

1 Introduced and amended by the Land Use and Zoning Committee:
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3

4 **ORDINANCE 2024-786-E**

5 AN ORDINANCE REZONING APPROXIMATELY 1.37± ACRES
6 LOCATED IN COUNCIL DISTRICT 4 AT 0 BEACH
7 BOULEVARD, BETWEEN PALM LANE AND GROVE PARK
8 BOULEVARD (R.E. NO(S). 136291-0000 AND 136380-
9 0000), AS DESCRIBED HEREIN, OWNED BY MODWELLING,
10 LLC, FROM RESIDENTIAL LOW DENSITY-90 (RLD-90)
11 DISTRICT AND COMMERCIAL COMMUNITY/GENERAL-
12 1 (CCG-1) DISTRICT TO PLANNED UNIT DEVELOPMENT
13 (PUD) DISTRICT, AS DEFINED AND CLASSIFIED UNDER
14 THE ZONING CODE, TO PERMIT MULTIFAMILY DWELLING
15 UNITS AS DESCRIBED IN THE POTTSBURG CREEK
16 APARTMENTS PUD, PURSUANT TO FUTURE LAND USE MAP
17 SERIES (FLUMS) SMALL-SCALE AMENDMENT APPLICATION
18 NUMBER L-5959-24C; PUD SUBJECT TO CONDITIONS;
19 PROVIDING A DISCLAIMER THAT THE REZONING GRANTED
20 HEREIN SHALL NOT BE CONSTRUED AS AN EXEMPTION
21 FROM ANY OTHER APPLICABLE LAWS; PROVIDING AN
22 EFFECTIVE DATE.

23
24 **WHEREAS,** the City of Jacksonville adopted a Small-Scale
25 Amendment to the *2045 Comprehensive Plan* for the purpose of revising
26 portions of the Future Land Use Map series (FLUMs) in order to ensure
27 the accuracy and internal consistency of the plan, pursuant to the
28 companion land use application L-5959-23C; and

29 **WHEREAS,** in order to ensure consistency of zoning district
30 with the *2045 Comprehensive Plan* and the adopted companion Small-Scale
31 Amendment L-5959-24C, an application to rezone and reclassify from

1 Residential Low Density-90 (RLD-90) District and Commercial
2 Community/General-1 (CCG-1) District to Planned Unit Development
3 (PUD) District was filed by Anes Dracic, on behalf of Modwelling,
4 LLC, owner of approximately 1.37± acres of certain real property in
5 Council District 4, as more particularly described in Section 1 below;
6 and

7 **WHEREAS**, the Planning and Development Department, in order to
8 ensure consistency of this zoning district with the *2045 Comprehensive*
9 *Plan*, has considered the rezoning and has rendered an advisory
10 opinion; and

11 **WHEREAS**, the Planning Commission has considered the
12 application and has rendered an advisory opinion; and

13 **WHEREAS**, the Land Use and Zoning (LUZ) Committee, after due
14 notice, held a public hearing and made its recommendation to the
15 Council; and

16 **WHEREAS**, the City Council, after due notice, held a public
17 hearing, and taking into consideration the above recommendations as
18 well as all oral and written comments received during the public
19 hearings, the Council finds that such rezoning is consistent with the
20 *2045 Comprehensive Plan* adopted under the comprehensive planning
21 ordinance for future development of the City of Jacksonville; and

22 **WHEREAS**, based on the staff report of the Planning and
23 Development Department and other competent and substantial evidence
24 received at the public hearings, the Council finds that the proposed
25 PUD does not affect adversely the orderly development of the City as
26 embodied in the *Zoning Code*; will not affect adversely the health and
27 safety of residents in the area; will not be detrimental to the
28 natural environment or to the use or development of the adjacent
29 properties in the general neighborhood; and the proposed PUD will
30 accomplish the objectives and meet the standards of Section 656.340
31 (Planned Unit Development) of the *Zoning Code* of the City of

1 Jacksonville; now therefore

2 **BE IT ORDAINED** by the Council of the City of Jacksonville:

3 **Section 1. Subject Property Location and Description.** The
4 approximately 1.37± acres are located in Council District 4 at 0 Beach
5 Boulevard, between Palm Lane and Grove Park Boulevard (R.E. No(s).
6 136291-0000 and 136380-0000), as more particularly described in
7 **Exhibit 1**, dated May 22, 2024, and graphically depicted in **Exhibit**
8 **2**, both of which are attached hereto and incorporated herein by this
9 reference (the "Subject Property").

10 **Section 2. Owner and Applicant Description.** The Subject
11 Property is owned by Modwelling, LLC. The applicant is Anes Dracic,
12 4800 Beach Boulevard, Suite 1, Jacksonville, Florida, 32207; (904)
13 607-2987.

14 **Section 3. Property Rezoned.** The Subject Property,
15 pursuant to adopted companion Small-Scale Amendment L-5959-24C, is
16 hereby rezoned and reclassified from Residential Low Density-90 (RLD-
17 90) District and Commercial Community/General-1 (CCG-1) District to
18 Planned Unit Development (PUD) District. This new PUD district shall
19 generally permit multifamily dwelling units, and is described, shown
20 and subject to the following documents, attached hereto:

21 **Exhibit 1** - Legal Description dated May 22, 2024.

22 **Exhibit 2** - Subject Property Map (prepared by P&DD).

23 **Exhibit 3** - Written Description dated August 1, 2024.

24 **Exhibit 4** - Site Plan dated May 16, 2024.

25 **Section 4. Rezoning Approved Subject to Conditions.** This
26 rezoning is approved subject to the following conditions. Such
27 conditions control over the Written Description and the Site Plan and
28 may only be amended through a rezoning:

- 29 (1) Development of structures and allowed permitted
30 uses listed within the written description, may
31 only occur in areas of the PUD which are

1 designated as the CGC land use category.

2 (2) **Preservation of Trees Outside of the Development**
3 **Footprint.** All protected, non-invasive, and
4 healthy trees *within* the delineated wetland
5 boundaries and *outside* the designated
6 development footprint shall remain untouched and
7 undisturbed throughout all phases of
8 construction and post-construction activities,
9 except in the following circumstances:

10 **1. Public Safety Threats:**

11 Any tree that is deemed by a certified arborist
12 or other qualified professional to pose an
13 immediate threat to public safety due to
14 instability, disease, or structural damage may
15 be removed. Documentation of the threat,
16 including an arborist's report and photographic
17 evidence, shall be provided to the local
18 governing authority prior to removal, unless
19 emergency action is required.

20 **2. Obstruction of Navigable Waterways:**

21 Trees or vegetation that obstruct navigation or
22 impede the flow of Pottsburg Creek or any other
23 regulated waterway, as determined by a licensed
24 professional and confirmed by the appropriate
25 water management authority, may be removed or
26 pruned to the extent necessary to restore safe
27 passage.

28 **3. Utility Installation and Maintenance:**

29 Trees within easements for utility
30 infrastructure (e.g., electrical, water, or
31 sewer lines) that directly impede the safe

1 installation, operation, or maintenance of
2 essential utilities may be removed, subject to
3 approval by the governing authority and
4 adherence to best practices for minimizing
5 environmental impact.

6 **4. Compliance with Regulatory Requirements:**

7 Trees that are required to be removed to comply
8 with local, state, or federal regulations,
9 including flood mitigation measures or other
10 environmental mandates, may be removed. Written
11 approval from the relevant regulatory body must
12 be obtained and documented.

13 **5. Unavoidable Impacts Due to Approved**
14 **Development Activities:**

15 In rare cases where a tree is located directly
16 within the approved development footprint and no
17 reasonable design modifications can avoid its
18 removal, the developer may proceed with removal,
19 provided that all mitigation measures outlined
20 in the Jacksonville municipal code are followed.

21 **Mitigation Measures for Exceptions:**

22 For any tree removed under these exceptions, the
23 developer shall implement the following
24 mitigation strategies:

25 • Replanting native, non-invasive species at a
26 ratio of 1:1 within the development site or
27 nearby area, as approved by the governing
28 authority.

29 • Contributing to an established tree
30 preservation fund or land conservation program
31 as an alternative to onsite replanting.

1 • Engaging an arborist to develop and execute a
2 habitat restoration plan for impacted areas,
3 ensuring the long-term health of the ecosystem.
4 None of the requirements set forth above shall
5 be deemed as a waiver of any requirement under
6 Part 12 of the Zoning Code. In the event of a
7 conflict between these conditions and the
8 requirements of Part 12 of the Zoning Code, the
9 more restrictive requirement shall apply.

10 (3) **Parking Lot Green-Screen.** The portion of the
11 property designated as a parking lot and
12 directly adjacent to Beach Blvd shall be
13 screened from view to the greatest extent
14 reasonably possible through some or all of the
15 following measures:

16 **1. Greenery and Landscaping:**

17 ○ Install a continuous row of native, evergreen
18 shrubs along the perimeter of the parking lot
19 facing Beach Blvd for both horizontal and
20 vertical screening.

21 ○ Use a mix of native ground cover and low-
22 maintenance flowering plants to enhance the
23 visual appeal and ecological benefits of the
24 landscaping.

25 **2. Fencing and Trellises:**

26 ○ If additional screening is required, install
27 decorative fencing that complements the
28 character of the area.

29 ○ Incorporate green walls or trellises planted
30 with climbing vines to provide additional
31 coverage and aesthetic value.

1 **3. Landscape Berms:**

2 o Where feasible, construct landscaped berms
3 with gentle slopes and integrated plantings to
4 elevate the screening effect and reduce
5 visibility from Beach Blvd.

6 **Maintenance Commitment:**

7 To ensure long-term compliance, all plantings
8 and screening structures shall be maintained in
9 a healthy and attractive condition. Dead or
10 damaged plants shall be replaced promptly, and
11 irrigation systems will be installed and
12 maintained to support healthy growth.

13 (4) **Removal of waterway obstructions.** During the
14 construction of the seawall/bulkhead wall on the
15 subject property, all existing piles, dock
16 remnants, or other man-made obstructions within
17 the project area that impede or block the safe
18 navigation of Pottsburg Creek shall be removed.

19 **1. Assessment and Planning:**

20 o Prior to construction, a detailed survey of
21 the waterway adjacent to the property will be
22 conducted to identify any navigational hazards,
23 including deteriorated piles, broken dock
24 components, or other debris.

25 o A licensed marine contractor will be engaged
26 to plan and execute the safe removal of these
27 obstructions.

28 **2. Removal Process:**

29 o All removal activities will be conducted in
30 compliance with applicable local, state, and
31 federal regulations, including those governed by

1 the Florida Department of Environmental
2 Protection (FDEP), the U.S. Army Corps of
3 Engineers, and local water management
4 authorities.

5 o Best practices will be employed to minimize
6 disturbances to the waterway and the surrounding
7 environment.

8 **3. Post-Construction Verification:**

9 o Upon completion of the seawall or bulkhead
10 wall, a final inspection will be conducted to
11 ensure that the waterway is free of obstructions
12 and meets safe navigation standards.
13 Documentation of compliance will be provided to
14 the appropriate regulatory authorities as
15 required.

16 **Section 5. Contingency.** This rezoning shall not become
17 effective until thirty-one (31) days after adoption of the companion
18 Small-Scale Amendment; and further provided that if the companion
19 Small-Scale Amendment is challenged by the state land planning agency,
20 this rezoning shall not become effective until the state land planning
21 agency or the Administration Commission issues a final order
22 determining the companion Small-Scale Amendment is in compliance with
23 Chapter 163, *Florida Statutes*.

24 **Section 6. Disclaimer.** The rezoning granted herein shall
25 not be construed as an exemption from any other applicable local,
26 state, or federal laws, regulations, requirements, permits or
27 approvals. All other applicable local, state or federal permits or
28 approvals shall be obtained before commencement of the development
29 or use, and issuance of this rezoning is based upon acknowledgement,
30 representation and confirmation made by the applicant(s), owner(s),
31 developer(s) and/or any authorized agent(s) or designee(s) that the

1 subject business, development and/or use will be operated in strict
2 compliance with all laws. Issuance of this rezoning does not approve,
3 promote or condone any practice or act that is prohibited or
4 restricted by any federal, state or local laws.

5 **Section 7. Effective Date.** The enactment of this Ordinance
6 shall be deemed to constitute a quasi-judicial action of the City
7 Council and shall become effective upon signature by the Council
8 President and the Council Secretary.

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10 Form Approved:

11
12 /s/ Dylan Reingold

13 Office of General Counsel

14 Legislation Prepared By: Jackie Williams

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