

City of Flagler Beach

Planning and Architectural Review Board

Tuesday, March 6, 2012 at 5:30 p.m.

City Hall Commission Chambers

Agenda

1. Call the meeting to order.
2. Call the roll.
3. Pledge of Allegiance.
4. Approve the minutes of the Regular Meeting of February 7, 2012.
5. New Business:
 - A. Application #OE 12-03-01
Outdoor Entertainment to allow amplified and non-amplified events consisting of music, spoken words and/or other forms of entertainment on the subject property in the TC, Tourist Commercial zoning district.
Applicant: John R. Davis
1005 North Ocean Shore Boulevard
Property Owner: Rossis Development Group, LLC
 - B. Discussion and recommendation of an ordinance of the City of Flagler Beach, Florida, amending Section 2.04.02.8 of the *Land Development Regulations* to allow motorcycle sales as a principal permitted use within the Highway Commercial zoning district and to allow motorcycle sales as a special exception use within the General Commercial zoning district; amending Section 2.02.00 of the *Land Development Regulations* to provide a definition of motorcycle sales; creating Section 2.06.08.9 to provide additional criteria for grant of a special exception use for motorcycle sales in the General Commercial zoning district; providing for codification, severability, and repeal of conflicting ordinances, and establishing an effective date.
6. PARB Member Comments.
7. Adjournment.



RECORD REQUIRED TO APPEAL: In accordance with Florida Statute 286.0105 if you should decide to appeal any decision the Commission makes about any matter at this meeting, you will need a record of the proceedings. You are responsible for providing this record. You may hire a court reporter to make a verbatim transcript, or you may buy a CD of the meeting for \$3.00 at the City Clerk's office. Copies of CDs are only made upon request. The City is not responsible for any mechanical failure of the recording equipment.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk at (386) 517-2000 ext. 235 at least 72 hours prior to the meeting.

Please take notice that individual Elected Officials of the City of Flagler Beach may attend this meeting. Those Elected Officials who attend will not take any action or take any vote at this committee meeting. This is not an official meeting of the Flagler Beach City Commission. This notice is being provided to meet the spirit of the Sunshine Law to inform the public that Elected Officials may be present at this committee meeting.

Posted March 1, 2012

Planning and Building Department

P.O. Box 70 • 116 3rd Street South, Flagler Beach, Florida 32136 • Phone (386) 517-2000 • Fax (386) 517-2016

FLAGLER BEACH PLANNING AND ARCHITECTURAL REVIEW BOARD
TUESDAY, FEBRUARY 7, 2012 AT 5:30 P.M
MINUTES

PRESENT: Chairman Don Deal, Catherine Feind, Theodore Johnson, Roseanne Stocker, Lea Stokes, Joseph Pozzuoli, City Planner Chad Lingenfelter, Board Secretary Kate Settle.

ABSENT: Dan Bayerl.

1. CALL THE MEETING TO ORDER: Chairman Deal called the meeting to order at 5:31 p.m.
2. CALL THE ROLL: Ms. Settle called the roll.
3. PLEDGE OF ALLEGIANCE: Mr. Pozzuoli led the pledge.
4. APPROVE THE MINUTES OF THE REGULAR MEETING OF JANUARY 3, 2011: Motion by Lea Stokes, seconded by Cathy Feind, to approve the minutes. The motion carried unanimously.
5. NEW BUSINESS:
DISCUSSION AND RECOMMENDATION OF AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING SECTION 2.04.2.8 OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW BOUTIQUE WINERIES AS A PRINCIPAL PERMITTED USE WITHIN THE GENERAL COMMERCIAL ZONING DISTRICT; AMENDING SECTION 2.02.00 OF THE LAND DEVELOPMENT REGULATIONS TO PROVIDE A DEFINITION AND LIMITATIONS FOR BOUTIQUE WINERY; PROVIDING FOR CODIFICATION, SEVERABILITY, AND REPEAT OF CONFLICT ORDINANCES, AND ESTABLISHING AN EFFECTIVE DATE: Mr. Deal read the title of the item into the record. Mr. Lingenfelter reported on the history of the item. Discussion included clarification regarding the percentages of food/alcohol; the need for the new definition; the winery perhaps selling food in the future and the winery being used as an event location. The public hearing was opened. Ken Tarsitano, a potential winery owner, spoke of his business plan and hoped that everything would work out well. The public hearing was closed. Motion by Lea Stokes, seconded by Ted Johnson, to approve the amendment of the Section 2.04.02.8 of the Land Development Regulations. The motion carried unanimously.
6. PARB MEMBER COMMENTS: Ms. Stokes asked the City Attorney why the mobile ice cream vendor was not brought before the PAR Board. Attorney Smith explained it is not a land use ordinance.
7. ADJOURNMENT: Motion by Roseanne Stocker, seconded by Cathy Feind, to adjourn the meeting at 5:49 p.m.



City of Flagler Beach

To: Don Deal, Chairperson, Planning and Architectural Review Board
Planning and Architectural Review Board Members

FROM: Chad T. Lingenfelter, AICP, PTP, City Planner

RE: #OE 12-03-01 – 1005 North Ocean Shore Boulevard Outdoor Entertainment Permit

DATE: March 1, 2012

Applicant: John R. Davis, 1005 North Ocean Shore Boulevard, Flagler Beach 32136

Property Owner: Rossis Development Group, LLC, 55 Longview Way, Palm Coast, Florida 32137

Property: 1005 North Ocean Shore Boulevard – 01-12-31-1100-00040-0040

Future Land Use: Commercial

Zoning District: Tourist Commercial

Summary

Pursuant to the *City of Flagler Beach Code of Ordinances* Chapter 4, Amusements and Entertainment, the applicant is requesting an outdoor entertainment permit to allow amplified and non-amplified events consisting of music, spoken words and/or other forms of entertainment. The subject property is zoned as TC, Tourist Commercial, contains approximately 0.27 acre, and is generally located northwest of the intersection of 10th Street North and North Ocean Shore Boulevard. The subject property is occupied by Johnny D's Beach Bar & Grill.

Analysis

Section 4-167, Review of Permit Application, states that the City Commission, after receiving recommendation from the Planning and Architectural Review (PAR) Board, shall approve, approve with conditions, or deny a permit for outdoor entertainment activity based on any of the following grounds:

- (1) The activity would present an adverse impact to the health, safety or welfare of the applicant, participants, public employees or members of the public and/or fails to protect the city's environment.
- (2) The activity would unreasonably inconvenience the general public.
- (3) The proposed activity is prohibited by or inconsistent with the Flagler Beach Code of Ordinances or the Flagler Beach Comprehensive Plan.
- (4) The applicant cannot meet, or is unwilling to meet, all of the requirements of this article.
- (5) The activity is proposed for a site that does not have adequate parking to

accommodate the activity.

- (6) The activity is proposed for a site that is inherently hazardous to the participants or the public.
- (7) The event would have an adverse effect, and would unreasonably infringe upon, the rights of property owners within two hundred (200) feet of the property line of the subject property.
- (8) The event would conflict with another proximate event or interfere with construction or maintenance work.
- (9) The information furnished in the application is not materially complete and accurate.
- (10) The applicant has violated a provision, restriction or condition of this article or an outdoor entertainment activity permit issued to the applicant within the past.
- (11) The requirements identified by the city staff to ensure public health, safety and welfare have not been met.
- (12) The comments and/or recommendations of the planning and architectural review board have not been addressed.
- (13) The proposed event or activity is prohibited by federal, state, or local regulations.
- (14) Other issues in the public interest as identified by the city commission.

In making a determination to approve a permit the City Commission may limit the type and number of temporary structures and the duration of the activity including the hours and the number of days of the activity conducted to minimize any adverse impact caused by the activity. Permits may be granted on an annual basis renewable yearly if the outdoor entertainment activity occurs twelve (12) or more times a year. Permits may be granted on a per event basis for outdoor entertainment activities that occur fewer than twelve (12) times a year. In no case shall the city's noise ordinance be violated.

Recommendation

Staff recommends that the Planning and Architectural Review Board recommend that the City Commission approve the outdoor entertainment permit to allow amplified and non-amplified events consisting of music, spoken words and/or other forms of entertainment as depicted in the submitted diagram.

Enclosure: Outdoor Entertainment Permit Application Packet

INTER

OFFICE USE ONLY: DATE REC'D <u>2-14-12</u> FEE REC'D \$ <u>150.00</u> INITIALS: <u>P.O.</u> APPROVED <input type="checkbox"/> DISAPPROVED <input type="checkbox"/> SENT PARB <input checked="" type="checkbox"/> PERMIT ISSUED _____	INSTRUCTIONS: <i>Please print or type all information.</i> The application must be filled out accurately and completely. Answer all questions. Do not leave an item blank. If an item does not apply, write N/A (not applicable). Incomplete applications may delay your request. All statements made on the application are subject to verification.	City of Flagler Beach APPLICATION FOR OUTDOOR ENTERTAINMENT  105 South 2nd Street, Post Office Box 70 Flagler Beach, Florida 32136 Phone (386) 517-2000 Fax (386) 517-2008
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Please type or print legibly

Required Information

Business Name: JOHNNY D'S BEACH BAR & GRILL

Contact Person: JOHN R DAVIS

Address: 1005 N. AIA

City: FLAGLER BEACH State: FL Zip: 32136

Work Phone: 386-693-4814 Home Phone: 904-504-8777

Fax: NONE Mobile Phone: SAME AS ABOVE

E-Mail Address: JDAVISSUN1@Yahoo.com

What type of permit are you applying for? (check one)

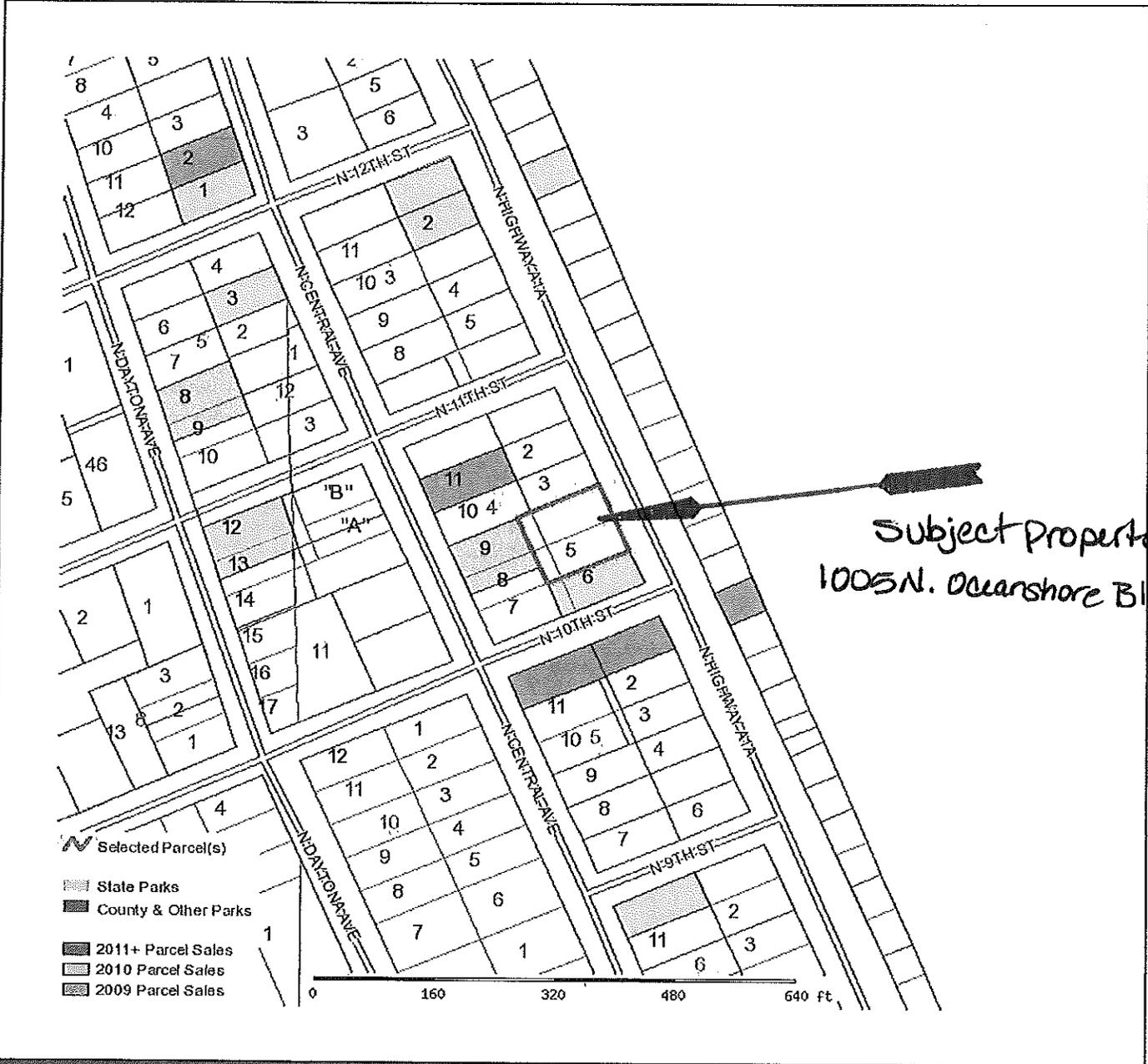
- Annual Permit (permit fee = ~~\$125.00~~ \$150.00)
- Per event that occurs fewer than 12 times a year (permit fee = \$75.00)
(Please list dates and times for the events on the bottom of page 2)
- One day event on Date _____ (permit fee = \$50.00)
Start time _____ am/pm End time _____ am/pm

Will you utilize temporary structures at your event? No Yes
 (If yes, attach a sketch of the site showing the location of these structure and see note below)
 (Indicate number of each)

_____ Stages _____ Scaffolding _____ Fences _____ Other _____

_____ Tents Do any of the tents exceed 200 square feet? _____ No _____ Yes

Note: Special Permits are required for tents exceeding 200 square feet. Special Building permits are required for temporary structures 700 or more square feet in area and those that are four feet above grade.

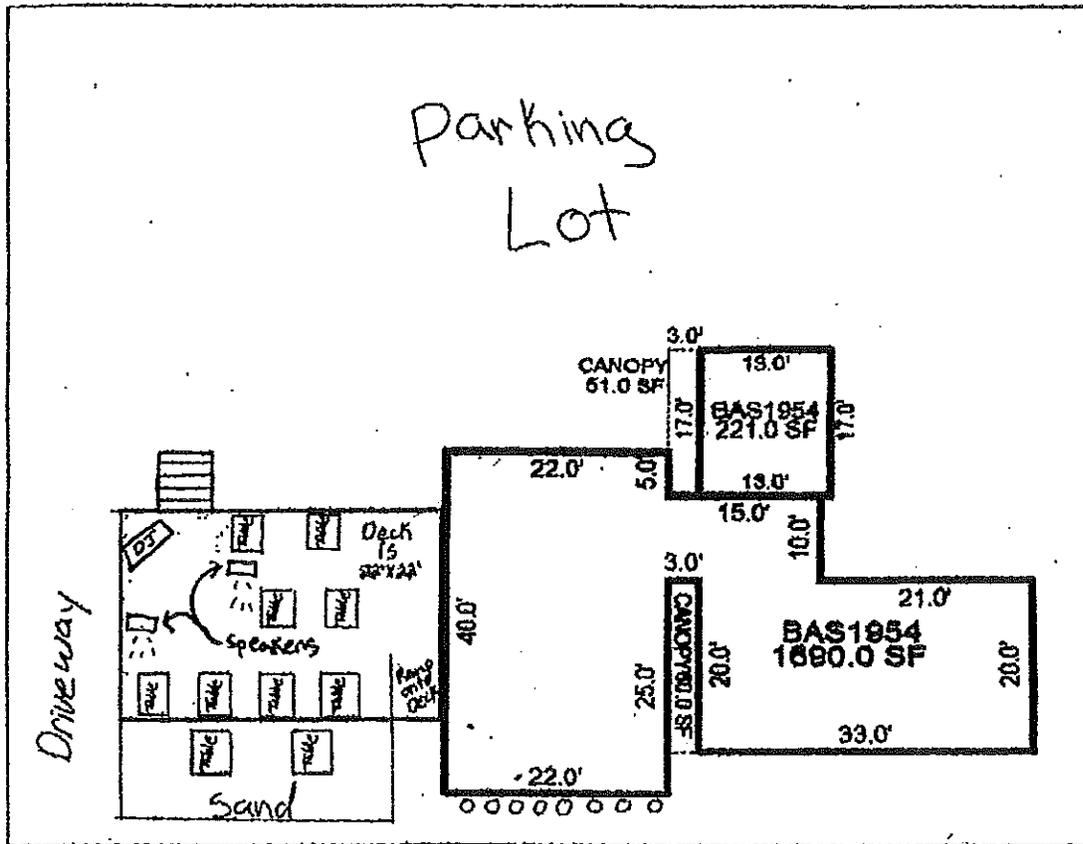


Subject Property
1005 N. Oceanshore Blvd.

Flagler County Property Appraiser			
Parcel: 01-12-31-1100-00040-0040 Sqft: 11884			
Name:	ROSSIS DEVELOPMENT GROUP LLC	Land Value:	237,680
Site:	1005 OCEANSHORE BLVD N	Building Value:	102,160
Sale:	\$0 on 03-2008 Vacant=N Qual=U	Misc Value:	4,033
Mail:	55 LONGVIEW WAY PALM COAST, FL 32137	Just Value:	343,873
		Assessed Value:	343,873
		Exempt Value:	0
		Taxable Value:	343,873



The Flagler County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER FLAGLER COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS --THIS IS NOT A SURVEY--
Date printed: 02/14/12 : 12:19:40



1005 NO. A1A Flagler Beach, FL.

Johnny D's Beach Bar & Grill

2-14-12

Received



City of Flagler Beach

P.O. Box 70 • 105 South 2nd Street
Flagler Beach, Florida 32136

Phone (386) 517-2000 • Fax (386) 517-2008

February 14, 2012

RE: Outdoor Entertainment Permit Application Review

Dear Sir or Madam:

This letter is to advise you the City is in receipt of a request from "Johnny D's Beach Bar & Grill" located at 1005 N. Oceanshore Blvd. requesting an Annual Outdoor Entertainment Permit. Per Ordinance 2010-02 the office of the City Clerk is required to notify property owners in a two-hundred foot radius of the subject property of the meeting dates and times the request will be reviewed by the Planning & Architectural Review Board and the date the City Commission will have final review. The request will be reviewed by the Planning & Architectural Review Board on March 6, 2012; meeting begins at 5:30 p.m. The request will be before the City Commission for consideration on March 8, 2012 meeting begins at 5:30 p.m. The intent of this notice is to provide to you the opportunity to appear at the meeting(s) to voice your concerns or approval of the requested activity. Should you have any questions please contact the Planning & Zoning Office at 386-517-2000 ext. 232 or the City Clerk's Office at 386-517-2000 ext. 235 or 236 if you wish to view the application.

Sincerely,

Penny Overstreet
City Clerk

CC: Bruce Campbell, City Manager
Chad Lingenfelter, Planner
John R. Davis, applicant



Mr. & Mrs. Coffin
628 Gulf Stream Dr.
Ocean City, MD 21842

Resident
1101 N. Oceanshore Blvd.
Flagler Beach, FL 32136

Mr. Abbas
1100 N. Central Avenue
Flagler Beach, FL 32136

Mr. & Mrs. Baylor
1860 CR 2006
Bunnell, FL 32110

Tara DiSalvo
1941 S. Alt Myrtle Lane
Fleming Island, FL 32003

Alison Mauro
1001 N. Oceanshore Blvd.
Flagler Beach, FL 32136

Daniel Waldren
1000 N. Central Avenue
Flagler Beach, FL 32136

Linda Huck
1008 N. Central Avenue
Flagler Beach, FL 32136

Mr. & Mrs. Ocoy
1012 N. Central Avenue
Flagler Beach, FL 32136

Poimboeuf Family
589 Thornwood Lane
Orange Park, FL 32073

Resident
1016 N. Central Avenue
Flagler Beach, FL 32136

Mr. & Mrs. Deluca
5 39TH Street
Newbury, MA 01951-1402

Wolcott Inc.
P.O. Box 1407
Flagler Beach, FL 32136

Uma Kastury
5 Catherine Court
Boonton, NJ 07005

Resident
913 N. Oceanshore Blvd.
Flagler Beach, FL 32136

Marvin Sheets
P.O. Box 1487
Bunnell, FL 32110

Resident
914 N. Central Avenue
Flagler Beach, FL 32136

Mr. & Mrs. List
1005 N. Central Avenue
Flagler Beach, FL 32136

Ieanne Ulmer
106 Old Orangburg Rd
Cameron, SC 29030

Resident
1001 N. Central Avenue
Flagler Beach, FL 32136

Mr. & Mrs. Middleton
455 Harbor Oaks Pointe Dr.
Orlando, FL 32809

Resident
1019 N. Central Avenue
Flagler Beach, FL 32136

Susan Corson
1011 N. Central Ave
Flagler Beach, FL 32136

Joan Veasey
3142 Edeburgh Dr.
Augusta, GA 30909

Resident
1101 N. Central Avenue
Flagler Beach, FL 32136

owner & tenant mailing labels



City of Flagler Beach

To: Don Deal, Chairperson, Planning and Architectural Review Board
Planning and Architectural Review Board Members

FROM: Chad T. Lingenfelter, AICP, PTP, City Planner

RE: Motorcycle Sales within the GC, General Commercial and HC, Highway Commercial Zoning Districts

DATE: March 1, 2012

Applicant: City of Flagler Beach, P.O. Box 70, Flagler Beach, Florida 32136

Summary

Discussion and recommendation of an ordinance of the City of Flagler Beach, Florida, amending Section 2.04.02.8 of the *Land Development Regulations* to allow motorcycle sales as a principal permitted use within the Highway Commercial zoning district and to allow motorcycle sales as a special exception use within the General Commercial zoning district; amending Section 2.02.00 of the *Land Development Regulations* to provide a definition of motorcycle sales; creating Section 2.06.08.9 to provide additional criteria for grant of a special exception use for motorcycle sales in the General Commercial zoning district; providing for codification, severability, and repeal of conflicting ordinances, and establishing an effective date.

Analysis

The GC, General Commercial and HC, Highway Commercial zoning districts can only be applied to properties that are designated Commercial on the Future Land Use Map in the *Comprehensive Plan*. The Future Land Requirements section of the *Comprehensive Plan* Future Land Use Element includes the following excerpts from the Commercial and Services future land use category:

- [The intersection of State Road 100 (Moody Boulevard) and County Road 201 (John Anderson Highway)] will be the first glimpse most visitors get of the City and it should be designed to create a good impression. The viability and growth of both [this area] and the State Road A1A (Ocean Shore Boulevard) corridor is important to the City as this growth will help broaden the tax base which is now overly dependent on residential properties."
- At present there are a considerable number of short vehicular trips made on State Road A1A (Ocean Shore Boulevard) to purchase typical convenience store items. Small neighborhood convenience shopping areas should be developed approximately one mile to the north and south of the State Road A1A (Ocean Shore Boulevard) and State Road 100 (Moody Boulevard) intersection along State Road A1A to serve local and beach goers' needs thereby reducing trip demands on the State Road A1A arterial.

The City of Flagler Beach *Land Development Regulations* state that the provisions of the

GC, General Commercial zoning district are intended to serve the general commercial needs of the city, wherein a large variety of retail, commercial, governmental, financial, professional office services and other general commercial are permitted. The activities permitted are intended to be compatible with a pedestrian-oriented area, and uses not compatible with such an environment are discouraged. These include activities which require substantial parking requirements and generate traffic volumes which would be in conflict with the pedestrian character of the area. The only vehicle-centric uses permitted in this district are principal automotive service stations and accessory automobile parking structures.

The City of Flagler Beach *Land Development Regulations* state that the provisions of the HC, Highway Commercial zoning district are intended to complement the Commercial designation of the Future Land Use Map by providing a variety of commercial uses indigenous with the category. The activities permitted are oriented to the need of vehicular uses. These include activities that generate traffic volumes and require high demand parking considerations. The vehicle-centric uses permitted in this district are principal automotive retail parts stores, automotive service stations and repair centers each without major mechanical repairs, and car washes; accessory automobile parking structures; and automotive service stations, repair centers, and lube shops abutting any residential zoning district, restaurants and financial institutions with drive-thru window service by special exception.

A special exception is a permission or approval granted an applicant to use land in a district for a purpose other than that generally permitted outright in that district. The permission or special exception is granted by the City Commission in accordance with the standards contained in the *Land Development Regulations*, provided generally that the specific application of the use would not prove injurious to the public interest. It is important to realize that the term special exception is a misnomer. It is neither special nor is it an exception. It is not a deviation from the *Land Development Regulations*. An applicant for a special exception is following the *Land Development Regulations*. A special exception is a use envisioned by the *Land Development Regulations*, and, if the express standards and criteria established by the *Land Development Regulations* are met, the use is one permitted by the *Land Development Regulations*.

The City of Flagler Beach *Land Development Regulations* do not define vehicle sales or list vehicle sales as a permitted principal, accessory, or special exception use within any of the zoning districts. Staff has interpreted that since vehicle sales are not specifically permitted and, therefore, are prohibited.

Michael E. Stevens approached the City Manager and City Planner and requested the allowance of motorcycle sales within the GC, General Commercial zoning district. He stated that the operation would include the wholesale and retail of motorcycles and power-sports products in a facility that is a minimum of 3,000 square feet total area, a valid Dealer's license issued by the state of Florida to sell motorcycles, valid policy of garage liability and comprehensive insurance with a minimum of \$250,000, a minimum of one (1) motorcycle franchised product, all display and sales of motorcycles will be consummated inside the facility, and repairs, assembly, preparation, modification, and service will be done, if any, inside in a special designated area within the said facility.

On January 27, 2012, the City Commission directed staff to define motorcycle sales and add the use to the Zoning Schedule of Use Controls for the GC, General Commercial

and HC, Highway Commercial zoning districts.

Recommendation

Since motorcycle sales are oriented to the needs of vehicular uses and may not be always compatible with pedestrian-oriented areas, staff requests that the Planning and Architectural Review Board recommend that the City Commission consider an amendment to the *Land Development Regulations* to add a definition for motorcycle sales, add the permitted use to the Zoning Schedule of Use Controls for the GC, General Commercial zoning district as a special exception, and add the permitted use to the Zoning Schedule of Use Controls for the HC, Highway Commercial zoning district as a principal use, as outlined in the enclosed ordinance.

Enclosure: Proposed Ordinance

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ORDINANCE NO. 2012-XXXX

AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING SECTION 2.04.02.8 OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW MOTORCYCLE SALES AS A PRINCIPAL PERMITTED USE WITHIN THE HIGHWAY COMMERCIAL ZONING DISTRICT AND TO ALLOW MOTORCYCLE SALES AS A SPECIAL EXCEPTION USE WITHIN THE GENERAL COMMERCIAL ZONING DISTRICT; AMENDING SECTION 2.02.00 OF THE LAND DEVELOPMENT REGULATIONS TO PROVIDE A DEFINITION OF MOTORCYCLE SALES; CREATING SECTION 2.06.08.9 TO PROVIDE ADDITIONAL CRITERIA FOR GRANT OF A SPECIAL EXCEPTION USE FOR MOTORCYCLE SALES IN THE GENERAL COMMERCIAL ZONING DISTRICT; PROVIDING FOR CODIFICATION, SEVERABILITY, AND REPEAL OF CONFLICTING ORDINANCES, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Commission of Flagler Beach hereby finds it desirable and necessary to amend Section 2.04.02.8 of the Land Development Regulations to allow Motorcycle Sales as a special exception use within the City’s General Commercial Zoning District; and

WHEREAS, the City Commission finds it in the best interest of the health, safety and welfare of the citizens of the City of Flagler Beach and to the aesthetic quality of the City of Flagler Beach to limit the repairs, assembly, display, preparation, modification, service and sales of motorcycles for sale in the General Commercial Zoning District to interior facilities and to require that facilities used for motorcycle sales contain at least 3,000 square feet of interior space; and

WHEREAS, the City Commission finds it desirable and necessary to amend Section 2.04.02.8 of the Land Development Regulations to allow Motorcycle Sales as a principal permitted use within the City’s Highway Commercial Zoning District; and

WHEREAS, based on the recommendation of the Planning and Architectural Review Board, sitting as the City’s local planning agency, the Commission finds and determines that this Ordinance is consistent with the City’s Comprehensive Plan; and

(NOTE: underline text denotes additions, ~~strikethrough~~ text denotes deletions and asterisks “* * *” denote sections of the existing Ordinance which remain unaltered and not reprinted herein).

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF FLAGLER BEACH, FLORIDA:

SECTION 1. Legislative findings and intent. The findings set forth in the recitals above are hereby adopted as legislative findings pertaining to this Ordinance.

47 **SECTION 2.** Section 2.02.00, “Definitions,” of the Land Development Regulations
 48 shall be amended as follows:

49 * * *

51 Motorcycle Sales –An establishment dedicated primarily to the wholesale and retail of
 52 motorcycles and power-sports products.

53 * * *

54 **SECTION 3.** The Zoning Schedule of Use Controls for the General Commercial District
 55 contained in Section 2.04.02.8 of the Land Development Regulations shall be amended as
 56 follows:
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SCHEDULE ONE ZONING SCHEDULE OF USE CONTROLS CITY OF FLAGLER BEACH			
CATEGORY OF USE	USES PERMITTED		
	UNRESTRICTED USES		SPECIAL EXCEPTION USES
	PRINCIPAL	ACCESSORY	
GC - GENERAL COMMERCIAL The provisions of this district are intended to serve the general commercial needs of the city, wherein a large variety of retail, commercial, governmental, financial, professional office services and other general commercial are permitted. The activities permitted are intended to be compatible with a pedestrian-oriented area, and uses not compatible with such an environment are discouraged. These include activities which require substantial parking requirements and generate traffic volumes which would be in conflict with the pedestrian character of the	1. Off-street parking facilities or structures. 2. Business and financial services. 3. Professional offices. 4. Funeral homes. 5. Automotive service stations. 6. Retail building supplies. 7. Restaurants. 8. Retail sales of food, hardware and other household items normally required to serve the residents of the community. 9. Medical services and facilities. 10. Public administrative	1. Automobile parking structures. 2. Cocktail lounges and bars which are accessory to and within a motel, hotel or restaurant. 3. Customary uses and structures clearly incidental to one (1) or more permitted uses or structures. 4. Residential uses accessory to a principal use, the maximum requirements of which are the same as in the MDR District. 5. Monopole communication towers and	1. Temporary structures as provided in the TC District. 2. All principal uses permitted in TC District. 3. Day care centers. 4. Commercial recreational facilities. 5. Zero lot line setbacks. 6a. Conversion of existing buildings lying within the defined boundary to combined use buildings. 6b. Combined use buildings outside of the defined boundary

area.	facilities. 11. Essential public services and facilities. 12. Park and recreational facilities. 13. Private clubs. 14. Veterinary hospitals with no kennels. There shall be no overnight stays of animals, except for emergency care. 15. All principal uses permitted in the MDR District. 16. Mini-warehouses. 17. Combined use buildings within the defined boundary. 18. Resort dwellings. 19. Resort condominiums. 20. Boutique Winery	communication antennas which do not exceed the established height limitations.	excluding properties adjacent to A-1-A. 7. Adult Arcades, as permitted in Chapter 4 of the Code of Ordinances. (Ord. No. 2005-02, § 2, 3-24-05; Ord. No. 2005-15, § 1, 7-14-05; Ord. No. 2007-33, § 2, 10-25-07) NOTE: All special exception uses are subject to Section 2.03.00, Section 2.06.01 and additional specific requirements as noted. <u>8. Motorcycle Sales</u>
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SCHEDULE ONE ZONING SCHEDULE OF USE CONTROLS CITY OF FLAGLER BEACH			
CATEGORY OF USE	USES PERMITTED		
	UNRESTRICTED USES		SPECIAL EXCEPTION USES
	PRINCIPAL	ACCESSORY	
HC - HIGHWAY COMMERCIAL a. The provisions of this district are intended to	1. Automotive retail parts store. 2. Automotive service stations without major	1. Automobile parking structures. 2. Customary	1. Commercial recreational facilities (e.g. bowling alley,

<p>complement the Commercial designation of the Future Land Use Map by providing a variety of commercial uses indigenous with the category. The activities permitted are oriented to the need of vehicular uses. These include activities that generate traffic volumes and require high demand parking considerations.</p> <p>b. Each parcel shall be developed so that pedestrian and vehicular circulation is coordinated with the circulation patterns of adjacent properties. To minimize vehicular, pedestrian and bicycle conflict, cross access drives and internal oriented ingress, egress to individual parcels shall be employed, where applicable.</p> <p>NOTE: All commercial uses in existence at the time of the adoption date of Ordinance 2006-13, which are not in conformance with Schedule Two, Lot, Yard, and Bulk Regulations, shall hereby be deemed conforming uses.</p>	<p>mechanical repairs.</p> <p>3. Automotive repair centers, tire sales and service without major mechanical repairs.</p> <p>4. Car wash to include self wash and/or drive-thru.</p> <p>5. Bars, Cocktail lounges, taverns and nightclubs within a principal building or as an accessory to hotels and motels.</p> <p>6. Financial institutions without drive-thru windows.</p> <p>7. Health clubs.</p> <p>8. Outdoor eating facilities and service associated with, and on the same property of an enclosed restaurant. There shall be no outdoor music or entertainment.</p> <p>9. Personal services.</p> <p>10. Personal storage facilities conducted within a totally enclosed structure.</p> <p>11. Professional and business services including but not limited to:</p> <p>a. Medical services and facilities without overnight care of patients.</p> <p>b. Veterinary offices. There shall be no overnight stays of animals, except for emergency care.</p> <p>c. Veterinary hospitals or clinics wholly within a noise-attenuated structure</p>	<p>uses and structures clearly incidental to one (1) or more permitted uses or structures.</p> <p>3. Monopole communication towers and communication antennas which do not exceed the established height limitations.</p>	<p>billiard parlor).</p> <p>2. Hotel, motels and inns.</p> <p>3. Automotive service stations, automotive repair centers, and lube shops if abutting any residential zoning district.</p> <p>4. Bars, cocktail lounges, taverns and the like with outdoor entertainment.</p> <p>5. Restaurants with drive-thru window service.</p> <p>6. Financial institutions with drive-thru windows.</p> <p>NOTE: All Special Exception uses are subject to Section 2.03.00 Establishment of Districts, and Section 2.06.01, Special Exception uses.</p>
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	<p>with no overnight stays of animals, except for emergency care.</p> <p>12. Retail building supplies.</p> <p>13. Retail sales and services.</p> <p>14. Restaurants.</p> <p>15. Shopping centers providing retail sales of food, hardware and other household items normally required to serve the residents of the community.</p> <p>16. Sexually oriented businesses as defined in Chapter 4, Article II; City Code subject to the following:</p> <p>a. All such sexually oriented businesses, as defined in Ordinance 2006-15, shall maintain a minimum 200 foot setback from the following:</p> <ol style="list-style-type: none"> 1. An area zoned within the county, municipality or adjoining municipality for residential use. 2. Areas designated as a category that permits residential uses on the Future Land Use Map of the city/, adjoining city or county. 3. Preexisting residence. 4. Preexisting religious institution. 5. Preexisting park. 6. Preexisting education facility. <p>b. The distance from a proposed sexually</p>		
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	<p>oriented business to the aforementioned residential areas and other uses shall be measured by drawing a straight line between the closest property line of said residential areas or other uses and the closest exterior wall of any building in which the sexually oriented business is licensed to operate.</p> <p>17. Adult Arcades, as permitted in Chapter 4 of the Code of Ordinances.</p> <p><u>18. Motorcycle Sales</u></p>		
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SECTION 4. Section 2.06.08.9, “Motorcycle sales,” is hereby created in the Land Development Regulations as follows:

Section 2.06.08.9 Motorcycle sales in General Commercial Zoning District.

- a) In addition to the criteria for the granting of a special exception provided in Section 2.06.01, an applicant for a special exception use for motorcycle sales has the burden of satisfying the following minimum criteria by competent substantial evidence:
- 1) The motorcycle sales shall be conducted entirely within an fully enclosed structure containing at least 3,000 square feet of interior space;
 - 2) The applicant possesses a valid Dealer’s license issued by the State of Florida to sell motorcycles;
 - 3) The applicant has a valid policy of garage liability and comprehensive insurance with a minimum of \$250,000 coverage;
 - 4) The applicant markets at least one (1) motorcycle related franchised product; and
 - 5) The applicant can and shall conduct all repairs, assembly, display, preparation, modification, service and sales of motorcycles only within fully enclosed interior space.
- b) Once the applicant has met this burden, the burden shifts to any opposing party to demonstrate by competent substantial evidence that the special exception does not meet the minimum criteria or is adverse to the public interest. After consideration of

93 a special exception application for motorcycle sales, the city commission may
94 approve, approve with modifications, approve with conditions, or deny the
95 application based on the considerations contained in Section 2.06.01 and herein.
96

- 97 c) A special exception granted pursuant to this section may be subject to review at any
98 time and may be revoked after notice to the owner and any lessee at a public hearing
99 by the city commission. The city commission may revoke the special exception
100 permit upon a finding that there have been material violations of any of the criteria set
101 forth in this section or material violations of any conditions of approval, or that the
102 conduct of the owner and any lessee constitutes a public nuisance. The city may
103 institute legal or equitable proceedings to revoke a special exception permit. No
104 applicant who has had a special exception permit revoked shall be allowed to apply
105 for another special exception permit for two (2) years after the revocation date.
106

107 **SECTION 5. Codification.** It is the intent of the City Commission of the City of
108 Flagler Beach that the provisions of this Ordinance shall be codified. The codifier is granted
109 broad and liberal authority in codifying the provisions of this Ordinance and renumbering
110 subsections consistent with this Ordinance.
111

112 **SECTION 6. Severability.** If any section, sentence, clause or phrase of this Ordinance
113 is held to be invalid or unconstitutional by a Court of competent jurisdiction, then said holding
114 shall in no way affect the validity of the remaining portions of this Ordinance.
115

116 **SECTION 7. Repeal of conflicting ordinances.** In any case where a provision of this
117 Ordinance is found to be in conflict with provisions of any other ordinance of this City, the
118 conflicting provisions of the previous ordinance shall be repealed by this Ordinance.
119

120 **SECTION 7. Effective date.** This Ordinance shall take effect immediately upon
121 adoption as provided by the Charter of the City of Flagler Beach.
122

123 PASSED ON FIRST READING THIS _____ DAY OF _____, 2012.
124 PASSED AND ADOPTED THIS _____ DAY OF _____, 2012.
125

126 CITY OF FLAGLER BEACH, FLORIDA
127 CITY COMMISSION
128

129 _____
130 Linda Provenchar, Mayor
131

132 ATTEST:
133

134 _____
135 Penny Overstreet, City Clerk