

**REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT**

**APPLICATION FOR ZONING EXCEPTION E-23-76 (2023-0830)**

**JANUARY 17, 2024**

***Location:*** 10601 San Jose Boulevard  
Between Peachtree Circle North and Ridgeland Road

***Real Estate Number:*** 155958-0015

***Zoning Exception Sought:*** Restaurant with the retail sale and service of all alcohol for on-premises consumption, outside sale and service

***Current Zoning District:*** Commercial Community/General-1 (CCG-1)

***Current Land Use Category:*** Community General Commercial (CGC)

***Planning District:*** Southeast-District 3

***Council District:*** District 6

***Agent:*** Ray Spofford  
England-Thims & Miller, Inc.  
14775 Old St. Augustine Road  
Jacksonville, Florida 32258

***Owner:*** Chris Ruen  
Equity Landing, Inc.  
PO Box 2539  
San Antonio, Texas 78299

***Staff Recommendation:*** **APPROVE**

**GENERAL INFORMATION**

Application for Exception **E-23-76** seeks to permit the retail sale and service of all alcoholic beverages for on-premises consumption and outside sale and service in conjunction with a restaurant for a property zoned Commercial Community/General-1 (CCG-1). The subject property is approximately 17.26± acres and developed with a Whole Foods and shopping center. The submitted site plan shows a new proposed building labeled 'retail', which will also have the *Another Broken Egg* restaurant with a proposed outdoor seating area. This new building will be south of the existing Whole Foods.

### **DEFINITION OF ZONING EXCEPTION**

According to Section 656.1601 of the Zoning Code, *exception* means a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, could promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permissible in the zoning district as exceptions if specific provision for the exception is made in the Zoning Code and the uses are found by the Commission to be in conformity with the standards and criteria for granting the same contained in Section 656.131(c) thereof.

### **STANDARDS, CRITERIA AND FINDINGS**

Pursuant to the provisions of Section 656.131(c) of the Zoning Code, the Commission shall grant an exception only if it finds from a preponderance of the evidence that the exception meets, to the extent applicable, the following standards and criteria:

**(i) *Will the proposed use be consistent with the Comprehensive Plan?***

Yes. The site is located in the Community/ General Commercial (CGC) land use category of the Urban Development Area. The subject site is located within Council District 6 and Planning District 3. It is located on the east side of San Jose Boulevard just north of Hartley Road. According to the Functional Highway Classification Map, San Jose Boulevard is a minor arterial roadway and Hartley Road is a collector roadway.

Principal uses within the CGC land use category include but are not limited to commercial retail sales and service establishments, including auto sales, funeral homes, and broadcasting offices and studios, restaurants, hotel, motel, offices, microbreweries, financial institutions and multi-family dwellings. CGC in the Suburban Area is intended to provide development in a nodal development pattern.

The proposed exception is consistent with the CGC land use category.

#### **Future Land Use Element (FLUE):**

**Policy 1.1.7**

Gradual transition of densities and intensities between land uses in conformance with the provisions of this element shall be achieved through zoning and development review process.

*The proposed requests for the retail sale and service of all alcoholic beverages for on-premises consumption in conjunction with a restaurant and outside sale and service would result in the intensification of a uses. Therefore, requires*

*zoning and development review. Staff does not anticipate this intensification of uses to impact the land use.*

**Goal 3**

To achieve a well-balanced and organized combination of residential, non-residential, recreational and public uses served by a convenient and efficient transportation network, while protecting and preserving the fabric and character of the City's neighborhoods and enhancing the viability of non-residential areas.

*The subject property is located in the center of an area designated for commercial uses and is surrounded by complementary zoning districts. The approval of this exception will not create a use out of character for the area and will not hinder the character of the City's neighborhoods or residential areas but would rather serve the surrounding residential neighborhood with additional commercial uses.*

**Airport Environment Zone**

The site is located within the 300-foot Height and Hazard Zone for the Naval Air Station Jacksonville. Zoning will limit development to a maximum height of 300 feet, unless approved by the Jacksonville Aviation Authority or the Federal Aviation Administration. Uses located within the Height and Hazard Zone must not create or increase the potential for such hazards as electronic interference, light glare, bird strike hazards or other potential hazards to safe navigation of aircraft as required by Section 656.1005.1(d).

**Objective 2.6**

Support and strengthen the role of Jacksonville Aviation Authority (JAA) and the United States Military in the local community, and recognize the unique requirements of the City's other airports (civilian and military) by requiring that all adjacent development be compatible with aviation-related activities in accordance with the requirements of Section 163.3177, F.S.

**Archaeological Sensitivity**

According to the Duval County Archaeological Predictive Model, the subject property is located within an area of low sensitivity for the presence of archaeological resources. If archaeological resources are found during future development/redevelopment of the site, Section 654.122 of the Code of Subdivision Regulations should be followed.

- (ii) *Will the proposed use be compatible with the existing contiguous uses or zoning and compatible with the general character of the area, considering population density, design, scale and orientation of structures to the area, property values, and existing similar uses or zoning?*

Yes. The proposed use is similar to other uses in the vicinity. Adjacent land uses and zoning districts are as follows:

<b>Adjacent Property</b>	<b>Land Use Category</b>	<b>Zoning District</b>	<b>Current Use</b>
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<b>North</b>	CGC	CCG-1	Shopping Center
<b>South</b>	CGC	CCG-1	Hotel, Restaurant/Fast Food
<b>East</b>	LDR	RLD-70/RLD-90	Single Family Dwellings
<b>West</b>	CGC	CCG-1	Gas/Convenience Store

**(iii) Will the proposed use have an environmental impact inconsistent with the health, safety, and welfare of the community?**

No. The requests for outdoor seating and alcohol sales and service will take place within a newly developed structure. These requests are common, and the applicant will be required to meet all applicable environmental regulations.

**(iv) Will the proposed use have a detrimental effect on vehicular or pedestrian traffic, or parking condition? Will the proposed use result in the creation or generation of traffic inconsistent with the health, safety and welfare of the community?**

No. The traffic circulation pattern of the site allows for the safe movement of traffic for the proposed commercial uses on the property. The site is accessible to vehicular and pedestrian traffic from San Jose Boulevard and Hartley Road. There is ample off-street parking for the shopping center and the new structure is being built for the proposed *Another Broken Egg* restaurant. Also, the site plan shows additional parking at the rear of the proposed new building south of the existing *Whole Foods*.

**(v) Will the proposed use have a detrimental effect on the future development of contiguous properties or the general area?**

No. The proposed exception will not have a detrimental effect on the future development of contiguous properties or the general area since the area is mostly developed with a mix of commercial uses. It is not expected that the outside seating in connection with a restaurant or the retail sale and service of all alcoholic beverages for on-premises consumption will have any negative impact on the surrounding property as there are many other restaurants that permit outside seating and have all alcoholic beverage sales for on-premises consumption along San Jose Boulevard.

**(vi) Will the proposed use result in the creation of objectionable or excessive noise, lights, vibrations, fumes, odors, dust or physical activities, taking into account existing uses or zoning in the vicinity?**

No. The proposed use of outside seating and retail sale and service of all alcoholic beverages for on-premises consumption will not result in the creation of objectionable or excessive noise, lights, vibrations, fumes, odors, dust or physical activities out of character for the surrounding area as it will be within a commercial shopping center.

**(vii) Will the proposed use overburden existing public services and facilities?**

No. The proposed use will not overburden existing public services or facilities. This is an existing commercial center. Therefore, there will not be an increased demand for public services.

- (viii) *Will the site be sufficiently accessible to permit entry onto the property for fire, police, rescue and other services?*

Yes. The subject property is accessible from San Jose Boulevard and Hartley Road to permit adequate access for fire, police, rescue, and other service vehicles.

- (ix) *Will the proposed use be consistent with the definition of a zoning exception and meet the standards and criteria of the zoning classification in which such use is proposed to be located?*

Yes. According to Section 656.1601 of the Zoning Code, *exception* means a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location or relation to the neighborhood, could promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. The proposed exception is appropriate in this location and consistent with the definition of a zoning exception. As more fully set forth in the foregoing findings and conclusions, the requested use at this location is consistent with the definition of a zoning exception.

Performance standards for Outside Seating in Section **656.401(ee)(2)(i-iii) (Outside sale and service)** of the Zoning Code are as follows:

- (i) *The area for the outside sale and service shall be limited to an area which is contiguous to an existing licensed facility or establishment.*

The proposed outside seating area will be located within a newly constructed structure and the outside seating will be south of the building and therefore is contiguous to the licensed facility or establishment.

- (ii) *The outside area shall be no greater than the inside area for sale and service.*

The outside seating will be located under a covered patio area next to the restaurant and the site plan does not depict the outside seating area greater than the inside area.

- (iii) *The outside area shall be surrounded by a permanent railing or other barrier at least three and a half feet high; provided, that the barrier may be broken by up to two entranceways no more than four feet wide each.*

The outside seating area will be required to provide a permanent railing or other barrier at least three and a half feet in height in order to be in compliance with Part 4 requirements.

#### **SUPPLEMENTARY INFORMATION**

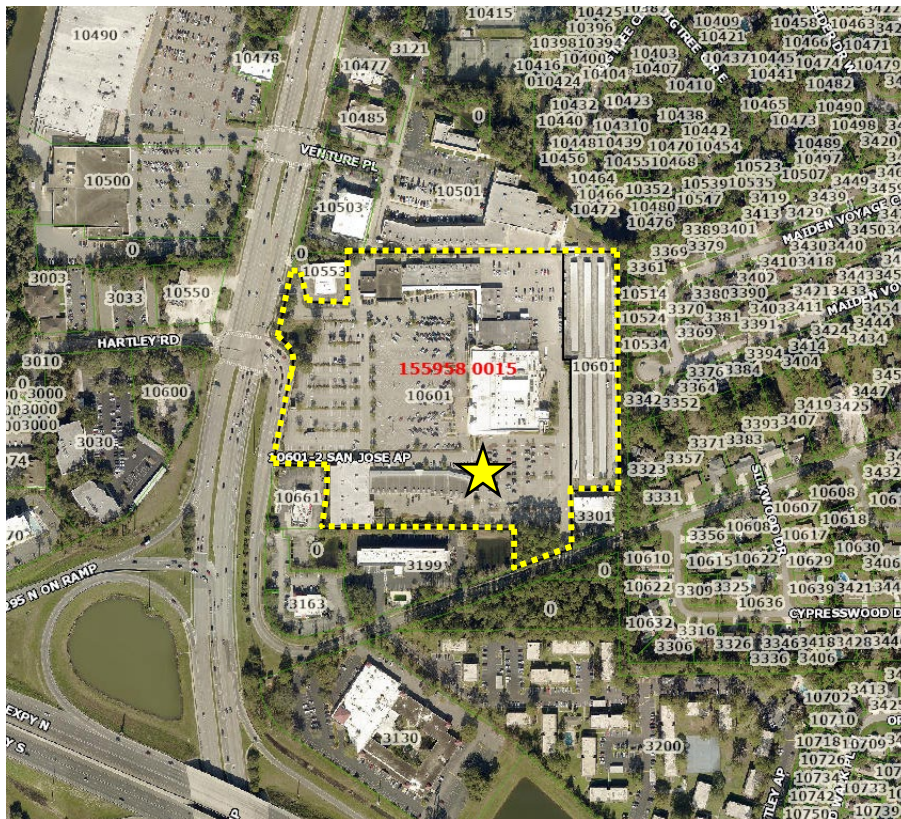
Upon visual inspection of the subject property on **December 12, 2023**, the Planning and

Development Department staff observed that the required Notice of Public Hearing signs were posted.



**RECOMMENDATION**

Based on the foregoing, it is the recommendation of the Planning and Development Department that Application for Zoning Exception E-23-76 be **APPROVED**.

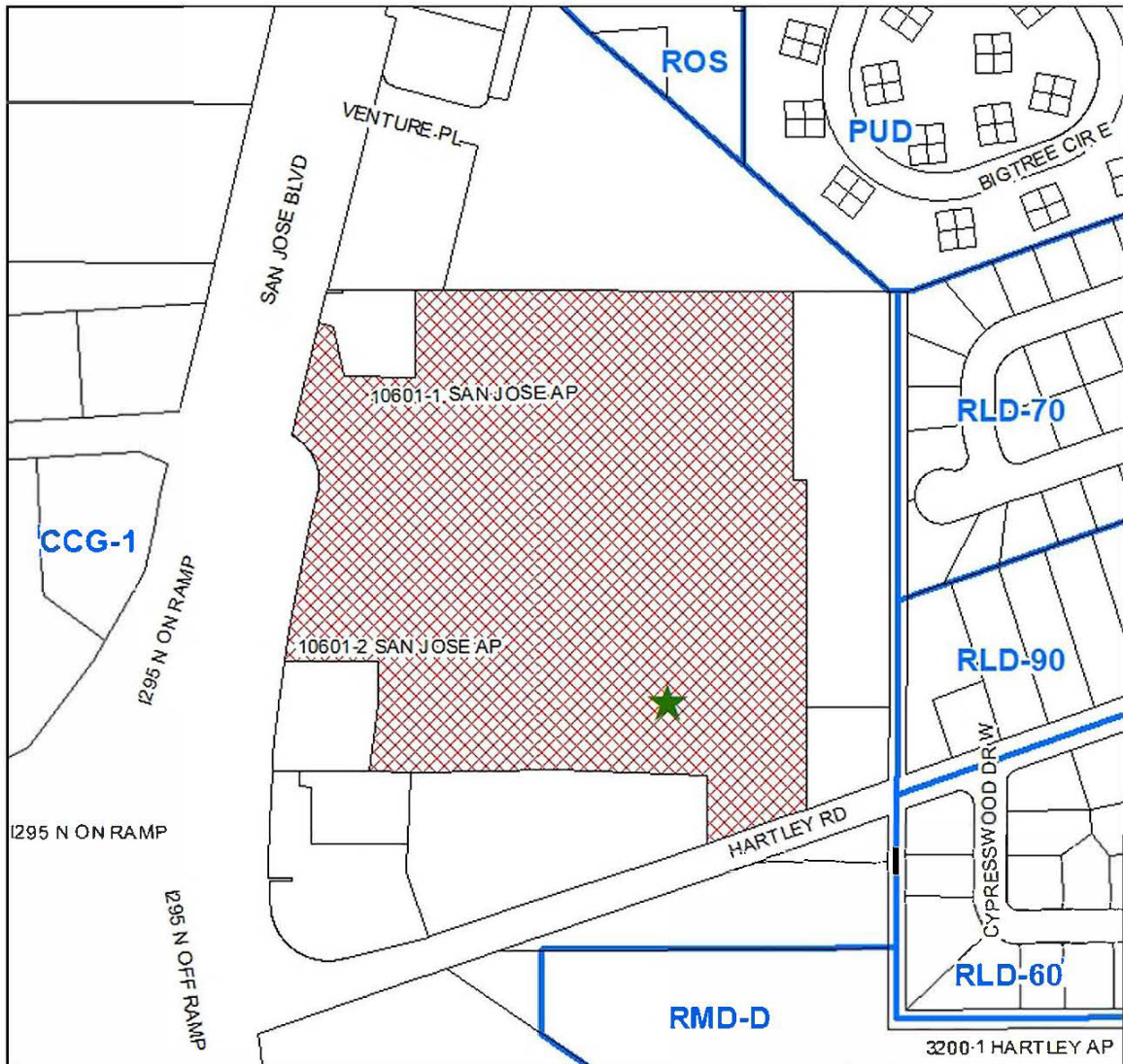


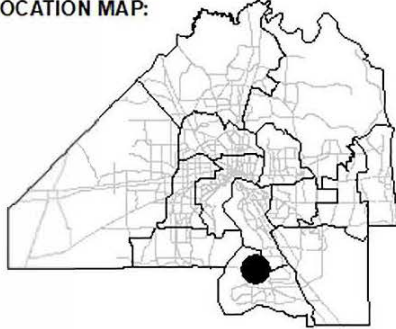
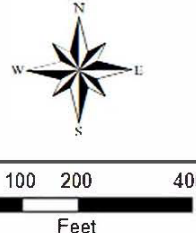
**Aerial View**

*Source: JaxGIS*



**View of Subject Property.**



<p><b>REQUEST SOUGHT:</b></p> <p>AN ESTABLISHMENT OR FACILITY WHICH INCLUDES THE RETAIL SALE AND SERVICE OF ALL ALCOHOLIC BEVERAGES INCLUDING LIQUOR, BEER, OR WINE FOR ON-PREMISES CONSUMPTION. PERMANENT OUTSIDE SALE AND SERVICE, MEETING THE PERFORMANCE STANDARDS AND DEVELOPMENT CRITERIA SET FORTH IN PART 4. RESTAURANTS WITH THE OUTSIDE SALE AND SERVICE OF FOOD MEETING THE PERFORMANCE STANDARDS AND DEVELOPMENT CRITERIA SET FORTH IN PART 4.</p>	<p><b>LOCATION MAP:</b></p>  <p><b>TRACKING NUMBER</b> <b>T-2023-4999</b></p>	 <p><b>COUNCIL DISTRICT:</b> <b>6</b></p> <p><b>EXHIBIT 2</b> <b>PAGE 1 OF 1</b></p>
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**Legal Map**