



City of Jacksonville Beach

11 North Third Street
Jacksonville Beach, Florida

Agenda

Planning Commission

Monday, December 11, 2017

7:00 PM

Council Chambers

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), Dave Dahl (Vice-Chair), Bill Callan, Georgette Dumont, Britton Sanders
Alternates: Margo Moehring, Jason Lee
3. **Approval of Minutes:** September 25, 2017; October 9, 2017; October 23, 2017; and November 13, 2017
4. **Correspondence:** None
5. **Old Business:** None
6. **New Business:**

(A) **PC#52-17 7 2nd Avenue South**
Conditional Use Application for a proposed single-family dwelling on property located in the *Central Business District: CBD* zoning district, pursuant to Section 34-345(d)(9) of the Jacksonville Beach Land Development Code.

(B) **PC#53-17 1235 Penman Road**
Conditional Use Application for proposed outdoor seating at a new restaurant located in a *Commercial, limited: C-1* zoning district, pursuant to Section 34-342(d)(20) of the Jacksonville Beach Land Development Code, for property located at 1235 Penman Road (former *Tomo* restaurant)

(C) **PC#54-17**
Land Development Code Text Amendment adding definitions for “Personal Wireless Service”, “Personal Wireless Service Facility or Personal Wireless Service Facilities”, and “Personal Wireless Service Provider”, and adding new Sections 34-409 for Personal Wireless Facilities and 34-410 for Personal Wireless Facility Development Standards to the Land Development Code.

7. Planning Department Report:

(A) The next meeting is scheduled for January 8, 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.

**Minutes of Planning Commission Meeting
held Monday, September 25, 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 by Chairman Greg Sutton at 7:00 P.M.

Roll Call

Chairman: Greg Sutton

Board Members: Bill Callan David Dahl Britton Sanders Georgette Dumont

Alternates: Margo Moehring Jason Lee (*absent*)

Also present were Planning and Development Director Bill Mann, and Staff Assistant Amber Lehman.

Approval of Minutes

There were none.

Correspondence

Mr. Mann reported there was no correspondence.

Old Business

There was no old business.

New Business

(A) PC #44-17- 1396 Beach Blvd.

Conditional Use Application for transfer of approved outdoor restaurant use for a new restaurant tenant in a *Commercial, general: C-2* zoning district, pursuant to Section 34-343(d)(14) of the Jacksonville Beach Land Development Code. (Beach Plaza, former *Crabcake Factory*). RESCHEDULED FROM SEPTEMBER 11, 2017.

Staff Report:

Mr. Mann read the following into the record:

The subject property is located on the south side of Beach Boulevard, east of Penman Road. The applicant's restaurant is the westernmost tenant space in the shopping center. This location was previously occupied by other restaurants which had approved outdoor seating (PC#32-03, PC#06-08, and PC#14-10). Since conditional use approval for outdoor restaurant seating is non-transferable, the

applicant was informed that conditional use approval in his name would be required to use the existing outdoor patio space with the new restaurant. The existing patio, which is just under 900 square feet in size, is located on the west side of the building along Penman Road and the sidewalk is large enough to accommodate pedestrian through traffic.

Adjacent uses include the balance of the shopping center to the east and south, the Police station to the south across Shetter Avenue, commercial uses and a cemetery to the west, and commercial to the north across Beach Boulevard. The proposed use of the existing outdoor seating area by the new restaurant should not alter the character of the commercial shopping center, and adjacent properties should not be negatively impacted.

Applicant:

The applicant, Mr. Yong Feng Zheng, 2126 Cherokee Cove Trail, Jacksonville, was present.

Mr. Sutton asked if this was the same location as the old Brazilian Steakhouse. Mr. Mann acknowledged it was. Mr. Zheng provided the new name of the business as the *Yummy Crab Seafood Restaurant*.

Public Hearing:

No one wished to come forward and speak on the application.

Motion: It was moved by Ms. Dumont, and seconded by Mr. Callan, to approve PC #44-17.

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

(B) PC #45-17- 1704 N. 3rd Street

Conditional Use Application for outdoor restaurant use for a new restaurant located in a *Commercial, limited: C-1* zoning district, pursuant to Section 34-342(d)(20) of the Jacksonville Beach Land Development Code. (*Spicy and Juicy Crawfish*). RESCHEDULED FROM SEPTEMBER 11, 2017.

Staff Report:

Mr. Mann stated the applicant was in Orlando and was requesting a continuance. He noted it could go on the October 9, 2017, agenda but this would be the only case, so they may wish to consider October 23, 2017. Mr. Dahl stated there were instances which the Board heard these cases with the applicant, not present. Mr. Mann stated the applicant requested the continuance. The Board agreed to have the application heard at a later time.

(C) PC #46-17

Land Development Code Text Amendment Application to add “Single-family dwellings constructed in accordance with requirements set forth in Section 34-338, Residential, single-family-RS-3” as a Conditional Use to the *Central Business District; CBD* zoning district. RESCHEDULED FROM SEPTEMBER 11, 2017.

Staff Report:

Mr. Mann read the following into the record:

Single-family residential is not currently a permitted or conditional use in *Central Business District; CBD* zoning. Located in the six-block area bordered by 3rd Street South, Beach Boulevard, the Atlantic Ocean, and 2nd Avenue South, are ten existing non-conforming single-family dwellings. This specific area contains all of the existing single-family dwellings located within the current *CBD* zoning district.

The Planning Department is proposing to add “single family dwellings” to the list of conditional uses in the *CBD* zoning district. Currently, single-family dwellings are listed conditional uses in *RM-1* and *RM-2* zoning districts and when approved are built to *RS-3* standards. Approving this text change would allow property owners of existing non-conforming single-family dwellings, the opportunity to seek conditional use approval in order to bring their property into compliance with the current Land Development Code. It would also allow the potential for new single-family uses in the *CBD*, but only after review by the Planning Commission.

Applicant:

The applicant is the City of Jacksonville Beach.

Mr. Dahl asked if this application was presented for a recommendation to City Council by the Planning Commission. Mr. Mann confirmed that it was, and stated that there are ten single family houses between Beach Boulevard and Third Street that would benefit by adding the language recommended by staff. He added because the units would be approved as a conditional use, it would not open up to others. Mr. Dahl stated his concerns with any new single-family uses in the *CBD*. Mr. Mann noted multi-family is allowed by right in the *CBD*, so this actually could potentially reduce densities.

Mr. Callan asked if they would hold the right to address single-family as a conditional use. Mr. Mann stated they would on a case by case basis, adding that single-family conditional uses were transferable.

Public Hearing:

No one wished to come forward and speak on the application.

Motion: It was moved by Ms. Dumont, and seconded by Mr. Callan, to approve PC# 46-17.

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

(D) PC #47-17- 1560 Roberts Drive

Conditional Use Application for a proposed medical office in an existing commercial building, located in a *Residential, multiple family: RM-1* zoning district, pursuant to Section 34-339(d)(14) of the Land Development Code.

Staff Report:

Mr. Mann read the following into the record:

The subject property is located in a medical office center on the west side of Roberts Drive. The property has been the home to *Hope Adult Day Care* facility since 2004 and had conditional use approval via PC#34-04. The applicant was informed by staff a change in use from adult day care to medical office would require conditional use approval, as they are separate conditional uses listed in the Land Development Code.

Adjacent uses include single-family homes to the south, the balance of the office complex, and an outpatient clinic to the north, the City golf course to the west, and the main hospital across Roberts Drive to the east. A change in use of the subject property to medical office is consistent with the commercial uses in the area, and should not negatively impact adjacent properties.

Applicant:

The agent for the applicant, Mr. Kenneth Tucker, 1527 Summit Creek Road, Jacksonville, stated it was going to be an Ear, Nose and Throat practice adjacent to the hospital.

Public Hearing:

No one wished to come forward and speak on the application.

Motion: It was moved by Mr. Dahl and seconded by Ms. Dumont to approve PC#47-17. The motion was seconded by Ms. Dumont.

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

Planning & Development Director's Report

Mr. Mann noted the moratorium for medical marijuana dispensaries would end in December. He was asked to canvass the Boards on their comments. He explained they could either ban it or would have to allow them in any zoning category where pharmacies are allowed. Mr. Sutton asked if the City Attorney had an opinion. Mr. Mann stated not at this time. Ms. Dumont stated she preferred to wait to see what others are doing. She expressed concerns about allowing it in the CBD. Mr. Dahl asked the benefit of this action. Ms. Dumont responded they could find out the issues facing others who allow it. Mr. Sutton added it would allow the City to see what happens in those communities where it is denied.

Mr. Sutton stated a continued moratorium would be his preference. Discussion followed on the benefit of seeing what other cities and states do and being proactive.

Mr. Mann stated he would notify the Board if there will be a meeting on October 9th, 2017. Mr. Dahl and Mr. Sutton noted they would be absent.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:27 P.M.

Submitted by: Amber Maria Lehman

Approval:

Chairman:

Date:

Minutes of Planning Commission Meeting
held Monday, October 9, 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 at 7:00 P.M. by Board Member David Dahl.

Roll Call

Chairman: Greg Sutton (*absent*)
Board Members: Bill Callan David Dahl Britton Sanders (*absent*) Georgette Dumont
Alternates: Margo Moehring Jason Lee (*absent*)

Also present were Senior Planner Heather Ireland, and Staff Assistant Amber Lehman.

Approval of Minutes

Motion: It was moved by Ms. Dumont, and seconded by Mr. Callan, to approve the minutes of the June 26, 2017, meeting.

Roll call vote: Ayes – Dahl, Callan, Dumont, and Moehring
Motion to approve the minutes was approved unanimously.

Motion: It was moved by Ms. Dumont, and seconded by Ms. Moehring, to approve the minutes of the August 14, 2017, meeting as amended.

Roll call vote: Ayes – Callan, Dumont, Moehring, and Dahl
Motion to approve the amended minutes was approved unanimously.

Motion: It was moved by Ms. Dumont, and seconded by Mr. Callan, to approve the minutes of the August 28, 2017, meeting.

Roll call votes: Ayes – Moehring, Dahl, Callan, and Dumont
Motion to approve the amended minutes was approved unanimously.

Correspondence

Ms. Ireland reported there was no correspondence.

Old Business

(A) **PC #45-17- 1704 N. 3rd Street**

Conditional Use Application for outdoor restaurant use for a new restaurant located in a *Commercial, limited: C-1* zoning district, pursuant to Section 34-342(d)(20) of the Jacksonville Beach Land Development Code. (*Spicy and Juicy Crawfish*). RESCHEDULED FROM SEPTEMBER 11, 2017 AND SEPTEMBER 25, 2017(at the applicants request to defer).

Staff Report:

Ms. Ireland read the following staff report into the record:

The subject property is located on the west side of North 3rd Street between 16th and 17th Avenues North at the southernmost end of the Holiday Plaza shopping center. The applicant's restaurant is located in the former 7-11 convenience store tenant space. He would like to use a new patio installed to the east of the restaurant for outdoor seating and was informed that conditional use approval would be required.

Adjacent uses include commercial in the balance of the shopping center, a medical office and a gas station to the south, commercial to the east across North 3rd Street, and single family residential to the west behind the shopping center. The proposed use of the new outdoor seating area by the restaurant is consistent with the seating area at the drinking establishment at the other end of the shopping center, and adjacent properties should not be negatively impacted, as the patio is on the opposite side of the building than the existing residential uses.

Applicant:

The applicant did not wish to address the Board.

Public Hearing:

No one wished to come forward and speak on the application.

Motion: It was moved by Ms. Dumont, and seconded by Mr. Callan, to approve application PC #45-17.

Roll call votes: Ayes – Moehring, Dahl, Dumont, and Callan
The motion was approved unanimously.

(B) Findings of Fact PC#20-17

Ms. Ireland stated the City Attorney was comfortable with the language in the Findings of Fact. Mr. Dahl asked if there was a written statement from the City Attorney. Ms. Ireland stated she didn't have anything written; it was voice communication. Mr. Dahl stated he would like to have a written note added for documentation purposes.

Motion: It was moved by Ms. Dumont, and seconded by Mr. Callan, to approve the Findings of Fact for PC#20-17 from July 11, 2017.

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

(C) Findings of Fact PC#23-17

Motion: It was moved by Ms. Dumont and seconded by Ms. Moehring, to approve the Findings of Fact for PC#23-17 from July 11, 2017.

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

Planning & Development Director's Report

Ms. Ireland noted the next meeting was October 23, 2017.

Adjournment

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

Submitted by: Amber Maria Lehman
Staff Assistant

Approval:

Chairman

Date

Draft

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



Call to Order

Chairman Greg Sutton called the meeting to order.

Roll Call

Chairman: Greg Sutton

Board Members: Britton Sanders Bill Callan (*absent*) David Dahl Georgette Dumont

Alternates: Jason Lee (*absent*) Margo Moehring

Also present were Senior Planner Heather Ireland, City Attorney Susan Erdelyi, and Staff Assistant Mandy Murnane.

Approval of Minutes

There were none.

Correspondence

Ms. Ireland reported that there no correspondence.

Old Business

There was no old business.

New Business

(A) **PC #48-17- Land Development Code Text Amendment Application**

Amend Land Development Code Article IV to add related definitions and amend Land Development Code Article VIII, Division 2. Supplemental Standards to instate a prohibition on Medical Marijuana Treatment Center Dispensing Facilities within the City of Jacksonville Beach.

Applicant: Planning and Development Department
11 North 3rd Street
Jacksonville Beach, FL 32250

Request: Approve a Prohibition on the operation of "Medical Marijuana Treatment Center Dispensing Facilities" within the City of Jacksonville Beach.

Staff Report:

Ms. Ireland read the following into the record:

On November 8, 2016, voters adopted an amendment to the Florida Constitution (*Amendment 2*) that legalizes the use of medically certified marijuana in the State of Florida and authorizes the cultivation, processing, distribution, and sale of related products by licensed "Medical Marijuana Treatment Centers" (MMTCs). While "dispensing facilities" are part of the new state regulations, the State has preempted to itself the regulation of all facilities. The State has decided that local jurisdictions can choose from only two available options for local regulation of dispensing facilities: 1) medical marijuana treatment center dispensing facilities can be regulated no more stringently than pharmacies are regulated, or 2) medical marijuana treatment center dispensing facilities can be banned altogether. Pharmacies currently are permitted in *C-1*, *C-2*, and *CBD* zoning districts, and also in commercial PUD zoning districts. The City currently has a moratorium on dispensaries in place until December 5, 2017.

Staff feels that there is a high likelihood of future State legislation regarding medical marijuana and the potential for legal challenges to the State legislation as it is currently adopted. For example, future constitutional amendments and legislation may further expand the legal use of cannabis in Florida. A prohibition on medical marijuana treatment center dispensing facilities would allow time for the State to make any changes to the current statutes, and for the City to respond accordingly and appropriately.

The City wants to ensure that in the event of a change to the State regulations that would strike or alter any local ban on dispensaries, that applications can be processed in a reasonable timeframe after consideration is given to the application process. The proposed draft ordinance language serves to prohibit any medical marijuana treatment center dispensing facilities within the City limits. This prohibition allows the City time to develop procedures, if necessary, to process applications, in the event that the State changes the adopted legislation to prohibit dispensing facility bans, or a court of law enters a final order striking or altering the authority of local jurisdictions to ban dispensing facilities.

Ms. Ireland reviewed the Draft Language handout [*on file*] and stated Article IV Definitions is proposed to be amended to add two new definitions for Medical Marijuana Treatment Center, and, Medical Marijuana Treatment Center Dispensing Facility, to **Section 34-41.General**.

The Draft Language handout provided the Land Development Code addition of **Section 34-408**, which states that in the event there is any change by legislation, the City would be given 180 days to decide how to process applications.

Public Hearing:

For the record, Mr. Sutton stated there was no one present in the Chambers to speak in favor or opposition.

Discussion:

Ms. Dumont asked if it would be possible to change the Central Business District zoning code to grandfather in CVS/ Walgreens.

Ms. Ireland replied yes, it would be an option; they would be legal nonconforming uses because they existed prior to any code changes.

City Attorney, Susan Erdelyi, said one of the concerns about the change is the Burt Harris Property Rights Protection Act, which prohibits governments from inordinately burdening existing use of real property.

Ms. Moehring asked if data exists showing the negative impact of medical marijuana sales on the communities or are the negative impacts presumptive.

Ms. Erdelyi responded yes, there were studies, and noted one secondary effect is the cash-only business creating an opportunity for mischief.

Ms. Ireland said approximately thirty counties in Florida are moving in the direction of the ban because the alternative does not make a good fit for their community.

Mr. Sanders asked if we were to allow this in pharmacies, would it still be a cash-only business.

Ms. Erdelyi stated no because pharmacies still use the federal banking system and marijuana is still a federal crime.

Mr. Sutton asked Ms. Erdelyi if she was comfortable with the position and challenges the prohibition puts on the City, to which Ms. Erdelyi responded yes, especially because the federal crime is contradicting to the States at the moment. In the meantime, patients can obtain the medication in the Jacksonville area, and currently, the supply is exceeding the current demand.

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

Roll call vote: Ayes – Dahl, Sanders, Dumont, and Sutton.
Nays – Moehring
The motion carried 4-1.

Planning & Development Director's Report

Ms. Ireland noted that the next meeting is scheduled for November 13, 2017.

Adjournment

There being no further business coming before the Commission, Chairman Sutton adjourned the meeting at 7:20 P.M.

Submitted by: Mandy Murnane
Staff Assistant

Approval:

Chairman:

Date:

Draft

**Minutes of Planning Commission Meeting
Held Monday, November 13, 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 at 7:00 P.M. by Board Member Greg Sutton.

Roll Call

Chairman: Greg Sutton
Board Members: Bill Callan David Dahl Britton Sanders Georgette Dumont
Alternates: Margo Moehring (*absent*) Jason Lee (*absent*)

Also present were Senior Planner Heather Ireland, and Staff Assistant Mandy Murnane.

Approval of Minutes

There were none.

Correspondence

Ms. Ireland reported that there no correspondence.

Old Business

There was no old business.

New Business

(A) PC #49-17 - 311 N. 3rd Street #107 (*The Blind Rabbit*)

Conditional Use Approval for a microbrewery to be located within an existing restaurant located in the *Central Business District: CBD* zoning district, pursuant to Section 34-345(d)(8) of the Jacksonville Beach Land Development Code.

Staff Report:

Ms. Ireland read the following into the record:

The subject property is *The Blind Rabbit* tenant space of the *Urbana* commercial center at the northeast corner of 2nd Avenue North and 3rd Street North in the City's Central Business District (CBD). The applicant has operated *The Blind Rabbit* restaurant and whiskey bar in the location since 2013, and now wishes to brew and sell beer on premises. The applicant was advised by staff that the addition of a microbrewery to the existing restaurant establishment would require conditional use approval.

If approved, the applicant would have the second microbrewery in the *CBD*, with *Zeta* being the other one. The applicant was informed that they will have to maintain a minimum of 150 seats

required for the existing 4COP restaurant license. Pursuant to the LDC definition of a microbrewery, the applicant would be limited to brewing a maximum of 8,000 barrels a year (248,000 gallons). The applicant advised that the beer would initially be served only in-house, but there is the potential to distribute to other establishments in the future, with the appropriate State licenses.

Adjacent uses include commercial in the balance of the building, and commercial to the east, south and west. The addition of a microbrewery to an existing restaurant should not negatively impact adjacent properties, and should not change the character of the existing business or immediate area.

Applicant:

The applicant, Anne Stanford, 311 North Third Street, Suite 107, Jacksonville Beach, was present.

Public Hearing:

No one wished to come forward and speak on the application.

Discussion:

There was no discussion on the item.

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

Roll call vote: Ayes – Callan, Dahl, Sanders, Dumont, and Sutton.
The motion carried.

(B) PC#50-17 1401 1st Street South (*Waterfall* Condominiums)

Conditional Use Approval for a temporary real estate sales office for a proposed condominium project located in a *Residential, multiple-family: RM-2* zoning district, pursuant to Section 34-340(d)(15) of the Jacksonville Beach Land Development Code.

Staff Report:

Ms. Ireland read the following into the record:

The subject property is located oceanfront of 1st Street South between 14th and 15th Avenues South. The property currently sits vacant and has an approved Site Plan (SP#17-3) for the construction of a nine story, 42-unit oceanfront residential condominium project (*Waterfall* Condominiums). The subject property has vested rights for a building height of 109 feet. The property owners would like to place a temporary real estate sales office on the subject property while the design and construction plans for the oceanfront condominium project are finalized. Staff advised the applicant's agent that conditional use approval would be required for a temporary real estate sales office.

Adjacent uses include residential to the north, south and west, and the Atlantic Ocean to the east.

Use of the subject property as a temporary real estate office should not negatively impact adjacent properties as adequate parking and access and landscaping will be required and provided by the applicant, and the office will ultimately be removed from the subject property.

Applicant:

The applicant, Steve Jarrett, 3741 1st Street South, Jacksonville Beach, was present and stated the trailer was solely for the purpose of condo sales prior to construction.

Ms. Dumont asked how long the temporary trailer was anticipated to be located on the property.

Mr. Jarrett responded nine months to eighteen months.

Public Hearing:

William F. Miley, Jr., 1505 1st Street South, Jacksonville Beach, said he had reservations about parking and how the parking would be handled while the facility itself is being completed.

Discussion:

Mr. Jarrett responded to Mr. Miley's concern of parking with their site plan illustration and stated the exclusivity involved in the sales meeting would limit the amount of cars present at one time to three to four cars at once. There would be plenty of parking available on the vacant land and the approximate number spaces is eight in front of a forty foot wide trailer.

Mr. Sutton reminded Mr. Jarrett that there are minimum parking requirements that must be met.

Mr. Sutton requested consideration of a conditional use time frame for the applicant to return to the Planning Commission if the sales office has not been completed.

Mr. Dahl stated he was not in favor of restricting the time frame of a mobile sales office and suggested a window from mobilization or certificate of occupancy.

Motion: It was moved by Ms. Dumont and seconded by Mr. Sanders, to approve the application, with the condition that if the trailer is not removed within 18 months of mobilization at the time of the Certificate of Occupancy, the applicant must return to the Planning Commission for an extended conditional use approval or remove the trailer.

Roll call vote: Ayes – Callan, Sanders, Dumont, and Sutton.

Nays – Dahl

The motion carried 4-1.

(C) **PC#51-17** Concept Plat Application

Concept Plat Approval for a proposed four-unit townhouse project in a *Residential, multiple family: RM-1* zoning district, pursuant to Section 34-503 of the Jacksonville Beach Land Development Code.

Staff Report:

Ms. Ireland read the following into the record:

The subject property is located on the west side of Almonaster Street, between St. Augustine Boulevard and Osceola Avenue. The applicant wishes to subdivide the property into four fee-simple townhouse lots pursuant to the *Residential, multiple-family: RM-1* zoning district standards. The applicant has received variances for lot dimensions, and setbacks. Each new proposed townhouse lot, with the approved variances, meets the lot size and dimensional standards for townhouses in *RM-1*. The four lots will have common driveway access to the property, per the approved variance.

Adjacent uses include townhouses to the west, office to the north, commercial to the east and single-family to the south. The subdivision of the subject property into four fee-simple townhouse lots should not negatively impact adjacent properties, and is consistent with similar townhouse developments in *RM-1* zoning districts.

Applicant:

The applicant, David Palaj, 12480 Arabic Lane, Jacksonville, was present.

Public Hearing:

No one wished to come forward and speak on the application.

Discussion:

There was no discussion on the item.

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

Roll call vote: Ayes – Callan, Dahl, Sanders, Dumont, and Sutton.
The motion carried.

Planning & Development Director's Report

Ms. Ireland noted that the next meeting is scheduled for Monday, December 11, 2017.

Adjournment

There being no further business coming before the Commission, Mr. Sutton adjourned the meeting at 7:35 P.M.

Submitted by: Mandy Murnane

Approval:

Chairman:

Date:

MEMORANDUM



TO: Planning Commission Members
FROM: Heather Ireland, Senior Planner
DATE: December 4, 2017
RE: December 11, 2017 - Planning Commission Meeting

The following information is provided for your consideration regarding three agenda items for the upcoming December 11, 2017 Planning Commission meeting.

NEW BUSINESS:

PC#52-17 Conditional Use Application

Owner/
Applicant: Raymond A. Kletzing
 3080 2nd Street South
 Jacksonville Beach, FL 32250

Location: 7 Second Avenue South

Request: **Conditional Use Approval** for a proposed single-family dwelling on property located in the *Central Business District: CBD* zoning district, pursuant to Section 34-345(d)(9) of the Jacksonville Beach Land Development Code.

Comments: The subject property is located oceanfront, on the north side of 2nd Avenue North, and exists as a duplex that was built in 1909. The property owner wishes to tear down the existing structure and reduce the density on the site by rebuilding a single-family home. Single-family homes built in the *CBD* zoning district, if approved via conditional use, are built to *Residential single-family: RS-3* zoning standards. The applicant is aware that any redevelopment on the subject property will require variances from the standards of the Land Development Code, due to the size and dimensions of his lot.

Adjacent uses include residential condominiums to the north and to the south across 2nd Avenue South, and single and multiple family use to the west across 1st Street. Redevelopment of the subject property from a duplex to a single-family use should not negatively impact adjacent properties and is a decrease in density from the current use. If approved, this will be the first approved single-family conditional use in the *CBD*.

PC#53-17

Conditional Use Application

- Owner: Penman Square LLC.
1450-3 San Marco Blvd.
Jacksonville, FL 32207
- Applicant: The Homestead Restaurant, LLC
2201 Sawgrass Village Drive
Ponte Vedra Beach, FL 32082
- Agent: Blue Sky Consultants, Inc.
1115 13th Avenue North
Jacksonville Beach, FL 32250
- Location: 1235 Penman Road (*units 1245, 1249, 1253, and 1257*)
- Request: **Conditional Use Approval** for proposed outdoor restaurant seating at a new restaurant located in a *Commercial, limited: C-1* zoning district, pursuant to Section 34-342(d)(20) of the Jacksonville Beach Land Development Code, for property located at 1235 Penman Road (former *Tomo* restaurant)
- Comments: The subject property is located on the east side of Penman Road, south of 13th Avenue North, (Penman Square Shopping Center). The applicant's tenant spaces are the previous location of *Tomo* Japanese restaurant most recently and *Chizu* Japanese restaurant prior to that. The applicant is opening a new restaurant in the combined tenant spaces and wishes to provide outdoor seating to customers. Outdoor seating did not exist with other previous restaurants, and the applicant is proposing to provide the outdoor seating in the front of the restaurant towards the west.
- Outdoor seating would be limited to 1,000 square feet based on the inside restaurant space, and the applicant is proposing 414 square feet, which is below the allowable maximum. The proposed outdoor seating would remove three parking spaces in the shopping center, and require two additional spaces. A parking analysis was conducted, and adequate parking remains to support both the shopping center and the proposed outdoor seating. If alcohol is served in the outdoor restaurant seating, it is required to be enclosed with a 42-inch high wall or fence.
- Adjacent uses include a beaches energy facility to the west across Penman Road, commercial in the balance of the shopping center, and commercial to the north across 13th Avenue North, and single-family residential directly to the south and east. The addition of outdoor seating to the west of the shopping center tenant space is similar to other approved outdoor seating areas at restaurants throughout the city in commercial zoning districts.

PC#54-17

Land Development Code Text Amendment

Applicant: Planning and Development Department

Request: **Land Development Code Text Amendment** proposing to add definitions for “Personal Wireless Service”, “Personal Wireless Service Facility or Personal Wireless Service Facilities”, and “Personal Wireless Service Provider” to Article IV, definitions of the Land Development Code, and to amend Article VIII, Division 2 by creating a new Section 34-409 for *Personal Wireless Facilities*, and a new Section 34-410 for *Personal Wireless Facility Development Standards*.

Comments: In June of 2017 the State legislature passed House Bill 687 (effective July 1, 2017) amending Florida Statutes Chapter 337.401 creating regulations called the “Advanced Wireless Infrastructure Deployment Act”. The new law specifically addresses small wireless facilities and micro wireless facilities which are now to be allowed in the City’s rights-of-way. The new law preempts local government control of city owned rights-of-way for the placement of “small” or “micro” wireless antennas and equipment, and bans local governments from prohibiting such facilities from existing near or on existing towers and utility poles with in rights-of-way.

Pursuant to Section 337.401 Florida Statutes, a “micro wireless facility” means a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches. A “small wireless facility” means a wireless facility where each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume.

The law also provides a permit process and development standards that local governments must adopt into their local codes. The purpose of the LDC text amendment is to define new terms for the types of personal wireless facilities associated with H.B. 687 and to provide development standards for regulating facilities that are not inconsistent with the new State law. The document provided with the application provides details on the proposed text changes to the LDC. Companion changes have been introduced to City Council by Public Works to Section 28 of the City’s Code for “Communications Facilities Rights-of-Way”, (Reference Ordinance No. 2017-8099).



CONDITIONAL USE APPLICATION

PC No. # 52-17
AS/400# 17-100209
HEARING DATE 12/11/17

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: RAYMOND A. KLETZING
Mailing Address: 3080 2nd St. South
JACKSONVILLE BEACH FL 32250

Telephone: 904-246-3130
Fax: _____
E-Mail: KLETZING@aatt.net

Applicant Name: RAYMOND A. KLETZING
Mailing Address: 3080 2nd St. South
JACKSONVILLE BEACH FL 32250

Telephone: 904-246-3130
Fax: _____
E-Mail: KLETZING@aatt.net

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

Agent Name: _____
Mailing Address: _____

Telephone: **RECEIVED**
Fax: _____
E-Mail: _____

NOV - 8 2017

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 **PLANNING & DEVELOPMENT**

PROJECT DATA

Street address of property and/or Real Estate Number: 7 2nd AV. South

Legal Description of property (attach copy of deed): 5 1/3 of E 1/2 of Lot 4 Blk 11 Pabel
Beach South

Current Zoning Classification: CBD 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: 34-345 (d) (9)

Describe the proposed conditional use and the reason for the request: Single Family Dwelling
in CBD zoning

Applicant Signature: Raymond A. Kletzing

Date: 11/8/17

5 MIN. RETURN
PHONE # 247-9033

Book 12008 Page 1339

Prepared by and returned to:

Lawrence E. Hayden, Jr., Esq.
HAYDEN Law, 1301 Penman Rd., Suite F
Jacksonville Beach, FL 32250
904-247-9033
File Number: 04QC021
Will Call No.:

Doc# 2004276192
Book: 12008
Pages: 1339 - 1340
Filed & Recorded
08/26/2004 10:35:26 AM
JIM FULLER
CLERK CIRCUIT COURT
DUVAL COUNTY
RECORDING \$ 9.00
TRUST FUND \$ 1.50
DEED DOC STAMP \$ 0.70
REC ADDITIONAL \$ 8.00

[Space Above This Line For Recording Data]

Quit Claim Deed

This Quit Claim Deed made this 25th day of August, 2004 between Raymond A. Kletzing, a single man whose post office address is 3080 2nd St. S., Jacksonville Beach, FL 32250-6080, grantor, and Raymond A. Kletzing as Trustee of the Raymond A. Kletzing Living Trust, dated July 1, 2004 whose post office address is 3080 2nd St. S., Jacksonville Beach, FL 32250-6080, grantee:

(Whenever used herein the terms "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, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, does hereby remise, release, and quitclaim to the said grantee, and grantee's heirs and assigns forever, all the right, title, interest, claim and demand which grantor has in and to the following described land, situate, lying and being in Duval County, Florida to-wit:

The South one-third (1/3) of the East one-half (1/2) of Lot 4, Block 11, Pablo Beach South, according to a Plat thereof, as recorded in Deed Book "AR", Page 270, former Public Records of Duval County, Florida;

also described as:

The South 21 feet of the East one-half (1/2) of Lot 4, Block 11, PABLO BEACH SOUTH, according to the Plat thereof, as recorded in Plat Book 3, Page 28, current Public Records of Duval County, Florida; together with land lying East of, adjacent to and between the Easterly projections of the North and South lines of said South 21 feet of the East one-half (1/2) of Lot 4, to the erosion control line of the Atlantic Ocean.

Parcel Identification Number: 175590-0000-5

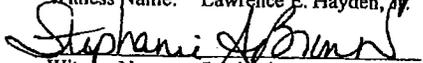
BUT RETAINING to Grantor the right to use, possess, occupy and reside upon the premises during the life of Grantor, so that the beneficial interest and possessory rights so retained shall constitute in all respects "equitable title to real estate" within the meaning of Section 6, Article VII of the Constitution of the State of Florida.

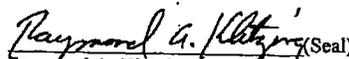
The Grantee, as trustee, has the full power and authority to protect, conserve, sell, convey, lease, encumber, and to otherwise manage and dispose of said real property pursuant to F.S. 689.071.

To Have and to Hold, the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of grantors, either in law or equity, for the use, benefit and profit of the said grantee forever.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:


Witness Name: Lawrence E. Hayden, Jr.

Witness Name: Stephanie A. Brown

 (Seal)
Raymond A. Kletzing

2

State of Florida
County of Duval

Book 12008 Page 1340

The foregoing instrument was acknowledged before me this 25th day of August, 2004 by Raymond A. Kletzing, who is personally known or has produced a driver's license as identification.

[Notary Seal]



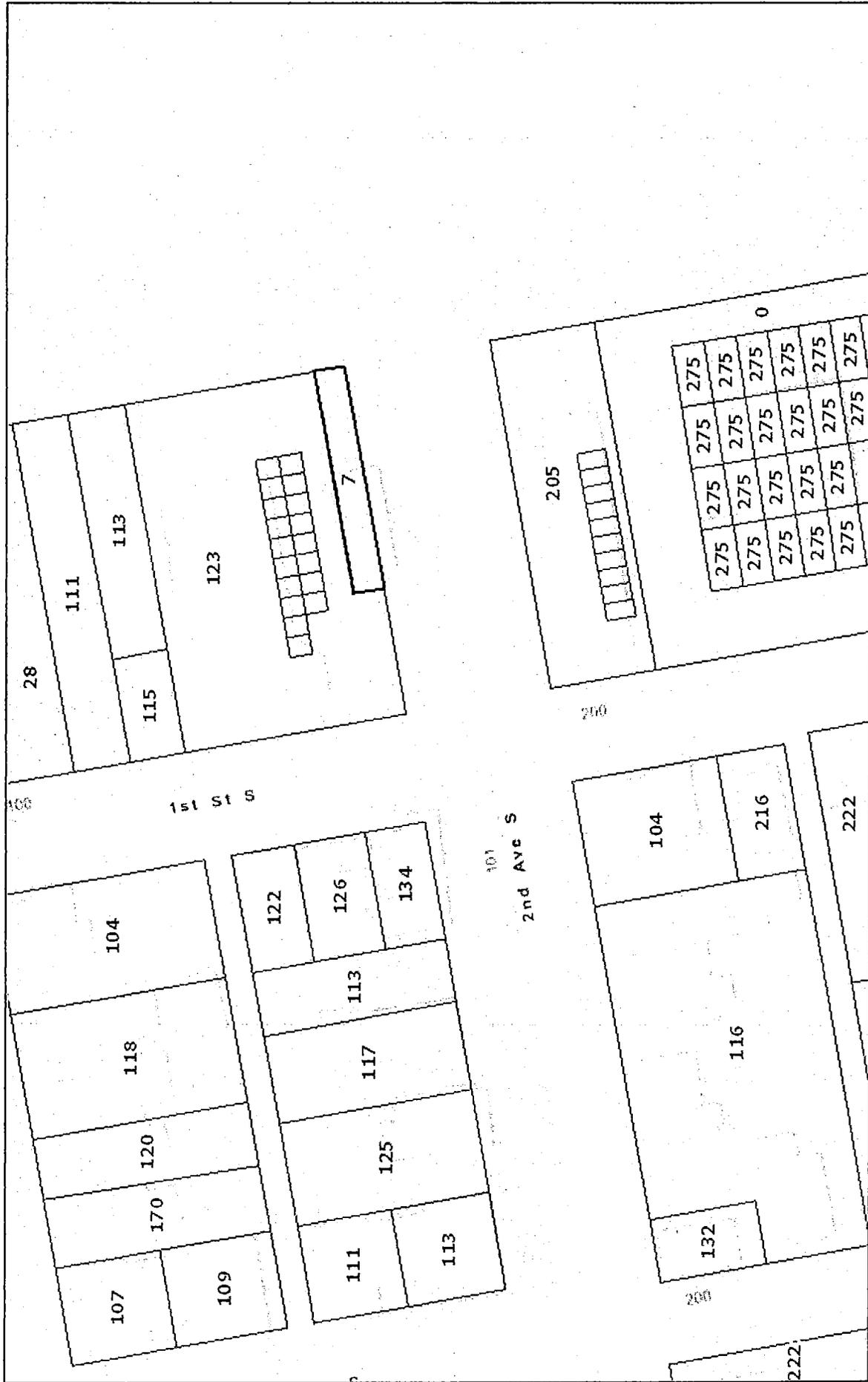
Notary Public

Printed Name: Lawrence E. Hayden, Jr.

My Commission Expires: July 28, 2006

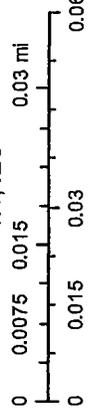
PC#52-17

Duval Map



November 8, 2017

1:1,128



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand)



RECEIVED CONDITIONAL USE APPLICATION

NOV - 9 2017

original copy

PC No. 53-17

AS/400# 17-100212

HEARING DATE 12/11/17

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: Penman Square LLC.
Mailing Address: 1450-3 San Marco Blvd.
Jacksonville, FL 32207

Telephone: (904) 759-9746
Fax: N/A
E-Mail: wcesery@cesery.com

Applicant Name: THE HOMESTEAD RESTAURANT LLC.
Mailing Address: 2201 Sawgrass Village Dr.
Ponte Vedra, FL 32082

Telephone: (904) 982-2508
Fax: N/A
E-Mail: hal-batoon@gmail.com

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

Agent Name: Blue Sky Consultants, Inc.
Mailing Address: 1115 13th Ave. N. Jax Bch FL 32250
1080 Camelia St. Atlantic Beach, FL 32233

Telephone: (904) 703-8559
Fax: N/A
E-Mail: hueskyinc@bellsouth.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

(177451-0000)

Street address of property and/or Real Estate Number: 1245, 1249, 1253, 1257 Penman Rd.

Legal Description of property (attach copy of deed): See Attached Exhibit "A"

Current Zoning Classification: C-1

Future Land Use Map Designation: Commercial

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.

* Heather Stated she will complete Code Section.*

Code section(s) applicable to the requested conditional use: 34-342(d)(20)

Describe the proposed conditional use and the reason for the request: Requesting Outdoor Seating
At New Restaurant. (Homestead)

Applicant Signature: Ad P. Batoon

Date: 11.8.17

PC#53-17

EXHIBIT "A"

THE HOMESTEAD Restaurant

Store at 1245, 1249, 1253 and 1257 Penman Road, located in the Penman Square Shopping Center, situated on that certain tract or parcel of land being a part of the Castro Y Ferrer Grant, Section 38, Township 2 South, Range 29 East, Duval County, particularly described as follows:

For a point of reference, commence at the southwesterly corner of Lot 4, Block 1, San Pablo Manor, as recorded in Plat Book 27, Page 97 of the current public records of Duval County, Florida; thence run south 89 40' 45" West along the northerly line of Jacksonville Beach, Section A as recorded in Plat Book 18, Page 33 of the current public records of said county, a distance of 20 feet to the point of beginning; thence continue south 89 40' 45" West along the northerly line, a distance of 160 feet to the easterly right-of-way line of Penman Road (a 100 foot right-of-way as now established); thence run north 00 19' 15" west along the said easterly right-of-way line of Penman Road, a distance of 338.45 feet to the southerly right-of-way line of 13th Avenue North (an 80 foot right-of-way as now established); thence run north 89 40' 45" east along southerly right-of-way line of 13th Avenue North, a distance of 180 feet; thence run South 00 19' 15" East, parallel to said Penman Road, a distance of 338.35 feet to the point of beginning.

~~TO HAVE AND TO HOLD the said demised Premises unto the said Lessee for the period of five (5) year(s), commencing~~

1450-3 San Marco Blvd.
Jacksonville, FL 32207
(904) 396-9601
Fax: (904) 396-9648

November 7, 2017

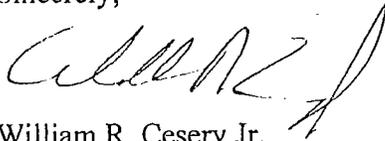
City of Jacksonville Beach
11 North 3rd Street
Jacksonville, FL 32250

Re: 1245 Penman Road, Jacksonville Beach, FL

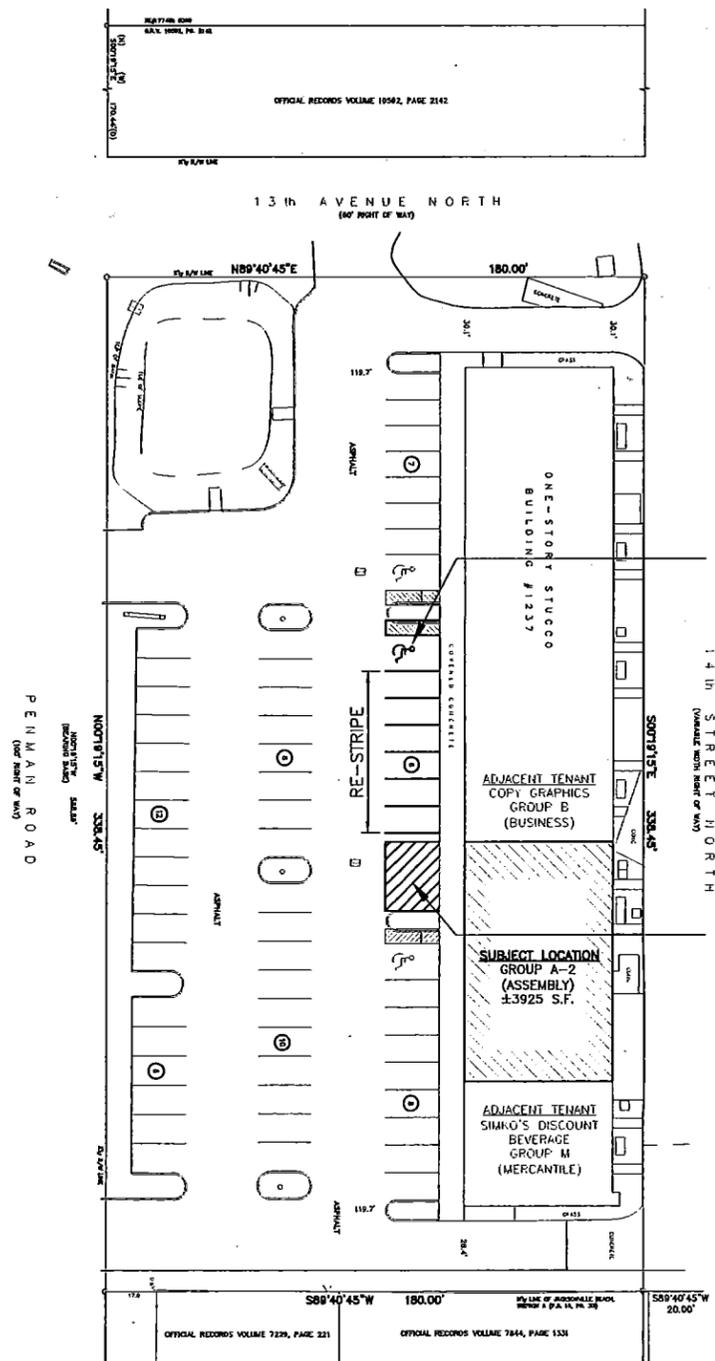
Dear Sirs,

We hereby grant authorization to the Homestead Restaurant, as applicant and Blue Sky Consultant Inc., as agent, for a Conditional Use Application.

Sincerely,



William R. Cesery Jr.
WRC/lw



PROVIDE NEW ADA PARKING & ACCESS LANE

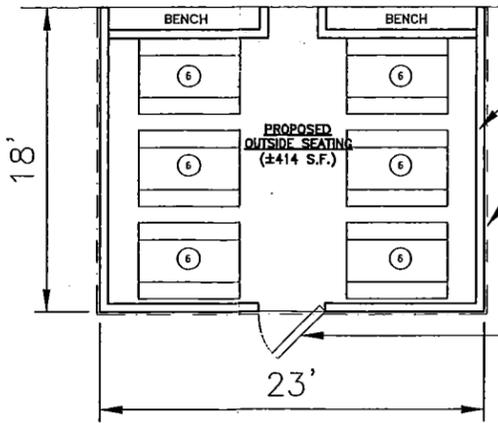
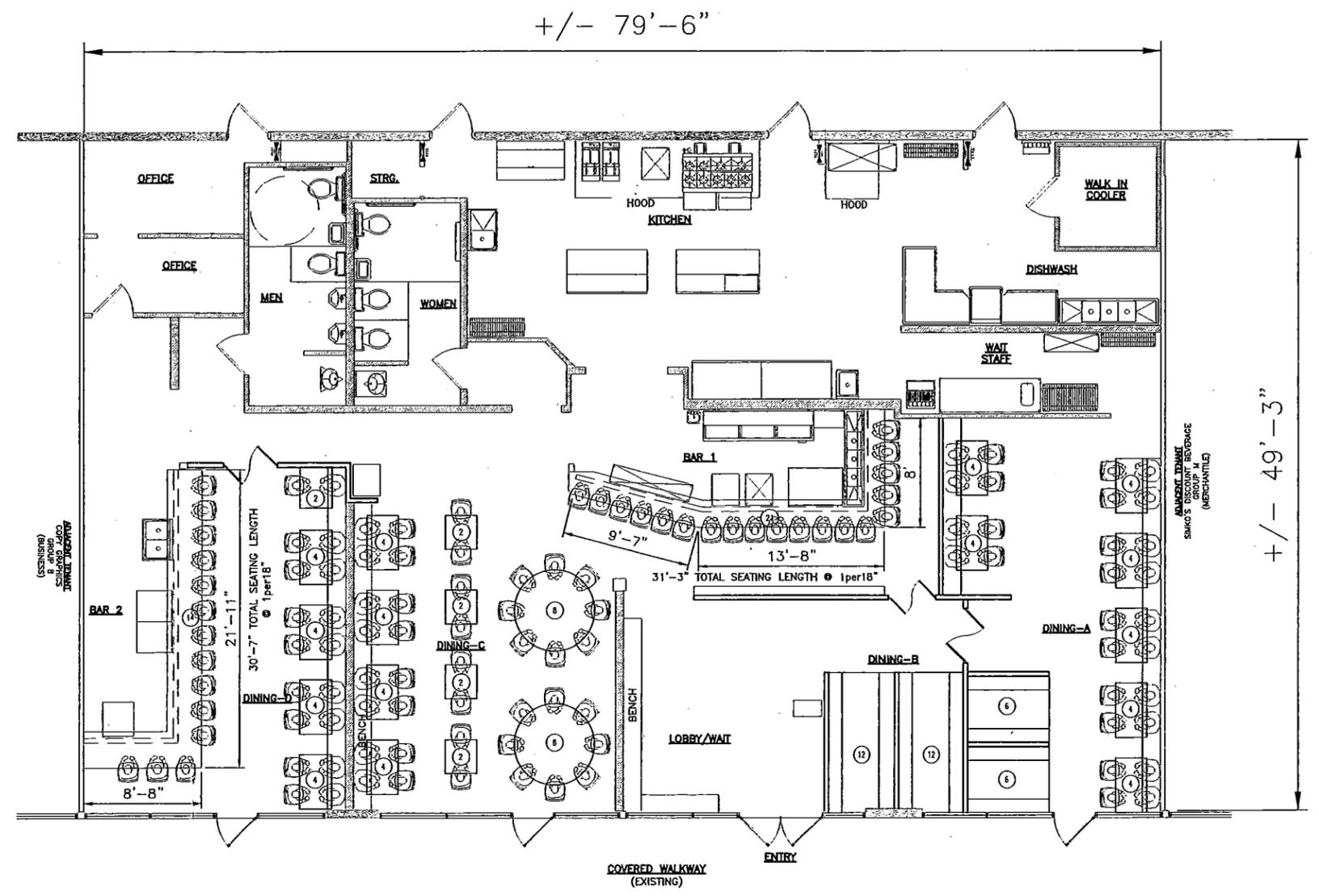
PROPOSED 414 S.F. OUTSIDE SEATING

EXISTING SITE w/ PROPOSED OUTSIDE SEATING

DECLARATIVE STATEMENT: IT IS TO THE BEST OF THE ARCHITECT'S KNOWLEDGE, THE PLANS AND SPECIFICATIONS COMPLY WITH THE APPLICABLE MINIMUM BUILDING CODES AND THE APPLICABLE FIRE-SAFETY STANDARDS AS DETERMINED BY LOCAL AUTHORITY IN ACCORDANCE WITH 2014 FBC 5th EDITION 110.8.4.4 AND CHAPTER 633, FLORIDA STATUTES

PREVIOUS PARKING COUNT 61 REGULAR 2 ADA
 PROPOSED PARKING COUNT 57 REGULAR 3 ADA

SITE PLAN SCALE: 1"=50'-0"



PROPOSED SEATING:
 157 INSIDE
 36 OUTSIDE
 193 TOTAL CAPACITY

AS-BUILT FLOOR PLAN w/
 PROPOSED DECK & SEATING

PAVED PARKING

DECLARATIVE STATEMENT: IT IS TO THE BEST OF THE ARCHITECT'S KNOWLEDGE, THE PLANS AND SPECIFICATIONS COMPLY WITH THE APPLICABLE MINIMUM BUILDING CODES AND THE APPLICABLE FIRE-SAFETY STANDARDS AS DETERMINED BY LOCAL AUTHORITY IN ACCORDANCE WITH 2014 FBC 5th EDITION 110.8.4.4 AND CHAPTER 633, FLORIDA STATUTES

PARTITION LEGEND

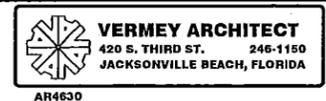
| | |
|----------|------------|
| [Symbol] | Partitions |

RECEIVED
 PC# 53-17
 NOV 17 2017

FLOOR PLAN SCALE: 3/8"=1'-0"

PROPOSED DECK & FLOOR PLAN OF AN EXISTING RESTAURANT FOR FUTURE TENANT:
HOMESTEAD RESTAURANT

1245-1257 PENMAN ROAD JACKSONVILLE BEACH, FLA. 32250



PLANNING & DEVELOPMENT

| PROJECT DATA: | | DATE: | | SCALE: |
|---------------|------------------|---------------|------------|----------|
| EXISTING | BLDG. S.F. STORY | USE GROUP | DATE: | AS NOTED |
| | ±3925 SINGLE | GROUP A (A-2) | 11-16-2017 | |
| PROPOSED | ±414 (DECK) | GROUP A (A-2) | JOB#: | |
| | | | 2017-226 | |
| | | | DRAWN BY: | |
| | | | ECJ | |



REZONING/TEXT AMENDMENT APPLICATION

PC No. 54-17

AS/400# 17-100213

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: _____

Telephone: _____

Mailing Address: _____

Fax: _____

E-Mail: _____

Applicant Name: Planning and Development Department

Telephone: (904) 247-6231

Mailing Address: 11 N. 3rd Street - City Hall

Fax: (904) 247-6107

Jacksonville Beach, FL 32250

E-Mail: planning@jaxbchfl.net

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

Agent Name: _____

Telephone: _____

Mailing Address: _____

Fax: _____

E-Mail: _____

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: _____

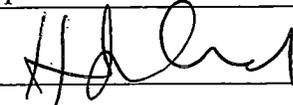
Legal Description (attach copies of any instruments references, such as but not limited to deeds, plats, easements, covenants, and restrictions): _____

Current Zoning Classification: _____ Future Land Use Map Designation: _____

TEXT AMENDMENT DATA

Current Chapter, Article, Section, Paragraph Number: _____

| <u>REQUESTED INFORMATION</u> | <u>Attached?</u> | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|-----------|
| | <u>Yes</u> | <u>No</u> |
| 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: 

Date: 11/17/17

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

ORDINANCE NO. 2017-8101

AN ORDINANCE TO AMEND AN ORDINANCE ENACTING AND ESTABLISHING A COMPREHENSIVE LAND DEVELOPMENT REGULATION AND OFFICIAL ZONING MAP FOR THE INCORPORATED AREA OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, AS AUTHORIZED BY CHAPTER 163.3202, FLORIDA STATUTES, TO ADD DEFINITIONS FOR “PERSONAL WIRELESS SERVICE,” “PERSONAL WIRELESS SERVICE FACILITY OR PERSONAL WIRELESS SERVICE FACILITIES” AND “PERSONAL WIRELESS SERVICE PROVIDER” TO ARTICLE IV, DEFINITIONS OF THE LAND DEVELOPMENT CODE OF THE CITY OF JACKSONVILLE BEACH; AND BY AMENDING ARTICLE VIII, DIVISION 2. SUPPLEMENTAL STANDARDS BY CREATING A NEW SECTION 34-409. PERSONAL WIRELESS FACILITIES, AND A NEW SECTION 34-410. PERSONAL WIRELESS FACILITY DEVELOPMENT STANDARDS; TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND FOR OTHER PURPOSES:

WHEREAS, the demand for telecommunications services has grown exponentially in recent years, requiring the continual upgrading of telecommunications equipment and services to satisfy such demand; and

WHEREAS, in 2017, the Florida Legislature passed Chapter 2017-136, Laws of Florida, which inter alia, amends § 337.401, Florida Statutes, to create the new Subsection (7) known as the Advanced Wireless Infrastructure Deployment Act (“Wireless Deployment Act”), effective July 1, 2017, to address municipalities’ regulation of access to the public rights-of-way for wireless communications facilities and wireless support structures; and

WHEREAS, the Jacksonville Beach Land Development Code currently provides for communications facilities as permitted uses in certain zoning districts, and for the placement of communications antennae as accessory structures on buildings in certain other zoning districts, but needs to be updated to incorporate state law changes since the current communications facilities regulations were most recently amended in 2004, via Ordinance No. 2004-7880;

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

SECTION 1. For purposes of Land Development Code Sections 34-409 and 34-410, as created in Section 2. herein, the following terms, phrases, words, and their derivations shall have

the meanings given. Where not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and the word "may" is permissive. Words not otherwise defined shall be given the meaning set forth in the Communications Act of 1934, 47 U.S.C. §§ 151 et seq., as amended (collectively the "Communications Act"), and, if not defined therein, as defined by Chapter 202, Florida Statutes, or Chapter 337, Florida Statutes, and, if not defined therein, be construed to mean the common and ordinary meaning. Neither personal wireless service nor personal wireless facilities constitute an essential public service as defined in Article IV of the Land Development Code. Accordingly, Article IV. Definitions of the Comprehensive Land Development Regulation of the City of Jacksonville Beach, Florida is hereby amended to add, in proper alphabetical order, new definitions as follows:

Section 34-41. General

Personal wireless service means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access facilities and those defined by the Communications Act, including but not limited to, the transmission and reception of radio microwave signals used for communication, data, cellular phone, personal communication services, enhanced specialized mobile radio, and any other wireless services licensed by the FCC and unlicensed wireless services.

Personal wireless service facility or personal wireless service facilities means facilities used for the provision of personal wireless service including any freestanding facility, antennae, distributed antennae system, and/or small cell technology. Personal wireless service facilities include, but are not limited to, utility poles, towers, monopoles, communications facilities, and other facilities, equipment, and appurtenances that are used in the delivery or transmission of personal wireless services,

Personal wireless service provider means a company licensed by the Federal Communications Commission (FCC) that provides personal wireless service. A builder or owner of a personal wireless service facility is not a personal wireless service provider unless licensed to provide personal wireless services.

SECTION 2. That Division 2. Supplemental Standards of Article VIII of the Comprehensive Land Development Regulation of the City of Jacksonville Beach, Florida is hereby amended by adding new Sections 34-409 and 34-410, which shall read as follows:

Section 34-409. - Personal wireless service facilities.

- (a) Purpose and legislative intent. Federal and state laws recognize the City's authority to regulate the placement, construction, and modification of personal wireless service facilities. The City recognizes that personal wireless service facilities play

an important and complex role in the community. The intent of this section is to ensure that the placement, construction or modification of personal wireless service facilities is consistent with the City's land use policies and balances the community needs. This section strives to establish a fair and efficient application process, mitigate impacts of personal wireless service facilities, provide a high quality of service that is technically viable and meets the current industry standards of service, and protect the health, safety and welfare of the residents and visitors of the City.

- (b) Hierarchy of personal wireless service facility preferences. The City has established the hierarchy set forth below for personal wireless service facilities, with (1) being the most preferred and (3) being the least preferred. More preferred facilities require fewer approvals and are subject to fewer restrictions.
 - (1) An antenna located on or in an existing building, whether or not a co-location (see Sec. 34-410 (a)(2), (3) and (5)).
 - (2) The co-location of an antenna on an existing freestanding facility (see Sec. 34-410(a)(4)).
 - (3) Freestanding facilities (see Sec. 34-410(b)).
- (c) Prohibited personal wireless service facilities. Self-supporting lattice towers, guyed towers, and all freestanding facilities not meeting the requirements of Sec. 34-410(b) are prohibited.
- (d) Priority determination. If the proposed personal wireless service facility is not one of the two highest priorities listed, a detailed explanation and technical justification shall be provided as to why each of the higher priority facilities was not selected. This must include documentation that any existing personal wireless service facility (whether owned by the applicant or not) located within a two-mile radius of the proposed location is physically and/or technically unable to support collocation of additional personal wireless service equipment, that the existing facility is insufficient, or that the existing facility does not meet the engineering requirements of the applicant.
- (e) Generally applicable review procedures and timeframes.
 - (1) The Planning and Development Director shall notify the applicant for a personal wireless service facility within 20 days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements of the City Code and Land Development Code. An application for personal wireless service facility is deemed properly completed and properly submitted when it is verified that the information contained within the application is true, accurate, and contains all applicable information needed to make a determination as to the merits of the request. Such notification shall

indicate with specificity any deficiencies that, if cured, could make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the City shall again have 20 days to notify the applicant, in writing, of any remaining deficiencies that must be cured. If the applicant does not cure the deficiencies within 30 days, the application shall be considered withdrawn and closed.

- (2) An application is deemed submitted or resubmitted on the date the application is received by the City. If the City does not notify the applicant in writing that the application is not completed in compliance with this Zoning Code within 20 days after the date the application is initially submitted or resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted.
- (3) Applications for a collocation of small wireless facilities shall be processed in accordance with § 28-76 of the City Code Chapter 28, Section 28-76 of the Code of Ordinances of the City of Jacksonville Beach, Florida. Applications for new personal wireless service facilities, including freestanding facilities, shall be processed within 90 days after an application has been properly completed and properly submitted; provided, however, that applications for new utility poles that qualify under § 28-76(e) of the City Code said Chapter 28, Section 28-76 shall be processed in accordance with the time frames set forth in § 28-76(e), City Code Section 28-76.
- (4) The timeframes stated in this subsection may be extended or tolled by mutual agreement of the City and applicant.
- (5) The final decision approving or denying an application shall be in writing and supported by "substantial evidence" pursuant to the Communications Act, 47 U.S.C. § 332(c)(7)(B)(iii) and shall comply with the provisions of Division 4, Chapter 34, City Code Land Development Code Article VIII, Division 2, Section 34-410.
- (6) Applications must demonstrate that no portion of any abutting, adjoining, or nearby residentially zoned property will be exposed to radio frequency (RF) emissions exceeding the federal safety limits for RF emissions. ~~One~~ When installation has been completed for any personal wireless service facility, a post-construction RF energy testing study must be conducted by the applicant and submitted to the City within 30 days following receipt of a certificate of completion for the installation demonstrating that the personal wireless service facility complies with this provision and all federal safety standards for RF energy exposure.
- (f) Variances, waivers and departures. Variances, waivers, departures or other methods of relief from the provisions of the Code shall not be granted for personal wireless service facilities.

- (g) During a declared emergency within the City, the City manager is authorized to allow the placement and operation of temporary personal wireless service facilities within any zoning district for a period not to exceed 90 days. Placement and operation of temporary personal wireless service facilities beyond the 90-day limit may be granted by the City Council if deemed necessary for the health, safety, and welfare of the public due to extended disruption in services after a declared emergency.

Section 34-410. - Personal wireless service facility development standards.

(a) Antennas.

- (1) An application for an antenna, whether or not a collocation, shall include the following information:
 - a. The name of the applicant;
 - b. Whether the applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association;
 - c. A complete, thorough and accurate description of the proposed antenna, including an elevation drawing ~~or model~~ of the proposed antenna showing the view from north, east, west and south;
 - d. The type of existing building or structure on which the antenna is proposed to be located;
 - e. Certification that the proposed antenna will comply with applicable Federal Aviation Administration requirements under 14 C.F.R. s. 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use;
 - f. The proposed use of the antenna;
 - g. The proposed location of the antenna with a map in sufficient detail to indicate the location with precision;
 - h. ~~The applicant shall provide proof that~~ Written, notarized authorization from the property owner, if different from applicant, that authorizes the installation of the facilities;

- i. The zoning/land use designation of the site for the proposed antenna;
 - j. The height of the proposed antenna;
 - k. Where applicable, a lighting plan, that is consistent with all federal, state and local requirements;
 - l. Documentation that the proposed antenna and any appurtenances will withstand wind speeds as set forth in the Florida Building Code;
 - m. A plan detailing the steps to visually blend the proposed antenna with surrounding buildings, facilities and features;
 - n. The estimated ~~completion date~~ timeframe for constructing and/or locating the antenna, and any ancillary equipment.
- (2) An antenna classified as an initial (rather than collocation) antenna, located on a rooftop, a rooftop antenna platform, or the exterior of a building shall meet the following minimum criteria:
- a. It is located in a ~~multi-family~~ building with a height in excess of four (4) stories in ~~any zoning district~~ a C-1, C-2, CBD, or RM-2 zoning district.
 - b. It is located on a rooftop of an existing building in excess of 40 feet in height, a rooftop antenna platform located on a roof of an existing building in excess of 40 feet in height, or the exterior of an existing building in excess of 40 feet in height.
 - c. The height of the antenna shall not exceed ~~15~~ 20 feet above the highest point of the building; and
 - d. The antenna shall be camouflaged. An antenna shall be deemed to be camouflaged if the antenna and any ancillary equipment are concealed from view by way of enclosure or through a blending of the antenna and ancillary equipment with the architectural design and appearance, color and scale of the building to which it is attached.
- (3) An antenna located inside a building is permitted provided it is not visible from any surrounding properties or roadways and no portion of the antennae is recognizable or discernible from the exterior of the building. Architectural features concealing the antennae must be consistent with the architecture of the building to which they are attached. The architectural features shall not exceed the height restrictions for the zoning district in which they are located, except as allowed by this Code. The setback for any architectural features concealing an antenna from any residentially zoned property must be at least

one foot for every foot in height of the architectural features (dwellings located on the same parcel as the antenna are excluded).

- (4) An antenna classified as a collocation located on an existing freestanding facility not owned by the City shall meet the following minimum criteria:
 - a. The antenna does not increase the height of the freestanding facility to which it is to be attached, except as allowed in Section 34-410(b), as measured to the highest point of any part of the freestanding facility or any existing antenna attached to the freestanding facility;
 - b. The applicant shall include proof of consent of the owner of the freestanding facility for inclusion of the antenna on the freestanding facility.
 - c. The ground space area, if any, previously approved for equipment enclosures and ancillary facilities is not increased; and
 - d. The antenna and its ancillary facilities meet all requirements as established in § Section 34-410(b).
- (5) An antenna classified as a collocation located on an existing building shall meet the following minimum criteria:
 - a. The height of the antenna does not exceed ~~15~~ 20 feet above the highest point of the building;
 - b. The ground space area, otherwise known as the compound, if any, previously approved for equipment enclosures and ancillary facilities is not increased;
 - c. The antenna and its ancillary facilities are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the building for initial antennas;
- (6) If only a portion of an application for a personal wireless service facility classified as a collocation does not meet the requirements of subsections (4) or (5) above, the noncompliant portion of the collocation application shall be reviewed as an initial antenna, under subsection (2) and the compliant remainder of the collocation application shall be reviewed in accordance with subsections (4) or (5), as applicable. A collocation application that complies with subsections (4) or (5), except that it is proposing to increase the equipment ground compound approved in the original site plan for equipment enclosure and ancillary facilities by no more than a cumulative amount of 400 square feet

or 50 percent of the original ground equipment enclosure size, whichever is greater, may continue to be reviewed as a collocation.

(7) Standards applicable to all antennas.

- a. All antennas must be at least 30 feet from ground level.
- b. An antenna and its ancillary facilities must meet all applicable requirements of the Florida Building Code.
- c. The antenna equipment shelter/cabinet must have a sign in close proximity which is readable from a distance of at least five feet, in accordance with FCC regulations, which notes the owner of the equipment and the name and telephone number of the person to contact to report an emergency or situation when notification is warranted.
- d. All additional requirements of state, federal and local law must be adhered to.

(8) The review and approval of an application for an antenna under this section is by ~~site plan and~~ building permit review, except as an initial installation where existing buildings are proposed to be architecturally modified to conceal an antennae. Existing buildings that are proposed to be architecturally modified to conceal antennae must follow the site development plan approval process.

(b) Freestanding facilities.

(1) Freestanding facilities and their ancillary equipment shall be approved by site development plan review and ~~conditional use~~ building permit granted by the Planning and Development Department only on property owned by the City of Jacksonville Beach or the Duval County School Board, with a contract approved by the respective owner, adjacent to on City energy substation properties (active or inactive), ~~commercial or industrial zoning districts~~, in City parks and facilities, including the golf course and cemeteries, ~~and adjacent to on public and private school properties, and in public rights-of-way in commercial or industrial zoning districts~~, provided the following criteria are met:

- a. The freestanding facility shall be designed so as to mimic a structure or natural feature that could reasonably be found and/or blend with the surrounding area, such as a light fixture or tree.
- b. Ancillary equipment must meet the following criteria:
 1. Shall be no wider than seven feet;
 2. Shall be no longer than 13 feet;

3. Shall not exceed the height limitations for mechanical equipment as provided by this Zoning Code;
 4. May be located within a required side or required rear yard, provided, that it shall be no closer than ten feet to any lot line;
 5. Shall be included in lot coverage and non-open space calculations for the site, including the pad;
 6. Shall be located on a concrete pad, unless required to be elevated due to FEMA regulations;
 7. Shall be screened from view by landscaping, architectural features, or a combination of both, and designed in a manner which minimizes nuisance impacts, such as noise and odor. Screening shall be at least equal to the height of the ancillary equipment on all sides and shall be maintained in good order; and
 8. Shall be set back from any existing residential dwelling at least one foot for every foot in height of the facility (dwellings located on the same parcel as the structure are excluded), as measured from the base of the structure containing the antennae to nearest property line of the residential dwelling(s).
- c. ~~The top of any freestanding facility and ancillary equipment shall not exceed the maximum height established for the zoning district in which the facility is located, as measured from base flood elevation, but in no case shall the height exceed 50 feet in height.~~
- d. For any freestanding facility that utilizes lighting, the lights must meet all applicable federal, state, and local regulations regarding shielding of lighting to protect sea turtles.
- e. The freestanding facility, its components, ancillary equipment, and screening must be maintained in good order. Failure to maintain the freestanding facility, its components, ancillary equipment, and screening shall constitute a violation of this chapter.
- (2) ~~The conditional use permit~~ development plan application for a freestanding facility must be made in conjunction with the site plan review requirements set forth in the City Code. An application shall include the following information:
- a. The name of the applicant(s) and whether each applicant is an individual, partnership, limited partnership, limited liability corporation, professional corporation, professional association, governmental entity, or some other type of legal group or association;

- b. A complete and accurate description of the proposed freestanding facility, including ~~where necessary, a scale~~ elevation drawings ~~or model~~ of the proposed freestanding facility;
- c. If applicable, documentation of any contract, license, lease, letter of understanding, agreement in principle, or other type of agreement with a personal wireless service provider for use of the freestanding facility and a summary of the agreement or arrangement;
- d. The proposed location of the freestanding facility together with both a legal description of the location, and a map in sufficient detail to indicate the location with precision;
- e. Proof that the property owner, if different from applicant, authorizes the installation of the facilities.
- f. The zoning/land use designation for the proposed freestanding facility;
- g. The height of the proposed freestanding facility;
- h. The projected collapse zone certification that in the event of fall or collapse of the freestanding facility, said freestanding facility would not damage or negatively impact the real or personal property of the surrounding property owners;
- i. Documentation demonstrating compliance with the provisions of state statute and City Codes;
- j. A detailed plan for landscaping any ancillary ground equipment, in such a manner that the landscaping will shield the equipment from the view of adjoining parcels and/or public rights-of-way, noting that the landscaping shall be native, xeriscape plants only;
- k. A detailed preventive maintenance program that meets minimum maintenance program standards for which the applicant is to remain solely responsible. The City will not be responsible for monitoring the maintenance program;
- l. Certification that the proposed equipment will comply with applicable Federal Aviation Administration requirements under 14 C.F.R. § 77, as amended, and evidence of proper Federal Communications Commission licensure, or other evidence of Federal Communications Commission authorized spectrum use;
- m. The estimated timeframe for completion ~~date~~ for the location and/or construction or modification of each of the freestanding facilities and any ancillary equipment;

n. The identity and location of any landline backhaul network to each freestanding facility location, if applicable;

o. Whether the applicant, within a two-mile radius of the proposed location, has ever had any permit (or similar or equivalent authorization) revoked, rescinded, canceled or terminated which authorized the placement, construction, and/or modification of personal wireless service facilities, and, if so, what were the reasons surrounding such revocation;

p. The proposed equipment shall not interfere with or obstruct public safety telecommunications facilities in accordance with the applicable rules of the Federal Communications Commission; and

q. All applicable provisions of the City Code, the Land Development Code and the Florida Building Code shall be met.

(3) In evaluating the development plan and building permit applications for a ~~conditional use permit~~ for a freestanding facility, in addition to the ~~findings standards of compliance with~~ Section ~~34-259, Standards (1) through (7)~~ 34-231, City Code, the Planning and ~~zoning board~~ Development Division shall consider and evaluate the above application criteria and the following, with the intent of balancing the reasonable allowance of a freestanding facility to provide personal wireless service in the area with the protection of the aesthetics of the area from adverse visual impacts:

a. The proposed location of the freestanding facility, including the zoning/land use designation of the site and abutting properties;

b. The proposed height of the freestanding facility;

c. The number and location of freestanding facilities and structures over 40 feet in height already existing within a 500-foot radius of the proposed freestanding facility;

d. The distance of the proposed freestanding facility to the nearest single-family residence measured from the freestanding facility to the boundary of the nearest single-family residence;

e. The proposed aesthetics of the freestanding facility and whether it visually blends in with surrounding buildings, structures and existing vegetation;

f. The potential impacts on property values of nearby or surrounding single-family properties.

(4) Upon granting site development plan and building permit approval and ~~conditional use permit~~ for the construction of a freestanding facility, the City reserves the right to inspect placement, construction and modification of such freestanding

facility and ancillary equipment for the life of the facility. Any modification, relocation, rebuilding, repairing, in any way without the issuance of all applicable approvals and permits will be deemed a violation of the permit and result in the removal of the freestanding facility and ancillary equipment.

(5) Removal of a freestanding facility and ancillary equipment. The City may require, upon notice with a reasonable opportunity to cure, the immediate removal of a freestanding facility and ancillary equipment if:

- a. It has been abandoned for a period in excess of six months;
- b. It falls into such a state of disrepair that it becomes an unsafe structure or becomes a public nuisance;
- c. It is modified, relocated, or rebuilt without the issuance of all applicable approvals and permits;
- d. ~~The conditional use permit has been revoked.~~

SECTION 3. SEVERABILITY. It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 4. CONFLICTING ORDINANCES. All ordinances or parts of ordinances in conflict with this ordinance are, to the extent that the same may conflict, hereby repealed.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect upon its adoption in accordance with applicable law.

AUTHENTICATED THIS ____ DAY OF _____, A.D. 2018

William C. Latham, MAYOR

Laurie Scott, CITY CLERK