

commercial historic area established in 1994. Currently 71 historic residential structures, out of a total of 125 residential parcels, and 27 historic commercial structures, out of a total of 150 commercial parcels, are identified in the district boundary area. Such historic structures are also classified as "contributing structures," which means that the structures are at least 50 years of age and exhibit unique or distinctive architectural style or character. A listing of the contributing structures by both commercial and residential use and address is provided in "Exhibit C"\* to this Ordinance.

(4) Supremacy.

- a. The numerical values and distances set forth in the text of this article prevail in the event of any discrepancy with numerical values and distances set forth in the design standards and guidelines manual, or other sections of the Winter Garden Code.
- b. The photographs and illustrations in the historic downtown district overlay design standards and guidelines manual are for illustrative purposes only. Each photograph and illustration is intended to illustrate the design principle(s) or architectural style or element identified in the corresponding caption. The text of this article shall prevail in the event of any discrepancy with a visual depiction in the manual.
- c. If other land development regulations or zoning provisions conflict with any of the standards set forth in this article, the standards and provisions contained in this article shall prevail.

(Ord. No. 10-05, § 2(Exh. 1), 1-14-10)

**Editor's note**—A copy of Exhibits "A", "B", "C" can be found in the offices of the city clerk.

**Sec. 98-189. Architectural review and historic preservation board (board).**

Reference previously established by Ordinance 08-29 (6-12-2008):

- (1) *Purpose.* The architectural review and historical preservation board "board" or

"ARHPB" is hereby established for the purpose of protecting historical and cultural resources located within the city limits.

(2) Board membership, officers, etc.

a. *Membership.*

1. The board ("board" or "ARHPB") shall have seven members appointed by the city commission. One member of the board shall be an architect. One member shall be a licensed general contractor, preferably with experience with historical renovations. One member shall be a member of the Winter Garden Heritage Foundation Board. One member shall own commercial property in Winter Garden's Historic Downtown District. One member shall own property within the district and reside within the city. The remaining two member appointments shall be City of Winter Garden residents and be made on the basis of civic pride, integrity, experience, and interest in the field of historic preservation.
2. Except for the architect, licensed general contractor and Winter Garden Heritage Foundation Board members who shall be appointed to serve three-year terms, each member shall be appointed to serve a two-year term.
3. When a position becomes vacant before the end of the term, the city commission shall appoint a substitute member within 60 days to fill the vacancy for the remainder of the vacated term. A member whose term expires may

- continue to serve on the board until a successor is appointed and qualified.
4. An individual who misses three regularly scheduled meetings during any calendar year without good cause shall be deemed to have resigned that individual's membership on the board and is not eligible for reappointment to the board or any other city board for at least one year. In that event, the city clerk shall notify the individual that the individual's position on the board will be declared vacant by the city commission at the next regularly scheduled city commission meeting unless the individual demonstrates good cause for having been absent. Members of the board serve at the pleasure of the city commission. The city commission may at any time terminate the appointment of and remove any board member with or without cause. For cause reasons may include, but are not limited to, a member's excessive absences, violation of City Charter or City Code, violation of the Government in the Sunshine Law, malfeasance, misfeasance, neglect of duty, habitual drunkenness or impairment, incompetence, permanent inability to perform duty and conflicts of interest, upon giving notice and an opportunity to be heard. The city commission shall take any and all action it deems appropriate in its sole discretion.
  - b. *Officers.* The members of the board shall annually elect a chair and vice chair from among the members and may create and appoint other officers of the board, as the board deems necessary.
  - c. *Staffing.* The city shall provide professional and administrative staff as needed and fiscal support subject to budgetary approval by the city commission.
  - d. *Compensation.* Members shall not be compensated but shall be reimbursed by the city for necessary expenses incurred in connection with their duties.
  - e. *Funding.* The city commission shall appropriate funds to the board to perform its prescribed functions.
  - f. *Required meetings.* The board shall endeavor to meet on a monthly basis. All meetings will be appropriately noticed and minutes of each meeting shall be kept. Meetings will be conducted according to rules of procedure adopted by the board. All meetings of the board shall be open to the public and shall operate under the provisions of F.S. ch. 286 (The Government in the Sunshine Law).
  - g. *Quorum.* Four members of the architectural review and historical preservation board shall constitute a quorum for the purposes of holding meetings and transacting business. However, no action on an item before the board shall be final or binding unless such action is approved or disapproved by a majority of the members of the board present once a quorum is established. A member of the board who is physically present for a board meeting shall be counted for the purposes of establishing a quorum regardless if such member abstains from voting on one or more items considered during the meeting.
- (3) *General functions, powers and duties.*
    - a. *Generally.* It shall be the general responsibility of the city to take

appropriate action to ensure that the provisions of this article are implemented.

b. *Specifically.* It shall be the specific responsibility of the architectural review and historical preservation board to:

1. Create and update the official inventory of cultural resources of the city and submit to the city commission recommendations and documentation concerning the updating.
2. Develop programs to stimulate public interest in urban neighborhood conservation, to participate in the adaptation of existing codes, ordinances, procedures, and programs to reflect urban neighborhood conservation policies and goals.
3. Explore funding and grant sources and advise property owners concerning which sources might be available for identification, protection, enhancement, perpetuation, and use of historic, architectural, archeological and cultural resources.
4. Cooperate with agencies of city, county, regional, state and federal governments in planning proposed and future projects to reflect historic preservation concerns and policies, and assist in the development of proposed and future land use plans.
5. Advise property owners and local governmental agencies concerning the proper protection, maintenance, enhancement, and preservation of cultural resources.
6. Advise the city commission concerning the effects of local governmental actions on cultural resources.
7. Recommend the designation of sites, buildings, structures, objects, and districts, both public and private, as historically or architecturally significant.
8. Develop architectural standards for designated contributing structures, historic sites, and objects within the historic district and present standards to the city commission for approval. All standards will require an enabling ordinance adopted by the city commission. The ARHPB may recommend to the city commission additional code standards to preserve and protect special features unique to the city, or may recommend amending the design standards and guidelines manual.
9. Develop criteria for designating local historic landmarks and present criteria to the city commission for approval. All criteria will require an enabling ordinance adopted by the city commission.
10. Develop policies and procedures for administering all approved ordinances regarding architectural and historical districts, historical sites and present such policies and procedures to the city commission for approval. All policies and procedures will require an enabling ordinance adopted by the city commission.
11. Notify the city manager who shall take appropriate action when it appears that there has not been compliance with the historic preservation regulations of the city.
12. Assist in developing a historic preservation element to be

incorporated into the City of Winter Garden's Comprehensive Plan and, if necessary, make recommendations for amendments to historic preservation goals, objectives and policies in the plan.

- (c) Nothing in this section shall be construed to affect the authority of the planning and zoning board to grant variances from height and setback requirements, make recommendations of zoning boundaries, and otherwise exercise the authority set forth in section 98-28.

(Ord. No. 10-05, § 2(Exh. 1), 1-14-10; Ord. No. 10-12, § 2, 2-11-10; Ord. No. 16-54, § 2, 8-25-16; Ord. No. 19-18, § 2, 4-11-19; Ord. No. 21-15, § 2, 8-12-21)

### **Sec. 98-190. Certificate of approval.**

(1) *Certificate of approval required.* Unless otherwise exempted herein, any person or entity, prior to commencing alteration, demolition, partial demolition, or new construction in a designated historic area, district or site located within the historic downtown district, must apply for and receive a certificate of approval prior to commencing any such activity.

(2) *Preapplication conference.* Before entering into or assuming binding commitments or incurring substantial expense in the preparation of plans, surveys and other data in connection with the alteration, demolition, or new construction in the historic downtown district, and before submitting an application for a certificate of approval, an applicant should confer with the city to obtain information and guidance concerning the permissibility and feasibility of any such alteration, demolition, or new construction. The purpose of such conference is to discuss and clarify historic conservation objectives and design guidelines with the applicant. In no instance shall any statement or representation made prior to the official application review be binding on ARHPB, the city commission, city staff or any city departments.

(3) *Staff review.* The city's architectural review staff shall review all applications for certificates of approval. Such review will occur within 15 business days after a complete application is filed. The staff shall prepare a staff report, which report shall outline staff recommendations as to the application for certificate of approval and is to be provided to the applicant and/or the project architect in advance of the ARHPB meeting.

- (a) *Projects not requiring development review committee ("DRC") review.* If the application proposes alteration of an existing building within the historic downtown district that will not add square feet to the building or structure, the project application shall be reviewed by staff and forwarded directly to ARHPB with recommendations for review.
- (b) *Projects requiring review of the development review committee review ("DRC").* If the project requires site work, is a new building, or proposes an addition to an existing building, the applicant must, in addition to an application for the certificate of approval, also submit a site plan application, which site plan application shall be reviewed by the city's development review committee (DRC). Review may be conducted simultaneously by both DRC and ARHPB; however, if, at any time in the review process, it is determined or believed that an application submitted for review without a site plan requires a site plan, such application shall be forwarded to DRC for further action and/or a determination as to whether a site plan is required. Should a site plan be required

but has not yet been provided, review of the application for certificate of approval shall be abated until a complete site plan application is submitted to DRC for review. In no event shall DRC issue a determination of approval concerning a site plan application for a project requiring a certificate of approval until ARHPB has provided DRC with verification that ARHPB has issued such certificate and/or their review and recommendation, or the city's architectural staff has otherwise notified DRC that a certificate of approval is not required. When DRC review is required, DRC shall be responsible for forwarding all relevant materials, including the certificate of approval, to the planning and zoning board or the city commission as may be required by this Code.

(4) *Review requirement.* Upon completion of staff review of an application in accordance with subsection (3), ARHPB shall review and render a decision concerning such application during a duly noticed public meeting. ARHPB may approve, approve with conditions, or deny an application.

(5) *Guidelines for review, variances and waivers.*

- (a) The design standards and guidelines manual shall reflect and be used to implement the intent and purposes of this historic downtown district overlay ordinance. The ARHPB shall use and weigh the "encouraged" and "strongly discouraged" criteria set forth in the manual against the elements set forth in the application to determine whether an application meets the intent of this article.
- (b) In adopting guidelines for review, it shall be the intent of ARHPB to preserve the exterior historic characteristics of the landmark, resource or district, and to promote maintenance, restoration, adaptive reuses appropriate to the property, and compatible designs which are harmonious with the exterior architectural and landscape features of neighboring buildings, sites, and streetscapes. The guidelines shall also

serve as criteria for staff to make decisions, as permitted by ARHPB and this article, regarding applications for standard certificates of approval.

- (c) Variances may be granted from the land development code requirements as may be appropriate to achieve the design review standards for historic preservation. The ARHPB shall be authorized to issue variances concerning the architectural and aesthetic requirements established pursuant to this chapter; however, other variances requiring a site plan, including variances from building height, side, rear and front setbacks, building coverage, floor area ratio, impervious coverage, and walls and fences, may be granted only by the city's planning and zoning board in accordance with those procedures outlined in article II, division 4 of chapter 118 of this Code. Building code exemptions may be granted subject to the guidelines of the Florida Building Code for qualified historic buildings or structures:
  - i. When one or more variances are considered, the applicant shall post proper notice on the property in accordance with section 98-191(2)(c) of this Code, or, if one or more variances requires review by the planning and zoning board, section 118-133 of this Code. Variances requiring approval of the planning and zoning board shall be reviewed by the staff, and the planning and zoning board shall render a final decision as to such variances only. Projects that require a variance from the architectural design standards established pursuant to this chapter shall be heard by ARHPB in conjunction with the architectural plan application.
  - ii. All requests for variances through the AHRPB design review process shall be limited to property building features and elevations requirements as defined in this article.
  - iii. Any person aggrieved by the decision of the ARHPB for a variance



may appeal such decision to the city commission within 15 days of the date of the decision by ARHPB. Notice of such pending appeal must be provided in accordance with the signage requirements of section 98-191(2)(c) of this Code, being posted for at least ten consecutive days prior to the hearing on such appeal and noting the time, date, location, and nature of such appeal. Appeals from decisions of the planning and zoning board shall be made in accordance with the planning and zoning board's standard appellate procedures as set forth in section 98-31 of this Code. In the event that an applicant has filed timely appeals of both an ARHPB decision and a planning and zoning board decision both pertaining to the same project or application, such appeals, if both pending, may be consolidated and scheduled for joint presentation to the city commission. Notice of such consolidated appeals shall be provided as set forth in section 98-31(b) of this Code.

- (d) Each designated historic district may adopt specific district guidelines for design review based upon the U.S. Secretary of the Interior's Standards for Rehabilitation as revised in 1995 subject to final approval by ARHPB.
- (e) Local guidelines for design review may be adopted based upon the U.S. Secretary of the Interior's Standards for Rehabilitation as revised in 1995.
- (6) *Certificate of approval information.*
  - (a) An applicant for a special certificate of approval whether for exterior alteration, addition, restoration, renovation, relocation or demolition shall submit an application to ARHPB accompanied by photographs, elevations, site plans, floor plans, and samples of materials as deemed appropriate by ARHPB to fully describe the proposed appearance, materials and architectural design of the building, other

outbuilding and site plan. The applicant shall provide adequate information to enable ARHPB to visualize the effect of the proposed action on the applicant's building and its adjacent buildings and streetscapes.

- (b) In the event that the applicant is requesting a certificate of approval for demolition, ARHPB shall be provided with the details for the proposed disposition of the site. ARHPB may require architectural drawings, financial plans or other information regarding any proposed new construction. Proposed demolitions shall be reviewed in accordance with section 98-194 of this Code.

(7) *Meeting notices.* ARHPB shall rule upon applications for a certificate of approval during a duly noticed public meeting. Notice of meetings shall be posted at city hall, on the city's website, at least seven days in advance of the noticed meeting. All notices must state the type (i.e., regular or special), time, place, and date of the meeting to be held.

(8) *Decision of ARHPB.* The decision of ARHPB shall be based upon the guidelines set forth in section 98-192 as well as the general purpose and intent of these regulations and any specific planning objectives and the design standards and guidelines manual officially adopted for the historic downtown district. The decision may include such incentives or conditions for preservation as ARHPB finds appropriate. The decision of ARHPB shall include a description of the reasons for such findings and details of the public interest that is sought to be preserved and shall direct one or more of the following actions:

- (a) Issuance of a certificate of approval for the work proposed by the applicant;
- (b) Issuance of a certificate with conditions;
- (c) Denial of the application and refusal to grant a certificate of approval; or
- (d) Issuance of a special certificate of approval with a deferred effective date of up to six months from the date of ARHPB's decision in cases of demolition or moving of a significant building.

(9) *Time limit.* ARHPB shall act upon an application within 60 days of receipt of a completed proposed application. The time limit may be waived at any time by mutual written consent of the applicant and ARHPB. Certificate of approvals shall be effective for a period of one year from the action of ARHPB or from the time frame approved with the project's site plan.

(10) *Records.* The decision of ARHPB shall be issued in writing. Evidence of approval of the application shall be by certificate of approval issued by ARHPB's designated staff representative to the applicant, and whatever its decision, notice in writing shall be given to the applicant, city manager, city clerk and the director of the community development department. When an application is denied, ARHPB's notice shall provide a written explanation of its decision. ARHPB shall keep a written record showing its action on each application considered. In cases where a project must also be reviewed by DRC, ARHPB shall keep DRC apprised of the status of an applicant's application and any certificate(s) of approval that may be issued by ARHPB. Such information shall be considered by DRC in rendering its recommendations to either the city commission or the city's planning and zoning board, whichever may be applicable.

(11) *Appeals.*

- (a) *Time for appeal.* Any substantially affected party may appeal any decision of ARHPB to the city commission by filing, within 15 days after the date of the decision with the community development department, a written notice of appeal and an appeal fee as established by the schedule of fees. The notice shall set forth concisely the decision appealed from and the reason or grounds for the appeal.
- (b) *Record in underlying proceedings.* Applicant shall submit 12 sets of the application plans and other information that was part of the application submitted to the city and ARHPB with the appeal.
- (c) *Decision.* An appeal of a decision rendered by ARHPB shall be heard by the city commission, which shall hear as a public hearing and consider all facts material to

the appeal and render a decision. The city commission may affirm, modify or reverse ARHPB's decision. The decision of the city commission shall constitute final administrative review. Appeals from decisions of the city commission may be made to the courts as provided by the Florida Rules of Appellate Procedure.

- (d) *Consolidation of appeals.* If an applicant has timely appealed an ARHPB decision in conjunction with a timely appeal of a determination of the development review committee ("DRC") or a planning and zoning board decision, and the appeals pertain to the same project or application, such appeals, if still pending, shall, in the interest of administrative economy, be consolidated and scheduled for a single public hearing before the city commission as to all matters raised in both or all appeals. Notwithstanding the requirements of article II, division 5, of chapter 118 of this Code, or any other appellate provisions of this Code, an appeal consolidated pursuant to this subpart shall be noticed and heard in the same manner as appeals from the planning and zoning board as set forth in section 98-31 of this Code.

(12) *Change in approved work.*

- (a) The city staff shall review any change in work proposed subsequent to the issuance of a certificate of approval. In determining whether a change requires AHRPB review, city staff shall consider the following factors:
  - i. Whether the change conforms with the design standards and guidelines manual;
  - ii. Whether the change conforms to the historic context and appearance of the structure;
  - iii. The degree to which the change alters the conditions of the previously approved certificate of approval; and
  - iv. Whether the change will result in a recognizable alteration of the structure's anticipated finished appear-

ance. Substitute materials shall be allowed if they are of similar appearance and quality to those originally proposed.

- (b) If the city staff finds that the proposed change does not require AHRPB review, it may issue a supplementary standard certificate of approval for such change. For changes requiring ARHPB review, the applicant shall be required to submit a new application for certificate of approval, accounting for such changes. Such new application shall be reviewed by ARHPB in accordance with this article.

(13) *Architect's certification.* No certificate of occupancy shall be issued for any new structure until the applicant provides the city with certification that all work has been completed in accordance with the terms and conditions of the applicable certificate of approval. Modifications to commercial structures shall also be required to obtain the architect's certification. Single-family residential renovations may need the architect certification. The building official shall determine the need for the certification based on the nature of the work being performed to the residence. Such certification shall state that the undersigned architect has:

- (a) Reviewed the terms and conditions of the certificate of approval;
- (b) Is familiar with the applicable elements of the city's design standards and guidelines manual;
- (c) Has performed a visual inspection of the completed project; and
- (d) Has determined that the finished project reasonably conforms to the architectural design identified in the certificate of approval.

(Ord. No. 10-05, § 2(Exh. 1), 1-14-10)

### **Sec. 98-191. Application requirements.**

(1) With the application for certificate of approval, the applicant shall submit the following documents. All plans shall be submitted on a minimum 11" × 17" sized sheet and shall be

drawn to scale. The administrative official may waive any of these requirements if not applicable to the specific application:

- (a) An accurate survey, completed by a surveyor registered in the State of Florida. Surveys are required for new construction including, but not limited to, the construction of fences, walls, accessory structures and additions.
- (b) For new construction, additions or renovations: A site plan showing the complete property with dimensions of the existing and proposed buildings, spacing, all setbacks, individual parking spaces, access drives fences, and accessory structures. The site plan shall be reviewed by the city's development review committee (DRC), while the architectural elevations shall be reviewed by city staff and then forwarded to ARHPB as appropriate.
- (c) A floor plan of the proposed improvements, if there is an anticipated impact on the exterior of the building.
- (d) Elevations of the exterior facades, if any changes are proposed to the facades.
- (e) Sign plan and individual dimensioned sign drawings shall specify proposed materials and colors, and shall show location of signs on site plans and building elevation.
- (f) Picture/brochure and dimensions of any fence(s) to be installed.
- (g) Paint samples that uses historic palette colors.
- (h) Recent photographs of the building/building features to be modified. No Polaroid photographs shall be allowed.

(2) *ARHPB meeting and hearings.* The following shall apply to ARHPB's consideration of applications for certificates of approval:

- (a) *Review criteria.* Decisions regarding the application shall be based on a finding of fact stating whether the proposed alteration, demolition, etc. is consistent with the standards and characteristics of this historic downtown overlay district.