

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ST. JOHNS, STATE OF FLORIDA, OVERTURNING THE DECISION OF THE PLANNING AND ZONING AGENCY AND APPROVING A MINOR MODIFICATION TO THE SIX MILE CREEK PUD (ORD 1991-37, AS AMENDED).

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

SECTION 1. Pursuant to the request by James Whitehouse, representative of the proposed retail sale of alcoholic beverages, Six Mile Creek PUD (Ordinance 1991-37, as amended) is hereby modified as set forth in application File Number **MINMOD 2023-15 ABC Fine Wine and Spirits**, as more generally described below:

Allowing a modification to the MDP Text to receive relief from the separation requirement of 1,000 feet from an existing Church and School to allow for the retail sale of alcoholic beverages. The allowance for the sale/consumption of alcoholic beverages is a permitted Use within the PUD but must meet separation requirements. See Legal Exhibit "A", and the site plan, Exhibit "B".

SECTION 2. Findings of Fact: Having considered the application, along with supporting documents, the Staff Report prepared on February 27, 2024, statements by the applicant, and all evidence presented during public hearing, the Board finds as follows:

1. The request for this Minor Modification has been fully considered after public hearing with legal notice duly published as required by law.
2. The Minor Modification is in compliance with Land Development Code Sections 5.03.05.B, 10.04.02, 10.04.06.B and in compliance with Article XII, defining a Zoning Variance. Competent substantial evidence has been submitted to support a special condition of the property, such that the literal enforcement of the Code would produce a hardship as defined by the Code, and that denying the application would be contrary to the spirit and purpose of the Land Development Code.
3. The proposed Minor Modification is not contrary to the public interest and is not in conflict with the surrounding development.
4. The request is consistent with applicable portions of the St. Johns County Comprehensive Plan.
5. The request is not in conflict with the St. Johns DRI.
6. The applicant, at the public hearing, has stated no objections to the proposed conditions.

SECTION 3. CONDITIONS: The approval described in Section 1 is subject to the following conditions:

1. Approval of the Minor Modification is granted to ABC Fine Wine and Spirits doing business at the above location, and shall be non-transferable.
2. This approval is for relief from the required separation between existing Church and School.
3. Sales shall be limited to that location designated as such on the Site Plan labeled Exhibit B.
4. The Minor Modification shall be governed by the St. Johns County Alcohol Beverage Ordinance (Ord. #90-48) as may be amended.
5. The Minor Modification shall be governed by the St. Johns County Sale or Service to Persons under Twenty-one Ordinance (Ord. #2011-46) as may be amended.

6. This approval of the Minor Modification may be revoked by the County Administrator or designee, at his/her sole discretion, upon a determination of violation of the conditions set forth herein or a violation of any Federal, State or Local law or regulation. Appeals of decisions by the County Administrator or designee to revoke the permit may be appealed to the Board of County Commissioners.
7. Approval of the Minor Modification does not release the project from compliance with all relevant requirements of the St. Johns County Land Development Code, Comprehensive Land Use Plan and any other Agency having jurisdiction.
8. The Minor Modification shall commence within one (1) year of the signing of the Resolution. Failure to commence within the prescribed time shall render the Resolution invalid and all rights granted herein shall become null and void. Commencement shall be defined as issuance, from the appropriate authority, of an alcoholic beverage license that is in accordance with the type of alcoholic beverage service stipulated in the Minor Modification Application.
9. The Minor Modification is granted under the condition of continual use. A Minor Modification, once commenced, that remains idle, discontinued or unused for a continuous period of one (1) calendar year shall no longer be valid, and all rights granted herein shall be come null and void.
10. The approval requested within this application is limited to the requested relief from the specific provisions of the Land Development Code. Approval of this request shall not operate as approval or waiver of any other provision of the Land Development Code or Comprehensive Plan. Representations, and depictions within application materials shall assist Staff in the recommendation and interpretation of the requested relief but shall not operate as approval of, or as a determination of compliance with any other provision of the Land Development Code or Comprehensive Plan.
11. The application, supporting documents, conditions and limitations offered within the application and at the public hearing by the applicant (or representative) will be incorporated herein and shall become part of the Resolution, except as may be modified by preceding conditions and limitations.
12. The applicant agrees not to sell vaping products at this location.

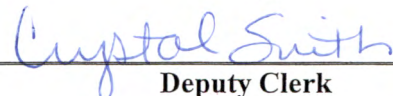
SECTION 4. All other commitments contained within Ordinance 1991-37, as amended, shall remain in effect, except as modified above. Furthermore, to the extent they do not conflict with the unique specific and detailed provisions of this PUD Ordinance, all provisions of the Land Development Code as such may be amended from time to time shall be applicable to this development; except (a) that modification to this PUD by variance or special use shall be prohibited, except where allowed by the Land Development Code; and except (b) to the degree that the development may qualify for vested rights in accordance with applicable ordinances and laws. Notwithstanding any provision of this ordinance, no portion of any impact fee ordinance, concurrency ordinance, building code, comprehensive plan or any other non-Land Development Code ordinance or regulation shall be deemed waived or varied by any provision herein.

SECTION 5. This Resolution shall take effect upon adoption.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA THIS 2nd **DAY OF** April **2024.**

BY:  _____
Sarah S. Arnold, Chair

ATTEST: Brandon J. Patty, Clerk of the Circuit Court & Comptroller

BY:  _____
Deputy Clerk



EFFECTIVE DATE: APR 02 2024

EXHIBIT "A"

Property

LOT 2

A PORTION OF TRACT 1A, AS SHOW ON THE PLAT OF SAINT JOHNS SIX MILE CREEK NORTH UNIT 1, AS RECORDED IN MAP BOOK 37, PAGES 21 THROUGH 44, INCLUSIVE, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF TRACT 1A, SAID CORNER BEING ON THE WESTERLY RIGHT OF WAY LINE OF PACETTI ROAD (A 100 FOOT RIGHT OF WAY, AS NOW ESTABLISHED); THENCE SOUTH 19°46'59" WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE, 80.00 FEET; THENCE NORTH 70°13'01" WEST, 25.00 FEET; THENCE SOUTH 19°46'59" WEST, 250.60 FEET; THENCE NORTH 70°12'28" WEST, 263.36 FEET, THENCE NORTH 19°46'59" EAST, 320.69 FEET, TO THE NORTHERLY LINE OF AFORESAID TRACT 1A; THENCE SOUTH 72°10'32" EAST, ALONG LAST SAID LINE, 288.53 FEET, TO THE POINT OF BEGINNING.

Adjacent Parcel

LOT 1

A PORTION OF TRACT 1A, AS SHOW ON THE PLAT OF SAINT JOHNS SIX MILE CREEK NORTH UNIT 1, AS RECORDED IN MAP BOOK 37, PAGES 21 THROUGH 44, INCLUSIVE, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF TRACT 1A, SAID CORNER BEING ON THE WESTERLY RIGHT OF WAY LINE OF PACETTI ROAD (A 100 FOOT RIGHT OF WAY, AS NOW ESTABLISHED); THENCE NORTH $72^{\circ}10'32''$ WEST, ALONG THE NORTHERLY LINE OF SAID TRACT 1A, 288.53 FEET TO THE POINT OF BEGINNING; THENCE SOUTH $19^{\circ}46'59''$ WEST, 444.69 FEET, TO THE WESTERLY LINE OF THOSE LANDS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 4133, PAGE 1888, SAID PUBLIC RECORDS; THENCE SOUTH $19^{\circ}47'32''$ WEST, ALONG LAST SAID LINE, 269.41 FEET; THENCE NORTH $70^{\circ}00'00''$ WEST, 87.01 FEET, TO THE POINT OF CURVATURE OF A CURVE LEADING NORTHWESTERLY; THENCE NORTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 250.00 FEET, AN ARC DISTANCE OF 383.96 FEET, SAID ARC BEING SUBTENDE BY A CHORD BEARING AND DISTANCE OF NORTH $26^{\circ}00'04''$ WEST, 347.32 FEET, TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH $17^{\circ}59'51''$ EAST, 194.56 FEET, TO THE POINT OF CURVATURE OF A CURVE LEADING NORTHWESTERLY; THENCE NORTHWESTERLY, ALONG AND AROUND THE ARC OF SAID CURVE, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 229.50 FEET, AN ARC DISTANCE OF 361.19 FEET, SAID ARC BEING SUBTENDE BY A CHORD BEARING AND DISTANCE OF NORTH $27^{\circ}05'21''$ WEST, 325.05 FEET, TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH $72^{\circ}10'32''$ WEST, 57.53 FEET, TO THE EASTERLY LINE OF CONSERVATION PARCEL NO. 1, AS SHOWN ON SAID PLAT OF SAINT JOHNS SIX MILE CREEK NORTH UNIT 1; THENCE NORTH $35^{\circ}36'10''$ EAST, ALONG LAST SAID LINE, 4.92 FEET; THENCE NORTH $16^{\circ}42'47''$ EAST, CONTINUING ALONG LAST SAID LINE, 30.38 FEET, TO THE AFORESAID NORTHERLY LINE OF TRACT 1A; THENCE SOUTH $72^{\circ}10'32''$ EAST, ALONG LAST SAID LINE, 637.43 FEET, TO THE POINT OF BEGINNING.

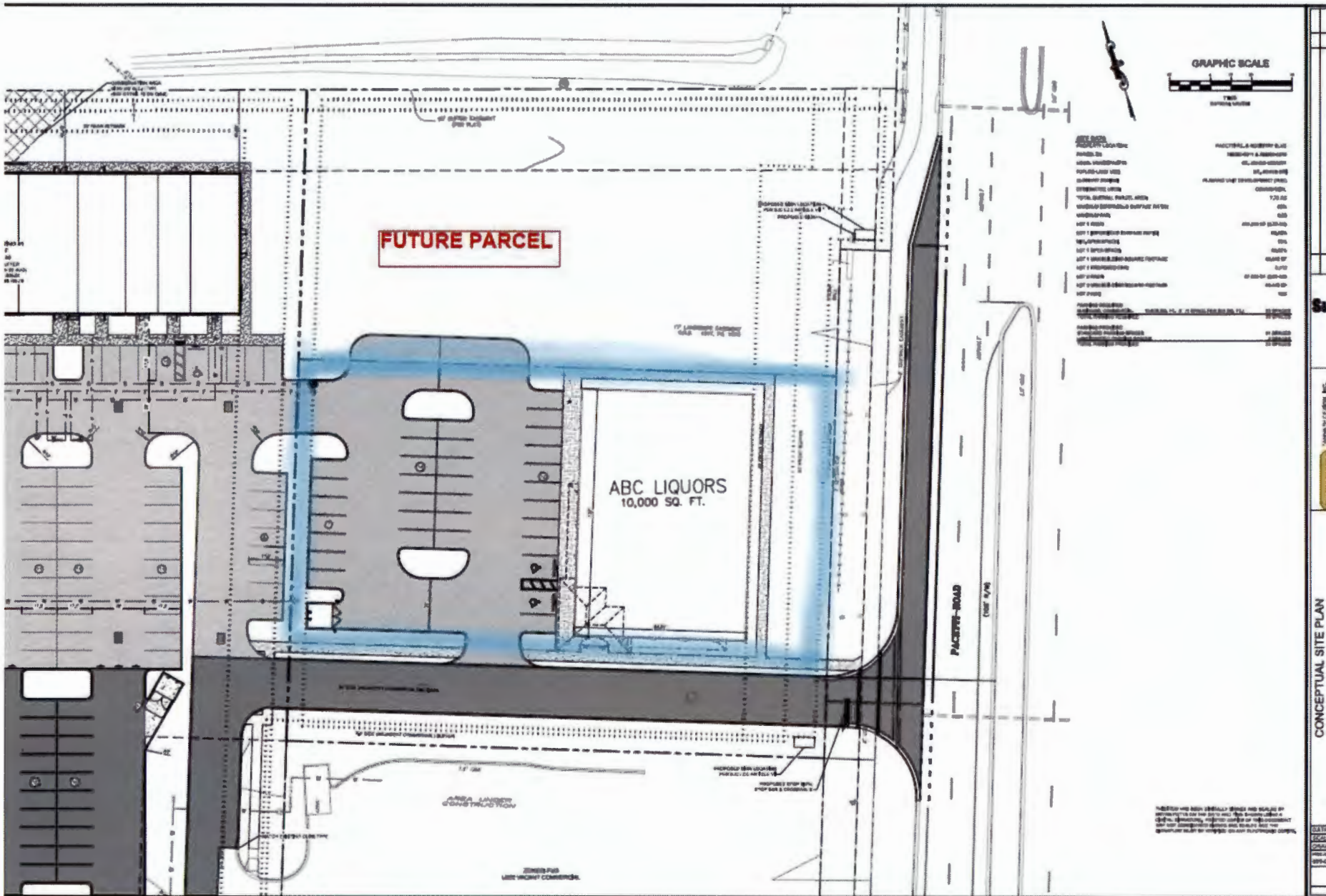


EXHIBIT "B"

CONCEPTUAL SITE PLAN

11/15/2011

LOCALiQ FLORIDA

PO Box 631244 Cincinnati, OH 45263-1244

PROOF OF PUBLICATION

Douglas Burnett
St Johns Law Group
104 Sea Grove Main ST
St Augustine FL 32080-6308

STATE OF WISCONSIN, COUNTY OF BROWN

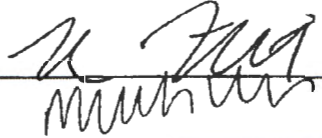
Before the undersigned authority personally appeared, who on oath says that he or she is the Legal Coordinator of the St Augustine Record, published in St Johns County, Florida; that the attached copy of advertisement, being a Classified Legal CLEGL, was published on the publicly accessible website of St Johns County, Florida, or in a newspaper by print in the issues of, on:

03/08/2024

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Subscribed and sworn to before me, by the legal clerk, who is personally known to me, on 03/08/2024

Legal Clerk



Notary, State of WI, County of Brown

8.25.26

My commission expires

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MARIAH VERHAGEN
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State of Wisconsin

NOTICE OF A PUBLIC HEARING TO CONSIDER AN APPEAL PURSUANT TO PART 9.07.00 OF THE LAND DEVELOPMENT CODE

NOTICE IS HEREBY GIVEN that a public hearing will be held on **4/2/2024 at 9:00 am** before the Board of County Commissioners in the St. Johns County Auditorium located at 500 San Sebastian View, St. Augustine, Florida to consider a Request to appeal the Planning and Zoning Agency's Technical Denial (3-3 vote) of a Minor Modification to Six Mile Creek PUD (ORD. 1991-37, as amended) to allow for a 10,000 SF ABC Fine Wine and Spirits, which is classified as a package store to be established within 1,000 feet of an existing church and school.

The subject property is located at 4203 Pacetti Road See attached map (Exhibit A). This file is maintained in the Planning and Zoning Division of the Growth Management Department located at the St. Johns County Permit Center, 4040 Lewis Speedway, St. Augustine, Florida 32084 and may be inspected by interested parties prior to said public hearing. Items not heard by 6 pm shall automatically be continued until 9 am the following day, unless otherwise directed by the Board.

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

This matter is subject to court imposed quasi-judicial rules of procedure. Interested parties should limit contact with the Board of County Commissioners or the Planning and Zoning Agency members on this topic, except in compliance with Resolution 95-126, to properly noticed public hearings or to written communication, care of SJC Planning and Zoning Section, 4040 Lewis Speedway, St. Augustine, Florida, 32084.

NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS: In accordance with the Americans with Disabilities Act, persons needing special accommodations or an interpreter to participate in this proceeding should contact the County's ADA Coordinator at (904) 209-0650 or at the St. Johns County Facilities Management, 2416 Dobbs Road, St. Augustine, FL 32086. Hearing impaired persons, call Florida Relay Service (1-800-955-8770), no later than 5 days prior to the meeting.

**BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
SARAH ARNOLD, CHAIR
FILE NUMBER: PLNAPPL-2024000001, ABC Fine Wine & Spirits (Appeal of MINMOD 23-15 Technical Denial)**

