

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT**APPLICATION FOR ZONING EXCEPTION E-23-60 (2023-0664)****November 7, 2023**

Location: 6178 Townsend Road

Real Estate Number: 098923-0000

Zoning Exception Sought: Retail sale of beer or wine for on-premises consumption

Current Zoning District: Planned Unit Development (1999-0807-E)

Current Land Use Category: Neighborhood Commercial (NC)

Planning District: 4 - Southwest

Applicant/Agent: Brett Isaac
2151 University Boulevard South
Jacksonville, Florida 32216

Owner: Nader Khazaal
5437 Sheri Lane
Jacksonville, Florida 32207

Staff Recommendation: **DENY**

GENERAL INFORMATION

Application for Zoning Exception **E-23-60 (2023-0664)** seeks to allow the retail sale of beer or wine for on-premises consumption. The subject site, Mercado Imperial Market, is located along Townsend Road. It is currently operating as a convenience store and sells beer and wine for off-premises consumption. The property was developed in 1975 with a one-story commercial structure and the subject site is approximately 0.39 acres. Within the commercial complex there is the subject store and a Pro Cutz. The property to the east is also a one-story commercial structure – operating as a Sherwin-Willaims paint store. The rest of the surrounding area is residential.

The property is currently zoned as a PUD (1999-0807-E), which states that a convenience store opened in 1979 and was leased to Lil' Champ Food Stores until 1994. There have been a variety of tenants from 1994-1999. In 2010 the site was rezoned to RMD-E – now the RLD-80 zoning district – grandfathering this property for retail sales. The 1999-0807 PUD permitted the owner to reopen as a convenience store and allow the retail sales of beer or wine for off-premises consumption as a permitted use. The other permitted uses and permissible uses by exception align with the Commercial Neighborhood (CN) zoning district. The need for this application is for commercial retail sales of beer or wine for on-premises consumption use only being a permissible

use by an exception in the CN zoning district.

Staff is recommending denial for the retail sale and service of beer or wine for on-premises consumption as the surrounding area is residential in nature. Additionally, Staff have received several phone calls that the use of on-premises consumption of beer or wine is taking place before the hearing of this Zoning Exception.

DEFINITION

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 Planning 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 2045 Comprehensive Plan?*

Yes. The 0.39-acre site is located in the Neighborhood Commercial (NC) land use category of the Suburban Development Area.

NC is a category primarily intended to provide commercial retail and service establishments which serve the daily needs of nearby residential neighborhoods. Principal uses within the NC land use category include, but are not limited to, offices, multi-family dwellings, financial institutions, and restaurants.

While the proposed exception is consistent with the NC land use category, the use of on-premises consumption of beer or wine is not compatible with the surrounding area.

The proposed exception is not consistent with the following goals, objectives, policies and/or text of the 2045 Comprehensive Plan Future Land Use Element:

Policy 1.1.22

Future development orders, development permits and plan amendments shall maintain compact and compatible land use patterns, maintain an increasingly efficient urban service delivery system, and discourage urban sprawl as described in the Development Areas and the Plan Category Descriptions of the Operative Provisions.

The proposed use of retail sales and service for on-premises consumption is not compatible with the surrounding land uses, as there is primarily residential development in the area.

Policy 3.1.1

The City shall eliminate incompatible land uses or blighting influences from potentially stable, viable residential neighborhoods through active code enforcement and other regulatory measures.

The proposed commercial use is permissible by approval of a Zoning Exception, but the addition of this commercial use does not fit the character of the surrounding residential neighborhood.

Airport Environmental 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).

Adaptation Action Area

A small portion of the site along the southern boundary is within the AAA. The AAA boundary is a designation in the City's 2045 Comprehensive Plan which identifies areas that experience coastal flooding due to extreme high tides and storm surge, and that is vulnerable to the related impacts of rising sea levels for the purpose of prioritizing funding for infrastructure needs and adaptation planning. The AAA is defined as those areas within the projected limit of the Category 3 storm surge zone, those connected areas of the 100-year and 500-year Flood Zone, and additional areas determined through detailed flood analysis.

The applicant is encouraged to consider site design measures, such as clustering development away from the AAA, to protect development from the impacts of flooding.

Archaeological Sensitivity

According to the Duval County Archaeological Predictive Model, the subject property is located within an area of high sensitivity for the presence of archaeological resources. Projects that move forward through the Site Review process may be required to perform a Professional Archaeological Reconnaissance Survey. 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?*

No. The proposed use of retail sale and service of beer or wine for on-premises consumption will not be compatible with the surrounding uses and zoning, in that its proposed location is surrounded by residential development. The pond abuts the western side and south rear property lines of the subject site. This pond is the only area that does not have any development but is adjacent to residential properties. The surrounding area has the following attributes:

Adjacent Property	Land Use Category	Zoning District	Current Property Use
North	MDR	RMD-A	Single Family Dwelling
South	MDR	PUD (1998-0223)	Pond
East	MDR	RMD-D	Paint Store
West	MDR	PUD (1998-0223)	Pond

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

Yes, the Planning and Development Department finds that the proposed use is likely to be inconsistent with the health, safety, and welfare of the community. As previously mentioned, City Planners within the Planning and Development Department have received phone calls requesting more information about this Zoning Exception. Once we explain the intent of the Zoning Exception, they have informed staff that this use has already been happening on property, has increased noise levels, and has continued until the early morning hours.

(iv) *Will the proposed use have a detrimental effect on vehicular or pedestrian traffic, or parking conditions, and will not result in the creation or generation of traffic inconsistent with the health, safety, and welfare of the community?*

Yes and no. While the proposed use will not have a direct effect on pedestrian traffic, it could generate more vehicular traffic that will negatively affect the community. Additionally, the property has parking, but if they were to need more during peak hours, this could create a nuisance for the area with cars not parked in designated parking areas. It is also important to note that the property must remain ADA compliant.

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

No. The surrounding area is already fully developed, excluding 6210 Townsend Road with a pond, which is owned by the City of Jacksonville and part of PUD 1998-0223. The Sherwin Williams paint shop to the east is a legal non-conforming use, while the rest of the area has conforming residential properties.

(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?*

Yes. As previously stated, the Planning and Development Department has already received calls from the neighboring properties of patrons making noise during the early hours of the morning, as

local residents have stated that the property has already been serving on-premises before this Zoning Exception application has been heard. The local residents have stated they submitted concerns through code compliance, but no warning or citation has been issued at this time.

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

No, the proposed use is unlikely to overburden existing public services and facilities due to the fact that it will be located within an existing commercial shopping center. The application states the property is serviced by city water and city sewer.

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

Yes. The subject site has an existing shopping complex that will be sufficiently accessible for emergency services via access from Townsend Road.

(ix) *Will the proposed use be consistent with the definition of a zoning exception, and will meet the standards and criteria of the zoning classification in which such use is proposed to be located, and all other requirements for such use set forth elsewhere in the Zoning Code, or otherwise adopted by the Planning Commission?*

No. It is in the opinion of the Planning and Development Department that the proposed exception for retail sale and service of beer or wine for on-premises consumption is inconsistent with the standards and criteria of this PUD and all other standards and criteria of the Zoning Code relative thereto.

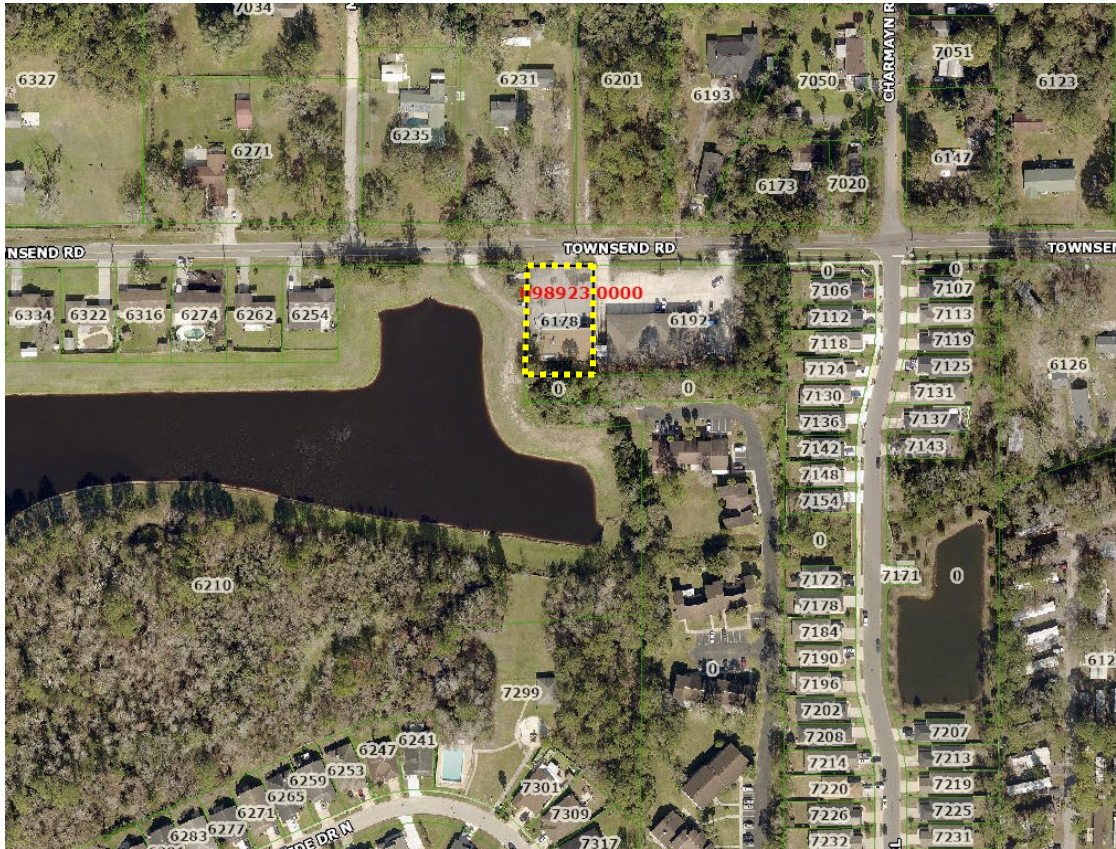
SUPPLEMENTARY INFORMATION

Upon visual inspection of the subject property on October 17, 2023, by the Planning and Development Department, the Notice of Public Hearing sign **was** posted.



RECOMMENDATION

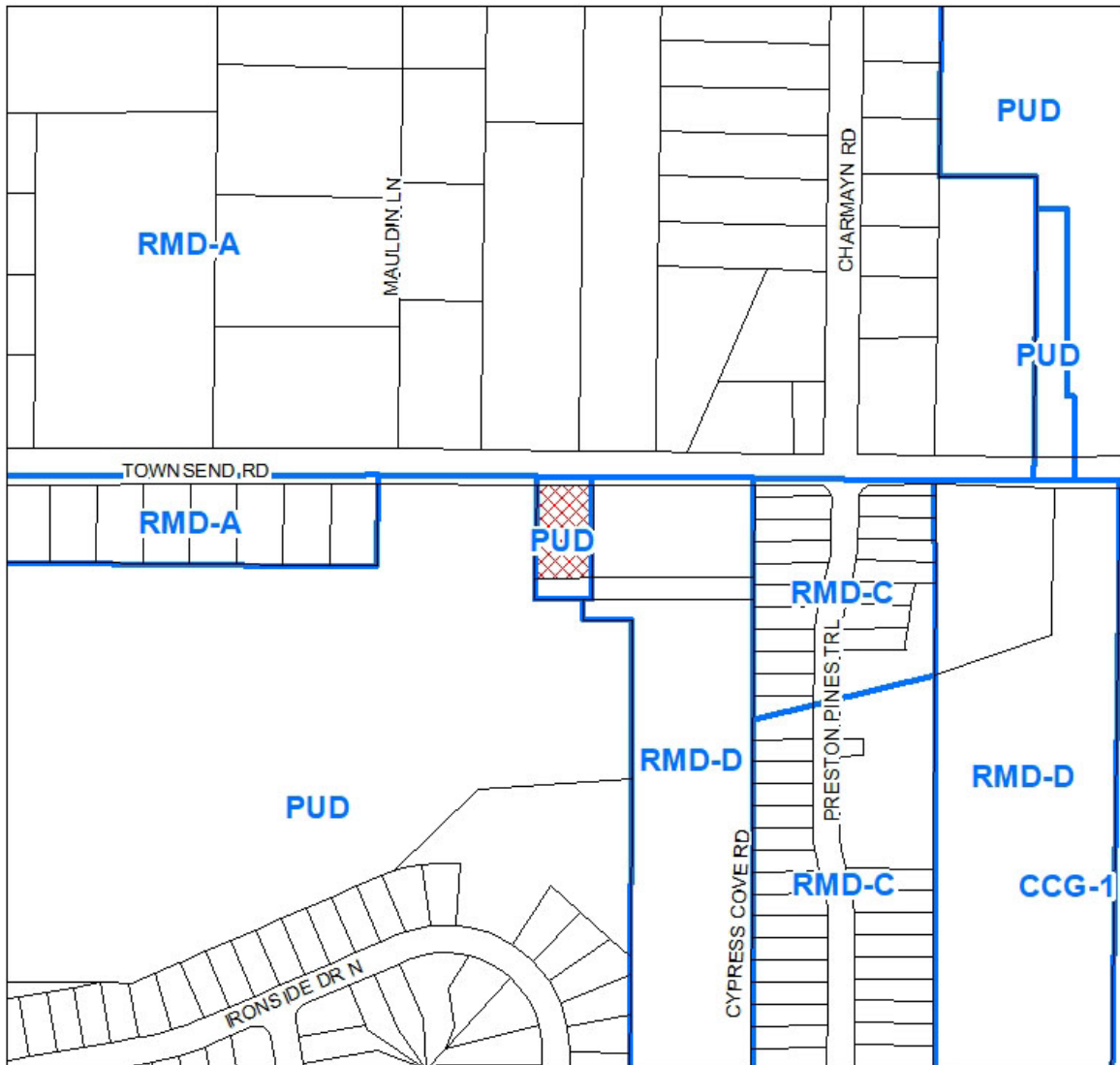
Based on the foregoing, it is the recommendation of the Planning and Development Department that Application for Zoning Exception **E-23-60 (2023-0664)** be **Denied**.

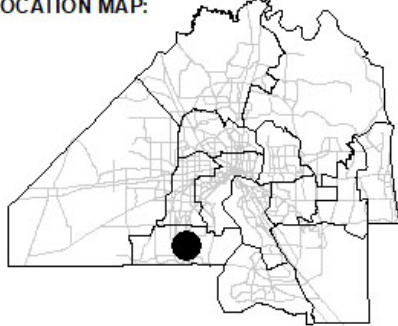
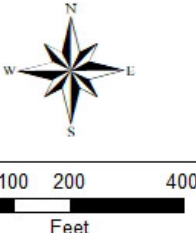


Aerial View



View of the Subject Site



<p>REQUEST SOUGHT:</p> <p>RETAIL SALES OF BEER OR WINE FOR ON- PREMISES CONSUMPTION</p>	<p>LOCATION MAP:</p> 	 <p>0 100 200 400 Feet</p>
<p>ORDINANCE NUMBER ORD-2023-0664</p>	<p>TRACKING NUMBER E-23-60</p>	<p>COUNCIL DISTRICT: 14</p> <p>EXHIBIT 2 PAGE 1 OF 1</p>

Legal Map