



AGENDA
Special City Council Meeting
Monday, June 29, 2020, 5:00 PM
Council Chambers, 116 First Street, Neptune Beach, Florida

**THIS MEETING WILL BE CONDUCTED IN PERSON AND
VIA COMMUNICATIONS MEDIA TECHNOLOGY**

1. CALL TO ORDER / ROLL CALL / PLEDGE OF ALLEGIANCE
2. COMMENTS FROM THE PUBLIC
- PH* 3. CDB SE19-07, Application for a special exception as outlined in Chapter 27, Article 3 of the Unified Land Development Code of Neptune Beach for Huron Sophia, LLC for the property known as 301 Atlantic Blvd. (RE#1729820000). The application is for offsite parking. p.3
- PH* 4. ORDINANCE NO. 2020-03, SECOND READ AND PUBLIC HEARING. An Ordinance of the City of Neptune Beach, Florida, Amending Chapter 21, Taxation; Article VI, Additional Homestead Exemption; Amending Section 21-120, Additional Homestead Exemption; Increasing the Amount of the Additional Homestead Exemption; Providing an Effective Date. p. 57
- PH* 5. ORDINANCE NO. 2020-04, SECOND READ AND PUBLIC HEARING. An Ordinance Creating a New Section 2-388 (Buy American Preference in Contracts for Goods and General Services), Chapter 2 (Administration), Article VI (Finance), Division 2 (Purchasing and Contracts), City of Neptune Beach Code of Ordinances, To Create a Preference for American-Made Goods and General Services in Contracts; Providing for Severability; Providing an Effective Date. p. 61
6. EMERGENCY RULE TO TEMPORARILY SUSPEND TIME PROVISIONS OF SECTION 4-2(a) OF THE CODE OF ORDINANCES OF THE CITY OF NEPTUNE BEACH p. 68
7. COUNCIL COMMENTS
8. ADJOURN

**INSTRUCTIONS FOR THE JUNE 29, 2020 NEPTUNE BEACH SPECIAL CITY
COUNCIL MEETING (VIRTUAL/IN-PERSON HYBRID)**

This Special City Council Meeting will be virtual/in-person hybrid. This meeting will be conducted as permitted in Governor Executive Order No. 20-69 and extended by Governor Executive Order 20-112. The City has adopted Emergency Rules Regarding to COVID-19 to Govern the Operation of Meetings of the City Council and Board of the City of Neptune Beach. Such rules are available from the City Clerk.

Members of the public may provide written comments in the following manner:

1. Email to the City Clerk prior to the meeting at clerk@nbfl.us.
2. Mailed via U.S. Mail to the City Clerk at 116 First Street, Neptune Beach, Florida, or by placing them in the drop box outside of City Hall, 116 First Street, Neptune Beach, Florida.
3. Fill out the speaker request form located at: <https://www.ci.neptune-beach.fl.us/home/webforms/request-address-council>
Comments must be received by noon on Monday, June 29, 2020. Only written comments of 300 words or less will be read into the record during the meeting. All other written comments received by the deadline will be entered into the record and distributed to the City Council.

Registered webinar participants can also share comments live during the meeting, You must request to do this using the “raise your hand” feature during “Comments from the Public” portion of the meeting or during the public hearing portion. During the public hearing portion, any comments must be about that specific agenda item.

The meeting can be observed in the following ways:

You may register to attend the GoToWebinar and view the meeting on your computer or dial in and listen on your telephone by visiting the following link:

<https://register.gotowebinar.com/register/1560931985765545744>

TO USE YOUR COMPUTER'S AUDIO:

When the webinar begins, you will be connected to audio using your computer's microphone and speakers (VoIP).

--OR--

TO USE YOUR TELEPHONE:

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Attendees joining via computer/smart device can refer to instructions below on how to join the webinar at : <https://support.goto.com/webinar/how-to-join-attendees>

For questions or additional information, please contact the City Clerk's office at (904) 270-2400, ext. 30

If a person decides to appeal any decision made by the Council with respect to any matter considered at such meeting or hearing the person will need a record of the proceedings and for such purpose 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.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation, including hearing assistance, to participate in this meeting should contact the City Clerk's Office no later than 48 hours prior to the meeting.

CDB
SE19-07 Application
for a special
exception
301 Atlantic Blvd
off-site parking &
outdoor seating

CDB SE19-07 Application for a special exception as outlined in Chapter 27, Article 3 of the Unified Land Development Code of Neptune Beach for Huron-Sophia, LLC for the property known as 301 Atlantic Blvd. (RE#172982-0000). The application is for off-site parking within 400 feet and outdoor dining for a new restaurant.

Ted Stein, Business owner, addressed the board. Has a signed an agreement with Regions Bank to lease 13 spaces. The agreement is signed by A1A Valet and Scott Riley, Vice President of Regions Bank. Stated that if for any reason the agreement was ever revoked, he would be willing to give up the seats. There are 13 spaces within 37 feet of the back of the building available. The lease is through the Valet company for insurance purposes. If something would happen and the if Valet was no longer involved, then we would have to secure our own insurance.

The exit from the parking lot to Atlantic Blvd. is going to be closed off to be safer and add 3 onsite parking spaces. Bike racks will be added to accommodate 30 bikes.

Would be willing to take 2 onsite parking spaces and make them into 4 golf cart parking giving us 27 spots with the off-site spaces. Having the outdoor seating will allow for an SRX license and would be willing to make the seats permanently fixed to avoid them being moved for a dance floor and close earlier than 2 am to avoid the bar type crowds. The patio would be a family area for all ages. Kids like to eat outside for some reason.

The approval would allow funds to become available to add a mural to the Second St. side of the building, repave the parking lot and create a functional piece of art out of the bike rack.

All the other restaurants have SRX licenses.

Chair Goodin opened the floor for public comments.

Ray Grass, 512 Davis St, impressed with the design. Jax Beach is a party atmosphere this is a blue shirt type of establishment. Staff commitment is great.

J.R. Pitcairn, owner of the Starbucks property, there is a lot of stuff in a small space. Concerned about how people will get from the off-site parking to the outdoor seating. The fence across the back of the building and the bank will cause people to cut through his drive thru area to get to the outdoor seating. This could be dangerous.

Rachel Cassosla, 1212 First St Jax Beach, concerned about the liquor license. Violent crime is up 26% in Jax Beach. Additional licenses will add to this.

Shellie Thole, 217 Oleander St, this is a self-created hardship. Why did they pick this property? Did they know that the code already gives them a 50% discount for parking?

Matt McGarvey, 313 North St, enjoys biking to the local restaurants to eat.

Chris Reiman, 236 Florida Blvd., will reduce the wait time for a restaurant. The original local is different, full of families.

Paul Helow, 204 Davis St, supports the Local, it is a welcome addition.

Julio Esteban III, 140 Sand Castle Way, does not think it will be for locals only.

The new BBQ place in Atlantic Beach is using the old Kmart property for parking now.

John Goelz, 1359 Beach Ave Atlantic Beach, owns 218 First St and is favor. The in-town restaurant is kid friendly.

John Baker, 810 Oceanfront, echoes the other folks in favor. Town Center is very crowded, so he walks or bikes to eat. Plans look fantastic.

Kelly Harrell, 810 Oceanfront, supports and love the in-town restaurants.

Omar Brown, 2265 Mayport Rd Atlantic Beach, does not support the variance for parking.

Ken Brown, 42 3rd St Atlantic Beach, supports the concept.

Mary Frosio, 1830 Nightfall Dr., supports the restaurant. The San Marco one serves beer and wine with great food. Does not see a compelling reason to give off-site parking, when the code already gives a 50% disconnect in parking in CDB. They need 150 seats to service alcohol. Against the exception for parking. Paid for parking rolls out in 11 days, we need to get a handle on the parking situation and unravel all the agreements in place first. We don't know who is double dipping and who is triple dipping. Other restaurants that don't serve liquor is Doro, Fancy Sushi, Joseph's, M-shack and others. The Local will have great food and will be successful.

Ingrid Smalling, 1708 Strand, and Ginny Thurson, 1200 7th St, sent emails to the board asking them to deny the request.

Adam Rigel, Neptune Beach, and Alexander Sifakis, Atlantic Beach, wrote letters in support of the request.

There being no comments, the public hearing was closed.

Questions from the Board to the applicant:

Ms. Kelly asked the following:

What are the hours of operation? Hours have not been set yet. Open to discussing the closing times on Fridays and Saturdays based on the board's approval.

The lease agreement does not start till 5:00pm. How do you a handle the daytime parking? Dinner and brunch makes up the majority of the sales.

What is the previously approved outdoor seating? The Dreamette had outdoor seating. It is not a new special exception just an expansion.

How many employees will you have? We conservative have said 12, it could be as low as 6.

Where will the employees park? Onsite, at the Church or across Third Street.

Mr. Randolph: What is the current percentage of revenue made at your other location from beer and wine? 11%.

Ms. McPhaul asked the square footage of the building? 3526

Has the FDOT given you approval to close off the entrance from Atlantic? To close the north side which is our parking lot we don't need their permission. If the south side is to be closed the City would need to connect FDOT. I could not put in a curb without the City's approval, but I could put up bollards to stop

traffic and create the parking spaces on my property.
 How will a patron coming to the restaurant for the first time know where to go and where to park? There will be signs put up with Local signage at the valet area and there will also be signs inside of the building. There will be an employee assigned to monitor the off-site parking and give people directions. Where will your employees be parking before 5pm? In our lot.
 Why are you adding the awning? The awning is to give the neighborhood a covered area.
 How many people can you fit inside? 150 seats. The gem is the outdoor area. They are the first to fill up.

Mr. Miller asked how the patrons will get from the off-site parking at the bank to the front of the restaurant. There is a sidewalk at Third Street to travel north then east on Atlantic Blvd. We are in talks with the City to add a sidewalk on the Second Street side. There is grass to walk on but most people walk down Second on the west side to avoid the Police Department. We can have an employee who hands out the validation tickets point then towards the Third Street sidewalk.

Is there a walkway from the Atlantic side into the restaurant? That would be a good idea.

Questions for Staff:

Section 27-548(g) states code states "the developer supplies a written agreement, approved in form by the city attorney, assuring the continued availability of the off-site parking facilities for the use they are intended to serve." How does a lease with time restrictions meet that? Mr. Arline stated that there was testimony from the applicant that the hours of operation will be accommodated at the bank. You can conclude there is continuous availability. It is not a legal issue but a factual issue. The agreement is attached and for at least the next 12 months are provided for by that agreement. If it was concluded down the road and this was approved, and there was not off-site not provided during the leased time, then it would become a code enforcement issue. They would either find additional spaces or reduce the number of seats.

The attorney reminded the board that they were looking at 2 items tonight, outdoor seating and off-site parking. Each one has their own required finding of facts.

FINDING OF FACTS FOR SPECIAL EXCEPTION
SECTION 27-160 REQUEST #1 SECTION 27-548
OFF-SITE PARKING WITHIN 400 FEET

- 1) The proposed use is consistent with the comprehensive plan.
 Goodin: Consistent.
 Dill: Inconsistent with comprehensive plan.
 Kelly: Yes. Redevelopment is consistent with enhancing the CBD.
 Miller: Several other restaurants nearby.
 McPhaul: Central Business District.
 Frosio: It is consistent.
 Randolph: Redevelopment of vacant business.

- 2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses;
 Goodin: Compatible with area.

Dill: The site is not adequate to hold the required parking. The offsite parking seems viable but not proven.

Kelly: No, it would not be compatible as design requests for additional offsite parking.

Miller: Yes.

McPhaul: CBD.

Frosio: Beautiful addition.

Randolph: Restaurant fits character.

3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community;

Goodin: Similar to neighboring properties.

Dill: Not impacting health & welfare.

Kelly: No. There is an impact on parking & public safety with pedestrian traffic.

Miller: No other way to access entrance of building on Second St and there is no walkway from Atlantic Blvd. to the building.

McPhaul: There are no sidewalks (valet) to get to location. Parking is too dense. Where will cars park if the current Regions space is gone.

Frosio: No impact.

Randolph: Exasperate parking problem.

4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community;

Goodin: Additional parking is available at bank.

Dill: Would cause more parking in inconsistencies.

Kelly: No. It would cause issue with pedestrian and vehicular traffic including bicycle.

Miller: Same comment as #3.

McPhaul: Increase in vehicle needing plans to park during hours that off-site plan doesn't account for. Before 5 pm.

Frosio: The special exception requirements area met.

Randolph: 50% CDB parking discount already in effect.

5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan;

Goodin: Consistent with comp plan and neighboring feel.

Dill: may contribute to the parking shortage. Offsite parking seems viable plan by not tested.

Kelly: No. It would have an effect. If Regions redevelops or sells leases would be lost short/or long term.

Miller: Yes.

McPhaul: In the future we open ourselves up to compounding the parking problem by granting special exception.

Frosio: It raises the bar.

Randolph: Restaurant is consistent with area.

6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area;

Goodin:

Dill: No extra noise, light, etc.

Kelly: No. Its hours for business are not curved it will affect residential.

Miller: Consistent with setbacks.

McPhaul: By creating parking spots that area currently used by another business where will the cars that normally park there, park?
Driving around to find spots.

Frosio: None.

Randolph: Would not create additional fumes.

7) The proposed use would not overburden existing public services and facilities; and

Goodin:

Dill: Offsite plan form parking is an existing lot.

Kelly: No, it would overburden existing traffic/parking situation.

Miller: Over burden existing parking.

McPhaul: Was already a business there.

Frosio: All requirements met.

Randolph: Exasperates parking problem.

8) The proposed use meets all other requirements as provided for elsewhere in this Code.

Goodin:

Dill: As far as discussed and brought forward in this evening's discussion.

Kelly: No, parking lot yet to be determined with vehicle or gold cart spaces.

Miller: Yes.

McPhaul: 27-548(a)(1) g. assuring continued availability of off-site parking.

Frosio: No impact.

Randolph: Meets other requirements.

**CONCLUSION ON REQUIRED FINDINGS #1
PURSUANT TO SEC. 27-160, ORDINANCE CODE**

Sec. 27-160(1)	Positive 6-1
Sec. 27-160(2)	Positive 6-1
Sec. 27-160(3)	Positive 3-4
Sec. 27-160(4)	Positive 2-5
Sec. 27-160(5)	Positive 4-3
Sec. 27-160(6)	Positive 5-2
Sec. 27-160(7)	Positive 4-3
Sec. 27-160(8)	Positive 5-2

Made by Dill, seconded by Frosio.

MOTION: TO APPROVE THE FINDING OF FACTS.

APPROVED BY CONSENSUS

Made by Randolph and motion failed due to the lack of a second.

MOTION: TO RECOMMEND DENIAL OF THE SPECIAL EXCEPTION CDB SE19-07 OFF-SITE PARKING WITHIN 400 FEET.

Made by Frosio, seconded by Goodin.

MOTION: TO RECOMMEND APPROVAL OF THE SPECIAL EXCEPTION CDB SE19-07 REQUEST #1 FOR OFF-SITE PARKING WITHIN 400 FEET.

Roll Call:

Ayes: 2-Frosio, Goodin

Noes: 5-Kelly, Randolph McPhaul, Miller, Dill

MOTION FAILED AND RECOMMEND DENIAL TO CITY COUNCIL.**FINDING OF FACTS FOR SPECIAL EXCEPTION
SECTION 27-160 REQUEST #2 SECTION 27-227
OUTDOOR SEATING**

- 1) The proposed use is consistent with the comprehensive plan.
Goodin: Consistent.
Dill: Consistent with the plan.
Kelly: Yes, City has approved. Restaurants with outdoor seating.
McPhaul: Consistent.
Frosio: Is consistent.
Randolph: Outdoor seating consistent.
- 2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses;
Goodin: Similar to neighboring properties.
Dill: Very compatible and fit with existing similar uses.
Kelly: Yes. Compatible without extra seating that requires extra parking.
Miller: Same as other businesses in the area.
McPhaul: None.
Frosio: Compatible.
Randolph: Compatible
- 3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community;
Goodin: Consistent with adjacent properties.
Dill: No environmental impact that is inconsistent.
Kelly: No. There is concern with safety of pedestrian and vehicle (including bicycle) safety.
Miller: No negative impact.
McPhaul: None.
Frosio: No impact.
Randolph: No environmental impact.
- 4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community;
Goodin: No effect for outdoor seating.
Dill: Will not cause any detrimental effects on movement.
Kelly: No. There is concern with safety of pedestrian and vehicle (bike) safety.
Miller: Not enough parking.
McPhaul: None.
Frosio: No detriment.

Randolph: Outdoor seating would.

- 5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan;

Goodin: Consistent with comp plan.

Dill: Will not cause detrimental effect on future development.

Kelly: yes, it would not have a detrimental effect.

Miller: Incompatible with city plan.

McPhaul: None.

Frosio: No detriment.

Randolph: No determinate effect.

- 6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area;

Goodin: Similar to surrounding uses.

Dill: Not create excessive noise to neighbors

Kelly: No, unless hours are curbed.

Miller: Consistent with permissible uses.

McPhaul: None.

Frosio: No excess.

Randolph: No excessive noise.

- 7) The proposed use would not overburden existing public services and facilities; and

Goodin: No overburden.

Dill: Not overburden existing services.

Kelly: Yes, without additional seating would not overburden.

Miller: Would overburden parking.

McPhaul: None.

Frosio: No overburden.

Randolph: No overburden.

- 8) The proposed use meets all other requirements as provided for elsewhere in this Code.

Goodin: Consistent.

Dill: Meets all requirements as provide in this meeting.

Kelly: Yes, it meets other requirements.

Miller: See #7 & #4.

McPhaul: None.

Frosio: Yes, all requirements.

Randolph: Meets requirements.

CONCLUSION ON REQUIRED FINDINGS #2
PURSUANT TO SEC. 27-160, ORDINANCE CODE

Sec. 27-160(1)	Positive 6-0
Sec. 27-160(2)	Positive 7-0
Sec. 27-160(3)	Positive 6-1
Sec. 27-160(4)	Positive 5-2
Sec. 27-160(5)	Positive 7-0
Sec. 27-160(6)	Positive 6-1
Sec. 27-160(7)	Positive 6-1
Sec. 27-160(8)	Positive 6-1

Made by McPhaul, seconded by Miller.

MOTION: TO APPROVE THE FINDING OF FACTS.

APPROVED BY CONSENSUS

Made by McPhaul, seconded by Kelly.

MOTION: TO RECOMMEND APPROVAL OF THE SPECIAL EXCEPTION CDB SE19-07 REQUEST #2 FOR OUTDOOR SEATING.

Roll Call:

Ayes: 5-Frosio, McPhaul, Randolph, Dill, Goodin

Noes: 2- Kelly, Miller

MOTION APPROVED AND RECOMMENDATION TO CITY COUNCIL IS APPROVAL OF THE SPECIAL EXCEPTION FOR OUTDOOR SEATING.

CDB V19-07
Application for
variance
301 Atlantic Blvd.
Fence height

CDB V19-07 Application for variance as outlined in Chapter 27, Article 3 of the Unified Land Development Code of Neptune Beach for Huron-Sophia, LLC for the property known as 301 Atlantic Blvd. (RE#172982-0000). The request is to vary section 27-330(a) (1) for the height of a fence. The applicant is proposing to install a fence that is a total of 10 feet tall with an 8-foot opaque surface and 2-foot open area with posts connecting to a 3-foot overhang to provide shade.

The 10-foot-tall fence would be only on the west side next to the Starbucks drive thru isle.

Chairperson Goodin opened the floor for public comments. There being no comments, the public hearing was closed.

Board questions and comments:

The board asked Mr. Stein to speak with the owner of the Starbucks to discuss a solution for patrons who may try cutting through the Starbucks drive thru area to get to his restaurant. He agreed to do that.

Made by McPhaul, seconded by Dill.

MOTION: TO DO THE FINDING OF FACT FOR CDB V19-07.

APPROVED BY CONSENSUS.

MOTION CARRIED

STATEMENT OF FACTS

- 1) *The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.*

Item 4

City of
Neptune Beach

116 First Street • Neptune Beach, Florida 32266-6140
(904) 270-2400 • FAX (904) 270-2432



MEMORANDUM

TO: Community Development Board
FROM: Staff
DATE: June 25, 2019
SUBJECT: CDB SE19-07 / 301 Atlantic Blvd
Off-site Parking and Outdoor Seating

Background

A special exception application for off-site parking and outdoor dining for a new restaurant has been submitted by Huron-Sophia LLC Associates for the property located at 301 Atlantic Blvd. (RE # 172982-0000). The existing commercial building is located at the corner of Atlantic Blvd and Second Street, the site of the former 7-11 store and ice cream shop. The property is in the Central Business District (CBD).

The properties surrounding the subject property consist of various types of commercial businesses.

The first request is for a special exception is to Section 27-548 for off-site parking within 400 feet. The board must determine if the request meets the criteria set forth in the code section below.

Per 27-548 (a) (1) (b) The location of required off-street parking and loading areas shall conform to the following criteria:

- (1) All required off-street parking spaces and the use they are intended to serve shall be located on the same parcel; provided, however, that the city council, as a special exception, with a recommendation by the community development board, may allow the establishment of off-site or remote off-street parking facilities, provided that all of the following conditions are met:
 - a. Practical difficulties prevent the placement of the required parking spaces on the same lot as the premises they are intended to serve.
 - b. The off-site parking spaces are located within four hundred (400) feet of the premises they are intended to serve.

CDB SE 19-07
1 of 3

- c. The off-site parking spaces are located within the same zoning district classification as the premises which the parking spaces will serve or a classification allowing business or commercial activities.
- d. The off-site parking spaces are not located in any residential district.
- e. The location of the off-site parking spaces will adequately serve the use for which it is intended.
- f. The location of the off-site parking spaces will not create unreasonable:
 - 1. Hazards to pedestrians.
 - 2. Hazards to vehicular traffic.
 - 3. Traffic congestion.
 - 4. Interference with access to other parking spaces in the vicinity.
 - 5. Detriment to any nearby use.
- g. The developer supplies a written agreement, approved in form by the city attorney, assuring the continued availability of the off-site parking facilities for the use they are intended to serve.

The applicant is requesting a special exception to allow for the use of off-site parking within 400 feet. Based on the number of seating shown on their plan and 12 employees, the code would require 26 (25 regular & 1 handicapped) spaces. They are requesting the special exception in order to provide thirteen (13) parking spaces offsite in the Regions Bank parking lot at 115 Third Street.

The application has 2 different onsite parking plans which staff has marked as Plan "A" and Plan "B".

Plan "A" shows 13 onsite spaces with one handicap onsite and 13 spaces in the adjacent bank parking lot. This plan would comply with the required number of spaces for total of 175 guest and 12 staff members.

Plan "B" shows 11 regular, one handicap and 4 spaces for golf cart parking onsite and 13 spaces in the adjacent bank parking lot. The code currently does not allow golf cart parking spaces to be counted towards the required spaces needed making this plan 1 space short. This plan requires a variance of 1 space.

Both plans provide for a bicycle rack to be provided by the applicant at the former curb cut entrance from Atlantic Blvd.

CODE PARKING REQUIREMENTS	TOTAL SPACES REQUIRED + HANDICAPPED SPACES	Plan A	Plan B
		13 onsite + 13 off-site+ 1HC= 27	11 onsite+13 offsite+1HC=25
Non-CBD Parking	Requirements for 175 seats {92 inside & 83 outside} / 4 = 44 spaces + 12 employees / 2 = 6 50 + 2 HC=52 spaces		Also providing 4 spaces for golf carts
CBD Requirements due to 50% reduction Section 27-540(b)	Requirements for 175 seats {92 inside & 83 outside} / 4 = 44 spaces / 50% reduction=22 + 12 employees / 2= 6/ 50% reduction= 3) 25 + 1 HC=26 spaces needed	Complies with code requirements	Would require a variance of 1 space

The second request for a special exception is to Section 27-227(5) (e) for Outdoor Seating.

The proposed outdoor seating is consistent with the outdoor seating for surrounding restaurants. The proposal is to add 83 seats in the front and to the west side of the existing building. A portion of this area will covered by an awning and is part of the development order request is also on tonight's agenda.

Analysis

Section 27-160 outlines the findings for the board to review for special exceptions.

Sec. 27-548. - Design standards for off-street parking and loading areas.

(a) *Location.* The location of required off-street parking and loading areas shall conform to the following criteria:

- (1) All required off-street parking spaces and the use they are intended to serve shall be located on the same parcel; provided, however, that the city council, as a special exception, with a recommendation by the community development board, may allow the establishment of off-site or remote off-street parking facilities, provided that all of the following conditions are met:
 - a. Practical difficulties prevent the placement of the required parking spaces on the same lot as the premises they are intended to serve.
 - b. The off-site parking spaces are located within four hundred (400) feet of the premises they are intended to serve.
 - c. The off-site parking spaces are located within the same zoning district classification as the premises which the parking spaces will serve or a classification allowing business or commercial activities.
 - d. The off-site parking spaces are not located in any residential district.
 - e. The location of the off-site parking spaces will adequately serve the use for which it is intended.
 - f. The location of the off-site parking spaces will not create unreasonable:
 1. Hazards to pedestrians.
 2. Hazards to vehicular traffic.
 3. Traffic congestion.
 4. Interference with access to other parking spaces in the vicinity.
 5. Detriment to any nearby use.
 - g. The developer supplies a written agreement, approved in form by the city attorney, assuring the continued availability of the off-site parking facilities for the use they are intended to serve.
- (2) All parking spaces required by this Code for residential uses should be located no further than the following distances from the units they serve:
 - a. Resident parking: 200 feet
 - b. Visitor parking: 250 feet

Distances shall be measured from a dwelling unit's entry to the parking space. Where a stairway or elevator provides access to dwelling units, the stairway or elevator shall be considered to be the entrance to the dwelling unit. For purposes of measuring these distances, each required parking space shall be assigned to a specific unit on the development plan, whether or not the developer will actually assign spaces for the exclusive use of the specific unit.

- (3) Each off-street parking space shall be directly accessible from a street or alley without crossing or entering any other required off-street parking or loading space, except as provided for in tandem parking.
- (4) Each off-street loading space shall be directly accessible from a street or alley without crossing or

27-227(5)(P)

(5) *Interior service restaurant:* Restaurants that sell alcoholic beverages shall conform to the following conditions:

- a. The alcoholic beverages shall be sold only for consumption on the premises.
- b. Said restaurant shall have an inside seating capacity of and be equipped to serve not less than thirty (30) people meals at one (1) time.
- c. Said restaurant shall derive at least fifty-one (51) percent of its gross revenue from the sale of food and nonalcoholic beverages.
- d. Any alcoholic beverage license issued to any such restaurant under the general law of the state shall not be moved to a new location, such licenses being valid only on the premises of such restaurant.
- e. Outdoor seating may be permitted as a special exception, and shall only be provided in a controlled area, attached to the main interior service area and shall also be situated in a manner that allows for unimpeded pedestrian access along adjacent sidewalks or pedestrian ways. Outdoor seating requests for public property not owned by the interior service restaurant must follow the provisions outlined in subsection 27-479(d).
- f. All drive-thru facilities shall be located to the side or rear of the building away from the principle abutting thoroughfares by special exception.

(6) *Retail, general:*

- a. Outdoor sales must be an accessory use to the principal use and shall be limited to one (1) sale display area per retail store. Neptune Beach general retail stores may have outside sales on the premises of their licensed store. The sale shall be conducted by employees of the store and items offered for sale shall be property of the store and not a consignment operation or arrangement. Only products normally sold at these stores may be sold outside. Stores must apply for a yearly permit approved by the city manager or designee.
 1. Outdoor sales and the outdoor display area must be on private property and located only in the central business district (CBD), C-2 and C-3 zoning districts.
 2. Outdoor sales cannot occur in the right-of-way.
 3. The outdoor sale display area cannot exceed one hundred fifty (150) square feet.
 4. No outdoor sales shall be allowed in the area set aside, required or designated for parking, ADA routes, drive isles, driveways, maneuvering areas or unloading/loading areas. An ADA clear path must be maintained around all items in display area.

SE 19-07

APPLICATION FOR SPECIAL EXCEPTION

CITY OF NEPTUNE BEACH PLANNING AND DEVELOPMENT DEPARTMENT
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266-6140
PH: 270-2400 ext 4 FAX: 270-2432



Date Filed: RECEIVED JUN 21 2019

Application Fee: \$300 Residential / \$500 Commercial

Name & Address of Property Owner:	Telephone:
Huron-Sophia, L.L.C., 3733 University Blvd. W., Suite 204	E-Mail:
Jacksonville, FL 32217	Real Estate #: 172982-0000
Property Address (if different from mailing):	Lot 2 (ex W 35 Ft) Block: 15 and Lot 1 Block 50
301 Atlantic Blvd., Neptune Beach, FL 32266	Subdivision: Horne's Subdivision and Neptune
	Zoning District: CBD

Name and Address of Agent:	Telephone: 904-301-1269
Steve Diebenow and Cyndy Trimmer	E-Mail: sd@drivermcafee.com
1 Independent Dr., Ste 1200	
Jacksonville, FL 32202	ckt@drivermcafee.com

Describe Special Exception Request:
Off-site parking pursuant to Sec. 27-548 (a)(1)(b)
Outdoor seating pursuant to Sec. 27-227 (5)(e)

The Unified Land Development Code (ULDC) requires that the Community Development Board may not recommend for approval unless it makes a positive finding, based on substantial competent evidence, outlined in Section 27-160

1. Based on the required findings needed to issue a special exception in Section 27-160 explain the following (attach additional sheets as necessary):

A. How the proposed is consistent with the comprehensive plan:

The proposed off-site parking and outdoor seating allows for redevelopment of a vacant building on a prominent street corner in the Central Business District by an established local brand. Allowing for such infill development within the Central Business District ensures that commercial activity will be restricted to the designated commercial core thus preserving the residential character of the surrounding areas.

B. Indicate how the proposed special expectation (use) would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses.

Applicant proposes to enter into the attached agreement with Regions Bank for exclusive use of thirteen (13) parking spaces at 115 3rd Street, which is immediately to the south of the property, during the bank's off hours. The proposed off-site parking is consistent with the criteria established for off-street parking in the zoning code and compatible with the general character of the Central Business District where shared off-site and valet parking arrangements are common. The proposed additional outdoor seating is an appropriate expansion of the outdoor use previously approved for the property consistent with other restaurants in the area.

<p>C. Indicate how the proposed special exception (use) would not have an environmental impact inconsistent with the health, safety and welfare of the community.</p> <p>The proposed special exception will permit utilization of off-street parking on an immediately adjacent lot pursuant to a parking agreement when the business occupying the property is closed. The proposed outdoor seating is an expansion of the outdoor area previously approved for the property and is consistent with outdoor seating for neighboring restaurants. As such, the proposed use will not have any environmental impact inconsistent with the health, safety, and welfare of the community.</p>
<p>D. Explain how the proposed special exception (use) would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety and welfare of the community.</p> <p>Applicant proposes closing one entrance onto Atlantic Boulevard, which will improve traffic flow at a congested intersection, to provide additional on-site parking, and providing the remaining parking off-site on the immediately adjacent lot. The special exception will allow Applicant to provide the number of spaces required by the zoning code within the designated area in order to ensure that there is no detrimental effect on traffic, pedestrian movement, or parking. The proposed additional outdoor seating will be located adjacent to the western and front sides of the building and will not have any such impacts.</p>
<p>E. Explain how the proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan.</p> <p>The proposed use is entirely consistent with the comprehensive plan, which provides that commercial development should be concentrated in existing commercial corridors such as the Central Business District in order to protect the residential character of the surrounding areas. Within the Central Business District, redevelopment such as the proposed restaurant use that creates a mix of urban-intensive, pedestrian oriented development is encouraged.</p>
<p>F. Indicate how the proposed use would not overburden existing public services and facilities.</p> <p>Redevelopment of an existing vacant property along the established commercial corridor will not overburden existing public services and facilities.</p>
<p>G. Explain how the proposed use meets all other requirements as provided for elsewhere Chapter 27.</p> <p>The proposed use is consistent with regulations established for the Central Business District and satisfies all other requirements of the zoning code as show on the attached conceptual site plan.</p>

THE APPLICANT AND SURROUNDING PROPERTIES WILL BE NOTIFIED OF THE PUBLIC HEARING BY MAIL AND POSTING OF THE PROPERTY. THE APPLICANT OR HIS/HER AUTHORIZED AGENT MUST BE PRESENT AT THE MEETINGS.

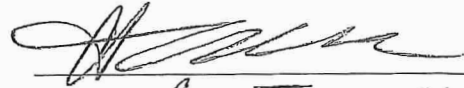
Per 27-163, If a special exception is granted the use or construction, must be commenced within twelve (12) months following the date the special exception is rendered or the special exception shall expire and be of no further force, validity, or effect.

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND THE INFORMATION CONTAINED IN THIS APPLICATION. THAT I AM THE PROPERTY OWNER WITH AUTHORITY TO MAKE THIS APPLICATION, AND THAT ALL THE INFORMATION CONTAINED IN THIS APPLICATION, INCLUDING ANY ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HEREBY APPLY FOR A SPECIAL EXCEPTION AS REQUESTED.

NAME (S) OF PROPERTY OWNER (S)

Huron Sophia LLC
BY: Harlan D. Haring, Managing member
Signature

NAME OF AUTHORIZED AGENT


Signature CINDY TRIMMER + Steve Dieben
DRIVER McAfee Hawthorne + Dieben

OWNER'S AUTHORIZATION FOR AGENT/AFFIDAVIT OF ASSENT

THIS FORM MUST BE FILLED OUT IN THE CASE THAT THE APPLICANT IS NOT THE OWNER OF THE PREMISES UNDER WHICH THE PARTICULAR APPLICATION IS BEING FILED.

Driver, McAfee, Hawthorne & Diebenow, PLLC _____ is hereby authorized TO ACT ON BEHALF OF Huron-Sophia, L.L.C. _____, the owner(s) of those lands described within the attached application, and as described in the attached deed or other such proof of ownership as may be required, in applying to Neptune Beach, Florida, for an application related to Development Permit or other action pursuant to a:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Rezoning | <input checked="" type="checkbox"/> Special Exception |
| <input checked="" type="checkbox"/> Variance | <input checked="" type="checkbox"/> Commercial Dev. Order |
| <input type="checkbox"/> Appeal | <input type="checkbox"/> Comp. Plan Amendment |
| <input checked="" type="checkbox"/> Concurrency | <input type="checkbox"/> Other/Building Permit |

BY: Huron Sophia LLC
Harlan D. Helming, managing member
Signature of Owner

Harlan D. Helming, managing member
Print Name Huron Sophia LLC

Harlan D. Helming, managing member Huron Sophia LLC
Signature of Owner Huron Sophia LLC

Harlan D. Helming, managing member Huron Sophia LLC
Print Name ANDREA DOUGLAS

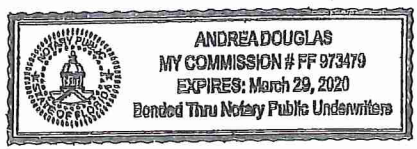
Daytime Telephone Number (904) 355-3519 State of Florida
County of DUVAL

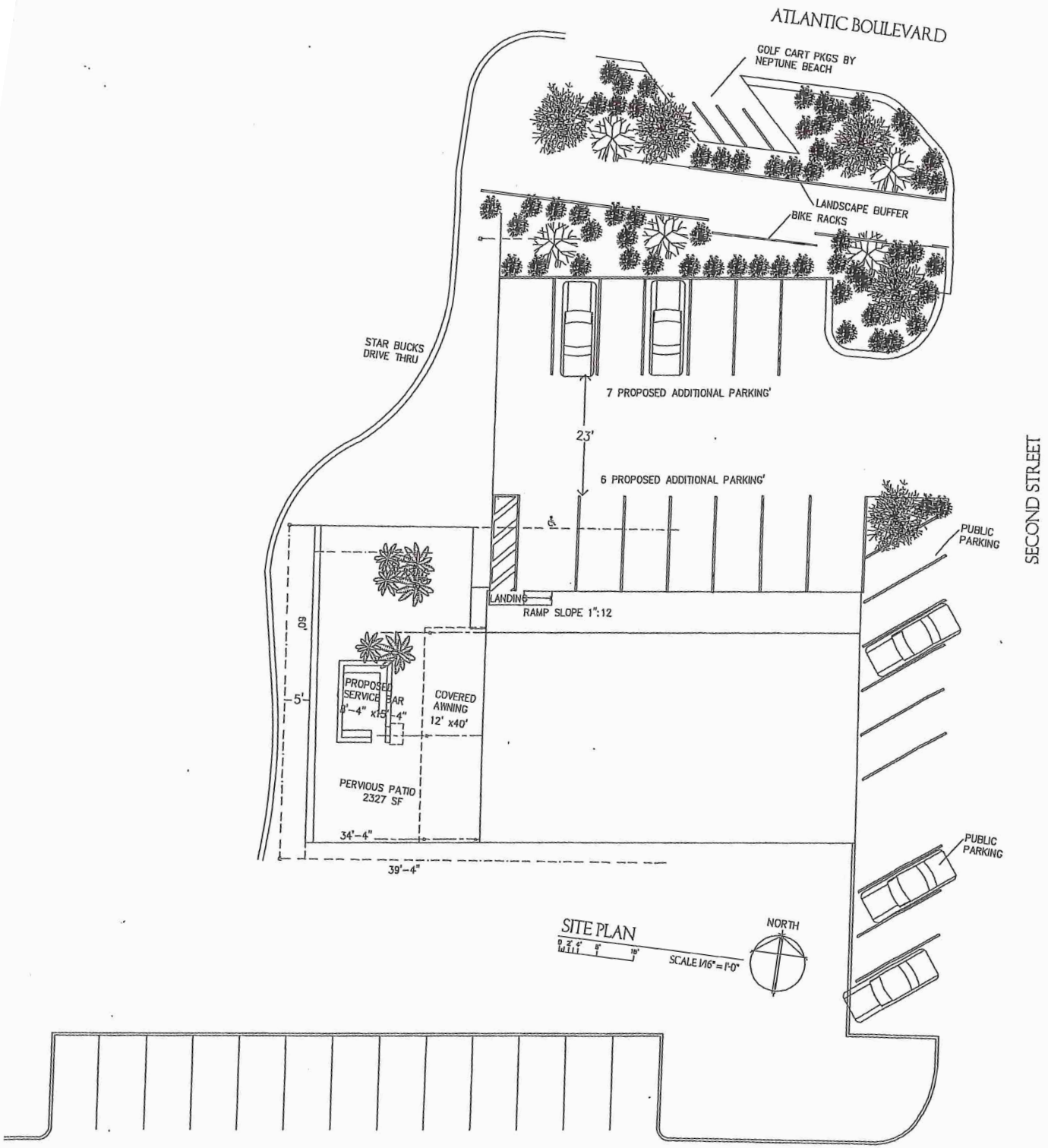
Signed and sworn before me on this 19TH JUNE day of, 2002019
By HARLAN D. HELMING

Identification verified: ✓ Oath sworn: Yes No

Andrea Douglas
Notary Signature

My Commission expires: MARCH 29, 2020





SITE PLAN
 0 2' 4' 8' 16'
 SCALE 1/8" = 1'-0"
 NORTH

Plan A

ATLANTIC BOULEVARD

GOLF CART PKGS BY NEPTUNE BEACH

LANDSCAPE BUFFER
BIKE RACKS

STAR BUCKS DRIVE THRU

7 PROPOSED ADDITIONAL PARKING'

4 PROPOSED ADDITIONAL PARKING'

GOLF CART PKGS

PUBLIC PARKING

SECOND STREET

LANDING
RAMP SLOPE 1":12

PROPOSED SERVICE BAR
8'-4" x 12'-4"

COVERED AWNING
12' x 40'

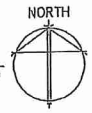
PERVIOUS PATIO
2327 SF

PUBLIC PARKING

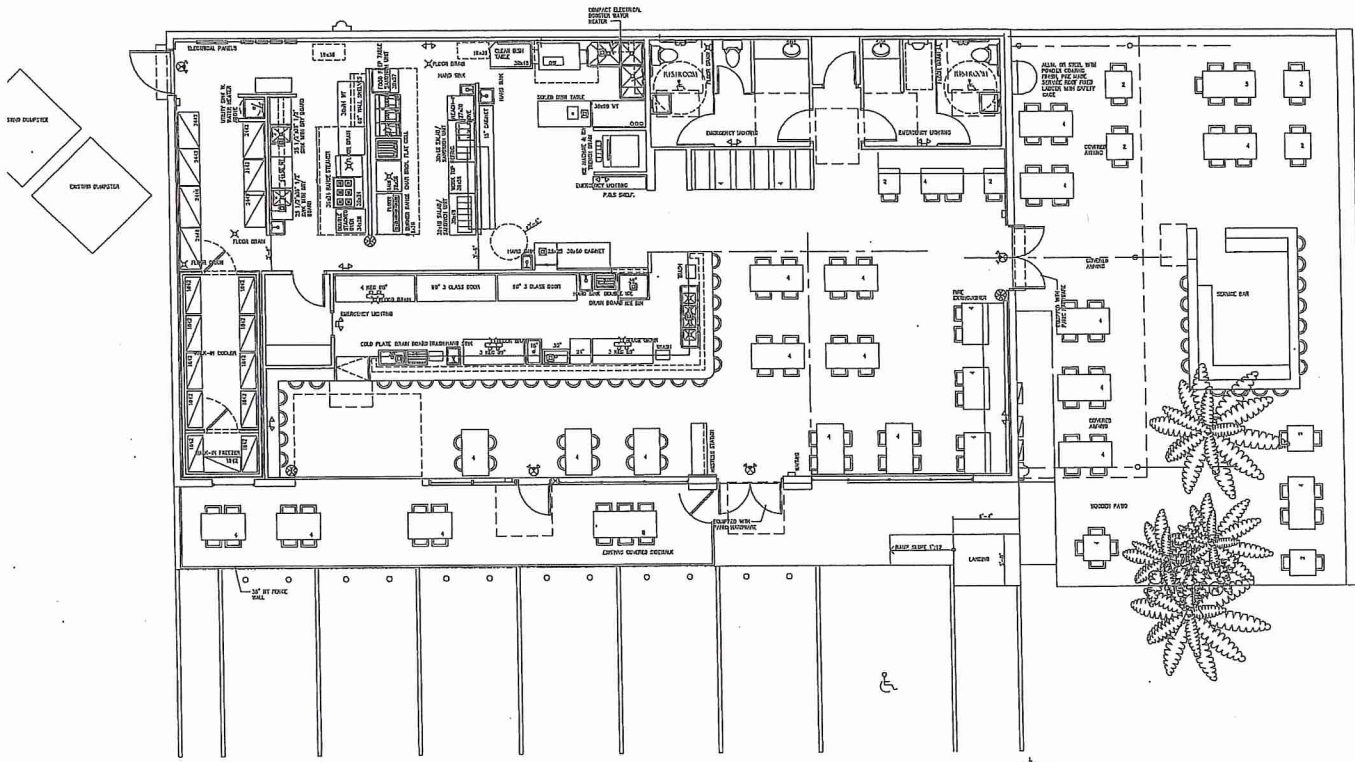
SITE PLAN

0 2' 4' 8' 12'

SCALE 1/16" = 1'-0"



Plan B21



FLOOR PLAN

0 2' 4' 8' 16' SCALE 1/8" = 1'-0"

NUMBER OF SEATS: 150 (UNDER ROOF)
25 (PATIO)



PARKING LOT AGREEMENT

THIS PARKING LOT AGREEMENT (the "Agreement") is made and entered into as of the 14th day of May, 2019, but is effective as of August 1, 2019 (the "Effective Date"), by and between **A1A VALET PARKING OF JACKSONVILLE, INC.**, a Florida corporation (the "Manager"), and **ROOST RESTAURANTS, LLC**, a Florida limited liability company (the "Local").

RECITALS

WHEREAS, Regions Bank, an Alabama state banking corporation ("Regions") is the owner of certain real property and improvements thereon located at 115 3rd Street, Neptune Beach, Florida (the "Property"), which Property includes a parking lot (the "Parking Lot") containing twenty-six (26) parking spaces and two (2) handicapped spaces (collectively, the "Parking Spaces");

WHEREAS, Regions and Manager have entered into that certain parking management agreement (the "Management Agreement"), whereby, among other things, Manager has the right to use the Parking Lot and Parking Spaces for its customers during periods when Regions is not open for business (currently those hours are after 5:00 p.m. on weekdays and after 12:00 on Saturday, and all day on Sunday but in all events subject to change without notice) (the "Non-Banking Hours");

WHEREAS, pursuant to the Management Agreement, Manager is authorized to grant the right to third parties to use the Parking Lot and Parking Spaces during the Non-Banking Hours;

WHEREAS, Manager desires to grant Local the right to use the thirteen (13) Parking Spaces more particularly identified on Exhibit "A" attached hereto (the "Local Spaces"), and Local desires to use the Local Spaces, all under the terms and conditions hereinafter set forth; and

WHEREAS, Regions consents to Manager's entering into this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and each and all of the covenants, terms, provisions, conditions, and agreements hereinafter set forth, the parties agree as follows:

AGREEMENT

1. GRANT OF LOCAL SPACES. On the terms and conditions set forth herein, Manager hereby grants to Local and its customers, employees and other invitees (the "Local Parties"), the exclusive right to use the Local Spaces, together with the right to access the Parking Lot for purposes of accessing and using the Local Spaces, during the Non-Banking Hours.

2. DURATION OF AGREEMENT. This Agreement shall commence on the Effective Date and shall continue for a period of twelve (12) months thereafter (as may be extended, the "Term"), unless earlier terminated as provided herein. The term of this Agreement

shall automatically renew for additional periods of twelve (12) months each, on the same terms and conditions set forth herein. Local shall have the right to terminate this Agreement by delivering written notice of such termination at least thirty (30) days prior to the termination date. In the event Regions cancels the Management Agreement, this Agreement shall automatically terminate as of the date of such cancellation. Upon notice of any cancellation of the Management Agreement, Manager shall deliver written notice of such cancellation to Local providing the date this Agreement will terminate along with evidence of Regions' cancellation of the Management Agreement.

3. PAYMENT. As consideration for this Agreement, commencing as of the Effective Date, and continuing on the first (1st) day of each month during the Term of this Agreement, Local shall pay to Manager the monthly sum of Two Thousand Dollars (\$2,000.00) for the use of the Local Spaces. The parties shall prorate the first and last month of the Term based on the number of days Local has the right to use the Local Spaces in such month.

4. USE OF LOCAL SPACES. Local Parties shall use the Local Spaces solely for parking during the Non-Banking Hours. Local shall have the right to install temporary signage adjacent to the Local Spaces notifying others that the Local Spaces are reserved for the exclusive use of the Local Parties provided that Local shall remove such temporary signage each day after Local closes its restaurant. Local shall also have the right to reasonable enforcement of its parking rights granted herein; provided, however, Local shall have no right to tow or remove any vehicles from the Local Spaces.

5. MAINTENANCE OF PROPERTY AND SECURITY. Pursuant to the Management Agreement, Manager is responsible to maintain the Parking Lot and Parking Spaces. Local shall have no obligation to maintain the Local Spaces; provided, however, Local shall repair any damage to the Parking Lot caused by any of the Local Parties. Neither Manager nor Regions shall have any responsibility to secure or illuminate any portion of the Parking Lot or provide any security for the Local, its patrons, and/or their vehicles and personal property. All parking shall be at the sole risk of the Local and their patrons who shall be responsible for themselves, as well as, securing their vehicles and personal property as they deem appropriate.

6. NOTICES. All notices required hereunder shall be delivered by United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

- If to Manager: A1A Valet Parking of Jacksonville, Inc.
1171 Beach Blvd., #108
Jacksonville Beach, FL 32250
Attention: Nicholas Csorna

- If to Local: Roost Restaurants, LLC
One Independent Drive, Suite 3120
Jacksonville, Florida 32202
Attention: J. C. Demetree, Jr.

or such other address as either party may from time to time specify in writing to the other in the manner aforesaid.

7. **INSURANCE.** During the Term of this Agreement, Local shall maintain a policy of commercial or comprehensive general liability insurance, or its equivalent, at Local's sole expense, insuring against all claims, demands, or actions for bodily injury or physical damage to tangible property arising out of or in connection with Local Parties' use of the Local Spaces. The limits of such policy or policies shall be Five Hundred Thousand and No/100 Dollars (\$500,000.00) per occurrence and One Million and No/Dollars in the aggregate. Any combination of primary or excess liability policies is acceptable. All such insurance maintained by Local shall name Regions and Manager as an additional insured, as evidenced by a valid ACORD (or equivalent) certificate of insurance to be delivered to Landlord prior to the Effective Date of this Agreement. Not less than ten (10) days before the expiration of such policies, copies of the renewals thereof shall be delivered to Regions and Manager. Local shall indemnify and hold Regions and Manager and their respective officers, directors, employees, agents, and members harmless from and against any and all claims, actions, liens, demands, expenses, and judgments for loss, damage, or injury ("Claims") to tangible property or persons resulting or occurring by reason of the Local or the Local Parties' use of the Parking Lot and the Local Spaces, except for Claims caused by Manager's negligence or willful misconduct.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Manager and the Local have executed this Agreement on the date and year first above written.

WITNESSES:

Mitch Kaufmann
Print Name: MITCH KAUFMANN
Kellie M. Smirnoff
Print Name: Kellie M. Smirnoff

MANAGER:

A1A VALET PARKING OF JACKSONVILLE, INC., a Florida corporation

By: [Signature]
Name: W. Nicholas Lerner
Its: OWNER

WITNESSES:

J. C. Deane III
Print Name: Jack C. Deane III
Wesley McKenney
Print Name: Wesley McKenney

LOCAL:

ROOST RESTAURANTS, LLC, a Florida limited liability company

By: [Signature]
Name: Martin (Ted) Stein
Its: President

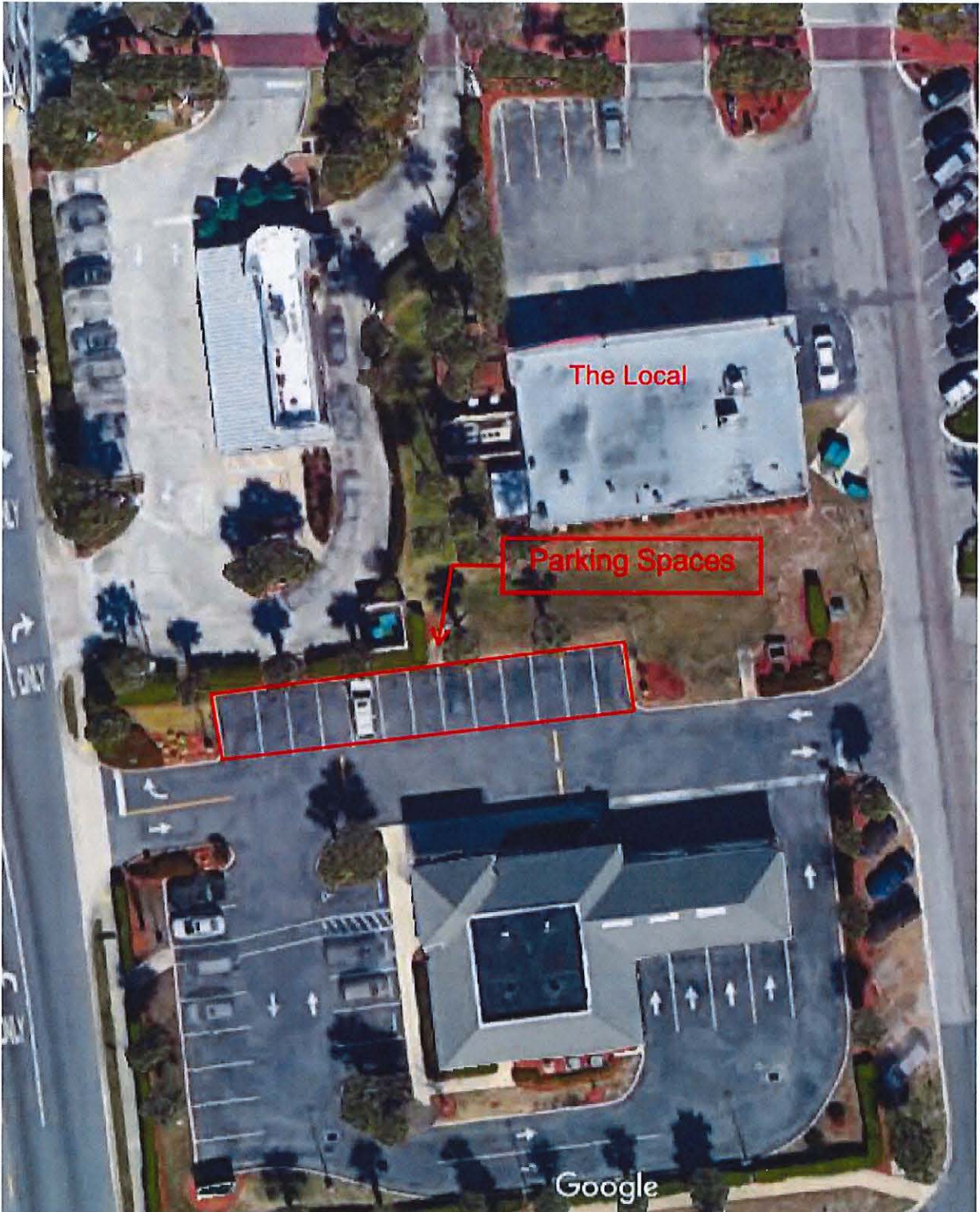
Regions consents to Manager allowing the Local use of the thirteen (13) parking spaces referenced herein.

REGIONS BANK, an Alabama state banking corporation

By: Scott Riley
Name: Scott Riley
Its: SVP

EXHIBIT "A"

Local Spaces



REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #1 Section 27-548 off-site parking within 400 feet

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>	<i>consistent</i>	<i>yes</i>
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	<i>compatible with area.</i>	<i>yes</i>
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	<i>similar to neighboring properties</i>	<i>yes</i>
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	<i>additional parking is available at bank</i>	<i>yes</i>
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	<i>consistent with ^{comp} plan & neighboring fecl.</i>	<i>yes</i>
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	<i>no additional use. consistent with neighboring area.</i>	<i>yes</i>
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	<i>additional parking in adjacent lot.</i>	<i>yes</i>
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	<i>meets all requirements</i>	<i>yes</i>

I, Christopher Goodin, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception

Christopher Goodin
Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #1 Section 27-548 off-site parking within 400 feet

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; (answer "Yes" if use is consistent or "No" if it is not)	INCONSISTENT WITH COMPREHENSIVE PLAN	NO
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; (answer "Yes" if compatible or "No" if it is not)	THE SITE IS NOT ADEQUATE TO HOLD THE REQUIRED PARKING THE OFF SITE PARKING SEEMS VIABLE BUT NOT PROVEN	YES
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; (answer "Yes" if there is no impact or "No" if there is)	ADVERSE NOT IMPACTING HEALTH & WELFARE	YES
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; (answer "Yes" if there is no detrimental effect or "No" if there would be)	WOULD CAUSE MORE PARKING INCONSISTENCIES	NO
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; (answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)	MAY CONTRIBUTE TO THE PARKING SHORTAGE THE OFF SITE PARKING SEEMS VIABLE BUT NOT TESTED	NO
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; (answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)	NO EXTRA NOISE, LIGHT, ETC.	YES
7) The proposed use would not overburden existing public services and facilities; and (answer "Yes" if no impact to public services, or "No" if it would overburden)	OFFSITE PLAN FOR PARKING IS AN EXISTING LOT	YES
8) The proposed use meets all other requirements as provided for elsewhere in this Code. (answer "Yes" if it meets all other requirements, "No" if it does not)	AS FAR AS DISCUSSED AND BROUGHT FORWARD IN THIS EVENING DISCUSSION	YES

I, RYAN DILL, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception,

Ryan Dill
Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #1 Section 27-548 off-site parking within 400 feet

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>	REDEVELOPMENT YES. IS CONSISTENT W/ ENHANCING THE CBD.	Y
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	NO. IT WOULD BE NOT BE COMPATIBLE W/ AS DESIGN REQUESTS FOR ADDITIONAL OFF SITE PARKING	N
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	NO-THERE IS AN IMPACT ON PARKING & PUBLIC SAFETY W/ PEDESTRIAN TRAFFIC.	N
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	NO-IT WOULD CAUSE ISSUE W/ PEDESTRIAN & VEHICAL TRAFFIC, INCLUDING BICYCLE.	N
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	NO. IT WOULD HAVE AN EFFECT. AS IF REGIONS REDEVELOPS OR SELLS LEASES WOULD BE LOST SHORT &/OR LONG TERM.	N
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	NO-IT HOURS FOR BUSINESS ARE NOT CURBED IT WILL EFFECT RESIDENTIAL,	N
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	NO, IT WOULD OVERBURDEN EXISTING TRAFFIC/PARKING SITUATION.	N
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	NO, PARKING LOT YET TO BE DETERMINING W/ VEHICLE OR GOLF CART SPACES	N

I, DIANA KELLY, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception.

Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #1 Section 27-548 off-site parking within 400 feet

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; (answer "Yes" if use is consistent or "No" if it is not)	570 12th St. off-site restrooms within 400 ft	YES
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; (answer "Yes" if compatible or "No" if it is not)	Similar to surrounding buildings	YES
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; (answer "Yes" if there is no impact or "No" if there is)	No with ability to improve of building & surrounding area to improve surrounding area to be better	NO
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; (answer "Yes" if there is no detrimental effect or "No" if there would be)	SAME AS TRAFFIC	NO
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; (answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)		YES
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; (answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)	CONSISTENT WITH ZONING	YES
7) The proposed use would not overburden existing public services and facilities; and (answer "Yes" if no impact to public services, or "No" if it would overburden)	OVER BURDEN EXISTING PARKING	NO
8) The proposed use meets all other requirements as provided for elsewhere in this Code. (answer "Yes" if it meets all other requirements, "No" if it does not)		YES

I, [Signature], based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception.

[Signature]
Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #1 Section 27-548 off-site parking within 400 feet

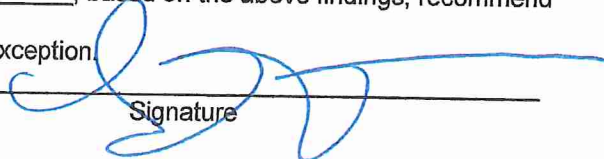
Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; (answer "Yes" if use is consistent or "No" if it is not)	C. Business District	Yes
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; (answer "Yes" if compatible or "No" if it is not)	CDB	Yes
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; (answer "Yes" if there is no impact or "No" if there is)	There are no sidewalks (walk) to get to location. parking is too dense. @ where will cars park if the current requires space is gone	NO
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; (answer "Yes" if there is no detrimental effect or "No" if there would be)	increase in vehicles needing places to park during hours that off site plan doesn't account for. before 5pm	NO
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; (answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)	In the future we open ourselves up to compounding of parking problem by granting special exception	NO
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; (answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)	by creating parking spots that are currently used by another business where will the cars that normally park there park? driving around	NO
7) The proposed use would not overburden existing public services and facilities; and (answer "Yes" if no impact to public services, or "No" if it would overburden)	was already business there -	Yes
8) The proposed use meets all other requirements as provided for elsewhere in this Code. (answer "Yes" if it meets all other requirements, "No" if it does not)	27-548 assuring continued (a)(1) g. avail. of off site parking	NO

I, Lauren McPhaul, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception.



 Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #1 Section 27-548 off-site parking within 400 feet

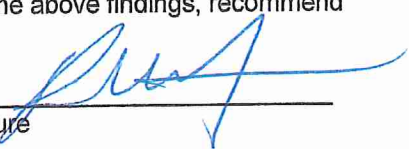
Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; (answer "Yes" if use is consistent or "No" if it is not)	<i>it is consistent</i>	<i>yes</i>
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; (answer "Yes" if compatible or "No" if it is not)	<i>beautiful addition</i>	<i>yes</i>
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; (answer "Yes" if there is no impact or "No" if there is)	<i>No impact</i>	<i>yes</i>
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; (answer "Yes" if there is no detrimental effect or "No" if there would be)	<i>the special exception requirements are met</i>	<i>yes</i>
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; (answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)	<i>it raises the bar</i>	<i>yes</i>
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; (answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)	<i>NONE</i>	<i>yes</i>
7) The proposed use would not overburden existing public services and facilities; and (answer "Yes" if no impact to public services, or "No" if it would overburden)	<i>No impact</i>	<i>yes</i>
8) The proposed use meets all other requirements as provided for elsewhere in this Code. (answer "Yes" if it meets all other requirements, "No" if it does not)	<i>all requirements met</i>	<i>yes</i>

I, Bob Frosio, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception.

Signature 

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #1 Section 27-548 off-site parking within 400 feet

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>	REDEVELOPMENT OF VACANT BUSINESS	YES
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	EXAGGERATES ACTIVE PROBLEM RESTAURANT FITS CHARACTER	NO YES
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	EXAGGERATES PARKING PROBLEM	NO
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	50% CBD PARKING DISCOUNT ALREADY IN EFFECT	NO
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	RESTAURANT IS CONSISTENT WITH ZONING	YES
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	WOULD NOT CREATE ADDITIONAL FUMES	YES
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	EXAGGERATES PARKING PROBLEM	NO
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	MEETS OTHER REQUIREMENTS	YES

I, Diana Rando, based on the above findings, recommend
(APPROVAL) or (DENIAL) of the Special Exception.

Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #2 Section 27-227(5)(e) outdoor seating

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>	consistent	yes
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	similar to neighboring properties	yes
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	consistent with adjacent properties	yes
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	no effect for outdoor seating	yes
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	consistent with comp plan.	yes
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	similar to surrounding uses.	yes
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	no overburden concern	yes
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	consistent compliant	yes

I, Christopher Goodin, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception.

A handwritten signature in cursive script, appearing to read "C. K. ...", written over a horizontal line.

Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #2 Section 27-227(5)(e) outdoor seating

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>	CONSISTENT w/ the plan	YES
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	Very compatible & fit w/ existing similar uses	YES
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	No environmental impact that is inconsistent	YES
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	No with WILL NOT cause any detrimental effects on movement	YES
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	Will not cause detrimental effect on future develop.	YES
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	Not create excessive noise to neighbors	YES
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	Not overburden existing services	YES
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	meets all requirements as provided in this meeting	YES

I, RYAN DILL, based on the above findings, recommend

0 (APPROVAL) or (DENIAL) of the Special Exception.

Ryan Dill
Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #2 Section 27-227(5)(e) outdoor seating

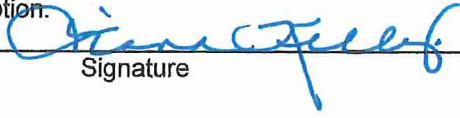
Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>	YES, THE CITY HAS APPROVED RESTAURANTS W/O OUT DOOR SEATING	Y
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	YES, COMPATIBLE W/O EXTRA SEATING THAT REQUIRES EXTRA PARKING.	Y
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	NO - THERE IS CONCERN W/ SAFETY OF PEDESTRIAN + VEHICLE (INCL. BICYCLE) SAFETY	N
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	NO - THERE IS CONCERN W/ SAFETY OF PEDESTRIAN + VEHICLE SAFETY (BIKE)	N
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	YES, NO IT WOULD NOT HAVE A DETRIMENTAL EFFECT.	Y
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	NO - UNLESS HOURS ARE CURBED.	N
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	YES, WITHOUT ADDITIONAL SEATING WOULD NOT OVERBURDEN	Y
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	YES, IT MEETS OTHER REQUIREMENT.	Y

I, DIANA KELLY, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception.



Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #2 Section 27-227(5)(e) outdoor seating

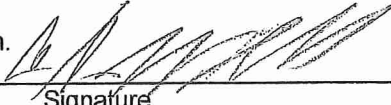
Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>		
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	<i>SAME AS OTHER BUILDINGS IN AREA</i>	<i>YES</i>
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	<i>NO NEG IMPACT</i>	<i>YES</i>
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	<i>NO NEGATIVE IMPACT</i>	<i>YES</i>
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	<i>NO CONFLICT WITH FUTURE DEVELOPMENT</i>	<i>YES</i>
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	<i>CONSIDERED WITH PERMITS AND REGULATIONS</i>	<i>YES</i>
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	<i>NO NEGATIVE IMPACT TO PUBLIC SERVICES</i>	<i>YES</i>
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	<i>MEETS ALL OTHER REQUIREMENTS</i>	<i>YES</i>

I, E. A. MILLER, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception.



Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #2 Section 27-227(5)(e) outdoor seating

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

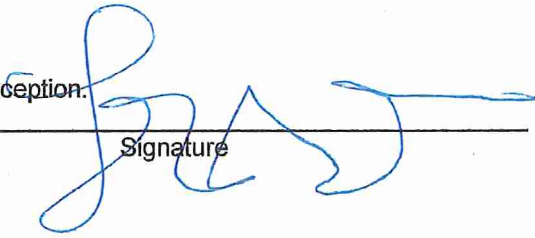
ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>	consistent	Yes
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	NONE Commercial district	Yes
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	NONE Commercial district parkway	Yes
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	NONE Commercial district	Yes
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	none	Yes
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	none	Yes
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	None	Yes
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	none	Yes

I,  based on the above findings, recommend

(APPROVAL)

or (DENIAL) of the Special Exception.


Signature

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #2 Section 27-227(5)(e) outdoor seating

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

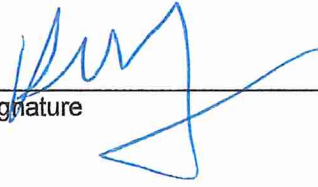
ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>	<i>is consistent</i>	<i>yes</i>
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	<i>compatible</i>	<i>yes</i>
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	<i>no impact</i>	<i>yes</i>
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	<i>no detriment</i>	<i>yes</i>
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	<i>no detriment</i>	<i>yes</i>
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	<i>no excesses</i>	<i>yes</i>
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	<i>no overburden</i>	<i>yes</i>
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	<i>all requirements</i>	<i>yes</i>

I, Bob Frost, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception.

Signature

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right, positioned above a horizontal line.

REQUIRED FINDINGS NEEDED TO ISSUE A SPECIAL EXCEPTION

Public Hearing Date: 7/10/19

Applicant: Huron-Sophia

Case # CDB SE19-07

Property Address: 301 Atlantic Blvd

Request #2 Section 27-227(5)(e) outdoor seating

Section 27-160. The Community Development Board may not recommend for approval a special exception unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent applicable:

ALL MEMBERS MUST GIVE FINDINGS OF "YES" OR "NO"; YOU MUST JUSTIFY YOUR REASON.

Required Findings Section 27-160	Justification/Reason for Finding	Finding Yes/No
1) The proposed use is consistent with the comprehensive plan; <i>(answer "Yes" if use is consistent or "No" if it is not)</i>	OUTDOOR SEATING CONSISTENT	YES
2) The proposed use would be compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses; <i>(answer "Yes" if compatible or "No" if it is not)</i>	COMPATIBLE	YES
3) The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no impact or "No" if there is)</i>	NO ENVIRONMENTAL IMPACT	YES
4) The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community; <i>(answer "Yes" if there is no detrimental effect or "No" if there would be)</i>	OUTDOOR SEATING WOULD	YES
5) The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan; <i>(answer "Yes" if there is not a detrimental effect on future development or "No" if it would affect future development)</i>	NO DETRIMENTAL EFFECT	YES
6) The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area; <i>(answer "Yes" if there is no creation of excessive noise, light vibration, fumes ext. or "No" if any the above would occur)</i>	NO EXCESSIVE NOISE	YES
7) The proposed use would not overburden existing public services and facilities; and <i>(answer "Yes" if no impact to public services, or "No" if it would overburden)</i>	NO OVERBURDEN	YES
8) The proposed use meets all other requirements as provided for elsewhere in this Code. <i>(answer "Yes" if it meets all other requirements, "No" if it does not)</i>	MEETS REQUIREMENTS	YES

I, William Rios, based on the above findings, recommend

(APPROVAL) or (DENIAL) of the Special Exception.



Signature

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 2019-CA-7150

HURON-SOPHIA, L.L.C.,

DIVISION: CV-G

Petitioner,

v.

**CITY OF NEPTUNE BEACH,
FLORIDA, and the CITY COUNCIL
OF THE CITY OF NEPTUNE
BEACH, FLORIDA,**

Respondents.

SETTLEMENT AGREEMENT

This Settlement Agreement (this “Agreement”) is entered into as of the 16 day of June, 2020, by and among the Petitioner Huron-Sophia, L.L.C. (the “Petitioner”), and the Respondents City of Neptune Beach, Florida (the “City”), and the City Council of the City of Neptune Beach, Florida (the “City Council”), in order to amicably resolve the issues raised in the Petitioner’s Petition for Writ of Certiorari (the “Petition”) filed in the above-styled proceeding (the “Certiorari Proceeding”).

1. For purposes of this Agreement, the City and the City Council together shall be referred to as the “Respondents”.

2. Within ten (10) calendar days following the date first above-written (the “Effective Date”), the Petitioner and the Respondents shall file in the Certiorari Proceeding a Joint Motion for Temporary Relinquishment of Jurisdiction for Settlement Purposes (the “Motion”), the stated premises of which shall inform the Court in the Certiorari Proceeding (the “Court”):

- (a) that the Petitioner and the Respondents (each a “Party” and together the “Parties”) have entered into a settlement agreement requiring the City Council to conduct a public hearing and consider granting a special exception (the “Reconsidered Exception”) for the property that is the subject of the Petition (the “Property”), subject to conditions specified in said settlement agreement (the “Conditions”); and,
- (b) that in order to provide the Respondents a reasonable opportunity to conduct the public hearing required for the City Council to consider the Reconsidered Exception, the Parties seek an order from the Court temporarily relinquishing jurisdiction in the Certiorari Proceeding to the City Council; and,
- (c) that if the City Council shall have granted the Reconsidered Exception subject to the Conditions but no other conditions or limitations by no later than June 30, 2020 (the “Deadline”), then, provided that no proceeding has been commenced by a third party in any court of competent jurisdiction within thirty (30) days thereafter challenging the Reconsidered Exception as granted (the “No-Challenge Condition”), the Petitioner promptly shall file in the Certiorari Proceeding a notice dismissing the same, with each party bearing its own attorneys’ fees and costs; and,
- (d) that if the City Council shall have failed to grant the Reconsidered Exception subject to the Conditions but no other conditions or limitations by no later than the Deadline, then upon motion by either Party the Court shall enter an order restoring its jurisdiction and thereafter shall enter an order disposing of the Petition based solely upon the Certiorari Record described below.

3. Upon the entry of an order by the Court granting the Motion (the “Order”), the City shall schedule a public hearing before the City Council to be held on June 29, 2020 for the purpose of considering action approving with respect to the Property the Reconsidered Exception described herein, subject only to the Conditions hereinafter described.

4. The application submitted by the Petitioner for the special exception previously denied by the City Council in the proceeding below and designated by the City as CDB SE19-07 (the “Original Application”) shall constitute the application for the Reconsidered Exception (the “New Application”).

5. The New Application being identical to the Original Application, and the Original Application having been reviewed by the City’s staff and Community Development Board (the “CDB”) prior to being denied by the City Council, the New Application shall be submitted directly to the City Council for final action on the Reconsidered Exception without further review by the City’s staff or the CDB.

6. For purposes of this Agreement, the Conditions hereinabove referenced shall consist of the following:

- (a) Last Call/Closing/Hours. “Last call” for service of alcoholic beverages at the restaurant located on the Property (the “Restaurant”) shall be at 11:30 p.m. local time, and closing of the Restaurant shall be at 12:00 a.m. midnight local time. During hours of operation under this zoning exception, the seating capacity shall remain as described in the exception application (seating under roof, 150; patio, 25), and seating shall not be reduced to permit a night club use as such use is defined in Section 27-15 of the Neptune Beach Code of Ordinances (“Code”).

- (b) City Landscaping. Within thirty (30) days calendar days following the satisfaction of the No-Challenge Condition, the Restaurant shall reimburse the City the expenses incurred by the City for landscaping and sidewalk repairs completed by the City at a former (now closed) entrance to the Restaurant in the amount of \$15,436.47.
- (c) Beaches Town Center Agency Fund. Within thirty (30) calendar days following the satisfaction of the No-Challenge Condition, the Restaurant shall contribute the sum of \$3,000 to the Beaches Town Center Agency Fund.
- (d) Offsite Parking. The thirteen (13) offsite parking spaces at the Regions Bank (the “Offsite Parking Spaces”) shall be used only for valet service, with drop-off and pick-up only at the Restaurant and/or at the valet station currently between Second and First Streets on the west side of the Mezza Luna Restaurant, and with Restaurant patrons prohibited from self-parking in any of the Offsite Parking Spaces. Within thirty (30) days after the satisfaction of the No-Challenge Condition, the Restaurant shall amend its agreement authorizing the use of the Offsite Parking Spaces to provide written notice to the City of Neptune Beach within ten (10) days after any amendment to the duration of the agreement or to any provision regarding the availability and exclusive use of the Offsite Parking Spaces. In the event the Restaurant’s right to the exclusive use of the Offsite Parking Spaces under such agreement is terminated, regardless of cause, the Reconsidered Exception shall be deemed terminated simultaneously.
- (e) If and when the Code is revised with the result that the Offsite Parking Spaces required by the current Code and provided by the exception (for the number of

restaurant seats proposed in the exception) are no longer required by the revised Code and the exception is rendered moot, the Restaurant agrees to comply with the parking requirements under the new Code, including any payment of Code-required parking mitigation, as applied to all restaurants, and whereupon the exception shall terminate.

- (f) If and when the Code is revised with the result that the Offsite Parking Spaces remain required by the revised Code, then, to the extent the Offsite Parking Spaces are required by the revised Code, the zoning exception will remain in place and the Offsite Parking Spaces either shall satisfy the revised Code requirement and/or, if the payment of Code-required parking mitigation is permitted, shall be taken into account in the calculation of any Code-required parking mitigation, as applied to all new restaurants.
- (g) Other Conditions. Any other conditions imposed by the City Council in approving the Reconsidered Exception if and only if the same are accepted on behalf of the Petitioner on the record at the City Council's hearing on the Reconsidered Exception.

7. If the City Council shall have granted the Reconsidered Exception subject to the Conditions but no other conditions or limitations by no later than the Deadline, then, upon the satisfaction of the No-Challenge Condition, the Petitioner promptly shall file in the Certiorari Proceeding a notice dismissing the same.

8. If the City Council shall have failed to grant the Reconsidered Exception subject to the Conditions but no other conditions or limitations by the Deadline, or if the No-Challenge Condition has not been satisfied within its timeframe, then the New Application shall be deemed

withdrawn by the Petitioner, any action by the Respondents taken or purportedly taken on the New Application shall be deemed null and void, and either Party may file a motion with the Court advising the Court that efforts at settlement of the dispute that is the subject of the Certiorari Proceeding have failed, seeking an order restoring the Court's jurisdiction and requesting that the Court enter an order disposing of the Petition based strictly upon the Certiorari Record described below. The Parties hereby stipulate that the Certiorari Record upon which the Court shall dispose of the Petition shall consist solely of the Petition, the Response thereto, the Reply thereto, and the proper record documents heretofore submitted by the Parties in the Certiorari Proceeding, as well as the oral arguments heretofore presented by the Parties to the Court therein. The motion shall include a statement advising the Court of the foregoing stipulation. The non-moving Party shall be deemed hereby to have consented to and joined in said motion, and said motion shall so state.

9. Except for the purposes of enforcing the same or as otherwise provided herein, neither Party shall bring to the attention of the Court any of the matters set forth in this Agreement.

10. Nothing of the record before the Respondents pertaining to the New Application and the Reconsidered Exception shall be submitted to the Court in the Certiorari Proceeding, and each Party hereby expressly waives any rights to do so.

11. This Agreement represents a compromise of a dispute and is entered into in order to resolve the dispute without additional time and expense of litigation. Nothing in this Agreement shall be construed as an admission of liability or wrongdoing by either Party for any purpose whatsoever.

12. Nothing in this Agreement shall be deemed to obligate the City Council to approve the Reconsidered Exception; provided, if the City Council shall approve the Reconsidered Exception, it may only do so subject to the Conditions and no other conditions or limitations, and any other action by the City Council on the New Application, for purposes of this Agreement, shall be deemed null and void.

13. Each Party has read this Agreement and been represented by counsel in negotiating the same, and nothing in this Agreement shall be construed against either Party because it was primarily drafted by one or the other.

14. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but only one agreement is intended hereby.

15. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, and there are no other oral or written terms, obligations, covenants, representations, statements or conditions applicable to said subject matter except as set forth in this Agreement. No change or amendment to this Agreement shall be effective unless it is contained in a writing signed by both Parties.

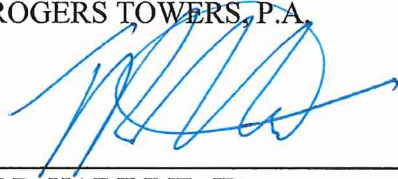
16. The failure by a Party to insist upon strict compliance by the other with any term or provision of this Agreement shall not be deemed to be a waiver by said Party of any of its rights with respect to the other's subsequent act or failure to act.

IN WITNESS WHEREOF, each Party has caused this Agreement to have been executed on its behalf as of the Effective Date by its undersigned counsel.

[Signature page follows.]

Petitioner:

ROGERS TOWERS, P.A.



T.R. HAINLINE, JR.

Florida Bar No.: 372013

1301 Riverplace Boulevard, Suite 1500

Jacksonville, Florida 32207

(904) 398-3911 (telephone)

(904) 396-0663 (facsimile)

thainline@rtlaw.com

Respondents:

ANSBACHER LAW, P.A.



ZACHARY R. ROTH

Florida Bar No.: 372013

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Jacksonville, Florida 32217

(904) 513-2562 (telephone)

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Zachary.Roth@ansbacher.net



**CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT**

- AGENDA ITEM:** Ordinance No. 2020-03, Second Read and Public Hearing, An Ordinance of the City of Neptune Beach, Florida, Amending Chapter 21, Taxation; Article VI, Additional Homestead Exemption; Amending Section 21-120, Additional Homestead Exemption; Increasing the Amount of the Additional Homestead Exemption; Providing an Effective Date.
- SUBMITTED BY:** Councilor Scott Wiley and Mayor Elaine Brown
- DATE:** June 25, 2020
- BACKGROUND:** Florida Statutes Section 196.075 provides an authorized homestead exemption of \$50,000 to those who have attained the age of 65 and whose household income does not exceed low income as defined by general law.
- This proposed ordinance, sponsored by Councilor Scott Wiley and Mayor Elaine Brown, amends the amount in the Neptune Beach Code of Ordinances Section 21-120 to the maximum rate permitted by F.S. Section 196.075.
- The ordinance was unanimously forwarded to the first read at the May 18, 2020 Council Workshop. It passed unanimously on first read at the June 1, 2020, Regular Council Meeting.
- BUDGET:**
- RECOMMENDATION:** Consider Ordinance No. 2020-03, amending Code Section 21-120, Increasing the Amount of the Additional Homestead Exemption.
- ATTACHMENT:**
1. Ord. No. 2020-03 Addl Homestead Exempt



INTRODUCED BY:
COUNCILOR WILEY
MAYOR BROWN

ORDINANCE NO. 2020-03

A BILL TO BE ENTITLED

AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA, AMENDING CHAPTER 21, TAXATION; ARTICLE VI, ADDITIONAL HOMESTEAD EXEMPTION; AMENDING SECTION 21-120, ADDITIONAL HOMESTEAD EXEMPTION; INCREASING THE AMOUNT OF THE ADDITIONAL HOMESTEAD EXEMPTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VII, Section 6(d), Florida Constitution, authorizes the State Legislature to enact a general law allowing local governments, for the purpose of their respective tax levies, to grant an additional homestead exemption; and

WHEREAS, said Constitutional Amendment provides that an additional homestead exemption not exceeding fifty thousand dollars to a person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age sixty-five, and whose household income does not exceed low income as defined by general law; and

WHEREAS, the State Legislature enacted Chapter 99-341, Laws of Florida, creating Section 196.075, Florida Statutes, implementing then Article VII, Section 6(f), Florida Constitution, (which subsequently became Article VII, Section 6(d), Florida Constitution following the deletion of former s. 6(c) and (d) of the Florida Constitution) effective July 1, 1999, and establishing the right of counties and municipalities to grant an additional homestead tax exemption of up to twenty-five thousand dollars (\$25,000.00) under certain conditions; and

WHEREAS, the State Legislature enacted Chapter 07-4, Laws of Florida, amending Section 196.075(2), Florida Statutes, effective January 1, 2007, to increase the authorized exemption to fifty thousand dollars (\$50,000.00); and

WHEREAS, the Neptune Beach City Council previously adopted Section 21-120 of the City of Neptune Beach Code of Ordinances to provide for an additional homestead exemption accordance with Section 196.075, Florida Statutes, in the amount of twenty-five thousand dollars (\$25,000.00); and

WHEREAS, the Neptune Beach City Council has determined that it is in the interests of the City of Neptune Beach to provide for an additional homestead exemption at the maximum rate permitted by Section 196.075, Florida Statutes and Article VII, Section 6(d), Florida Constitution;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

Section 1. Section 21-120. Additional Homestead Exemption Authorized, be amended as follows:

Sec. 21-120. Additional Homestead Exemption Authorized.

(a) Commencing January 1, ~~2004~~2021, and annually thereafter, pursuant to Article VII, Section 6(d) Florida Constitution, and F.S. 196.075, an additional homestead exemption of ~~twenty-five~~ fifty thousand dollars (~~\$25~~50,000) is hereby authorized for any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained the age of sixty-five (65) and household income does not exceed low income as defined by 196.075, Florida Statutes.

Section 3. Direction to Circulate. The Neptune Beach City Council is hereby directed to provide a copy of this ordinance to the Duval County Property Appraiser's office.

Section 4. Super Majority Vote for Passage of Ordinance. The Florida Statute authorizing the homestead exemption enacted herein requires that the exemption be approved by a super majority vote (a majority plus one) of all members of the governing body to be effective.

Section 5. The Ordinance shall become effective on after passage by the City Council.

VOTE RESULTS OF FIRST READING:

Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Kerry Chin	YES
Councilor Josh Messinger	YES
Councilor Scott Wiley	YES

Passed on First Reading this 1st day of June, 2020.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Elaine Brown
Vice Mayor Fred Jones
Councilor Kerry Chin
Councilor Josh Messinger
Councilor Scott Wiley

Passed on Second and Final Reading this _____ day of _____, 2020.

Elaine Brown, Mayor

ATTEST:

Catherine Ponson, CMC, City Clerk

Approved as to form and
correctness:

Zachary Roth, City Attorney



**CITY OF NEPTUNE BEACH
CITY COUNCIL MEETING
STAFF REPORT**

AGENDA ITEM: Ordinance No. 2020-04, Second Read and Public Hearing, An Ordinance Creating a New Section 2-388 (Buy American Preference in Contracts for Goods and General Services), Chapter 2 (Administration), Article VI (Finance), Division 2 (Purchasing and Contracts), City of Neptune Beach Code of Ordinances, To Create a Preference for American-Made Goods and General Services in Contracts; Providing for Severability; Providing an Effective Date.

SUBMITTED BY: Mayor Elaine Brown

DATE: June 25, 2020

BACKGROUND: Proposed Ordinance No. 2020-04 would establish a City procurement policy that creates a domestic preference for goods and materials that are manufactured, assembled or produced in the United States.

The ordinance, sponsored by Mayor Elaine Brown, was moved forward unanimously to first read at the May 18, 2020, Council workshop. It was passed unanimously on first reading at the June 1, 2020, Regular City Council Meeting,

BUDGET:

RECOMMENDATION:

Consider proposed Ordinance No. 2020-04, which creates a preference for American-Made goods and general services in contracts.

ATTACHMENT:

1. Ord. No. 2020-04 Buy American

INTRODUCED BY:
MAYOR BROWN



ORDINANCE NO. 2020-04

A BILL TO BE ENTITLED

AN ORDINANCE CREATING A NEW SECTION 2-388 (BUY AMERICAN PREFERENCE IN CONTRACTS FOR GOODS AND GENERAL SERVICES), CHAPTER 2 (ADMINISTRATION), ARTICLE VI (FINANCE), DIVISION 2 (PURCHASING AND CONTRACTS), CITY OF NEPTUNE BEACH CODE OF ORDINANCES, TO CREATE A PREFERENCE FOR AMERICAN-MADE GOODS AND GENERAL SERVICES IN CONTRACTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Buy American Act of 1933, 41 U.S.C. 83, requires that the Federal Government in procurement and certain matters involving federal financial assistance utilize U.S. products for the purchase or acquisition of goods, products or materials, as defined in the Buy American Act, whenever possible with some exceptions; and

WHEREAS, in recent years and culminating with the issuance of several Executive Orders, President Trump has issued directives on July 15, 2019, Executive Order 13881 (Maximizing Use of American-Made Goods, Products and Materials), Executive Order 13788 of April 18, 2017 (Buy American and Hire American) and Executive Order 13858 of January 31, 2019 (Strengthening Buy-American Preferences for Infrastructure Projects), which each have reiterated the intent of the Administration to enforce the Buy American Act of 1933 to the greatest extent permitted by law; and

WHEREAS, while the Buy American Act of 1933 only pertains to procurement involving public buildings of the Federal Government and those of certain U.S. territories; and

WHEREAS, the City Council of the City of Neptune Beach (the "City") desires, pursuant to its legislative policy-making authority, to adopt a similar policy as it pertains to City procurement and the expenditure of local public funds, as permitted by federal and state regulations, to create a domestic preference for City procurement purposes of goods and materials that are manufactured, assembled or produced in the United States; and

WHEREAS, the Council finds that establishing a City procurement policy that creates a domestic preference for goods and materials that are manufactured, assembled or produced in the United States promotes the local economy, the economies of neighboring counties and municipalities, as well as strengthens state and

national economic interests, and further promotes security, good government and the general convenience of its citizens, and declares it a valid municipal purpose; and

WHEREAS, it is the firm intent of the City Council that this policy not supplant other federal, state and local law to the extent that this policy would be inconsistent with certain mandates in federal and state law, but is adopted to allow the City to apply a domestic preference for American-made goods and products when local public funds are expended;

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF NEPTUNE BEACH, FLORIDA, THAT:

Section 1. Creating a new Section 2-388 (Buy American preference in contracts for goods and general services), Code of Ordinances. A new Section 2-388 (Buy American preference in contracts for goods and general services), Chapter 2 (Administration), Article VI (Finance), Division 2 (Purchasing and Contracts), City of Neptune Beach Code of Ordinances is hereby created to read as follows:

**CHAPTER 2. ADMINISTRATION
ARTICLE VI. FINANCE
DIVISION 2. PURCHASING AND CONTRACTS**

* * *

Sec. 2-388. Buy American preference in contracts for goods and general services.

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

Bid means a competitive bid procedure established through the issuance of an invitation for bid. The term "bid," as used herein, shall not include requests for proposals (unless specified in the RFP document), requests for qualifications, requests for quotes and requests for information.

Buy American preference means and shall apply to the following products and services that are:

1. *Manufactured*. The term "manufactured" is interpreted to mean to make or process a raw material into a finished product or to turn-out in a mechanical manner;
2. *Assembled*. The term "assembled" is interpreted to mean to fit or to join parts together into a finished product;
3. *Produced*. The term "produced" is interpreted to mean to create or make from raw materials.

To qualify for this preference, 51 percent of the components of the final produce manufactured, assembled or produced to be sold to the City must be

made in the United States. The City Manager shall resolve any issues relating to Buy American preferential status, and that decision on whether a vendor is eligible for a Buy American preference shall be final.

General services means support services performed by an independent contractor requiring specialized knowledge, experience, or expertise.

Goods includes, but is not limited to, supplies, equipment, materials, and printed matter.

(b) Exemptions. The provisions of this section do not apply to:

1. Purchases or contracts with an estimated cost of \$10,000.00 or less. The City Manager and procurement staff will attempt to select products manufactured, assembled or produced in the United States if the quality and price are comparable with other goods.

2. Professional services, which are defined, for purposes of this section, as any services where the City is obtaining advice, instruction, or specialized work from an individual, firm, or corporation specifically qualified in a particular area, and also those services procured pursuant to F.S. § 287.055, the Consultants' Competitive Negotiation Act.

3. Bids for the purchase of, or contract for, the construction/ renovation of public buildings, facilities, public works, or other public construction projects where federal funds are involved. The federal guidelines as to use of the federal funds shall prevail as to the federal funds.

4. Goods or services provided under a cooperative purchasing agreement or utilization of other agency contracts (piggyback contracts).

5. Purchases made or contracts let under emergency or noncompetitive situations (sole source, or a special procurements/bid waiver), or for legal services.

6. The business is determined to be unqualified to perform the work as determined by the City.

7. The business submits a bid that exceeds the projected budget.

8. Projects which have been undertaken by the City prior to the effective date of this section.

(c) Preference in purchase of goods or general services. Except where federal, state or local laws, regulations or policies mandates to the contrary, in the purchase of goods or general services by means of a competitive bid, a preference will be given to a responsive and responsible vendor offering American manufactured, assembled or

produced goods or general services, who is within five percent of the lowest responsive and responsible bidder, by way of an opportunity of providing said goods or general services for the lowest responsive and responsible bid amount.

(d) Preference must be asserted. Said five percent Buy American preference must be asserted by the party seeking it at the time of the competitive bid with the submittal of documentation supporting the assertion that a product is American manufactured, assembled or produced, and shall be calculated by the procurement division in rating competitive bids.

(e) Comparison of qualifications. The preferences established herein in no way prohibit the right of the City Manager or their designee to compare quality of goods or general services proposed for purchase and compare qualifications, character, responsibility and fitness of all person, firms or corporations submitting bids. Further, the preferences established herein in no way prohibit the right of the City Manager or their designee from determining based on criteria and standards developed administratively to allow for selection by preference permitted in another section of this Article.

(f) Waiver. The application of the Buy American preference to a particular purchase, contract, or category of contracts in excess of \$100,000.00 for goods and general services may be waived upon written recommendation of the City Manager and approval of the City Council.

(g) Administrative Policy for Implementation. The City Manager shall be charged with the responsibility to promulgate an administrative policy or regulations consistent with this Section which establishes criteria and procedures for the implementation of this policy including matters involving the consideration of exemptions, comparison of qualifications, and waiver of the policy as provided herein.

(h) Declaration of municipal purpose. It is hereby declared that the carrying out of the purposes of this section by the City is deemed to be furthering a proper municipal purpose.

Section 2. Severability. If any section, sentence, clause, phrase, or word of this Ordinance is, for any reason, held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Ordinance, and it shall be construed to be the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein.

Section 3. Effective Date. This Ordinance shall become immediately upon passage by the City Council.

VOTE RESULTS OF FIRST READING:

Mayor Elaine Brown	YES
Vice Mayor Fred Jones	YES
Councilor Kerry Chin	YES
Councilor Josh Messinger	YES
Councilor Scott Wiley	YES

Passed on First Reading this 1st day of June, 2020.

VOTE RESULTS OF SECOND AND FINAL READING:

Mayor Elaine Brown
Vice Mayor Fred Jones
Councilor Kerry Chin
Councilor Josh Messinger
Councilor Scott Wiley

Passed on Second and Final Reading this _____ day of _____, 2020.

Elaine Brown, Mayor

ATTEST:

Catherine Ponson, CMC, City Clerk

Approved as to form and
correctness:

Zachary Roth, City Attorney

**EMERGENCY RULE
REGARDING TO COVID-19 PANDEMIC**

**EMERGENCY RULE TO TEMPORARILY SUSPEND
TIME PROVISIONS OF SECTION 4-2(a) OF THE CODE
OF ORDINANCES OF THE CITY OF NEPTUNE BEACH,
FLORIDA; TO REVERT THE TIMES IN SUCH SECTION
TO THE TIME PROVISIONS OF FLA. STAT. §562.14(1);
TO PROVIDE FOR AN EFFECTIVE DATE; AND TO
PROVIDE FOR TERMINATION.**

WHEREAS, on March 1, 2020, in response to the World Health Organization's declaration of COVID-19 as a Public Health Emergency of International Concern, Governor Ron DeSantis issued Executive Order Number 20-51, declaring a State of Florida Public Health Emergency associated with the threat to Florida residents associated with COVID-19 and invoking the State of Florida emergency response actions by the Florida Department of Health and the State Health Officer; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order Number 20-52, directing the Director of the Division of Emergency Management, as the State Coordinating Officer, to execute State of Florida's Comprehensive Emergency Management Plan and other response, recover, and mitigation plans necessary to cope with the emergency; and

WHEREAS, on March 13, 2020, President Donald J. Trump declared a national emergency to combat COVID-19; and

WHEREAS, on March 14, 2020, Mayor Elaine Brown and City Manager Stefen Wynn declared a local emergency to combat COVID-19 on behalf of the City of Neptune Beach (the "City"); and

WHEREAS, on March 16, 2020, President Donald J. Trump and the Centers for Disease Control and Prevention ("CDC") issued the "15 Days to Slow the Spread" guidance advising individuals to adopt far-reaching social distancing measures, such as working from home and avoiding gatherings of more than 10 people; and

WHEREAS, on April 1, 2020, Governor Ron DeSantis issued Executive Order Number 20-91, which limited commercial and other activities to Essential Services and Essential Activities as defined therein; and

WHEREAS, on April 29, 2020, Governor Ron DeSantis issued Executive Order Number 20-112, initiating Phase 1 of the Safe. Smart. Step-by-Step. Plan for Florida's Recovery; and

WHEREAS, on May 14, 2020, Governor Ron DeSantis issued Executive Order Number

20-123, fully implementing Phase 1 of the Safe. Smart. Step-by-Step. Plan for Florida's Recovery; and

WHEREAS, on June 3, 2020, Governor Ron DeSantis issued Executive Order Number 20-139, initiating Phase 2 of the Safe. Smart. Step-by-Step. Plan for Florida's Recovery; and

WHEREAS, Phase 2 of such plan authorizes restaurants and other establishments, and bars and other vendors licensed to sell alcoholic beverages for consumption on the premises, to operate at fifty (50) percent of their indoor capacity, excluding employees, as under Executive Order 20-123, Section 1; and

WHEREAS, recent data and reports evidence an alarming increase in reported positive tests of COVID-19 throughout the United States and Florida, especially among persons in the 20s and 30s age groups; while locally, reports show a similar concern; and

WHEREAS, locally there have been many reports from employees, patrons, groups, owners and managers of restaurants, bars and other establishments that sell alcoholic beverages on-premises, that they have experienced a rapid increase in positive tests for COVID-19; causing many establishments to voluntarily close and take mitigation measures to protect their staff and patrons; and

WHEREAS, a large number of patrons and social gatherings in establishments focused primarily on the service of alcoholic beverages and entertainment related to such service are not adhering to social gathering protocols set forth by the CDC and Florida Department of Health, and encouraged by the Governor and the Task Force to Re-Open Florida; and

WHEREAS, reports indicate that the large crowds, reduced social distancing, and other personal contact occurring in establishments focused primarily on the service of alcoholic beverages and entertainment related to such service have significantly contributed to such increases in positive cases of COVID-19; and

WHEREAS, residents and businesses have expressed concern and request local safety measures be taken to ensure the health, safety, and welfare of the citizens and community, and to diminish the imminent threat posed by the close social interaction associated with these types of establishments; and

WHEREAS, Section 4-2(a) of the Code of Ordinances of the City provides that "It shall be unlawful for any licensee to sell, offer for sale, serve, give away, dispense or dispose of alcoholic beverages, or permit the same to be consumed upon any licensed premises between the hours of 2:00 a.m. and 7:00 a.m. all days of the week"; and

WHEREAS, Fla. Stat. §562.12(1) provides that "Except as otherwise provided by county or municipal ordinance, no alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the division between the hours of midnight and 7 a.m. of the following day"; and

WHEREAS, pursuant to §252.46, Fla. Stat., the political subdivisions of the state are authorized and empowered to make, amend, and rescind such orders and rules as are

necessary for emergency management purposes; and

WHEREAS, reducing the hours during which patrons may be exposed to large crowds, reduced social distancing, and other contact occurring in these establishments is anticipated to reduce the spread of COVID-19 and result in fewer new positive cases of COVID-19; and

WHEREAS, such limitations will help ensure the health, safety, and welfare of the community and advance the compelling government interest in reducing the spread of COVID-19 in the community, residents, patrons, and staff associated with these establishments; and

WHEREAS, these limitations are necessary and narrowly tailored to achieve that purpose; and

WHEREAS, pursuant to the City's *Comprehensive Municipal Emergency Management Plan*, the City may issue orders and regulations to protect life and property, including curfews; and

WHEREAS, the following rules and procedures are not inconsistent with any Executive Order or other applicable law.

NOW THEREFORE, the following rules are implemented and take immediate effect:

1. SUSPENSION

The time provisions contained in Section 4-2(a) of the Code of Ordinances are hereby suspended. During the effectiveness of this rule, the time limitations provided in Fla. Stat. §562.14(1) shall apply and it shall be unlawful for any licensee to sell, offer for sale, serve, give away, dispense or dispose of alcoholic beverages, or permit the same to be consumed upon any licensed premises between the hours between the hours of midnight and 7 a.m. of the following day.

2. EFFECT

All establishments with on-premises alcohol sales permits are directed to comply with this rule and to cooperate with public officials and safety personnel, and to obey and comply with lawful direction of all public officers during the period stated in Section 1 above. Authorized law enforcement, fire marshal and code enforcement personnel shall have authority to enforce compliance with this rule. This rule has full force and effect of law. Violation of this rule is a second-degree misdemeanor pursuant to section 252.50, Florida Statutes, and is punishable by imprisonment not to exceed 60 days, a fine not to exceed \$500, or both.

3. TIME

This rule shall take effect at 12:01 a.m. on Saturday, June 27, 2020 and shall remain in effect until the earliest of:

1. The local state of emergency for COVID-19 expires; or
2. The state of emergency declared by the State of Florida for COVID-19 expires; or
3. Amendment or rescission of this rule by the City.

4. AMENDMENT

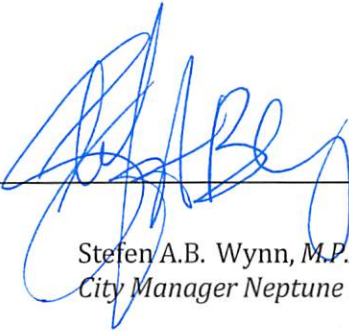
The City reserves the right to amend this rule as it deems necessary or appropriate.

IT IS SO DECLARED AND ORDERED THIS 25TH DAY OF JUNE, 2020.

THE CITY OF NEPTUNE BEACH, FLORIDA

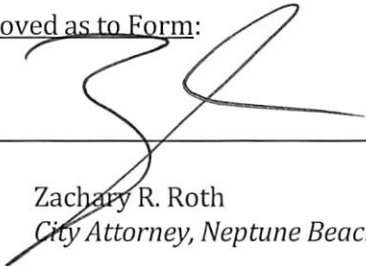
By: 

Elaine Brown
Mayor, Neptune Beach

By: 

Stefen A.B. Wynn, M.P.A.
City Manager Neptune Beach

Approved as to Form:

By: 

Zachary R. Roth
City Attorney, Neptune Beach

Attested:

By: 

Catherine B. Ponson, CMC
City Clerk, Neptune Beach