



**CITY OF JACKSONVILLE BEACH
FLORIDA**

11 North Third Street
Jacksonville Beach, Florida

Agenda

Planning Commission

Monday, February 13, 2017

7:00 PM

Council Chamber

MEMORANDUM TO:

Members of the Planning Commission
City of Jacksonville Beach, Florida

The following Agenda of Business has been prepared for consideration and action at the Regular Meeting of the Planning Commission.

1. **Call to Order**

2. **Roll Call:** Greg Sutton (Chair), Terry Deloach (Vice Chair), Bill Callan, Dave Dahl, Georgette Dumont;
Alternates: Britton Sanders, Margo Moehring

3. **Approval of Minutes:** November 14, 2016, December 27, 2016, and January 23, 2017

4. **Correspondence:** None

5. **Old Business:** None

6. **New Business:**

(A) **PC#41-16 715 1st Street North**

Redevelopment District: RD Rezoning Application to rezone a 1.31 acre parcel of oceanfront land located at the Northeast corner of 1st Street North and 6th Avenue North from *Commercial, limited: C-1* to *Redevelopment District: RD* to allow a mixed use hotel/commercial/residential project. The property is located at 715 1st Street North.

(B) **PC#1-17 322 and 314 12th Avenue North**

Conditional Use Application for multiple family residential, for a five-unit townhouse development, located in a *Commercial, limited: C-1* zoning district, pursuant to Section 34-342 (d)(15) of the Jacksonville Beach Land Development Code.

(C) **Comprehensive Plan Consistency Determination** – South Beach Redevelopment Plan Amendment (CRA Resolution #2017-01)

7. Planning Department Report:

(A) Report from the Police Department regarding proposed changes to Chapter 18 “Noise”, of the City Code.

(B) The next meeting is tentatively scheduled for March 13, 2017.

NOTICE

In accordance with Section 286.0105, Florida Statutes, any person desirous of appealing any decision reached at this meeting may need a record of the proceedings. Such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The public is encouraged to speak on issues on this Agenda that concern them. Anyone who wishes to speak should submit the request to the recording secretary prior to the beginning of the meeting. These forms are available at the entrance of the City Council Chambers for your convenience. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (904) 247-6299, extension 10, no later than one business day before the meeting.

MEMORANDUM



TO: Planning Commission Members
FROM: Heather Ireland, Senior Planner
DATE: February 6, 2017
RE: February 13, 2017 - Planning Commission Meeting

The following information is provided for your consideration regarding three agenda items for the upcoming February 13, 2017 Planning Commission meeting.

NEW BUSINESS:

PC#41-16 ***Redevelopment District: RD Rezoning Application***

Owner/
Applicant: Atlantis Beach Partners, LLC.
645 Mayport Road, Suite 5
Atlantic Beach, FL 32233

Agent: Kimley-Horn and Associates, Inc.
12740 Gran Bay Parkway, West Suite 2350
Jacksonville, FL 32258

Location: 715 1st Street North

Request: ***Redevelopment District: RD Rezoning Application*** to rezone a 1.31 acre parcel of vacant oceanfront land located at the Northeast corner of 1st Street North and 6th Avenue North from *Commercial, limited: C-1* to *Redevelopment District: RD* to allow a mixed use hotel/commercial/residential project.

Comments: The applicant owns the vacant oceanfront block located on 1st Street North between 6th and 7th Avenues North (the subject property), and would like to develop a multistory hotel use on it. The subject property was the site of the former *Atlantis* Hotel. The property is currently zoned *Commercial, limited: C-1* and the applicant was advised that due to the size of the proposed redevelopment project (>50,000 square feet), that rezoning to *Redevelopment District: RD* would be required. Additionally, the subject property exists as part of a 2010 Consolidated Settlement Agreement (Case No. 16-2006-CA-006294) that stipulates that in addition to rezoning to RD, that development of the subject property will be constructed in accordance with the *Central Business District: CBD* zoning site design and lot layout standards of the Land Development Code as currently in effect. This settlement agreement also granted vested rights for a maximum building height on the subject property of 89 feet.

The applicant is proposing a primarily commercial development consisting of a 220-room hotel, of which up to 64 hotel would be convertible into condominium units, with an exchange rate of two hotel rooms per one condominium unit. The application also proposes up to 10,000 square feet of commercial space, of which up to 6,750 square feet would be oriented along from 6th Avenue North, and approximately 3,250 square feet would be internal to the hotel (such as a restaurant). Sixth Avenue North, is classified as an "A" street pursuant to the LDC, and requires active commercial uses along the street. Commercial and retail uses will support both the hotel and the general public. The project's multiple level parking garage will provide 260 parking

spaces. Additionally, the project will extend the public seawalk north to 7th Avenue North.

Adjacent property uses include The *Casa Marina* hotel to the south, commercial, residential, and mixed use to the west, multiple family residential to the north and the public beach and Atlantic Ocean to the east. The proposed redevelopment is consistent with the Downtown Community Redevelopment Plan, the Comprehensive Plan and the Land Development Code. The proposed project would serve to continue the current revitalization of the downtown area. The project as described in the submitted application would complement the character of the surrounding neighborhood and would fit within the context of the Downtown Vision Plan objectives. Adjacent property values should be enhanced by the proposed development of the subject property. Adequate public facilities exist to serve the project, and it would be subject to the city's Mobility Fee.

The Community Redevelopment Agency (CRA) considered this rezoning application at their January 23, 2017 meeting. It was recommended for City Council Approval.

PC#1-17

Conditional Use Application

Owner/
Applicant:

Hoose Homes and Investments, Inc.
7563 Philips Highway, Suite 109
Jacksonville, FL 32256

Agent:

Curtis Hart
8051 Tara Lane
Jacksonville, FL 32216

Location:

322 and 314 12th Avenue North

Request:

Conditional Use Approval for multiple family residential, for a five-unit townhouse development, located in a *Commercial, limited: C-1* zoning district, pursuant to Section 34-342(d)(15) of the Jacksonville Beach Land Development Code.

Comments:

The subject property consists of two adjacent lots, one with a triplex, and the other one vacant. Both are located on the south side of 12th Avenue North between 3rd and 4th Streets. The subject property is located in a *Commercial, limited: C-1* zoning district, and the vacant lot previously existed as a single family residential property. The single family dwelling was demolished in 1998. The triplex residential dwelling on the western lot remains. The applicant is requesting conditional use approval to construct a new five-unit townhouse project on the combined lots. If approved, the residential development would be subject to the *Residential, multiple family: RM-1* zoning standards. The applicant received conditional use approval via PC#37-16 for a two-family dwelling on the vacant lot on November 14, 2016, but did not develop that project. The applicant now wishes to combine the lots, and develop a five-unit townhouse project. The parcel meets the minimum lot size requirement for the proposed development, pursuant to the *RM-1* zoning standards. If approved, the project would be developed and plated as five fee-simple townhouse lots.

Adjacent properties include residential and religious uses to the west, commercial to the south, and east, and residential and commercial uses to the north. A new multiple family dwelling should not negatively impact the existing mixed-use character of the surrounding neighborhood.

Comprehensive Plan Consistency Determination - South Beach Redevelopment Plan Amendment (CRA Resolution 2017-01)

Applicant: Planning and Development Director, on behalf of the Jacksonville Beach Community Redevelopment Agency.

Request: **Approval of the Finding of Fact** related to the proposed amendment to the South Beach Redevelopment Plan, and its consistency with the adopted 2030 Comprehensive Plan.

Comments: On January 23, 2017 the Community Redevelopment Agency (CRA) recommended that the Jacksonville Beach City Council approve an amendment the South Beach Community Redevelopment Plan to include the provision that the maintenance of TIF funded improvements and facilities, such as the new skate park, the existing splash pad, and other facilities, is an allowable capital expenditure of TIF funds. A similar maintenance provision already exists in the City’s Downtown Redevelopment Plan, recognizing the need for additional levels of maintenance for such improvements.

It is the responsibility of the Planning Commission to ensure that changes to the approved South Beach Redevelopment Plan are consistent with the adopted Comprehensive Plan for Jacksonville Beach. Findings of Fact have been provided.

FINDINGS OF FACT

January 31, 2017

SUBJECT: South Beach Redevelopment Plan Amendment

Pursuant to Article V., Section 34-72(m) of the Land Development Code of the Jacksonville Beach Code of Ordinances, the Planning Commission shall study the resources, possibilities, and needs of the City and report its findings to the City Council. The Planning Commission finds that the amendment to the South Beach Redevelopment Plan is consistent with the adopted 2030 Comprehensive Plan as follows:

Future Land Use Element

Policy LU.1.4.8

Adequate recreation and open space facilities shall be developed over the planning period to provide the adopted level of service for existing and projected population in accordance with the goals, objectives, and policies set forth in the Recreation and Open Space Element.

The amendment to the South Beach Redevelopment Plan to allow for expenditures for maintenance of TIF funded improvements, including those in South Beach Park, assures that recreation and open space facilities are maintained in order to continue to provide the adopted level of service for the City's existing and projected residential populations.

Policy LU.1.5.1

SOUTH BEACH DISTRICT

The City shall continue its support and participation in the development of the South Beach District, a 372 acre mixed use area located in the southern portion of the City. This district is controlled by the Jacksonville Beach Southend Redevelopment Area Downtown Development of Regional Impact (DRI).

The amendment to the South Beach Redevelopment Plan to allow for expenditures for maintenance of TIF funded improvements assures that recreation and other facilities are maintained as part of the mixed use South Beach District.

Recreation and Open Space Element

Policy RO.1.6.1

Maintenance programs shall be on-going in order to help reduce repair costs and periodic site inspections of facilities will continue to be conducted to prevent deterioration and dilapidation of buildings, fields, and equipment.

The amendment to the South Beach Redevelopment Plan to allow for expenditures for maintenance of TIF funded improvements assures that existing and future recreation facilities within the South Beach District are maintained in order to avoid facility deterioration and dilapidation.

**Minutes of Planning Commission Meeting
held Monday, November 14, 2016, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



Call to Order

The meeting was called to order Chairman Greg Sutton.

Roll Call

Greg Sutton (Chairperson)
Terry DeLoach (Vice Chairperson)
Bill Callan (*absent*)
David Dahl
Georgette Dumont (*absent*)

Alternates

Britton Sanders
Margo Moehring

Also present were Heather Ireland, Senior Planner, Susan Erdelyi, City Attorney, and Recording Secretary Amber Lehman.

Approval of Minutes

It was moved by Mr. DeLoach, seconded by Mr. Dahl, and passed unanimously, to approve the following minutes, as presented:

- Planning Commission Meeting held on October 24, 2016.

Correspondence

Mr. Sutton noted that he had a letter from JWB Construction authorizing agent for a case tonight.

New Business

(A) PC #36-16- 335 5th Avenue South

Conditional Use Application for a new two-family dwelling unit located in a *Commercial, limited: C-1* zoning district pursuant to Section 34-342(d)(15) of the Jacksonville Beach Land Development Code.

Staff Report:

The subject property is a corner lot located on the northeast corner of 5th Avenue South and 4th Street South. The subject property is located in a *Commercial, limited: C-1* zoning district, and existed as a residential property converted in to a hair salon. The applicant is requesting conditional use approval to construct a new two-family dwelling unit on the subject property. If approved, the residential development would be subject to the *Residential, multiple family: RM-1* zoning standards. The parcel meets the minimum lot size requirements for a two-family dwelling, per *RM-1* zoning standards.

Adjacent properties include residential and commercial to the east, and south, commercial to the north, and new and existing residential uses to the west. Several other lots in the area have been redeveloped with two-family dwelling units. A new two-family dwelling at this location should not negatively impact adjacent properties and is consistent with the character of other newly developed two-family dwelling units in the immediate vicinity.

Applicant:

The applicant, Brian Phillips, 1639 Beach Boulevard, stated that he had nothing additional to add to the staff report.

Public Hearing:

There was no one present to speak in favor of or in opposition to the proposed application.

Motion: Mr. DeLoach made a motion to approve the application, seconded by Mr. Dahl.

Roll call vote: Ayes – Dahl, DeLoach, Sutton, Sanders, and Moehring.
The motion was approved unanimously.

(B) PC #37-16 – 314 12th Avenue North

Conditional Use Application for a new two-family dwelling unit located in a *Commercial, limited: C-1* zoning district pursuant to Section 34-342(d)(15) of the Jacksonville Beach Land Development Code.

Staff Report:

The subject property is a vacant lot located on the south side of 12th Avenue North between 3rd and 4th Streets. The subject property is located in a *Commercial, limited: C-1* zoning district, and previously existed as a single family residential property. The single family dwelling was demolished in 1998. The applicant is requesting conditional use approval to construct a new two-family dwelling on the subject property. If approved, the residential development would be subject to the *Residential, multiple family: RM-1* zoning standards. The parcel meets the minimum lot size requirement for a two-family dwelling, per *RM-1* zoning standards.

Adjacent properties include residential and religious uses to the west, commercial to the south, commercial to the east, and residential and commercial uses to the north. A new two-family dwelling should not negatively impact adjacent properties and is consistent with the character of other multiple family dwelling units in the immediate vicinity and is consistent with other conditional uses granted in *C-1* zoning districts on similarly sized lots.

Applicant:

The applicant, Lisandro Rosales, 7563 Philips Highway, Jacksonville, noted that the current owner owns the property to the west and south.

Public Hearing:

Mr. Jon McGowan, 5 17th Avenue North, stated that there was concern about the conversion to multifamily. He stated that there was concerned about the number of multi-family units being built on single-family parcels. He was not particularly speaking against this proposal but encouraged the Planning Commission to closely look at these conversions. Mr. Dahl asked if was going to object to a two-family dwelling, what of the conditional use standards would Mr. McGowan reference. Mr. McGowan stated that they should consider need. Mr. DeLoach noted that there has to be reason to deny that falls within the guidelines that they use.

Susan Erdelyi, City Attorney, stated that she has been asked to look at issues of variances and guidelines that should be more consistently followed by the Board of Adjustment. She agreed that the Commission needed to follow the standards in the Plan.

Mr. Dahl asked Mr. McGowan what concerns he had heard going door to door. Mr. McGowan asked that the community was concerned with these conversions and the percent lot coverage and the densities. Discussion followed on the issue of lot coverage.

Motion: Mr. Dahl made a motion to approve the application, seconded by Mr. DeLoach.

Roll call vote: Ayes – Dahl, DeLoach, Moehring, Sanders, and Sutton.
The motion was approved unanimously.

(C) **PC #35-16 Ordinance 2016-8084**

Temporary Moratorium consideration, on the operation of Medical Marijuana Treatment Centers and Dispensing Organizations within the City of Jacksonville Beach.

Staff Report:

Amendment 2, or the Florida Medical Marijuana Legalization Initiative was approved by voters on November 8, 2016 as an initiated constitutional amendment. Upon voter approval, the measure legalizes the medical use of marijuana throughout the State of

Florida and authorize the cultivation, processing, distribution and sale of marijuana and related activities by licensed "Medical Marijuana Treatment Centers."

The City Attorney has prepared the attached ordinance which establishes a temporary one-year moratorium for medical marijuana treatment centers and dispensing organizations. The City's Land Development Code does not currently have regulations governing the use of property for the purposes of cultivating, processing, distributing or selling medical marijuana or related activities (treatment centers and dispensing operations). The requested moratorium period will allow the City to review and consider whatever enabling legislation the State Legislature formulates during its next legislative session. The moratorium will also allow the City time to better analyze the potential impacts of medical marijuana treatment centers and dispensing organizations upon adjacent uses and surrounding areas, and then formulate appropriate regulations to accommodate these types of businesses.

On June 16, 2014, Governor Rick Scott signed Senate Bill 1030, also known as the "Compassionate Medical Cannabis Act of 2014 ("2014 Act")." The legislation legalized low-tetrahydrocannabinol (THC) cannabis, such as the strain Charlotte's Web, for medical patients suffering from cancer or "a physical medical condition that chronically produces symptoms of seizures," such as epilepsy, "or severe and persistent muscle spasms." The law authorized a very limited number of large nurseries to cultivate, process, and dispense low-THC cannabis and operate as "dispensing organizations." The measure became effective on January 1, 2015.

On November 4, 2014, Amendment 2 or the Florida Right to Medical Marijuana Initiative, a statewide referendum to amend the Florida Constitution ("Referendum"), did not obtain voter approval. The measure proposed to legalize the medical use of marijuana throughout the State of Florida and authorize the cultivation, processing, distribution and sale of marijuana and related activities by licensed "Medical Marijuana Treatment Centers." Regardless of the results of the Referendum, per the 2014 Act, limited dispensary organizations are still authorized to operate in the State of Florida.

On March 25, 2016, the Florida Legislature amended Fla. Stat. § 381.986, to make various revisions including a revision to the definition of "dispensing organization" to allow dispensing organizations to transport cannabis and to include "medical cannabis" for eligible patients with terminal conditions.

Applicant:

The City of Jacksonville Beach is the applicant. Mr. DeLoach stated that at first he thought they could do it in less time, but realized that a year would be necessary to not get out in front of the State. Mr. Sutton agreed that they needed to wait until the end of the session.

Ms. Moehring questioned why there were noted potential adverse impacts and why they were included. Ms. Erdelyi responded that medical marijuana is not legal under Federal law, which will impact banking issues. She added that there were problems with pill mills

that they noted and these same issues could arise with these dispensaries. She stated that eventually the City Council will have to decide the location where they would be allowed.

Mr. Sanders asked if they were mandated to provide a minimum amount of dispensaries. Ms. Erdelyi stated that this was opening up more than before and that's why they needed State guidance. Mr. DeLoach asked how many they require. Ms. Erdelyi responded that they would wait for guidance from the State on standards.

Public Hearing:

There was no one present to speak in favor of or in opposition to the proposed moratorium.

Motion: Mr. DeLoach made a motion to approve the proposal for the one-year moratorium, seconded by Mr. Dahl.

Roll call vote: Ayes – Dahl, DeLoach, Moehring, Sanders, and Sutton.
The motion was approved unanimously.

Planning & Development Director's Report

Ms. Ireland reported that there were no cases scheduled for December.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:26 P.M.

Submitted by: Amber Maria Lehman
Recording Secretary

Approval:

Chairman

Date: _____

**Minutes of Planning Commission Meeting
held Monday, December 27, 2016, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



Call to Order

The meeting was called to order Vice Chairman Terry DeLoach.

Roll Call

Greg Sutton (Chairperson) (*absent*)
Terry DeLoach (Vice Chairperson)
Bill Callan (*absent*)
David Dahl (*absent*)
Georgette Dumont

Alternates

Britton Sanders
Margo Moehring

Also present were Heather Ireland, Senior Planner, Bill Mann, Planning and Development Director, and Amber Lehman, Recording Secretary.

Approval of Minutes

None

Correspondence

Ms. Ireland reported that there was additional correspondence received.

Old Business

There was no old business.

New Business

(A) PC #38-16- 1350 13th Avenue South

Planned Unit Development: PUD Zoning Amendment, amending Ordinance No. 2004-7873, as amended, and consolidated in 2011, to allow for an expansion of the hospital, relocation of the helipad, and minor changes to a segment of the parking layout.

Staff Report:

Ms. Ireland read the following into the record:

The proposed *Planned Unit Development: PUD* amendment is being requested to allow modifications to the currently approved building expansion to Beaches Baptist Hospital. The hospital is located on 13th Avenue South between 9th Street South and Roberts Road. The applicant was advised by staff that a PUD amendment would be required for the proposed changes to the approved site plan for the hospital due to the fact that internal roadways are being moved and the south pavilion addition footprint was being modified, because it is a modification to the approved PUD Preliminary Development Plan. The building addition will require the rerouting of traffic around the new addition, reconfiguration of an internal roadway, and a portion of the parking area, and the relocation of the existing helipad. The changes will not add beds to the hospital.

Adjacent property use includes medical office, self-storage, and single- and multifamily residential. The proposed additions to the hospital PUD should not negatively impact adjacent properties.

Applicant:

The agent for the applicant, Paul Harden, 501 Riverside Avenue, Jacksonville, concurred with the staff report presented and entered into the record by Ms. Ireland.

Mr. Harden entered into the record three exhibits.

Mr. Sanders asked if there will be new services offered; is that why the new conversion.

Mr. Harden replied that they may happen at a later date.

Ms. Dumont confirmed with the applicant that the changes are only for the South Pavilion.

Mr. Harden replied yes.

Public Hearing:

Mr. DeLoach opened the public hearing and asked if anyone wished to speak in favor of or in opposition to the application.

There was no one present to speak in favor of or in opposition to the application.

Motion: It was moved by Ms. Dumont and seconded by Mr. Sanders to approve the PUD Zoning Amendment.

Roll call vote: Ayes – Dahl, Dumont, Sanders, and Moehring.
The zoning amendment was approved unanimously.

Planning & Development Director's Report

Ms. Ireland advised the board that the next meeting is scheduled for Monday, January 23, 2017 with one item agenda.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:11 P.M.

Submitted by: Amber Maria Lehman
Recording Secretary

Approval:

Chairman:

Date:

**Minutes of Planning Commission Meeting
held Monday, January 23, 2017, at 7:00 P.M.
in the Council Chambers, 11 North 3rd Street,
Jacksonville Beach, Florida**



Call to Order

The meeting was called to order Chairman Greg Sutton.

Roll Call

Greg Sutton (Chairperson)
Terry DeLoach (Vice Chairperson)
Bill Callan
David Dahl
Georgette Dumont

Alternates

Britton Sanders
Margo Moehring (*absent*)

Also present were Heather Ireland, Senior Planner, and Amber Lehman, Recording Secretary.

Approval of Minutes

None

Correspondence

None

New Business

(A) PC #39-16- 231 19th Avenue North

Conditional Use Application for multiple family located in a *Commercial, limited: C-1* zoning district pursuant to Section 34-343(d)(15) of the Jacksonville Beach Land Development Code.

Staff Report:

The subject property is located at the northeast corner of 19th Avenue North and 3rd Street North. The property currently exists in multifamily residential use with a two-story duplex structure and a one-story, one-dwelling unit structure, both constructed prior to 1980. Since the property was constructed prior to the current code, it exists as a legal nonconforming use. The applicants are planning to replace the single-story building on the east end of the

property with a new three-story, single-family structure for their personal use, and maintain the duplex on the west end of the property. The applicants were advised by staff that this constituted a substantial improvement and would require conditional use approval.

Adjacent property use includes medical office, and multifamily residential to the south, single-family and multifamily to the east, vacant commercial directly to the north, and a high school to the west across 3rd Street. Based on the historical and current use of the property as multifamily residential and other adjacent residential properties, the subject property should not negatively impact adjacent properties.

Applicant:

The applicant, Debra Brinker, 4853 Registry Walk, Kennesaw, GA., stated that she concurred with the staff report presented by Ms. Ireland.

Public Hearing:

There was no one present to speak in favor of or in opposition to the proposed application.

Motion: It was moved by Mr. DeLoach and seconded by Mr. Dahl, to approve the application.

Roll call vote: Ayes – Callan, Dahl, DeLoach, Dumont, and Sutton.
The motion was approved unanimously.

(B) PC #40-16 – 1325 Beach Blvd

Conditional Use Application for outdoor seating at an existing restaurant located in a *Commercial, limited: C-1* zoning district pursuant to Section 34-343(d)(14) of the Jacksonville Beach Land Development Code.

Staff Report:

The subject property is located on the north side of Beach Boulevard east of Penman Road. The subject property has existed as a *Dunkin Donuts* restaurant for over 25 years. The applicant wishes to provide an outdoor patio for customers and is requesting conditional use approval for outdoor seating. Based on the size of the existing enclosed restaurant, any approved outdoor seating would be limited to 350 square feet in size. The outdoor seating shown on the applicant's site plan would be located on the south side of the building where a required parking space currently exists. The outdoor seating would also require additional parking at a ratio of one space per 100 square feet of restaurant. If approved, the applicant would be required to either provide additional on-site parking, or request a parking variance if additional on-site parking cannot be provided.

Adjacent uses include single-family to the north across 1st Avenue North, commercial to the east and west, and commercial to the south across Beach Boulevard. The addition of

outside seating at this location should not negatively impact adjacent properties and is consistent with other outdoor seating areas.

Applicant:

The agent for applicant, Dana Chimbumbolo, stated that she concurred with the staff report presented by Ms. Ireland.

Public Hearing:

There was no one present to speak in favor of or in opposition to the proposed application.

Motion: It was moved by Mr. Dahl and seconded by Ms. Dumont, to approve the application.

Roll call vote: Ayes – Dahl, DeLoach, Dumont, Sutton, and Callan.
The motion was approved unanimously.

Planning & Development Director's Report

Ms. Ireland reported that the next meeting will be held on February 13, 2017 with two items on the agenda.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:11 P.M.

Submitted by: Amber Maria Lehman
Recording Secretary

Approval:

Chairman

Date: _____

Kimley»»Horn

December 13, 2016

Bill Mann, AICP
Director, Planning and Development Department
City of Jacksonville Beach
11 N. 3rd Street
Jacksonville Beach, FL 32250

**Re: Rezoning Application 2nd Sufficiency Submittal
Atlantis Mixed-Use Project (Parcel # 174249 0010)**

Dear Mr. Mann,

Kimley-Horn and Associates, Inc. (Kimley-Horn) has revised the Atlantis rezoning application package pursuant to the discussions held at our October 25th, 2016 meeting and as such, is submitting a second sufficiency resubmittal to the City of Jacksonville Beach's Planning and Development Department. Included in this resubmittal is the revised rezoning narrative description text in both underline/strike-through (redline) and clean version format, revised site plan and building elevation. On behalf of the Applicant, Kimley-Horn respectfully requests that this application be scheduled for the next available Community Redevelopment Association, Planning Commission, and City Council meetings.

Should you have any questions, please feel free to contact me at (904) 828-3900.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



Mark W. Shelton, AICP
Project Manager

RECEIVED
PC#41-16
DEC 14 2016
16-100231
PLANNING & DEVELOPMENT

cc. Bryan Weber, The Klotz Companies
William J. Schilling, Jr. P.E., Kimley-Horn and Associates, Inc.

NARRATIVE DESCRIPTION

PROPOSED AMENDMENT TO THE ZONING MAP DESIGNATION

Atlantis Mixed Use Project located at 715 North 1st Street

4. For a rezoning, include a narrative description of the proposed amendment to the Zoning Map designation and an explanation of why it complies with the standards governing a rezoning the LDC.

A. Reason for Rezoning

Pursuant to the City of Jacksonville Beach's Land Development Code (LDC) Section 34-345 - Central Business District (CBD), "buildings or developments containing single or multiple uses listed herein and which exceed fifty thousand (50,000) square feet in gross floor area shall only be approved pursuant to redevelopment district: RD or planned unit development: PUD district standards and procedures". In addition to this LDC requirement to rezone the subject property, the 2010 Consolidated Settlement Agreement (Case No. 16-2006-CA-006294) further stipulates the following:

"4. Notwithstanding paragraph I. 3. of this Settlement Agreement, development review of site plans for any parcel subject hereto shall be processed under Section 34-345 (Central Business District: CBD) of the LDC, as it existed on November 1, 2004; however, development proposals which exceed 50,000 square feet of gross floor area or 50 feet in height shall be processed under the provisions of the Section 34-347 (Redevelopment District: RD) zoning standards; and shall be constructed in accordance with the CBD site design and lot layout standards in Section 34-345(e) (Central Business District: CBD) of the LDC, as currently in effect."

As the proposed development for the subject site will exceed the aforementioned thresholds, the request to rezone this property from Commercial Limited (C-1) to Redevelopment District (RD) is necessary.

B. Existing Site Conditions

The subject property is bounded on the North by 7th Avenue North, on the West by 1st Street North, on the South by 6th Avenue North and on the East by the Atlantic Ocean. The site is currently vacant. The property is not landscaped and has not been in use for more than the past 10 years.

C. Consistency with Surrounding Uses

Currently, the existing uses surrounding the subject property are consistent with the uses proposed in this application. The surrounding uses are as follows:

North:	Acquilus Condominiums
West:	Dolphin Depot Mixed Use Development (proposed)
South:	Casa Marina Hotel and Restaurant
East:	Atlantic Ocean

D. Consistency with Land Development Code (LDC)

The proposed project will meet the purpose and intent of the Redevelopment District (RD) as set forth in Section 34-347 of the City of Jacksonville Beach Land Development Code (LDC). The Atlantis project is designed to achieve “a diversity of uses in a desirable environment” by proposing hotel, commercial, recreational, and potentially residential uses in a concise and consistent built environment. Furthermore, the proposed development of Atlantis will meet or exceed all development standards set forth in this section including:

Site Development Table

Land Area	1.31 acres	
Permitted Uses	Mixed Use (Commercial/Hotel/Residential)	
Proposed Uses		
Retail	5,000 – 10,000 square feet*	
Hotel	220 Hotel Rooms and ancillary uses	
Condominium	Up to 64 hotel rooms may be converted to up to 32 condominium units, or portion thereof, at an exchange rate of 2 hotel rooms per 1 condominium unit.	
Residential Density	Maximum 40 units per acre	
Lot Coverage	100% Maximum	
Building Setback requirements	1 st Street	0'
	6 th Avenue	10'
	Atlantic Ocean	The more restrictive of 10' or the Oceanfront Extent Line as established by the FDEP (Pools, decks, seating areas, cabanas, etc. shall be allowed east of the FDEP established oceanfront extent line)
	7 th Avenue	29'
Traffic circulation control and parking	Vehicular access planned from 7 th Avenue North	
Off-street parking and loading	Code minimum structured parking	
Open space requirement	Plaza, Pool, Outdoor Seating, Seawalk etc.	
Signage	Code Minimum per LDC Article VIII, Division 4	
Landscape	Code Minimum per LDC Article VIII, Division 3	
Environmental	Stormwater management provided	

Utility Easements	Provided as required
Adequate public facilities	Sufficient public facilities available
Tentative Development Schedule	Commencement 2018; Completion 2023
Comprehensive plan consistency	See below

*Up to 6,750 square feet of ground floor retail uses fronting 6th Avenue shall have external access and be available to street level pedestrian traffic.

E. Consistency with the Jacksonville Beach Community Redevelopment Plan

The project will achieve several redevelopment objectives as set forth in the Jacksonville Beach Community Redevelopment Plan:

1. The proposed development will help eliminate the conditions of blight and prevent the spread of blighting conditions.
2. It will consist of a compact, mixed-use development within the core area, oriented to recreation, entertainment, specialty retail, tourism, and housing.
3. It will help stabilize and enhance the residential portions of the redevelopment area through infill development and rehabilitation.
4. Through the seawalk expansion on the site, it will enhance useable open space in the community redevelopment area to support and encourage greater pedestrian activity.
5. The proposed project design will continue the high quality standards of new development and rehabilitation consistent with the desired image of Jacksonville Beach.
6. Atlantis will help create an exemplary public environment consisting of streets, pedestrian walks, plazas, and open spaces for the community.

The structure will have a maximum building height of eighty-nine (89) feet and is planned to consist of ground floor retail and hotel amenities and uses with parking; up to three additional levels of structured parking above the ground floor; and up to six floors of hotel uses with potential to exchange up to 64 hotel rooms for up to 32 condominium units, or portion thereof, at an exchange rate of 2 hotel rooms per 1 condominium unit. The development will have more than fifty (50%) percent commercial (including hotel) in gross square footage. Accordingly, the northern and southern yard setbacks will equal a minimum of thirty-nine (39) feet combined. Also, pursuant to required Central Business District (CBD) standards, the front yard setback along 1st Street (western property line) shall be zero (0) feet, while the eastern property line setback shall be the greater of 10' or 0' from the Oceanfront Extent Line as established by the FDEP. The design, character, and architectural style of the proposed development will result in a unified, cohesive, and compatible plan of development within the Community Redevelopment Plan area. A Conceptual Elevation, dated September 26, 2016, is included as an attachment to the rezoning application.

F. Consistency with Comprehensive Plan

The proposed Atlantis project includes an optimal mix of hotel, commercial, recreational, and potentially residential uses to ensure that the development is consistent with the goals and objectives of the Jacksonville Beach 2030 Comprehensive Plan. The hotel land use included in this development specifically supports Jacksonville Beach's tourism industry. Condominiums considered for the project, if developed, will provide new residential dwelling units, promoting livability in the city's core

downtown area. Atlantis also will provide space for commercial uses, including restaurant and retail, that will support the economic vitality of the downtown area. Outdoor recreation in the project consists of a pool with outdoor seating, a seawalk and beach-front features. These outdoor features, as well as the public beach access that will be preserved and expanded during development, provide adequate recreation for residents and tourists alike while also conserving the natural aesthetics of the downtown beach. The proposed Atlantis project also addresses building design, landscaping, and parking in order to support an attractive streetscape. The nature and design of this project provide for a continued high quality of life in Jacksonville Beach.

The following objectives from the Jacksonville Beach 2030 Comprehensive Plan are specifically addressed in this development:

Policy LU.1.3.1

It is the intent of the City that the land use proposals in the adopted Downtown and South Beach Community Redevelopment plans currently being implemented are made a part of this Future Land Use Element by reference and development within these designated areas shall be carried out under the Planned Unit Development or Redevelopment District provisions in the City's land development regulations.

Policy LU.1.3.3

The City shall support and encourage redevelopment of the core downtown area, that area within the Central Business District: CBD zoning district boundaries, in accordance with its Downtown Vision Plan, through public investments and the development of detailed site design regulations to guide private development within the CBD. These design regulations shall be incorporated into the *Central Business District: CBD Zoning District* regulations of the Jacksonville Beach Land Development Code by November, 2011, and shall address such aspects as building design and frontage requirements, landscaping, and location of parking facilities and driveways.

Policy LU.1.4.3

New residential development shall be designed so that valuable and aesthetic natural features are conserved, that on-site opportunities are utilized, and that the design is contemporary and imaginative and avoids wasteful, rigid arrangements of streets and utility systems.

Policy LU.1.4.8

Adequate recreation and open space facilities shall be developed over the planning period to provide the adopted level of service for existing and projected population in accordance with the goals, objectives, and policies set forth in the Recreation and Open Space Element.

Policy LU.1.5.10

CENTRAL BUSINESS DISTRICT (CBD)

The Central Business District (CBD) land use category is intended to provide a central core for the city, with a diversity of uses, and to promote flexibility in design and quality in development while preserving public access to the beach recreational area. It is coterminous with the jurisdictional area of those lands within the Downtown Redevelopment Area. The CBD category allows medium to high density residential, commercial, industrial, recreational, and entertainment uses, as well as transportation and communication facilities. The exact location, distribution, and density/intensity of various types of land uses in the Redevelopment Area will be guided by the site development plans approved as part of the Downtown Redevelopment Plan.

Policy LU.1.7.2

Encourage development/redevelopment at an appropriate scale, form, and density/intensity to support more economical and efficient public bus transit service.

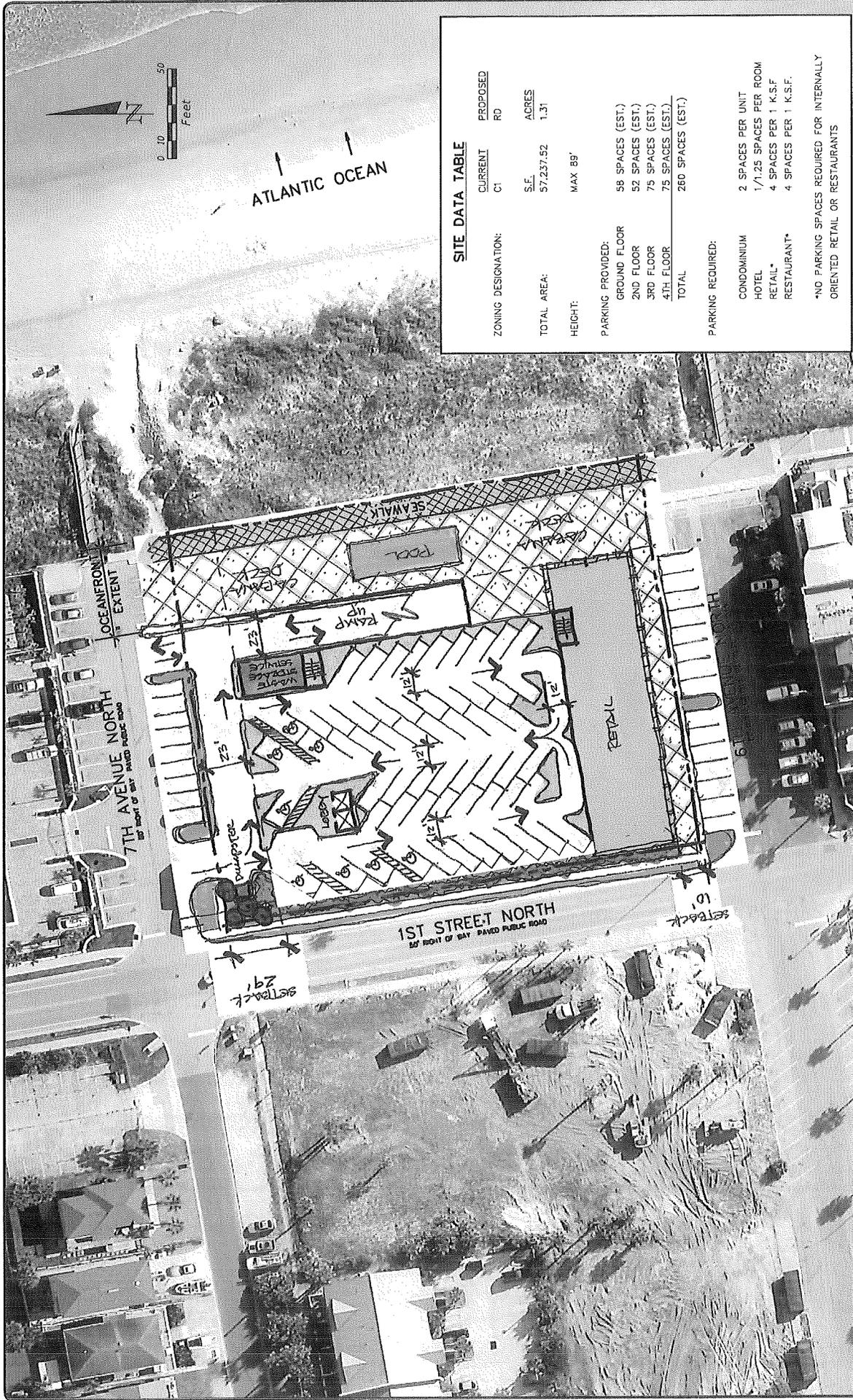
Objective HO.1.1

The City shall assist the private sector to provide new dwelling units between 2011 and 2030 for an estimated 458 new households projected to reside in the city.

Objective CM.2.1.1

Shoreline land uses which incorporate public uses and access to shorelines and coastal resources shall have priority during development and redevelopment.

REVISED SITE PLAN



SITE DATA TABLE

ZONING DESIGNATION:	CURRENT	PROPOSED
	C1	RD
TOTAL AREA:	S.E. ACRES	ADRES
	57,237.52	1.31
HEIGHT:	MAX	89'
PARKING PROVIDED:		
GROUND FLOOR	58 SPACES (EST.)	
2ND FLOOR	52 SPACES (EST.)	
3RD FLOOR	75 SPACES (EST.)	
4TH FLOOR	75 SPACES (EST.)	
TOTAL	260 SPACES (EST.)	
PARKING REQUIRED:		
CONDOMINIUM	2 SPACES PER UNIT	
HOTEL	1/1.25 SPACES PER ROOM	
RETAIL*	4 SPACES PER 1 K.S.F.	
RESTAURANT*	4 SPACES PER 1 K.S.F.	

*NO PARKING SPACES REQUIRED FOR INTERNALLY ORIENTED RETAIL OR RESTAURANTS

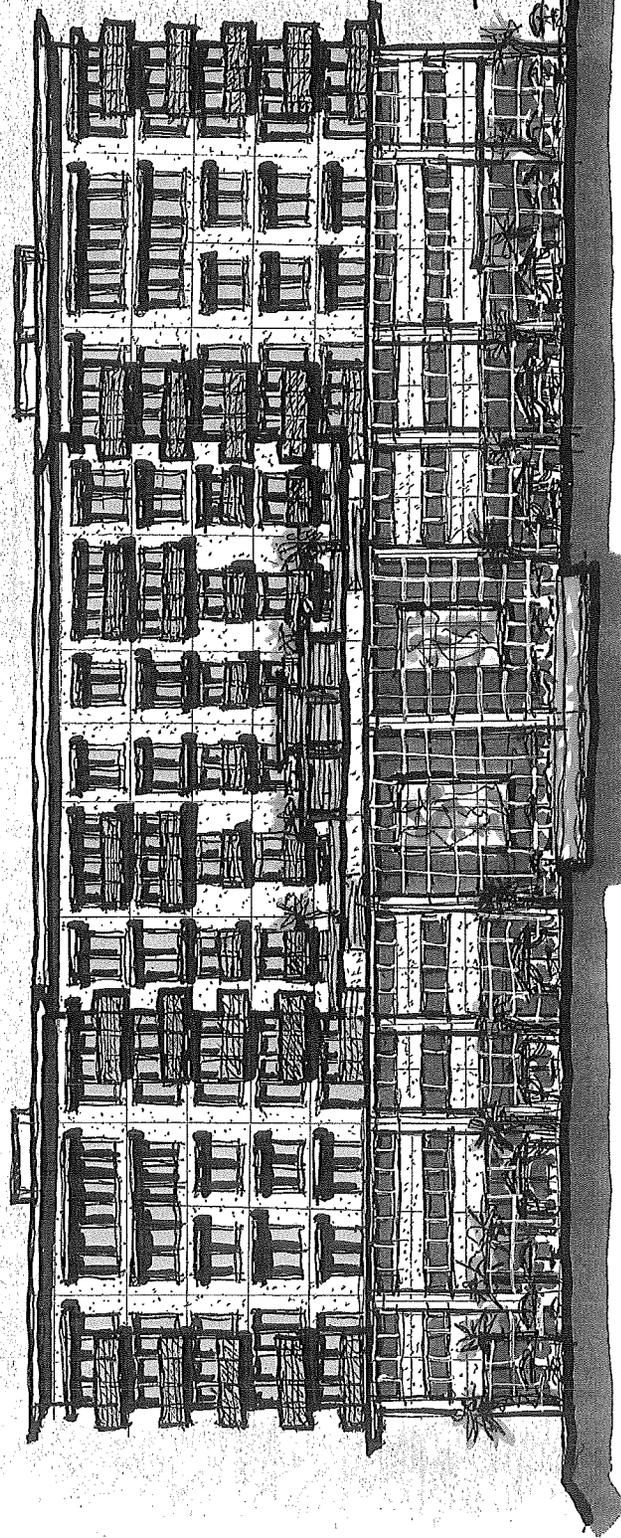
ATLANTIS CONCEPTUAL SITE PLAN

715 1ST STREET NORTH JACKSONVILLE BEACH, FL 32250



ARCHITECTURAL RENDERING

89' HT.



HOSPITALITY

PARKING

7TH AVE.

PORT COCHERE

LOBBY

POOL DECK

RESTAURANT/RETAIL

6TH AVE.

ATLANTIS - OCEAN VIEW

CONCEPTUAL ELEVATION 9.26.16

KIMLEY-HORN

TEAM ROSTER

Team Roster

Name/Contact Information	Email Address
Owner	Atlantis Beach Partners, LLC. 645 Mayport Road, Suite 5 Atlantic Beach, FL. 32233
Authorized Agent	Kimley-Horn and Associates, Inc. 12740 Gran Bay Parkway, West Suite 2350 Jacksonville, Florida 32258
Planning Kimley-Horn and Associates, Inc. Mark W. Shelton, AICP 12740 Gran Bay Parkway West, Suite 2350 Jacksonville, FL 32258 (904) 828-3900	Mark.Shelton@kimley-horn.com
Traffic Engineering Kimley-Horn and Associates, Inc. William J. Schilling Jr., P.E. 12740 Gran Bay Parkway West, Suite 2350 Jacksonville, FL 32258 (904) 828-3900	Bill.Schilling@kimley-horn.com
Civil Engineering Kimley-Horn and Associates, Inc. Joseph P. Mecca, P.E. 12740 Gran Bay Parkway West, Suite 2350 Jacksonville, FL 32258 (904) 828-3900	Joe.Mecca@kimley-horn.com
Architect	

A. REZONING APPLICATION



REZONING/TEXT AMENDMENT APPLICATION

PC No. 41-16

AS/400# 16-100231

This form is intended for use by persons applying for a change in the text of the Land Development Code or the boundaries of a specific property or group of properties under the person or persons control. A rezoning or change to the text of the LDC is not intended to relieve a particular hardship, nor to confer special privileges or rights on any person, but to make necessary adjustments in light of changed conditions. No rezoning or text amendment to the LDC may be approved except in conformance with the Jacksonville Beach 2010 Comprehensive Plan Elements. An application for a rezoning or text amendment to the LDC shall include the information and attachments listed below, unless the requirement for any particular item is waived by the Planning and Development Director. All applications shall include a \$1,000.00 filing fee, as required by City Ordinance.

APPLICANT INFORMATION

Land Owner's Name: Atlantis Beach Partners, LLC.
Mailing Address: 645 Mayport Road, Suite 5
Atlantic Beach, FL. 32233

Telephone: (904) 747-5334
Fax: _____
E-Mail: bweber@theklotzcompanies.com

Applicant Name: Same as Owner
Mailing Address: _____

Telephone: _____
Fax: _____
E-Mail: _____

NOTE: Written authorization from the land owner is required if the applicant is not the owner.

Agent Name: Kimley-Horn and Associates, Inc. Attn: Mark W. Shelton, AICP
Mailing Address: 12740 Gran Bay Parkway, Suite 2350
Jacksonville, FL. 32258

Telephone: (904) 828-3900
Fax: _____
E-Mail: Mark.Shelton@Kimley-Horn.com

Please provide the name, address and telephone number for any other land use, environmental, engineering, architectural, economic, or other professional consultants assisting with the application on a separate sheet of paper.

REZONING DATA

Street address of property and/or Real Estate Number: 715 1st Street North, Jacksonville FL. 32250 (RE# 174249 0010)

Legal Description (attach copies of any instruments references, such as but not limited to deeds, plats, easements, covenants, and restrictions): Please see attached Legal Description and Warranty Deed

Current Zoning Classification: C-1 Future Land Use Map Designation: CBD

TEXT AMENDMENT DATA

Current Chapter, Article, Section, Paragraph Number: _____

REQUESTED INFORMATION	Attached?	
	Yes	No
1. A copy of the relevant Duval County Property Assessment Map, showing the exact location of the land proposed for the amendment, with the boundaries clearly marked;	✓	
2. An 8½" x 11" vicinity map identifying the property proposed for amendment;	✓	
3. An aerial photograph, less than twelve (12) months old, of the land proposed for amendment, with the boundaries clearly marked;	✓	
4. For a rezoning, include a narrative description of the proposed amendment to the Zoning Map designation and an explanation of why it complies with the standards governing a rezoning the LDC.	✓	
5. For an LDC text amendment, include the current text of the Section(s) proposed to be changed and the full text of the proposed amendment. The proposed text amendment submittal must include a cover letter containing a narrative statement explaining the amendment, why it is needed and how it will comply with the goals, objectives, and policies in the Jacksonville Beach 2010 Comprehensive Plan Elements.		

Applicant Signature: [Signature]

Date: 25 JUL 16

B. PROOF OF OWNERSHIP

Prepared by and return to:

Lawrence V. Ansbacher, Esq.
Ansbacher & Schneider, P.A.
5150 Belfort Road, Building 100
Jacksonville, FL 32256

SPECIAL WARRANTY DEED

1. **Grantor's name and address is:**

PARK PROPERTIES, INC.
A Florida corporation
1234 King Street
Jacksonville, FL 32204

2. **Grantee's name and address is:**

ATLANTIS BEACH PARTNERS, LLC,
A Florida Limited Liability Company
645 Mayport Road, Suite 5
Atlantic Beach, FL 32233

Grantee's tax identification number is: 46-3373295.

The terms Grantor and Grantee shall be non-gender specific, singular or plural, as the context permits or requires, and include heirs, personal representatives, successors or assigns where applicable and permitted.

3. **The real property ("Property") conveyed hereby is described as follows:**

LOTS 1, 2, 3 AND 4, BLOCK 71, PABLO BEACH NORTH, AS RECORDED IN PLAT BOOK 3, PAGE 28, OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, TOGETHER WITH (I) THE LANDS LYING EAST OF AND BETWEEN THE EASTERLY PROJECTION OF THE NORTH LINE OF SAID LOT 1 AND THE EASTERLY PROJECTION OF THE SOUTH LINE OF LOT 3, TO THE EROSION CONTROL LINE PER PLAT BOOK 35, PAGES 59-59B OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, AND (II) THE LANDS LYING EAST OF AND BETWEEN THE EASTERLY PROJECTIONS OF THE NORTH AND SOUTH LINES OF SAID LOT 4, TO THE EAST FACE OF THE EXISTING CONCRETE BULKHEAD AS SAME IS REFERENCED IN PLAT BOOK 35, PAGES 59-59B OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA,

together with all tenements, hereditaments, easements and appurtenances belonging to or benefiting such property.

The Property Appraiser's Parcel Identification Numbers are 174249-0000, 174252-0000 and 174254-0000.

4. **Grantor for good and valuable consideration plus the sum of \$10.00 the receipt whereof is hereby acknowledged, hereby grants, bargains, sells and conveys to Grantee the Property to have and to hold in fee simple forever.**

- 5. Grantor fully warrants title to the Property and will defend the same against the lawful claims of all persons whomsoever claiming by, through or under Grantor, but not otherwise, except for those certain "Permitted Exceptions" more particularly described on Exhibit attached hereto and, by this reference, made a part hereof.

EXCEPT AS EXPRESSLY SET FORTH IN THIS DEED, GRANTOR HAS MADE NO, AND EXPRESSLY DISCLAIMS ALL, REPRESENTATIONS, WARRANTIES, COVENANTS AND CONTRACTS OF EVERY KIND AND CHARACTER, EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, REPRESENTATIONS OR WARRANTIES AS TO MATTERS OF TITLE (OTHER THAN AS SPECIFICALLY SET FORTH ABOVE), ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITIONS, AVAILABILITY OF ACCESS, INGRESS OR EGRESS, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, GOVERNMENTAL REGULATIONS OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING THE PROPERTY, INCLUDING, WITHOUT LIMITATION: (i) THE VALUE, CONDITION, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, HABITABILITY, SUITABILITY OR FITNESS OF THE PROPERTY FOR A PARTICULAR PURPOSE OR USE; (ii) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS INCORPORATED INTO ANY OF THE PROPERTY; (iii) THE AVAILABILITY OR EXISTENCE OF ANY WATER, SEWER OR UTILITIES (PUBLIC OR PRIVATE); (iv) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY; OR (v) THE EXISTENCE OF ANY HAZARDOUS SUBSTANCE AT, IN, ON, UNDER OR ABOUT THE PROPERTY. THE TERMS OF THIS DISCLAIMER SHALL SURVIVE DELIVERY OF THIS DEED.

Executed on August 26, 2013.

1st Witness Mary S. Smallwood
 Print Name: MARY S. Smallwood

PARK PROPERTIES, INC.
 A Florida corporation

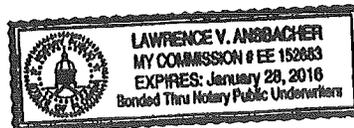
2nd Witness: [Signature]
 Print Name: LAWRENCE V. ANSBACHER

By: [Signature]
Matthew T. Major Its _____
 President

State of Florida
 County of Duval

The foregoing instrument was acknowledged before me this 26th day of August, 2013 by Matthew T. Major President of Park Properties, Inc., a Florida corporation on behalf of the corporation () who is personally known to me or () who has produced _____ (Florida Driver's License) as identification.

Notary Public, State of Florida
 My Commission Expires:



PERMITTED EXCEPTIONS

1. General or special taxes and assessments required to be paid in the year 2013 and subsequent years which are not yet due and payable
2. Riparian and littoral rights are not insured.
3. Those portions of the Property herein described being artificially filled in land in what was formerly navigable waters, are subject to the right of the United States Government arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
4. Property lying Easterly (seaward) of the established erosion control line.
5. The rights, if any, of the public to use as a public beach or recreation area any part of the Property lying between the body of water abutting the Property and the natural line of vegetation, bluff, extreme high water line, or other apparent boundary lines separating the publicly used area from the upland private area.
6. Any portion of the Property lying waterward of the mean-high water line of Atlantic Ocean.
7. Vested Rights Claim recorded in Official Records Book 14322, page 1826, of the current public records of Duval County, Florida, as consolidated in Official Records Book 16299, page 2275 and Official Records Book 16299, page 2288, both of the current public records of Duval County, Florida.
8. Survey prepared by Tri-State Land Surveyors, Inc. last dated August 9, 2013 (Order #01-539) discloses 2.0' concrete seawall.

**FLORIDA DEPARTMENT OF STATE
DIVISION OF CORPORATIONS****Detail by Entity Name****Florida Limited Liability Company**

ATLANTIS BEACH PARTNERS, LLC

Filing Information

Document Number	L13000112330
FEI/EIN Number	46-3373295
Date Filed	08/08/2013
Effective Date	08/01/2013
State	FL
Status	ACTIVE

Principal Address

645 MAYPORT ROAD
SUITE 5
ATLANTIC BEACH, FL 32233

Mailing Address

645 MAYPORT ROAD
SUITE 5
ATLANTIC BEACH, FL 32233

Registered Agent Name & Address

KLOTZ, JEFF
645 MAYPORT ROAD
SUITE 5
ATLANTIC BEACH, FL 32233

Authorized Person(s) Detail**Name & Address**

Title Managing Member

Klotz, Jeff
645 MAYPORT ROAD
SUITE 5
ATLANTIC BEACH, FL 32233

Annual Reports

Report Year	Filed Date
2014	04/24/2014
2015	03/23/2015

2016

04/18/2016

Document Images

04/18/2016 -- ANNUAL REPORT

View image in PDF format

03/23/2015 -- ANNUAL REPORT

View image in PDF format

04/24/2014 -- ANNUAL REPORT

View image in PDF format

08/08/2013 -- Florida Limited Liability

View image in PDF format

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State of Florida, Department of State

C. OWNER/AGENT AUTHORIZATION

Agent Authorization Affidavit- Property Owner

Date: July 12, 2016

City of Jacksonville Beach
Planning and Development Department
11 North Third Street
Jacksonville Beach, Florida 32250

Re: Agent Authorization for the following site location: Atlantis (715 1st Street North, Jacksonville Beach)

To Whom it May Concern:

You are hereby advised that the undersigned is the owner of the property described in Exhibit C attached hereto. Said owner hereby authorizes and empowers Kimley-Horn and Associates, Inc. to act as agent to file application(s) for Rezoning, Mobility Fee and other development applications for the above-referenced property and in connection with such authorization to file such applications, papers, documents, requests and other matters necessary for such requested change.

If Owner is Individual:

If Owner is Corporate Entity:*

By _____
Print Name: _____

Print Corporate Name: Atlantis Beach Partners LLC
By Jeff D Klotz
Print Name: Jeffrey D. Klotz
Its: Manager

STATE OF FLORIDA
COUNTY OF DUVAL

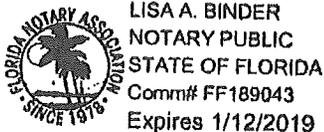
Sworn to and subscribed and acknowledged before me this 12 day of JULY 2016, by JEFF D. KLOTZ, who is personally known to me or who has produced _____ as identification and who took an oath.

Lisa A Binder

(Signature of NOTARY PUBLIC)

LISA A. BINDER

(Printed name of NOTARY PUBLIC)



State of Florida at Large.
My commission expires: 1/12/2019

**D. LEGAL DESCRIPTION OF SUBJECT
PROPERTY**

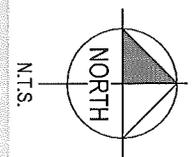
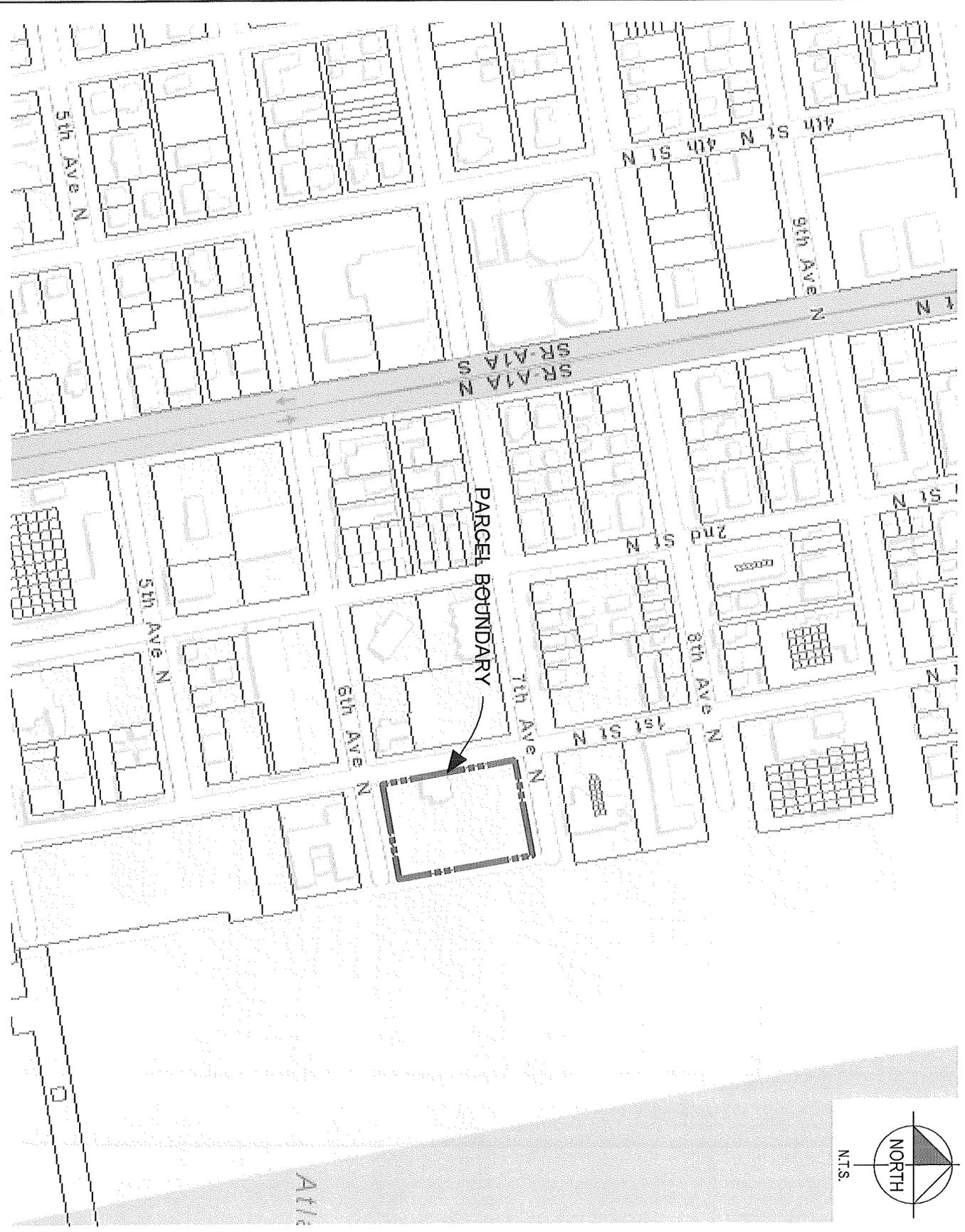
LEGAL DESCRIPTION

LOTS 1, 2, 3 AND 4, BLOCK 71, PABLO BEACH NORTH, AS RECORDED IN PLAT BOOK 3, PAGE 28, OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, TOGETHER WITH (I) THE LANDS LYING EAST OF AND BETWEEN THE EASTERLY PROJECTION OF THE NORTH LINE OF SAID LOT 1 AND THE EASTERLY PROJECTION OF THE SOUTH LINE OF LOT 3, TO THE EROSION CONTROL LINE PER PLAT BOOK 35, PAGES 59-59B OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA, AND (II) THE LANDS LYING EAST OF AND BETWEEN THE EASTERLY PROJECTIONS OF THE NORTH AND SOUTH LINES OF SAID LOT 4, TO THE EAST FACE OF THE EXISTING CONCRETE BULKHEAD AS SAME IS REFERENCED IN PLAT BOOK 35, PAGES 59-59B OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

E. EXHIBITS TO REZONING APPLICATION

E-1 Property Appraiser Map

6/22/2016 lockhuberg K:\JAX - PROJECTS\Atlanta's CADD\VD\EA - Property Appraisers Map.dgn
 This document, together with the concepts and designs presented herein, is an instrument of service, it stands only for the specific purpose and client for which it was prepared. Release of and improper reliance on this document without written authorization and adoption by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



<p>PROJECT # 045462000</p> <p>DATE JUNE 2016</p> <p>SCALE AS SHOWN</p> <p>DESIGNED BY KHA</p> <p>DRAWN BY KHA</p> <p>CHECKED BY KHA</p> <p>EXHIBIT NUMBER 1</p>	<p>ATLANTIS Rezoning Application</p> <p>DUVAL COUNTY FLORIDA</p>	<p>PROPERTY APPRAISER'S MAP</p>	<p>Kimley»Horn</p> <p>©2016 KIMLEY-HORN AND ASSOCIATES, INC 12740 GRAN BAY PARKWAY WEST SUITE 2350, JACKSONVILLE, FL 32258 PHONE: 904 828 3900 WWW.KIMLEY-HORN.COM CA 00000696</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------	----------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

E-2 Vicinity Map

6/22/2016 jcknhuberg K:\AAJ_P\PROV\KLOTZ\ATLANTIS\CAD\VRD_Vicinity_Map.dgn
 This document, together with the concepts and designs presented herein, is intended only for the specific purpose and client for which it was prepared. Review of and/or modification of this document without written authorization and disposition by Kimmey-Horn and Associates, Inc. shall be without liability to Kimmey-Horn and Associates, Inc.



PROJECT #	045462000
DATE	JUNE 2016
SCALE	AS SHOWN
DESIGNED BY	KHA
DRAWN BY	KHA
CHECKED BY	KHA
EXHIBIT NUMBER	2

ATLANTIS
 Rezoning Application

DUVAL COUNTY FLORIDA

**VICINITY
 MAP**

Kimley»Horn

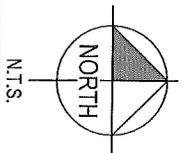
©2016 KIMLEY-HORN AND ASSOCIATES, INC
 12740 GRAN BAY PARKWAY WEST SUITE 2350,
 JACKSONVILLE, FL 32258
 PHONE: 904 828 3900 | WWW.KIMLEY-HORN.COM
 CA 00000696

E-3 Aerial Map



6/22/2016
 Rock Hulberg
 K. VAX, JPTO/KLOTZ/Katonia CAD/BD/Aerial Map/DP

This document, together with the concepts and designs presented herein, is an estimate of service. It stands only for the specific purpose and client for which it was prepared. Review of and proper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.



PROJECT #	045462000
DATE	JUNE 2016
SCALE	AS SHOWN
DESIGNED BY	KHA
DRAWN BY	KHA
CHECKED BY	KHA
EXHIBIT NUMBER	3

ATLANTIS

Rezoning Application

DUVAL COUNTY FLORIDA

AERIAL MAP

Kimley»Horn
 ©2016 KIMLEY-HORN AND ASSOCIATES, INC
 12740 GRAN BAY PARKWAY WEST SUITE 2350,
 JACKSONVILLE, FL 32258
 PHONE: 904 828 3900 | WWW.KIMLEY-HORN.COM
 CA 0000696



RECEIVED

CONDITIONAL USE APPLICATION

JAN 18 2017

PC No. 1-17

AS/400# 17-100007

HEARING DATE 2-13-17

PLANNING & DEVELOPMENT

This form is intended for submittal, along with the required attachments, with all requests for approval of a conditional use in a particular zoning classification as listed in Article 7, Zoning Districts of the City of Jacksonville Beach Land Development Code. An application for approval of a conditional use will be evaluated for sufficiency by the Planning and Development Director within five (5) days of receipt. If the application is found to be complete, it will be scheduled for review, public hearing and a decision by the Jacksonville Beach Planning Commission at their earliest meeting following appropriate public notice of the request. All applications for approval of a conditional use shall be accompanied by a nonrefundable fee of \$250.00.

APPLICANT INFORMATION

Land Owner's Name: Horse Homes and Investments Inc.

Telephone: 677-6777

Mailing Address: 75103 Philips Hwy Suite 109 Jacksonville, FL 32256

Fax:

E-Mail:

Applicant Name: same as above

Telephone:

Mailing Address:

Fax:

E-Mail:

NOTE: Written authorization from the property owner is required if the applicant is not the owner.

Agent Name: Curtis Hart

Telephone: 904-993-5008

Mailing Address: 8051 Tara Lane Jacksonville, FL 32216

Fax:

E-Mail: currishart1972@att.net

Please provide the name, address and telephone number for any other land use, environmental, engineering architectural, economic or other professionals assisting in the application on a separate sheet of paper.

PROJECT DATA

Street address of property and/or Real Estate Number: 322#314 N. 12th Avenue / RE# 174616-0000 174617-0000

Legal Description of property (attach copy of deed): SEE ATTACHED DEED

Current Zoning Classification: C-1

Future Land Use Map Designation:

An 8 1/2 x 11-inch vicinity map must be attached showing the location of the proposed conditional use. If the proposed conditional use meets the criteria set forth in Section 34-226 (i), a sketch site plan for the development will be required to be submitted with this application.

Code section(s) applicable to the requested conditional use: Section 34-342 (d)(5)

Describe the proposed conditional use and the reason for the request: proposing a 5 unit multifamily dwelling

Applicant Signature: [Handwritten Signature]

Date: 1-17-17

RECEIVED

JAN 18 2017

LEGAL DESCRIPTION

PLANNING & DEVELOPMENT

LOT 3 & 4, BLOCK 124, PABLO BEACH IMPROVEMENT COMPANY'S PLAT OF PART OF NORTHERN PORTION OF PABLO BEACH, FLORIDA, AS RECORDED IN PLAT BOOK 5, PAGE 66, OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

RECEIVED

Prepared By and Return To:
David J Heekin, Esq.
Landmark Title
4540 Southside Boulevard, Suite 202
Jacksonville, Florida 32216

JAN 18 2017

PLANNING & DEVELOPMENT

File No.: LMT 16-1579

Grantee's TIN: _____

General Warranty Deed

Made this September 16, 2016, By **Anya Johnson, a single woman**, whose address is: 1015 Atlantic Boulevard, Suite 214, Atlantic Beach, Florida 32233, hereinafter called the Grantor, to **Hoose Homes and Investments, LLC, a Florida limited liability company**, whose address is: 7563 Philips Highway, Suite 109, Jacksonville, Florida 32256, hereinafter called the Grantee:

(Whenever used herein the term "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the Grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the Grantee, all that certain land situate in Duval County, Florida, more particularly described as follows:

Lots 3, 4 and 9, Block 124 of PABLO BEACH IMPROVEMENT COMPANY'S PLAT OF PART OF NORTHERN PORTION OF PABLO BEACH, according to the Plat thereof as recorded in Plat Book 5, Page(s) 66, of the Public Records of Duval County, Florida.

Parcel ID Number: **174616-0000, 174617-0000, and 174622-0000**

Subject to taxes accruing subsequent to December 31, 2015.

Subject to covenants, restrictions and easements of record, if any; however, this reference thereto shall not operate to reimpose same.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances.

RECEIVED

JAN 18 2017

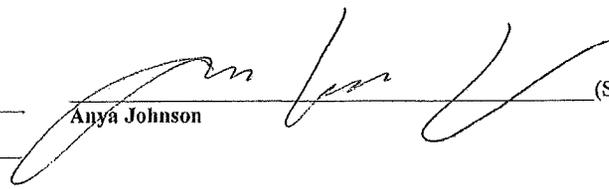
PLANNING & DEVELOPMENT

In Witness Whereof, the Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:



 Witness Printed Name David J. Heekin



 Anya Johnson (Seal)

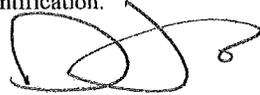


 Witness Printed Name Kate Richardson

 (Seal)

State of Florida
County of Duval

The foregoing instrument was acknowledged before me this 16th day of September, 2016, by Anya Johnson, who is/are personally known to me or who has produced _____ as identification.



 Notary Public



RECEIVED

JAN 18 2017

EXHIBIT B

Agent Authorization

PLANNING & DEVELOPMENT

Date: 1/12/17

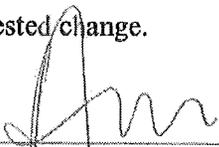
City of Jacksonville Beach
Planning and Development Department

Re: Agent Authorization for the following site location:

314 & 322 12th Avenue North

Gentleman:

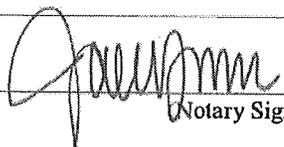
You are hereby advised that the undersigned is the owner of the property 314 & 322 12th Avenue North . Said owner hereby authorizes and empowers Curtis L. Hart to act as agent to file application(s) for Conditional Use for the above referenced property and in connection with such authorization to file such applications, papers, documents, requests and other matters necessary for such requested change.



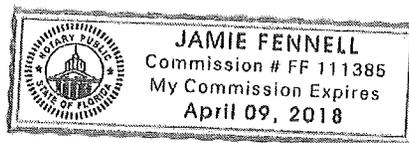
Hoose Homes & Investments Inc.
Alex Sifakis

STATE OF FLORIDA
COUNTY OF DUVAL

The foregoing affidavit was sworn and subscribed before me this 12 day of January, 2017 by ALEX SIFAKIS, who is personally known to me or has produced _____ as identification.



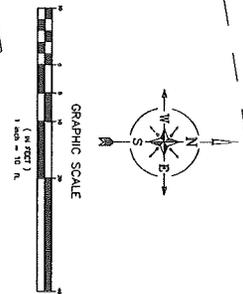
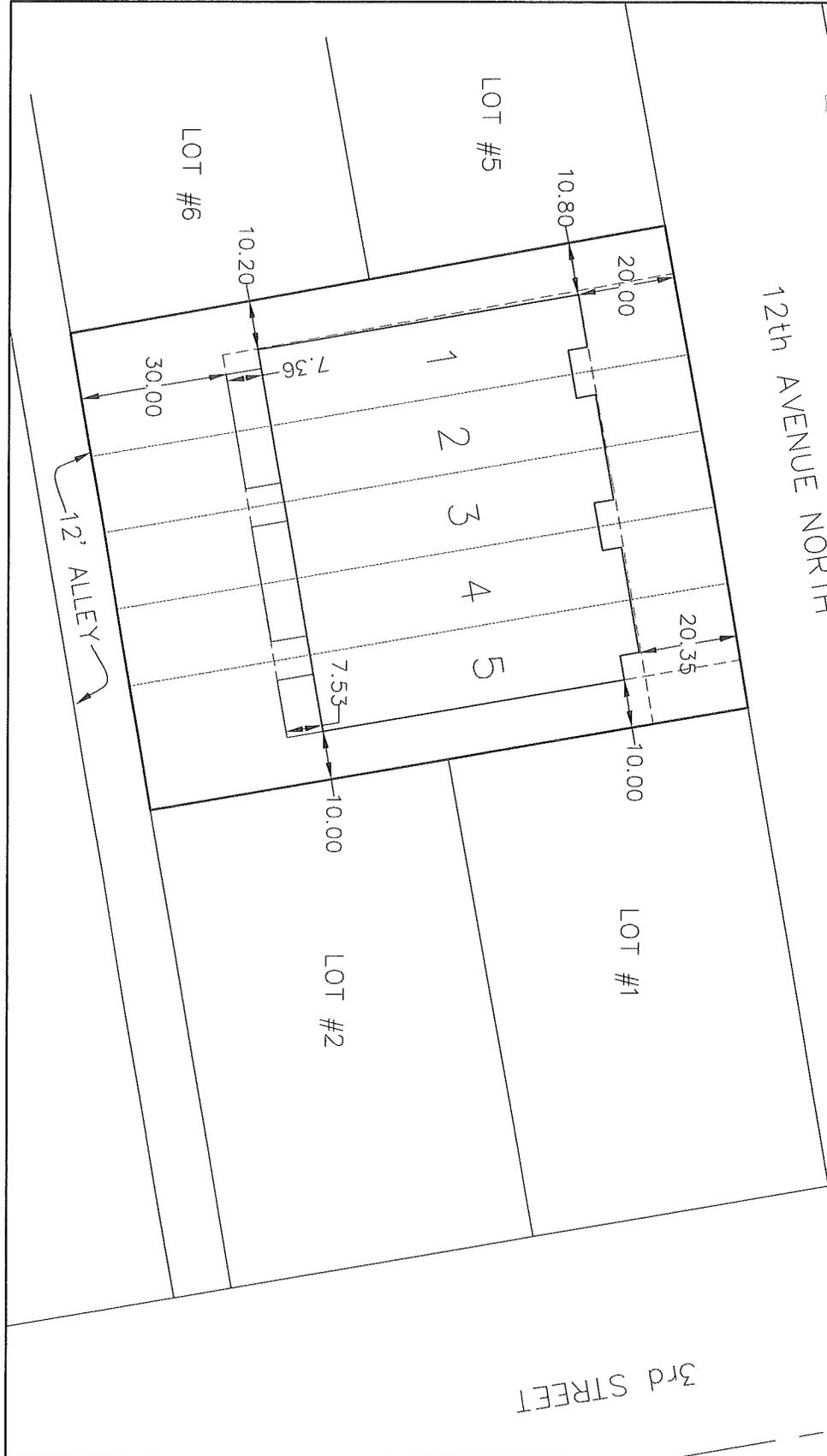
(Notary Signature)



RECEIVED

JAN 18 2017

PLANNING & DEVELOPMENT



12th AVENUE NORHT
LAYOUT#1

NORTH FLORIDA ENGINEERING SERVICES, INC.
 CERTIFICATION # 26085
 9432 Baymeadows Road, Suite 200, Jacksonville, FL 32256
 JPh (904) 737-0971 KFax (904) 396-5372
 EMail: FAVIRE.NFER@GMAIL.COM
 MICHEL R. LIGHT P.E. 00042

DATE: 01/16/17	1
SCALE: 1"=10'	
SHEET NUMBER	

NO.	REVISION	DATE

314/322, 12TH AVENUE NORTH

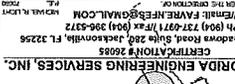
JACKSONVILLE BEACH,
FLORIDA



VICINITY MAP

314/322, 12TH AVENUE
NORTH

VICINITY MAP



NORTH FLORIDA ENGINEERING SERVICES, INC.
CERTIFICATION # 2608
9432 Baymeadows Road, Suite 200, Jacksonville, FL 32256
PH: (904) 737-0714 / FAX: (904) 396-4372
E-MAIL: FAVRE.NFE@GMAIL.COM
123 MAIN N. UNIT 200

SCALE: N.T.S.
SHEET NUMBER: 1

JAN 18 2017

RECEIVED

PLANNING & DEVELOPMENT

RESOLUTION 2017-01

A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL FOR THE CITY OF JACKSONVILLE BEACH AMEND THE COMMUNITY REDEVELOPMENT PLAN FOR THE SOUTH BEACH REDEVELOPMENT AREA FOR THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS PREVIOUSLY AMENDED, ACCORDING TO THE REQUIREMENTS OF THE COMMUNITY REDEVELOPMENT ACT OF 1969, BY ADDING A PROVISION THAT MAINTENANCE OF IMPROVEMENTS AND FACILITIES FUNDED BY TAX INCREMENT REVENUES IS AN ALLOWABLE CAPITAL EXPENDITURE WITHIN SAID COMMUNITY REDEVELOPMENT PLAN; AND FOR OTHER PURPOSES.

WHEREAS, on June 15, 1987, the City Council of the City of Jacksonville Beach, Florida adopted a plan for the redevelopment of certain lands within the city limits of the City of Jacksonville Beach pursuant to an Act of the Legislature of the State of Florida duly enacted as the Community Redevelopment Act of 1969, as amended; and

WHEREAS, the redevelopment of said lands was found to be necessary in the interest of public health, safety, and welfare of the residents of Jacksonville Beach, and in the interest of carrying out the intent of the Florida Legislature, as expressed in the Community Redevelopment of 1969, as amended, by revitalizing the area economically and socially, improving the tax base, promoting sound growth, and providing improved quality of life; and

WHEREAS, the City Council of the City of Jacksonville Beach and its Community Redevelopment Agency have expressed the desire to ensure that those improvements and facilities within the South Beach Community Redevelopment Area that were funded by Tax Increment Trust Funds may also be maintained in the future utilizing Tax Increment Trust Funds; and

WHEREAS, it is deemed desirable to formally incorporate this maintenance funding provision into the Community Redevelopment Plan for the South Beach Redevelopment Area for the City of Jacksonville Beach, to ensure the long term viability of various Tax Increment funded improvements and facilities within said redevelopment area, and

WHEREAS, Chapter 163.361, Florida Statutes provides that if anytime after the approval of a community redevelopment plan by the governing body, it becomes necessary or desirable to amend or modify such plan, the governing body may amend or modify such plan upon recommendation by the Community Redevelopment Agency, the publishing of a notice, and the holding of a public hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE JACKSONVILLE BEACH, FLORIDA COMMUNITY REDEVELOPMENT AGENCY:

SECTION 1. That the Jacksonville Beach Community Redevelopment Agency recommends that the South Beach Community Redevelopment Plan adopted on June 15, 1987 (the "Plan"), as amended, be further amended to include the provision that those improvements and facilities located within the South Beach Community Redevelopment Area which were funded through the use of Tax Increment Trust Funds may also be maintained utilizing Tax Increment Trust Funds.

SECTION 2. All other provisions of the June 15, 1987 South Beach Community Redevelopment Plan, as amended, applicable to the South Beach Community Redevelopment Area shall remain in effect.

SECTION 3. This Resolution shall take effect upon its passage.

AUTHENTICATED THIS _____ DAY OF _____, 2017.

Frances Povloski, VICE CHAIRPERSON

Proposed changes to Chapter 18 “Noise” of the City Code

Introduced By: _____
1st Reading: _____
2nd Reading: _____

ORDINANCE NO. 2016-8082

AN ORDINANCE TO REPEAL IN ITS ENTIRETY CHAPTER 18 “NOISE”, OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AND REPLACING IT WITH A NEW CHAPTER 18, THAT INCLUDES SECTION 18-7 “LOW VOLUME OUTDOOR AMPLIFIED AND ACOUSTIC SOUND”, PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR OTHER PURPOSES.

WHEREAS, there exists the production or emission of noises or amplified speech, music, or other sounds that tend to annoy, disturb, or frighten the residents and guests of the city, and

WHEREAS, the city understands that outdoor dining adds to the ambiance of an establishment, and with that, music played at a low volume can further increase that ambiance, and

WHEREAS, Chapter 166, Florida Statutes, authorizes the City Council, acting for the City of Jacksonville Beach, Florida, to adopt Ordinances and Resolutions necessary for the exercise of its powers and to prescribe fines and penalties for the violation of Ordinances in accordance with law, and

WHEREAS, through citizen input, the City Council has determined a need to more effectively control and abate noise disturbances in the city, and

WHEREAS, the city seeks to protect, preserve and promote the health, safety, welfare, and quality of life of its residents and guests by the reduction, control, and prevention of noise, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. That Chapter 18. Noise of the Code of Ordinances of the City of Jacksonville Beach, Florida is hereby repealed in its entirety, and a new Chapter 18. Noise is hereby adopted and shall read as follows:

Sec. 18-1. Legislative findings; declaration of necessity.

It is found and declared that:

- (1) The making and creation of excessive, unnecessary or unusually loud noises within the limits of the city is a condition which has existed for some time and the amount and intensity of such noises is increasing;
- (2) The necessity in the public interest for the provisions and prohibitions hereinafter contained and enacted is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the city and its inhabitants.

Sec. 18-2. - Noncompliance with chapter declared unlawful; exception.

It shall be unlawful, except as expressly permitted herein, to make, cause or allow the making of any noise or sound which exceeds the limits set forth in this chapter.

Sec. 18-3. - Noise limitations.

- (a) ***Definitions.*** For the purpose of this section, certain words and phrases used herein are defined as follows:

A-band level is the total sound level of all noise as measured with a sound level meter using the A weighing network. The unit of measurement is the dB(A).

Daytime is defined as 7:00 a.m. to 10:00 p.m. and nighttime is defined as 10:00 p.m. to 7:00 a.m. in commercial and manufacturing use occupancies.

Daytime is defined as 7:00 a.m. to 10:00 p.m. and nighttime is defined as 10:00 p.m. to 7:00 a.m. in residential use occupancies.

Decibel is a unit of level equal to ten (10) times the logarithm (base 10) of the ratio of any two (2) quantities proportional to power.

Emergency work is the work made necessary to protect persons or property from exposure to danger.

Noise level is the sound pressure level as measured in dB(A) by a sound level meter.

Outdoor restaurant or bar means any restaurant or bar, or portion thereof, which exists outside of the permanent exterior walls of the principal building(s) on a lot. This definition includes any deck or other area constructed and/or utilized on the roof of a structure.

Person is any person, person's firm, association, copartnership, joint venture, corporation or any entity public or private in nature.

Sound-level meter is an instrument including a microphone, an amplifier, an outlet meter, and frequency weighing networks for the measurement of noise and sound levels in a specified manner.

Sound pressure level, in decibels, of sound is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of this sound to the reference pressure, which reference pressure must be explicitly stated.

Plainly Audible shall mean any sound that can be heard clearly by a person using his or her unaided hearing faculties. When music is involved, the detection of rhythmic bass tones shall be sufficient to be considered plainly audible sound.

All time referred to in this chapter shall be the then current legal time in the City of Jacksonville Beach.

All technical definitions are in accordance with American Standard S1.1-1960 entitled, "Acoustical Terminology."

(b) Classification of use occupancies; projection of noise from one use to another.

- (1) *Classification.* For purposes of defining the "use occupancy", all premises containing habitually occupied sleeping quarters shall be considered in residential use.

All premises containing businesses where sales, professional or other commercial use is legally permitted shall be considered commercial use.

All premises where manufacturing is legally permitted shall be considered manufacturing use.

In cases of multiple uses, the more restrictive use category shall prevail. Hospitals, schools, and church areas are considered residential. Any area not otherwise classified shall conform to commercial standards.

- (2) *Projection of noise.* Sound or noise projecting from one use occupancy to another use occupancy with a different noise level shall exceed neither the limits of the use occupancy into which the noise is projected nor the noise limits of the use occupancy from which the noise originates.

(c) Measurement of noise.

- (1) The measurement of sound or noise shall be made with a sound level meter meeting the standards prescribed by the American National Standards Institute, S1.4 American National Standard Specifications for sound level meters. The instruments shall be maintained in calibration and good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used at all times.

- (2) The slow meter response of the sound level meter shall be used in order to best determine the average amplitude.
- (3) The measurement shall be made at any point outside of the property line from where the noise is being transmitted.
- (4) In case of multiple occupancy of a property, the measurement may be made at any point inside the premises to which any complainant has right of legal private occupancy; provided, that the measurement shall not be made within three (3) feet of any ground, wall, floor, ceiling, roof or other plane surface.
- (5) All noise measurements provided for in this chapter will be made by officials of the city who are qualified to operate the apparatus used to make the measurements as provided for in this chapter.

(d) Tables of noise level limits:

- (1) *Table I.* Table I specifies noise levels which represent limits which if exceeded interfere with the peace, quiet and general welfare of the city and its inhabitants. No noise shall be permitted within the city which exceeds the noise level limits of Table I except as expressly authorized by this chapter.

TABLE I

**Maximum Allowable Noise Level Limits
in dB(A) for Residential,
Commercial, and Manufacturing Occupancies**

These levels may not be exceeded more than three (3) times in any continuous sixty-minute period.

District	Day (7:00 a.m. to 10:00 p.m.)	Night (10:00 p.m. to 7:00 a.m.)
Residential	70	65
	Day (7:00 a.m. to 10:00 p.m.)	Night (10:00 p.m. to 7:00 a.m.)
Commercial	75	75
Manufacturing	70	65

- (2) *Table II.* Table II specifies noise levels which if produced by moving vehicles will interfere with the peace, quiet, and general welfare of the city and its inhabitants.

**TABLE II
NOISE LEVEL LIMITS FOR
MOVING MOTOR VEHICLES***

- (1) *Trucks and buses.* Eighty-five (85) dB(A) measured fifty (50) feet from the source.
- (2) *Passenger cars, motorcycles, and other motor vehicles.* Seventy (70) dB(A) measured at fifty (50) feet from the source.

*The measurement is made as the vehicle drives past. If the reading is above that listed in (1) or (2) of Table II at any time, the vehicle is in violation of this chapter. All distances are measured from the center of vehicle or center of the driving lane in which the vehicle is being driven.

(e) Motor vehicles.

- (1) *Stationary vehicles.* It shall be unlawful to start, operate, or perform repair work on a motor vehicle which creates a noise or sound which exceeds the noise level limits in Table II.
- (2) *Moving vehicle.* It shall be unlawful to operate a motor vehicle in such a manner as to exceed the noise level limits of Table II when the vehicle is operating on public streets, highways, driveways, parking lots, and ways open to vehicle travel. Normal operation includes normal acceleration, deceleration and operation at maximum normal speeds in all gears and ranges up to the speed limits currently effective on those streets of the city over which the vehicles may be operated.

(f) Building operations. It shall be unlawful for any person to erect (including excavate), demolish, alter, or repair any building other than between the hours of 8:00 a.m. and 6:00 p.m., Monday through Saturday, or at any time on Sundays or the following observed holidays: New Years Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, and Christmas, except in the case of urgent necessity in the interest of public safety and then only with a permit approved by the city manager, which permit may be renewed for a period of three (3) days or less while emergency continues.

(g) Exemptions. The following uses and activities shall be exempt from noise level regulations:

- (1) Air conditioners and lawn mowers when this equipment is functioning in accord with the manufacturers' specifications and with all manufacturers' mufflers and noise reducing equipment in use and in proper operating condition.
- (2) Non-amplified crowd noises resulting from the activities such as those planned by student, governmental or community groups.
- (3) Reserved.
- (4) Noises of safety signals, warning devices and emergency pressure relief valves.
- (5) Noises resulting from any authorized emergency vehicle while responding to an emergency call or acting in time of emergency.
- (6) Noises resulting from emergency work as defined in section 18-3(a).
- (7) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefor has been granted by the city in accordance with sections 18-3(h) (Special Event Permits). Regulation of noises emanating from operations under permit shall be according to the conditions and limits contained in sections 18-3(h).
- (8) Noises made by persons having obtained a permit to use the streets are exempt from Table I.
- (9) Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction used pursuant to and within the duly adopted federal air regulations shall be exempt from the provisions of this chapter. Any aircraft operating under the technical difficulties in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal regulations are also exempt.

(h) Special event permits. Applications for a permit for relief from the maximum allowable noise level limits designated in this chapter may be made in writing to the city manager or his/her designee. Any permit granted by the city manager hereunder must be in writing and shall contain all conditions upon which the permit shall be effective. The city manager or his/her designee may grant the relief as applied for under the following conditions:

- (1) The city manager or his/her designee may prescribe any reasonable conditions or requirements he deems necessary to minimize adverse effects upon the community or the surrounding neighborhood, including use of mufflers, screens or other sound attenuating devices.

- (2) *Permits for entertainment.* Permits may be granted for the purpose of entertainment under the following conditions:
- (a) The function must take place on public property.
 - (b) The function must be staged between the hours of 8:00 a.m. and 10:00 p.m.
 - (c) Functions for which the permits are issued shall be limited to a noise level not to exceed eighty-five (85) dB(A) more than three (3) times in any continuous sixty-minute period, when measured in accordance with section 18-3(c). The city manager or his/her designee may, at his/her sole discretion, establish a lower maximum noise level based on the location or other relevant circumstances relating to the specific special event or noisemaking device.

(I) Other. Special permits for non-entertainment special purposes may be issued under the following conditions:

- (a) 1. If the special purpose relates to the operation of a trade or business that the special purpose not be in the ordinary course of that trade or business; or,
2. If the special purpose does not relate to the operation of a trade or business, that the special purpose not be an ordinary event in the affairs of the applicant; and,
- (b) If the special purpose be a recurring purpose, that it not recur more often than four (4) times each calendar year; and
- (c) 1. That the special purpose be absolutely necessary to the operation of the applicant's trade or business; or,
2. If the special purpose does not relate to the operation of a trade or business, that the special purpose be compatible with the ordinary activities of the neighborhood in which the special purpose is to occur; and,
- (d) Except in emergency situations, as determined by the city manager or his/her designee, the special permit may be issued only for hours between 7:00 a.m. and 11:00 p.m. on week days; and,
- (e) Special permits may be issued for no longer than one week, renewable by further application to the city manager or his/her designee.
- (f) No permit may be issued to permit the use of any loudspeaker or sound device on the exterior of any building which at any time exceeds the noise level limits in Table I except those used for emergency warnings.

Sec. 18-4. - Noises prohibited; unnecessary noise standard; statement of intent; sworn complaint required.

a. Some sounds may be such that they are not measurable by the sound pressure level meter or may not exceed the limits of Table I or II, but they may be excessive, unnatural, prolonged, unusual and are a detriment to the public health, comfort, convenience, safety, welfare and prosperity of the residents of the city.

b. Noises prohibited by this section are unlawful notwithstanding the fact that no violation of section 18-3 is involved, and notwithstanding the fact that the activity complained about is exempted in section 18-3(g). Thus, the following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive:

- (1) The sounding of any horn or signaling device on any automobile or other vehicle, except as a danger warning; the creation by means of any signaling device of any unreasonably loud or harsh sound; the sounding of any signaling device for any unnecessary and unreasonable period of time; and the unreasonable use of any signaling device.
- (2) The using, operating or permitting to be placed, used or operated any radio, television, tape or record player, amplifier, musical instrument, or other machine or device used for the production, reproduction or emission of sound, any prolonged sounds made by people, and the keeping of any animal or bird which by causing frequent or long continuous noise in such manner as to disturb the public peace, quiet and comfort of the neighboring inhabitants or at any time with greater intensity than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such sound emitter is operated and who are voluntary listeners thereto.
- (3) Any person making a complaint under this section shall be required to sign a sworn complaint prior to an arrest being made, otherwise no such complaint will be honored.

Sec. 18-5. - Violations; penalties.

a. Notice of Noise Violation

- (1) When the city manager or an official designated by the city manager determines that there is a violation of the noise level limits contained within Table I in section 18-3(d)(1), he/she shall issue an official Notice of Noise Violation to the

person or persons responsible for the noise. The Notice of Noise Violation shall advise the person of the violation of the allowable noise limits, and of the possible penalty if he/she fails to reduce or eliminate the noise to such allowable limits.

- (2) After the person or persons responsible for the noise are given such notice, a reasonable time to comply with the same shall be given. If the limits of Table I in section 18-3(d)(1) continue to be exceeded, a "reasonable time" is instantly. Absent special circumstances, "reasonable time" (where Table I limits are not exceeded) as used in this section is considered fifteen (15) minutes in the case of nonvehicular noise emitters.
- (3) For the purposes of this section, it is sufficient notice for all prohibited noises if the person or persons responsible for any succeeding noises are provided a Notice of Violation of one offending noise of the same type per twenty-four-hour period.
- (4) If a person or persons have been issued one written Notice of Noise Violation, no other notice shall be necessary within that sixty-day period following the notice for enforcement of the provisions of this chapter for any additional violations occurring within the same sixty-day period.

(b) *Arrest; confiscation of noise emitter:*

- (1) If the noise level is not reduced or eliminated to allowable limits within a reasonable time after the Notice of Noise Violation as prescribed in section 18-5(a), the person so provided a Notice of Violation and not complying shall be arrested for a violation of this chapter and upon conviction shall be subject to the penalties designated in section 1-11 of the Jacksonville Beach Code of Ordinances. Each day the violation continues shall be considered as a separate offense.
- (2) Any person responsible for an unlawful noise shall be subject to the loss of the noise emitter or emitters if they are convicted three (3) times under this chapter within a twelve-month period and if the convictions were for noises created by the same or same type of noise emitter.

(c) *Responsibility of owner of property.* The owner, tenant or lessee of property, or a manager, overseer or agent, or any person lawfully entitled to possess the property from which the offending noise is emitted and at which time the offending noise is emitted shall be responsible for compliance with this chapter, and each may be punished for violations of this chapter. It shall not be a lawful defense to assert that some other person caused the noise, but the lawful possessor of the premises shall be responsible for operating or maintaining the premises in compliance with this chapter and shall be punished whether or not the person actually causing the noise is also punished.

(d) *Violation may be declared public nuisance.* The operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions of this chapter that endangers the comfort, repose, health and peace of residents in the area is declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction.

Sec. 18-6. - Mobile noise.

(a) It shall be unlawful for the driver of a vehicle to operate or permit the operation of any sound amplification system which can be heard and is plainly audible outside the vehicle from fifty (50) or more feet while moving or parked on any street, highway, parking lot or other public property within the city.

(b) It shall be unlawful for any person to operate any type of portable sound amplification device so as to emit noise that is plainly audible fifty (50) feet or more from the source. Said violation can result in the confiscation of the equipment until such time as the offender can positively demonstrate to the court his/her willingness and ability to operate the device within the limits prescribed by this section.

(c) Violations of this section shall not require a warning prior to issuing the citation.

Sec. 18-7. – Low Volume Outdoor Amplified and Acoustic Sound.

(a) Definitions. For the purpose of this section, certain words and phrases used herein are defined as follows:

Acoustic sound shall mean the sound that solely or primarily uses instruments that produce sound through acoustic means, as opposed to electric or electronic means.

Alcoholic beverage establishment shall mean any commercial establishment located in the city which allows for alcoholic beverages (e.g., beer, wine, or liquor, etc.) to be sold for consumption on the premises.

Amplified entertainment shall mean any type of music or other entertainment delivered through and by an electronic system, including live bands and disc jockeys.

Amplified Sound shall mean any type of sound delivered through and by electric or an electronic system.

Emergency work shall mean the work made necessary to protect persons or property from exposure to danger.

Enclosed Building shall mean a structure with a roof and enclosed walls.

Entertainment sound shall mean any sound originating from an event, performance, or act designed to entertain others.

Licensed Establishment shall mean any business, within the city of Jacksonville Beach, licensed to sell food, beverages, and/or alcoholic beverages. The provisions of this section shall apply to the following state alcoholic beverage license types: **1-COP**

(beer only consumption on premises), 2-COP (beer and wine consumption on premises), 4-COP Quota License (beer, wine, and liquor package sales and consumption on premises), 4-COP-S (beer, wine, and liquor consumption on premises in connection with the operation of a hotel, motel, motor court, or condominium), 4-COP-SRX (beer, wine, and liquor consumption on premises in connection with a restaurant), 4-COP-SBX (beer, wine, and liquor consumption on premises in connection with a bowling alley), 11-GC (beer, wine, and liquor consumption on premises in connection with a golf club), 11-C (beer, wine, and liquor in connection with a bona fide club, including fraternal or benevolent association lodges or clubs, social clubs, and tennis, racquetball, cabana, or beach clubs, for consumption on premises by members and their guests only), ODP (beer, wine, and liquor consumption on premises for a bona fide non-profit civic organization for a period not to exceed three (3) days and no more than three (3) times per year), and any other business within the city licensed to sell/distribute food, beverages, or alcoholic beverages.

Low volume shall mean sound played at a level such that a person outside of the property line of the source of the sound, speaking in a normal tone of voice, is plainly audible and can be heard clearly and understandably by another person standing a maximum of thirty-six inches (36") away from the person speaking, without the aid of a listening device.

Momentarily shall mean a very short time equaling less than 30 seconds.

Noise shall mean any sound or vibration which may disturb or annoy reasonable persons of normal sensitivities; or causes, or tends to cause, an adverse effect on the public health and welfare; or endangers or injures people; or endangers or injures personal or real property.

Outdoor gathering area shall mean the area outside the confines of an enclosed building, and within the property line of the premises, designated for a person or persons to congregate. (e.g., patio, lanai, porch, terrace, veranda, sundeck, deck, courtyard, balcony, etc.)

Outdoor restaurant or bar shall mean any restaurant or bar, or portion thereof, which exists outside of the permanent exterior walls of the principal building(s) on a lot and has, in place, tables and chairs set up to accommodate patrons for seating, during all hours of operation. This definition includes any deck or other area constructed and/or utilized on the roof of a structure.

Person is any person, person's firm, association, copartnership, joint venture, corporation or any entity public or private in nature.

Plainly Audible shall mean any sound that can be heard clearly by a person using his or her unaided hearing faculties. When music is involved, the detection of rhythmic bass tones shall be sufficient to be considered plainly audible sound.

Previously Issued Outside Sound Amplification Permits defines businesses holding a valid Outside Sound Amplification Permit as of August 1st, 2016, and shall be permitted to be subject to the provisions of Ordinance No. 2002-7834 voted into law on June 3rd, 2002.

Property line of the premises shall mean an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

All references to time in this chapter shall be the current legal time in the City of Jacksonville Beach.

All technical definitions are in accordance with American Standard S1.1-1960 entitled, "Acoustical Terminology."

(b) Low Volume Outdoor Amplified and Acoustic Sound permits.

(1) Permit required. Any person or business owning or operating a licensed establishment as defined in Section 18-7(a) that is located in the City of Jacksonville Beach, and which provides for low volume outdoor acoustic or amplified sound, shall possess a Low Volume Outdoor Amplified and Acoustic Sound Permit. This permit authorizes licensed establishments to provide outdoor amplified and acoustic entertainment to originate from within the property line of a licensed business, to utilize outdoor sound amplification equipment, and to otherwise permit the generation of amplified sound in unenclosed parts of the licensed premises.

(2) Exemptions.

- a. Indoor emergency signaling devices alerting an emergency shall not be deemed amplified or acoustic sound.
- b. An exterior burglar alarm shall not be deemed amplified and acoustic sound.

(3) Standards applicable to indoor entertainment sound.

- a. Except as otherwise permitted in this section, no licensed establishment in the City of Jacksonville Beach shall convey any entertainment sound, originating from within the licensed establishment's enclosed building, to the outside confines of the enclosed building, including any outdoor gathering areas.
- b. No licensed establishment shall be in violation of the noise restrictions in Section 18-4, *Noises prohibited*.
- c. Amplified and acoustic entertainment sound originating within the enclosed building housing the licensed establishment shall not be conveyed outside the building by any means, including but not limited to open windows, open doors

except entrance doors when opened momentarily, as needed for ingress and egress of persons, or any other means which conveys or facilitates amplified music from inside the confines of the building to the outside of the building, unless such sound is low volume, as defined in section 18-7(a).

(4) Standards applicable to outdoor entertainment sound.

- a. Any licensed establishment providing outdoor amplified or acoustic sound, including background music, must possess a valid Outdoor Amplified and Acoustic Sound Permit.
- b. Licensed establishments holding an Low Volume Outdoor Amplified and Acoustic Sound Permit shall not generate any sound within or from their outdoor dining area that exceeds a level such that a person outside of the property line of the originating premises and speaking in a normal tone of voice is not plainly audible, and understood, over this sound by another person standing a maximum of thirty-six inches (36") away from the person speaking.
- c. Outdoor amplified and acoustic sound shall be limited to sound producing devices such as low volume amplified sound, low volume acoustic, low volume orchestral instrument, or low volume stringed instruments.
- d. Outdoor disc jockeys and amplified bands are strictly prohibited, unless specifically allowed in writing as part of a permit issued pursuant to Section 4-5 Temporary extension of licensed premises of Chapter 4 Alcoholic beverages.
- e. All sound must originate within the property line of the licensed establishment which holds a Low Volume Outdoor Amplified and Acoustic Sound Permit.
- f. Any sound originating within the enclosed building of a licensed establishment shall not be conveyed to the outdoor dining area unless that music is electronically channeled through the low volume speakers, and shall not generate any sound that exceeds a level such that a person outside the property line of the originating premises and speaking in a normal tone of voice is not plainly audible, and understood over this sound by another person standing a maximum of thirty-six inches (36") away from the person speaking.
- g. Operation of any amplified and acoustic sound between the hours of 10:00 p.m. and 8:00s a.m. the following day is prohibited.
- h. Removing and/or resituating outdoor seating and tables as permitted, while generating outdoor amplified and acoustic sound, is prohibited.
- i. Previously Issued Outside Sound Amplification Permits. Beginning on August 1, 2002, persons or businesses owning or operating an outdoor restaurant, bar, or any other establishment utilizing outdoor sound amplification equipment; and is otherwise permitted to generate amplified sound or noise in unenclosed

parts of a premise, is required to possess a valid Previously Issued Outside Sound Amplification Permit.

(5) *Renewal for Previously Issued Outside Sound Amplification Permit.*

- a. Renewal for a Previously Issued Outside Sound Amplification Permits shall be made to the city clerk, on forms provided for that purpose. A fee, in an amount set by resolution of the city council and payable upon issuance, shall be charged for the outside sound amplification permit.
- b. Persons or businesses possessing a previously issued Outside Sound Amplification Permit shall file with the city, a sketch plan showing the proposed location and orientation of the equipment to be used, the street address and specific location at that address for the proposed use, the hours of operation of the equipment, a valid business tax receipt for licensed establishment, verification of compliance by licensed establishment with city zoning, code regulations, certification from the applicant that the equipment will be monitored to ensure that it is operated within the decibel levels permitted, and The name and street address where notices related to this section are to be mailed.
- c. For outdoor restaurants, bars or other establishments adjacent to a public right-of-way, public easement, public property, or public or private body of water other than the Atlantic Ocean, the amplification devices shall be directed away from any adjacent public right-of-way, public easement, public property, or public or private body of water other than the Atlantic Ocean; and otherwise operated in accordance with this chapter.
- d. Any person or business owning or operating an outdoor restaurant, bar, or other establishment located within two thousand (2,000) feet of the centerline of the Atlantic Intracoastal Waterway, said centerline being the western corporate limit of the City of Jacksonville Beach; as measured in a straight and continuous line from any point on or at the property line of such restaurant, bar, or other establishment, to the nearest point of the centerline of the Atlantic Intracoastal Waterway, may make application for an outdoor sound amplification permit. If such permit is granted by the City of Jacksonville Beach, the person or business is permitted to generate amplified sound or noise in unenclosed parts of a premise up to, but not to exceed, a maximum decibel level of 40 dB(A). The maximum decibel level established in this section applies only to outdoor restaurants, bars, or other establishments located within two thousand (2,000) feet of the centerline of the Atlantic Intracoastal Waterway, as defined above. All other outdoor restaurants, bars, or other establishments throughout the City of Jacksonville Beach must meet the requirements for maximum noise levels set forth in section 18-3(d)(1); Table 1.
- e. No permit shall be valid for the operation of any outside sound amplification equipment between the hours of 10:00 p.m. and 10:00 a.m. the following day.

f. A permit shall be effective for a one-year period beginning on October 1st of each year, and is renewable for additional one-year periods upon reapplication and payment of the annual fee.

g. Permit not transferrable. Any change in the ownership, name, and/or location of a licensed establishment with a valid Previously Issued Outside Sound Amplified Permit, as described in this section, shall cause the permit to be immediately invalid, and will only be issued as new Low Volume Outdoor Amplified and Acoustic Sound Permit.

(6) Application for a Low Volume Outdoor Amplified and Acoustic Sound Permit.

a. An application for a low volume outdoor amplified and acoustic sound permit shall be made to the city clerk, on forms provided for that purpose. A fee, in an amount set by resolution of the city council and payable upon issuance, shall be charged for the outside sound amplification permit. The permit shall be issued within thirty (30) days of receipt of a complete application.

b. Minimum information required. Any licensed establishment wishing to produce low volume outdoor amplified and acoustic sound shall complete an application form provided by the city. An annual fee, in an amount set by resolution of the city council and payable upon issuance, shall be charged for the permit. The application form shall include, but not be limited to, the following information:

i. Name and street address of the owner of the licensed establishment;

ii. Valid business tax receipt for licensed establishment;

iii. The hours of operation of the licensed establishment and a listing of the hours of operation of the entertainment sound equipment proposed to be used under the Outdoor Amplified and Acoustic Sound Permit, if approved;

iv. Verification of compliance by licensed establishment with city zoning and code regulations;

v. Specific type of state alcoholic beverage license held by the licensed establishment, if applicable;

vi. A sketch plan of the proposed location and orientation of the equipment to be used, the proposed orientation of outdoor seating and tables, and including a certification signed by the appli-

cant that the equipment will be monitored to ensure that it is operated within the sound levels permitted; and

vii. The name and street address where notices related to this section are to be mailed.

The city clerk shall review the application and, if the application is complete, and the licensed establishment is in compliance with the Code of Ordinances, a permit shall be issued allowing low volume outdoor amplified and acoustic sound. A Low Volume Outdoor Amplified and Acoustic Sound Permit is issued by the city clerk. The permit shall contain conditions and limitations as listed in this ordinance including, but not limited to, hours of operation.

- (7) *Permit not transferrable.* Any change in the ownership of a licensed establishment after the issuance of the permit shall cause the permit to be immediately invalid and cause the new owner to reapply for the permit. The city shall be notified immediately, and the licensed establishment shall apply for a new permit if a transfer of ownership of the licensed establishment has occurred. Until such time as the new owner of the licensed establishment makes application for a new permit and is approved for the permit, the privilege of low volume amplified and acoustic sound shall be suspended.
- (8) *Renewal.* Such permit shall be renewed by the city annually on or before the 31th day of December, provided that none of the following has occurred:
- a. The permit has been suspended by the special magistrate and the conditions of the suspension have not been met;
 - b. A transfer of ownership of the licensed establishment has occurred, and this information was not provided to the city; or
 - c. A change in location of the licensed establishment has occurred, and this information was not provided to the city.
- (9) *Expiration ("Sunset) date.* Section 18-7(6), Low Volume Outdoor Amplified and Acoustic Sound Permit, shall expire on December 31, 2018, unless the city council of the City of Jacksonville Beach amends this section by extending the expiration or repealing this paragraph in its entirety.

(10) Notice of violation, hearing, and penalties.

- a. Low Volume Outdoor amplified sound is a privilege. The ability of a licensed establishment to generate outdoor amplified and acoustic sound, during the licensed establishment's hours of operation, on any day of the week is hereby declared to be and is a privilege subject to suspension, and no person may reasonably rely upon a continuation of that privilege. As a condition of the continuation of the privilege, licensed establishments are required to take all necessary steps to minimize the sound level originating from the licensed establishment. The following are representative, but not all-inclusive, of activities that may result in suspension of the privilege of amplified and acoustic sound:
- i. Violations of any provisions of Chapter 18 of the City of Jacksonville Beach Code of Ordinances, relating to noise and sound limitations;
 - ii. Failure to obtain a Low Volume Outdoor Amplified and Acoustic Sound Permit or failure to renew the permit as required; or
 - iii. Failure to renew a Previously Issued Outside Sound Amplification Permit as required.
- b. Action by city manager. The Previously Issued Outside Sound Amplification Permit and Outdoor Amplified and Acoustic Sound Permit can be revoked at any time by the city manager or his/her designee if the operation fails to follow the terms of the permit or for a violation of any city ordinance. The city manager's or his/her designee revocation of a permit may be appealed to the special magistrate.
- c. Notice of violations, hearings, and penalties.
- i. Finding of violation. In order to invoke the enforcement provisions of this section, a violation must be verified and documented by a police officer or code enforcement officer. A violation by a licensed establishment of any section of this ordinance shall result in a written notice of violation, issued by a police officer. The notice of violation shall be served by hand delivery or certified mail to the owner, proprietor, manager, or highest-ranking employee then on the premises of the licensed establishment. Issuance of a notice of violation of this section shall not prevent the filing of charges against the licensed establishment or any person for any other violation of the Code of Ordinances or state statutes.

- ii. *Jurisdiction of the special magistrate.* A notice of violation shall be taken before the city's special magistrate for consideration of suspension of the licensed establishment's Previously Issued Outside Sound Amplification Permit and Outdoor Amplified and Acoustic Sound Permit. The special magistrate shall exercise jurisdiction over such matters as set forth in Article VI, Section 2-170 of the Code of Ordinances of the City of Jacksonville Beach.
- iii. *Action by the special magistrate.* Upon completion of the hearing, the special magistrate shall deliver a ruling either that no action shall be taken against the licensed establishment's Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit, or that the Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit shall be suspended. A suspension of the Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit for a first finding by the special magistrate of a violation shall be not less than thirty (30) days nor more than ninety (90) days. A second and any subsequent finding by the special magistrate of a violation of the Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit within one year (three hundred sixty-five (365) days) of the date of completion of the most recent suspension period shall result in a suspension of not less than ninety (90) days nor more than one hundred eighty (180) days. In addition to any suspension of the Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit, the special magistrate may issue a fine of not more than five hundred dollars (\$500.00) per violation of this section. The special magistrate shall base his/her ruling upon substantial, competent evidence presented that supports a finding of non-compliance with this section. The special magistrate's written order of suspension of the Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit shall state the effective date of the suspension and shall give the licensed establishment ten (10) calendar days of the notice of suspension.
- iv. *Failure of license holder to appear.* If a licensed establishment served with a notice of violation fails to appear at the hearing after having received proper notice, the special magistrate shall take testimony from city staff, and other relevant testimony, as available, and shall deliver a ruling either that no action shall be taken against the licensed establishment's Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit, or that the Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Outdoor Acoustic Sound Permit shall be suspended for a period of time as set forth in this section. A ruling that the Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit be suspended shall take ef-

fect on the tenth calendar day after the ordered is issued. The enforcement of such order shall be stayed if the licensed establishment files a request for a rehearing with the city clerk's office before the date the order is scheduled to take effect. In such case, the licensed establishment shall be rescheduled for a hearing before the special magistrate. At that hearing, the special magistrate shall take testimony from the licensed establishment, and other relevant testimony, as available, and shall deliver a ruling upholding the previous order suspending the Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit, amending the order suspending the Previously Issued Outside Sound Amplification Permit or Low Volume Outdoor Amplified and Acoustic Sound Permit, or rescinding the order suspending the Previously Issued Outside Sound Amplification Permit or Low Volume Outdoor Amplified and Acoustic Sound Permit. If the special magistrate upholds a suspension of the Previously Issued Outside Sound Amplification Permit or Low Volume Outdoor Amplified and Acoustic Sound Permit, such suspension shall take effect ten calendar day after the ruling is issued.

- v. *Modification of ownership status to avoid suspension.* Any licensed establishment that has had a Previously Issued Outside Sound Amplification Permit or Outdoor Amplified and Acoustic Sound Permit suspended cannot avoid the consequences of the special magistrate's action by changing its business name or corporate status.
- vi. *Alternative enforcement procedures.* The enforcement procedures contained herein are alternative procedures, and the city reserves the right to arrest, prosecute, or take action utilizing any other enforcement procedures authorized by law.

Sec. 18-8. – Severability

Each separate provision of chapter 18 and the ordinances herein shall be deemed to be severable. If any provision, word or section within this chapter or ordinances herein is deemed unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provisions, section or word of this chapter or ordinances.

SECTION 2. That all ordinances or parts of ordinances in conflict with this ordinance are, to the extent that the same may conflict, hereby repealed.

SECTION 3. This ordinance shall take effect upon its adoption in accordance with the law.

DONE IN OPEN MEETING THIS ___ DAY OF _____, A.D. 2016.

William C. Latham, MAYOR

Laurie Scott, CITY CLERK

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