes and this code including the following items:~~

~~a. Dedications and reservations executed by the landowner;~~

~~b. Acknowledgement and joinder for any party accepting a dedication and/or reservation;~~

~~c. Certification by a registered land surveyor;~~

~~d. Statements of endorsement to be signed by the City Engineer, Economic Opportunity and Community Investment Department Director, City's reviewing surveyor, Mayor, and City Clerk.~~

~~The preferred scale of the final plat is one (1) inch equals one hundred (100) feet.~~

~~2. Boundary survey of the lands contained within the subdivision.~~

~~3. An Autocad file (.dwg) of the final plat and boundary survey.~~

~~4. Pursuant to Section 177.041, Florida Statutes (2021), a title opinion or property information report. For purposes of this section, the title opinion or property information report shall be updated within three (3) months of final plat approval~~

and certified no earlier than 30 days prior to the date on which the application is submitted.

5. Documentation establishing, if applicable, that a homeowner's association or property owner's association is legally formed and active for the subdivision.

6. Copy of the recorded restrictive deeds and covenants for the subdivision.

7. Detailed cost breakdown of all proposed improvements.

(c) All required permits and approvals issued by governing bodies having jurisdiction over properties being subdivided shall be furnished to the City Engineer and Economic Opportunity and Community Investment Department Director. The final plat shall not be approved by the City Commission without prior submission of permits and approvals.

(2) *Engineering drawings.* Three (3) sets of City-approved engineering as-built drawings shall be submitted with the final plat. All as-built drawings shall contain a certification by a professional engineer or registered land surveyor of personal verification of the exact location and dimensions of all completed improvements, as well as certification that all utilities have been installed in accordance with specifications.

(3) Upon receipt of the application for final plat approval and once a determination is made by City staff that the final plat and all supporting documents conform to the City's requirements, the final plat will be forwarded via the City Manager to the City Commission for approval.

(4) When the final plat application and required documentation are not approved by City staff, the applicant has three (3) months from the notification date to make any revisions and resubmit for review. After three (3) months, the plans become subject to any changes in the City's rules and/or regulations.

(5) *Standards for approval.* No final plat shall be approved for recording, unless:

(a) The final plat conforms with the approved site plan preliminary plat;

(b) The final plat is in compliance with all applicable regulations, approved construction drawings and as-built drawings;

(c) All improvements have been installed, inspected and accepted by the City or, when approved by the City, the developer has provided the City with adequate performance security and adequate defect security in accordance with the provisions of this Code;

(d) The developer has paid all application and recording fees required by the City;

(e) When construction of improvements is required, a subdivision agreement or developer's agreement has been negotiated and executed by the developer; and

(f) The developer has provided one (1) copy of all homeowner's documents (articles of incorporation, bylaws, and deed restrictions) for review by the city attorney and three (3) copies of the approved homeowners documents; and

The City Commission shall take action to accept or reject the final plat. The City Commission may add reasonable conditions to its approval of a final plat, but if it determines that the developer must make changes to the plat, including changes to exactions or to restrictions on the face of the plat, then it shall be remanded to the City Attorney to review such changes. Approval of the final plat and acceptance of public improvements and dedications shall be by resolution and shall authorize the Mayor and City Clerk to sign the copy of the final plat to be recorded.

(6) *Contingent approval.* Final plat approval shall be contingent upon the developer providing proof of:

(a) Filing with the Department of State of the bylaws and articles of incorporation for the Homeowners Association;

(b) When construction of improvements is required, a subdivision agreement or developer's agreement has been approved by the City Commission, executed by the parties, and recorded in the public records in and for Polk County, Florida; and

(c) All federal, state and local permits which may include, but shall not be limited to, Florida Department of Transportation, Department of Environmental Protection, the U.S. Corps of Engineers, and the Southwest Florida Water Management District.

~~(7) *Effect of approval.* No lot may be sold until all contingencies have been fulfilled. Upon recordation of the final plat, the developer may submit application(s) for building permits. Upon approval by the City Commission, the final plat shall be filed and recorded with the Clerk of the Circuit Court for Polk County. The City Clerk shall be responsible for recording the final plat and for returning one (1) reproducible copy of the recorded plat to the City Engineer.~~

~~(8) *Performance security required.*~~

~~(a) *Full performance security.* In order to receive final plat approval before the installation and/or completion of all improvements, the developer shall provide and maintain sufficient full performance security guaranteeing the installation and approval of all private on-site or off-site improvements and the installation and acceptance of all public on-site or off-site improvements in accordance with the minimum requirements set forth herein. When providing full performance security, the developer shall submit the performance security on forms acceptable to the City two (2) weeks before any City Commission action; such security shall be effective as of the date on which the City Commission approves the final plat. Such performance security shall comply with all applicable statutory requirements, the requirements of this Code, and be satisfactory in form to the City Attorney and the City Engineer and the City's Planning staff and be in an amount equal to one hundred and twenty-five percent (125%) of the developer's contract for the work that remains uncompleted and not accepted at the time of final plat approval as certified in writing by the engineer of record, subject to approval by the City's Planning staff and the City Engineer. When providing a bond for performance security, the bonding company shall have a B+ or better rating in accordance with "Best Bond Book." In the case of a letter of credit, provisions for drawdowns from the letter of credit as improvements are completed and accepted shall accompany the surety. The letter of credit shall have a maximum duration of twenty-four (24) months.~~

~~(b) No more than fifty percent (50%) of the value of the total required improvements shall be considered for bonding and/or a letter of credit given hereunder.~~

~~(c) *Effective period; extensions.* The effective period of the performance security shall not be less than one (1) year from the date on which the City Commission approves the final plat; provided, however, that the City may permit or require extensions by renegotiation of the security amount and execution of a new subdivision agreement.~~

~~(d) *Release of performance security.* Subject to the terms of an applicable subdivision agreement, if any, the performance security shall be released by the City when all private improvements are installed, inspected and approved and when all public improvements are installed, inspected and affirmatively accepted by the City and/or entity with jurisdiction.~~

~~(9) Maintenance and defect guarantee.~~

~~(a) The developer shall warrant and guarantee the materials and workmanship of all infrastructure and infrastructure improvements within the subdivision that are dedicated to the public, including streets, curb and gutter, sidewalks, potable water distribution system, sanitary sewer collection and transmission system, reclaimed water system and stormwater management system. This guarantee shall be for an amount equal to ten percent (10%) of the actual construction costs of improvements and/or other adequate written assurances which are set forth in an applicable subdivision agreement for the purpose of correcting any construction, design or material defects or failures within public rights-of-way or easements in the development or required off-site improvements. The form and manner of execution of such securities shall be subject to the approval of the city attorney.~~

~~(b) The effective period for such security shall be one (1) year and thirty (30) days following the City's acceptance of the installed improvements. Upon default, the City may exercise its rights under the security instrument, upon ten (10) days' written notice by certified mail to the parties to the instrument or as otherwise set forth in an applicable subdivision agreement.~~

~~(c) *Release of defect security.* Subject to the terms of such security and/or subdivision agreement, the maintenance and defect security shall be released by the City at the expiration of its effective period.~~

(a) *Preconstruction meeting required*. The developer shall schedule a preconstruction meeting with the City Engineer prior to commencing any site work, including clearing and grubbing work.

(b) *Construction inspection.* The City shall provide for periodic inspection of required improvements during construction to ensure their satisfactory completion. If it is found that any of the required improvements have not been constructed in accordance with the City's construction standards and specifications, the subdivider shall be responsible for modifying and/or completing the improvements so as to comply with such standards and specifications. Wherever the cost of

improvements is covered by a performance bond, the subdivider and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.

Sec. 21-397. - ~~Vacating of plats and replats~~ Final plat.

~~The owner of any land subdivided into lots may petition the City under the provisions of section 177.101, Florida Statutes, to remove (vacate and annul) the existing plat, or portion thereof, from the official records of the City of Winter Haven and Polk County. The applicant vacating a plat, or a part thereof, shall file the petition, proof of publication of notice of intent, certificate of title, statement of taxes and resolution, and shall pay the appropriate filing fee as established by resolution of the City Commission. Following review by the appropriate City departments, the petition shall be acted on by the City Commission. The applicant shall be responsible for recording the petition and the proof of publication with the Clerk of the Circuit Court for Polk County.~~

Upon the acceptance of the construction drawings by the City Engineer of all subdivision improvements, the developer may present a final plat for approval. The final plat shall be approved by the City Commission by resolution if it meets all of the City's established minimum requirements and all other requirements set forth by Chapter 177 of the Florida Statutes.

(1) *Submission of final plat.*

(a) An application for final plat approval shall be submitted with an appropriate fee established by the City and with accompanying documents as specified herein to the Economic Opportunity and Community Investment Department Director or his/her designee. The Economic Opportunity and Community Investment Department Director or his/her designee shall forward copies of the final plat to the City Engineer, City Attorney, and a surveyor licensed by the State of Florida under the City's employ and/or contract for their review and comments. Upon approval of the final plat by City staff, the Economic Opportunity and Community Investment Department Director or his/her designee via the City Manager shall place the applications on the agenda of the City Commission for final review and approval.

(b) Required documents. One (1) electronic copy of the following documents shall be submitted for review of the final plat:

1. Final plat conforming with the requirements as set forth in Chapter 177, Florida Statutes and this code including the following items:

   a. Dedications and reservations executed by the landowner;

   b. Acknowledgement and joinder for any party accepting a dedication and/or reservation;

   c. Certification by a registered land surveyor;

   d. Statements of endorsement to be signed by the City Engineer, Economic Opportunity and Community Investment Department Director, City's reviewing surveyor, Mayor, and City Clerk.

   The preferred scale of the final plat is one (1) inch equals one hundred (100) feet.

2. Boundary survey of the lands contained within the subdivision.

3. An Autocad file (.dwg) of the final plat and boundary survey.

4. Pursuant to Section 177.041, Florida Statutes (2021), a title opinion or property information report. For purposes of this section, the title opinion or property information report shall be updated within three (3) months of final plat approval and certified no earlier than 30 days prior to the date on which the application is submitted.

5. Documentation establishing, if applicable, that a homeowner's association or property owner's association is legally formed and active for the subdivision.

6. Copy of the recorded restrictive deeds and covenants for the subdivision.

7. Detailed cost breakdown of all proposed improvements.

8. Scale drawing depicting any model homes constructed on lots prior to approval of the final plat.

(c) All required permits and approvals issued by governing bodies having jurisdiction over properties being subdivided shall be furnished to the City Engineer and Economic Opportunity and Community Investment Department Director or his/her designee. The final plat shall not be approved by the City Commission without prior submission of permits and approvals.

(2) *Engineering drawings.* Three (3) sets of City-approved engineering as-built drawings shall be submitted with the final plat. All as-built drawings shall contain a certification by a professional engineer or registered land surveyor of personal verification of the exact location and dimensions of all completed improvements, as well as certification that all utilities have been installed in accordance with specifications.

(3) Upon receipt of the application for final plat approval and once a determination is made by City staff that the final plat and all supporting documents conform to the City's requirements, the final plat will be forwarded via the City Manager to the City Commission for approval.

(4) When the final plat application and required documentation are not approved by City staff, the applicant has three (3) months from the notification date to make any revisions and resubmit for review. After three (3) months, the plans become subject to any changes in the City's rules and/or regulations.

(5) *Standards for approval.* No final plat shall be approved for recording, unless:

(a) The final plat conforms with the approved preliminary plat;

(b) The final plat is in compliance with all applicable regulations, approved construction drawings and as-built drawings;

(c) All improvements have been installed, inspected and accepted by the City or, when approved by the City, the developer has provided the City with adequate performance security and adequate defect security in accordance with the provisions of this Code;

(d) The developer has paid all application and recording fees required by the City;

(e) When construction of improvements is required, a subdivision agreement or developer's agreement has been negotiated and executed by the developer; and

(f) The developer has provided one (1) copy of all homeowner's documents (articles of incorporation, bylaws, and deed restrictions) for review by the city attorney and three (3) copies of the approved homeowners documents; and

The City Commission shall take action to accept or reject the final plat. The City Commission may add reasonable conditions to its approval of a final plat, but if it determines that the developer must make changes to the plat, including changes to exactions or to restrictions on the face of the plat, then it shall be remanded to the City Attorney to review such changes. Approval of the final plat and acceptance of public improvements and dedications shall be by resolution and shall authorize the Mayor and City Clerk to sign the copy of the final plat to be recorded.

(6) *Contingent approval.* Final plat approval shall be contingent upon the developer providing proof of:

(a) Filing with the Department of State of the bylaws and articles of incorporation for the Homeowners Association;

(b) When construction of improvements is required, a subdivision agreement or developer's agreement has been approved by the City Commission, executed by the parties, and recorded in the public records in and for Polk County, Florida; and

(c) All federal, state and local permits which may include, but shall not be limited to, Florida Department of Transportation, Department of Environmental Protection, the U.S. Corps of Engineers, and the Southwest Florida Water Management District.

(7) *Effect of approval.* No lot may be sold until all contingencies have been fulfilled. Upon recordation of the final plat, the developer may submit application(s) for building permits. Upon approval by the City Commission, the final plat shall be filed and recorded with the Clerk of the Circuit Court for Polk County. The City Clerk shall be responsible for recording the final plat and for returning one (1) reproducible copy of the recorded plat to the City Engineer.

(8) *Performance security required.*

(a) *Full performance security.* In order to receive final plat approval before the installation and/or completion of all improvements, the developer shall provide and maintain sufficient full performance security guaranteeing the installation and approval of all private on-site or off-site improvements and the installation and acceptance of all public on-site or off-site improvements in accordance with the minimum requirements set forth herein. When providing full performance security, the developer shall submit the performance security on forms acceptable to the City two (2) weeks before any City Commission action; such security shall be effective as of the date on which the City Commission approves the final plat. Such performance security shall comply with all applicable statutory requirements, the requirements of this Code, and be satisfactory in form to the City Attorney and the City Engineer and the City's Planning staff and be in an amount equal to one hundred and twenty-five percent (125%) of the developer's contract for the work that remains uncompleted and not accepted at the time of final plat approval as certified in writing by the engineer of record, subject to approval by the City's Planning staff and the City Engineer. When providing a bond for performance security, the bonding company shall have a B+ or better rating in accordance with "Best Bond Book." In the case of a letter of credit, provisions for drawdowns from the letter of credit as improvements are completed and accepted shall accompany the surety. The letter of credit shall have a maximum duration of twenty-four (24) months.

(b) No more than fifty percent (50%) of the value of the total required improvements shall be considered for bonding and/or a letter of credit given hereunder.

(c) *Effective period; extensions.* The effective period of the performance security shall not be less than one (1) year from the date on which the City Commission approves the final plat; provided, however, that the City may permit or require extensions by renegotiation of the security amount and execution of a new subdivision agreement.

(d) *Release of performance security.* Subject to the terms of an applicable subdivision agreement, if any, the performance security shall be released by the City when all private improvements are installed, inspected and approved and when all public improvements are installed, inspected and affirmatively accepted by the City and/or entity with jurisdiction.

(9) Maintenance and defect guarantee.

(a) The developer shall warrant and guarantee the materials and workmanship of all infrastructure and infrastructure improvements within the subdivision that are dedicated to the public, including streets, curb and gutter, sidewalks, potable water distribution system, sanitary sewer collection and transmission system, reclaimed water system and stormwater management system. This guarantee shall be for an amount equal to ten percent (10%) of the actual construction costs of improvements and/or other adequate written assurances which are set forth in an applicable subdivision agreement for the purpose of correcting any construction, design or material defects or failures within public rights-of-way or easements in the development or required off-site improvements. The form and manner of execution of such securities shall be subject to the approval of the city attorney.

(b) The effective period for such security shall be one (1) year and thirty (30) days following the City's acceptance of the installed improvements. Upon default, the City may exercise its rights under the security instrument, upon ten (10) days' written notice by certified mail to the parties to the instrument or as otherwise set forth in an applicable subdivision agreement.

(c) *Release of defect security.* Subject to the terms of such security and/or subdivision agreement, the maintenance and defect security shall be released by the City at the expiration of its effective period.

Sec. 21-398. - Vacating of plats and replats

The owner of any land subdivided into lots may petition the City under the provisions of section 177.101, Florida Statutes, to remove (vacate and annul) the existing plat, or portion thereof, from the official records of the City of Winter Haven and Polk County. The applicant vacating a plat, or a part thereof, shall file the petition, proof of publication of notice of intent, certificate of title, statement of taxes and resolution, and shall pay the appropriate filing fee as established by resolution of the City Commission. Following review by the appropriate City departments, the petition shall be acted on by the City Commission. The applicant shall be responsible for recording the petition and the proof of publication with the Clerk of the Circuit Court for Polk County.

Revised Chapter 21, Article VI, Division 1, Concurrency

New language is underlined in red and deleted language is ~~stricken through in red~~.

ARTICLE VI. - PUBLIC FACILITY MONITORING AND PERMITTING
DIVISION 1. - CONCURRENCY

Sec. 21-311. - General provisions.

The purpose of this section is to ensure that facilities and services needed to support development are available concurrent with the impacts of development. The following public facilities and services are subject to concurrency evaluation: roads, potable water, sanitary sewer, stormwater management, solid waste, and recreation.

Except as otherwise provided, no development proposal submitted after the effective date of this Code shall be approved unless public facilities are or will be available to serve a proposed development, such that the levels of service adopted in the comprehensive plan are maintained. Prior to concurrency approval for a proposed development, the following conditions shall be met, as applicable:

(a) For potable water, sewer, solid waste, and stormwater management, the concurrency requirement may be met through one (1) of the following conditions or actions:

(1) The necessary facilities and services are in place at the time a development permit is issued;

(2) A development permit is issued subject to the condition that the necessary facilities and services will be in place when the impacts of the development occur;

(3) The necessary facilities are under construction at the time a permit is issued; or

(4) The necessary facilities and services are guaranteed in an enforceable development agreement that includes provisions (1)-(3) above. An enforceable development agreement shall include, but is not limited to, the provisions of section 163.3227, F.S., or shall be a development order issued pursuant to sections 163.3220-3243, F.S., or an agreement or development order issued pursuant to Chapter 380, F.S. The agreement shall guarantee that the necessary facilities and services will be in place when the impacts of the development occur.

(b) The concurrency requirement for roads may be met by satisfying the conditions listed in paragraphs (a)(1)-(4) above, and by complying with the following standards:

(1) The capital improvements element and five-year schedule of capital improvements must be financially feasible, and may recognize and include transportation projects listed in the first three (3) years of the applicable FDOT five-year work program.

(2) The five-year schedule of capital improvements must include facilities necessary to maintain the adopted level of service standards to serve the proposed new development, and the facilities necessary to eliminate those portions of existing deficiencies that are a priority to be eliminated during the five-year period in which the capital improvements plan is to be implemented.

(3) The capital improvements element and five-year schedule of capital improvements must be based on currently available revenue sources that must be adequate to fund the public facilities required to serve the development authorized by the development order and development permit.

(4) The five-year schedule of capital improvements must include the estimated date of commencement of actual construction and the estimated date of project completion.

(5) The five-year schedule of capital improvements must demonstrate that the actual construction of the road must be scheduled to commence in or before the third year of the five-year schedule.

(6) A plan amendment would be required to eliminate, defer or delay construction of any road that is needed to maintain the adopted level of service standard and that is listed in the five-year schedule of capital improvements.

Sec. 21-312. - Concurrency management system.

The concurrency management system (CMS) shall identify and inventory existing service capacities available for development. To accomplish said inventory, a concurrency application, the form of which is available in the ~~planning~~ Economic Opportunity and Community Investment director's office, shall be filed with and reviewed by the City, and a determination of concurrency shall be made prior to

formal submittal of a development plan of any kind. The following procedure shall be carried out in order to obtain a determination of concurrency.

(a) A completed concurrency application shall include the following information:

(1) Projected average daily traffic (ADT) and peak-hour traffic generated by the proposed development and the traffic distribution on the existing roadway(s).

(2) Projected potable water demand generated by the proposed development and identification of the service provider.

(3) Projected wastewater demand generated by the proposed development and identification of the service provider.

(4) Projected solid waste generation and identification of the service provider.

(5) Description of the stormwater management system for the proposed development. This description shall include the stormwater management basin in which the proposed project is located, method of treatment, system design parameters, and location of outfall.

(b) Where required information is readily available, the planning director may, at his or her discretion, obtain or calculate one (1) or more of the above data requirements. However, it shall be the applicant's full responsibility to ensure that the concurrency application is complete and accurate.

(c) The ~~planning~~ Economic Opportunity and Community Investment director, or his/her designee, shall distribute the completed concurrency application to appropriate City departments charged with providing the identified services. Each department shall ~~certify~~ provide comments on the concurrency application ~~whether or not there is sufficient capacity to service the development~~.

(d) For any public service not provided by the City of Winter Haven, the ~~planning~~ Economic Opportunity and Community Investment director may waive capacity certification on a case-by-case basis if there is satisfactory evidence that capacity is available to support the proposed development. Stormwater management certification for single-family development on existing lots may be waived under the same conditions.

(e) The applicant shall be notified within seven (7) working days as to whether the proposed development meets the concurrency requirement. If the proposal is determined to meet concurrency, the applicant may proceed with the development process as set forth in other sections of this Code. Proposals not meeting concurrency shall not be processed for review until and unless an agreement has been reached by the City and the developer to mitigate the identified deficiency.

Sec. 21-313. - Fees.

Fees for staff review of concurrency applications shall be established, and may be changed from time to time, by resolution of the City Commission.

Sec. 21-314. - Developments to be consistent with concurrency applications.

All development proposals submitted to the City for review shall be consistent with the data established in the concurrency application. Those exceeding the service demand levels established in the concurrency application shall not be processed. The applicant shall be provided with a written notice that a new concurrency application shall be required.

Where deficiencies have been identified, development plans based on an agreement to provide needed facilities and/or services shall be processed with the agreement as a condition of development approval. However, the City shall not be required to approve a development plan that meets the concurrency requirement, but does not satisfy other provisions of this Code.

Sec. 21-315. - Allocation of municipal services.

Allocations of ~~public facility and service~~ potable water, wastewater, and roadway capacities shall be on a first-come, first-served basis, unless otherwise provided for by this Section. Services shall be allocated at the following stages:

(a) *Residential subdivisions.*

(1) On ~~final~~ approval of a preliminary subdivision plat, service capacities shall be allocated based on the approved preliminary plat. Allocation of service capacity shall be valid for ~~five~~ three (~~5~~ 3) years from the date of ~~final~~ preliminary plat approval; provided however, should

any model homes be constructed within the subdivision, allocation of services for those constructed homes shall be in perpetuity.

(2) On approval of a final subdivision plat, service capacities shall be allocated based on the approved final plat in perpetuity.

(b) ~~On final approval of a conditional use permit, service capacities shall be allocated based on the conditional use permit. Allocation of service capacity shall be valid for three (3) years from the date of approval of the conditional use permit.~~

~~(c)~~ ~~Those~~ Multi-family, commercial, or industrial developments ~~that are~~ processed under the site development plan review procedures, as set forth by Section 21-439, shall be allocated service capacities upon approval of the site development plan. Allocation of service capacity shall be valid for ~~six~~ eighteen (~~6~~ 18) months from the date of site development plan approval. Should vertical or horizontal construction not commence within eighteen (18) months, the developer may apply for a single, twelve (12) month extension prior to expiration of the initial approval.

(c) Affordable housing projects, as defined by Chapter 163.3177(6)(f)(3) F.S., shall receive capacity reservations upon formal submittal of a site plan to the City for review in accordance with procedures established in Section 21-439 of this Code. Capacity reservations for affordable housing projects shall be prioritized over all other development types, and shall remain in place for up to thirty-six (36) months from the time of reservation.

Sec. 21-316. - Levels of service.

Through the concurrency management system, Winter Haven shall maintain the following levels of service for public facilities:

Facility	Level of Service
Utilities	
Sanitary sewer	~~125 gallons per capita per day (g/c/d)~~ 100 gallons per person per day

Potable water		~~196 g/c/d by 1995~~ 120 gallons per person per day
		~~177 g/c/d by 2000~~
Solid waste		~~5.5~~ 4.5 pounds per person per day
Transportation		
Backlogged facilities		Maintain and improve
~~Principle arterials~~ Roadways without fixed-route transit		D
Roadways with fixed-route transit[1]	~~Minor arterials~~ M-1	~~E~~ D + 10 percent
	~~Collector and local roadways~~ M-2	E
	M-3	E + 10 percent
Recreation and open space		~~5.5~~ 6.0 acres per 1,000 residents
Stormwater management		~~The stormwater management level of service for new development shall be equal to a~~ 25-year 24-hour storm event~~.~~ ~~Stormwater treatment and disposal facilities shall meet the design and performance standards established in section 17-25.025, FAC. The first inch of stormwater runoff shall be treated on-site, pursuant to Section 17-3.051, FAC. Stormwater discharge facilities shall be designed such that the receiving water body shall not be degraded below minimum conditions necessary to assure the suitability of water for the designated use of its classification as established in Chapter 17-3, FAC. These standards shall apply to all new development and redevelopment. For existing development, the City has established a level of service to contain the three-year twenty-four-hour storm event.~~
Public Schools		100 percent of Florida Inventory of School Houses (FISH) capacity

[1] Multi-modal level of service is defined as follows:

M-1: Minimal fixed-route transit corridor with 60-minute headways

M-2: Enhanced fixed-route transit corridor with 30-minute headways with improved transit stops and some connections to properties located within ¼ mile of the transit route.

M-3: Extensive fixed-route transit area with 30-minute headways with improved transit stops and extensive connections to all properties within ¼ mile of the transit route.

All development that was not approved through a subdivision plat, conditional use permit, site development plan, or the issuance of a building permit prior to the date of adoption of this Code shall be subject to an adequacy determination through the concurrency management system. An adequacy determination shall also be required for existing development where any improvement, expansion, or other change is proposed that may result in a greater demand for those public facilities addressed in this section. The ~~planning~~ Economic Opportunity and Community Investment director shall determine whether a proposed change in existing development requires an adequacy determination.

Sec. 21-317. - Adequacy of the road system.

As part of the adequacy determination, the adequacy of the road network shall be evaluated according to conditions at the time the development plan or building permit is approved. Initial measurement of roadway capacities shall be carried out using data and methodology accepted by FDOT or other traffic analysis techniques that are technically justifiable as determined by the planning director. Capacity ratings on the State highway network shall be approved by FDOT.

Any proposed development shall be required to address the adequacy of the City's road network as it relates to the projected traffic volumes generated by the development. If any affected road segment lacks capacity to accommodate the additional traffic generated at the adopted LOS, it shall be determined whether such capacity will be available if all of the transportation improvements contained in the City's comprehensive plan and/or that of Polk County are completed.

For the purpose of this section, improvements to State roads resulting in an improvement in the level of service, and that are scheduled to occur by the third year of the FDOT's five-year work program, shall be considered concurrent. If it is determined that such capacity will not be available, then the specific improvements necessary to enable the road network to reach such capacity shall be identified,

through the completion of a detailed transportation study conducted by a professional in the field of transportation planning, and the application may be granted with an express condition regarding the adequacy of the City's transportation network. At the sole discretion of the City commission, such condition shall require one (1) of the following:

(a) That the applicant shall construct the necessary improvements proportional to the share of the additional capacity that is needed to accommodate traffic generated by the applicant's development; or

(b) That the applicant deposit money into a "road fund" equal to the share of the cost of the improvements that would otherwise be required.

Sec. 21-318. - Monitoring.

The concurrency management system shall be monitored and updated ~~annually~~ as new development projects are submitted for review and infrastructure projects are placed into service. Monitoring and updating shall consist of summing all approved services ~~during each year~~ and subtracting those sums from the capacities available ~~at the beginning of the concurrency period~~. Added capacity shall include ~~A~~any capital improvement ~~scheduled during the concurrency period and~~ constructed or placed into service shall ~~then~~ be added to the capacity totals~~.~~; ~~In addition,~~ any developer-sponsored facility or service placed into service as a result of mitigation shall be accounted for in the specific facility/service provided~~.~~; and ~~Upon calculation of available capacities under this method,~~ all capital improvements projects budgeted and approved by the City Commission in the first three (3) years of its five-year schedule of capital improvements ~~shall be added to the relevant capacities~~. The sums of all aforementioned calculations shall then be the available capacities ~~for the next year~~ to serve proposed development projects. The following calculation shall be the basis of the ~~annual~~ concurrency monitoring system:

	Available Capacity
+	Constrtucted Improvements
+	Developer Sponsered Mitigation Improvements
+	Programmed Improvements (~~1st year S.C.I.~~ First 3 years of CIP Schedule)
-	Development Approved ~~during year~~
=	Available Capacity ~~(Nth year)~~

~~If capital projects identified in the first year of the City's five-year schedule of capital improvements were not constructed or placed into service during the identified concurrency period, those projects shall be subtracted from available capacities and, if not provided for in the capital budget, removed from capacity available for concurrency purposes. Development projects approved based on service capacities presumed to be available shall not be permitted to proceed until a method to mitigate any deficiency has been approved. Such mitigation shall include, but not be limited to, phasing of a development project, payment of monies to construct necessary facilities, or the construction of necessary facilities.~~

Any preliminary subdivision plat or site development plan for which construction has not begun within the time frame specified in this Code shall be considered lapsed and shall forfeit any allocation of service capacity. Upon forfeiture, all capacities so allocated shall be returned to the service/facility provider. ~~The concurrency management system shall be approved by resolution of the City commission on the first regularly scheduled City commission meeting in September of each year.~~

Sec. 21-319. - Appealing City's adequacy determination.

A developer may challenge any concurrency determination made by the City by appealing the decision to the City commission. The appeal shall be accompanied by substantial, competent evidence that sufficient capacity does exist by virtue of the following:

(a) The impacts of the proposed development will differ from the impacts estimated by the City as a result of special circumstances of that development;

(b) Based on the City's own information, the analysis being used has an error in its base data; or

(c) In the case of roads, the applicant presents evidence through travel speed, distance and time studies that impacted roadway links actually operate at higher levels of service than indicated by the City's analysis. Methodology for such travel speed/distance/time studies shall be certified by a licensed professional traffic engineer. In the event the travel speed/distance/time studies are warranted, the City or its agent shall conduct or commission such a study after receiving a fee from the applicant to cover the costs of conducting and analyzing the study. The applicant shall have the opportunity to review the methodology prior to the commencement of the study.

Sec. 21-320. - Options for achieving compliance.

Where it appears, or it has been determined, that there is a lack of capacity to service a proposed development, the developer should consider a variety of methods for achieving compliance. Some possibilities are as follows:

(a) The developer may propose a plan amendment that lowers the adopted level of service standard for the affected facilities and/or services.

(b) The developer may propose a reduction in the scale or impact of the proposed development.

(c) The developer may propose a phasing of the proposed development to match the availability of capacity with the timing of each phase of the development. Specific conditions for permitting each phase to proceed shall be included in an enforceable development agreement or development order to ensure that necessary public facilities and services will be in place when the impacts of the development occur.

(d) The developer may propose a development agreement assuring that the required facility capacity will be provided. Any development agreement must provide one (1) or more of the following assurances, acceptable to the City in form and amount, to guarantee the applicant's pro rata share of the cost of completing or providing any public facilities and services that may be necessary to maintain the adopted level of service standards for the subject property:

    (1) Cash escrow;

    (2) Irrevocable letter of credit; or

    (3) Prepayment of capacity/connection charges.

    Whenever an applicant's pro rata share of a public facility is less than the full cost of the facility, the City shall do one (1) of the following:

    (1) Contract with the applicant for the full cost of the facility, including terms regarding reimbursement of the applicant for costs in excess of the applicant's pro rata share;

    (2) Obtain assurances from other sources similar to those described above in this section; or

(3) Amend the comprehensive plan to modify the adopted level of service standard so as to reduce the required facility to equal the applicant's needs.

(e) Where a developer disagrees with the results obtained by the City in its concurrency review regarding transportation, a transportation study may be performed at the option and expense of the developer. The results of the study shall be considered by the City in subsequent determinations regarding the development's compliance with concurrency requirements.

(f) For those roadway facilities that indicate a lower LOS than the adopted standard of the City of Winter Haven Comprehensive Plan, the City shall allow applicants to perform an operating LOS assessment based upon procedures outlined in the 1985 Highway Capacity Manual. A discussion of any proposed transportation system management and/or mitigation strategies shall be included in the study. The transportation study shall be signed and sealed by a registered professional engineer. The cost of this assessment shall be borne by the applicant.