

REPORT OF THE PLANNING AND DEVELOPMENT DEPARTMENT

APPLICATION FOR ZONING EXCEPTION E-23-77 (2023-0831)

JANUARY 17, 2024

Location: 10601 San Jose Boulevard,
East of San Jose Boulevard and North of Hartley
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-23-77 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 a shopping center. The submitted site plan shows a proposed outdoor seating area for a restaurant, *Enza's Italian Restaurant*, that already exists.

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):

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 within a shopping center and is currently operating as a restaurant. This use, if approved, will provide an additional non-residential use that will serve the surrounding residential properties to provide a combination of uses in the area.

Objective 3.2

Promote and sustain the viability of existing and emerging commercial and industrial areas in order to achieve an integrated land use fabric which will offer a full range of employment, shopping, and leisure opportunities to support the City's residential areas.

The proposed outdoor seating at the established Enza's Italian Restaurant will provide an additional use to the surrounding neighborhood and offer an additional leisure opportunity within a shopping center.

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:

Adjacent Property	Land Use Category	Zoning District	Current Use
North	CGC	CCG-1	Shopping Center
South	CGC	CCG-1	Hotel, Restaurant/Fast Food
East	LDR	RLD-70/RLD-90	Single Family Dwellings
West	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 the confines of an existing developed structure currently operating as a restaurant within a shopping center. 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 commercial uses on the property. The site is accessible to vehicular and pedestrian traffic from San Jose Boulevard and an ingress egress from San Jose Boulevard to Hartley Road. There is ample parking already provided on site as this property is located within a commercial shopping center.

- (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.

- (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 and there is no increase in enclosed space. Therefore, there will not be an increased demand of 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 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 is located in front of the entrance to *Enza's Italian Restaurant* and therefore is contiguous to the existing 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 in front of 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



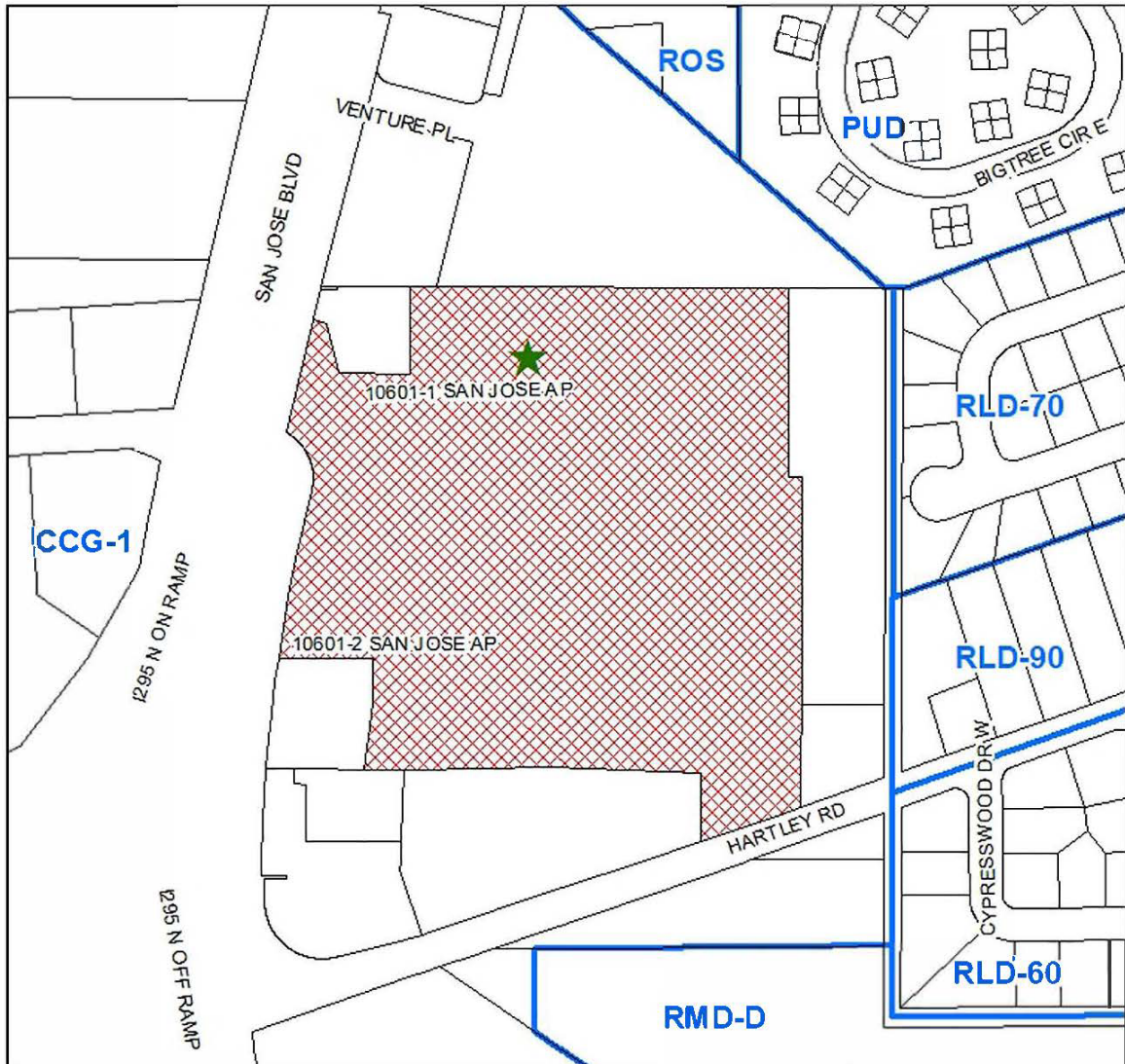
View of Subject Property

*Source: City of Jacksonville Planning & Development Department
Date: December 12, 2023*



View of Proposed Outdoor Seating Area.

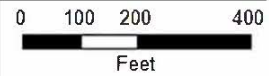
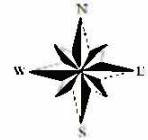
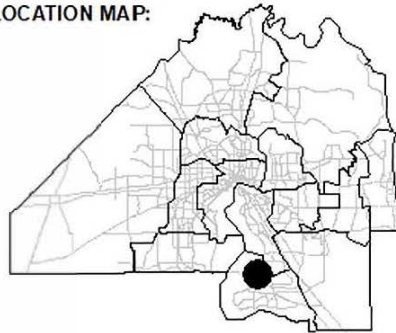
*Source: City of Jacksonville Planning & Development Department
Date: December 12, 2023*



REQUEST SOUGHT:

AN ESTABLISHMENT OR FACILITY WHICH INCLUDES THE RETIAL 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.

LOCATION MAP:



COUNCIL DISTRICT:

6

TRACKING NUMBER

T-2023-5115

**EXHIBIT 2
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Legal Map