

**ORDINANCE NO. 2019-05**

**AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA, CREATING AN TRANSITION CORRIDOR OVERLAY DISTRICT FOR COMMERCIAL ZONED PROPERTY LOCATED IN BLOCKS 8, 9, 10 AND 11, AS DESCRIBED IN MAP OR PLAT OF APALACHICOLA, FLORIDA, RECORDED IN PLAT BOOK M, PAGE 437, FRANKLIN COUNTY, FLORIDA; PROVIDING FOR DEFINITIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA,**  
as follows:

**SECTION 1: AUTHORITY.**

The authority for the enactment of this Ordinance is Chapter 166, *Florida Statutes*, and the City of Apalachicola's Home Rule powers.

**SECTION 2: FINDINGS OF FACTS.**

WHEREAS, the City Commission of the City of Apalachicola, Florida ("City Commission"), is required to protect the public health, safety, and welfare; and

WHEREAS, the City Commission finds that in the City of Apalachicola, Florida along part of 4<sup>th</sup> Street, Lots 1-5 in Block 8; Lots 1-5 in Block 9; and Lots 1-5 in Block 10; and Lots 2-5 in Block 11, are split with commercial zoning on one side of the alley and residential zoning on the other side of the alley, with one half of these blocks being designated C-1 commercial and the other half being designated R-1 residential; and,

WHEREAS, the commercially zoned property along South 4<sup>th</sup> Street in Block 8, Lots 1-5; Block 9, Lots 1-5; Block 10, Lots 1-5 and Block 11, Lots 2-5 of the City of Apalachicola, Florida are hereby designated as the "Transition Corridor Overlay District" ("District"); and,

WHEREAS, the City Commission finds that the Transition Corridor Overlay District is an area of split zoning that is outside of the city's core walking district; and,

WHEREAS, the City Commission finds that Blocks 8, 9, 10 and 11 along South 4th Street are the only blocks in the City of Apalachicola, Florida split by both C1 Downtown commercial and residential zoning; and,

WHEREAS, it is the intent of the City Commission to prohibit development and/or uses that are inconsistent with the purpose of the Transition Corridor Overlay District, and, thereby, undermine the city's ability to "promote the City of Apalachicola, Florida, as a unique, attractive, vibrant, and economically prosperous community"; and

WHEREAS, the City Commission finds that the creation of the Transition Corridor Overlay District is appropriate to protect the health, safety, and general welfare of the existing and future residents and visitors to the City of Apalachicola, Florida; and

WHEREAS, the City Commission finds that the creation of the Transition Corridor Overlay District is consistent with the City's Comprehensive Plan; and

WHEREAS, the City Commission intends that, in the event of a conflict between the terms of the Transition Corridor Overlay District and any other provision of the Apalachicola Zoning Code, the terms of the Transition Corridor Overlay District shall prevail.

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Apalachicola, Florida, that the City hereby:

1. Incorporates all of the preamble and findings into this Ordinance.
2. Creates the Transition Corridor Overlay District for certain properties located within the area described as follows:

ALL COMMERCIALLY ZONED PROPERTY IN LOTS 1-5, BLOCK 8; LOTS 1-5, BLOCK 9; LOTS 1-5, BLOCK 10 AND LOTS 2-5, BLOCK 11, CITY OF APALACHICOLA, FLORIDA, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN PLAT BOOK M, PAGE 437, OF THE OFFICIAL RECORDS OF FRANKLIN COUNTY, FLORIDA.

A COPY OF A MAP ILLUSTRATING THE T1 DISTRICT IS ATTACHED.

**SECTION 3: SUPPLEMENTAL REGULATIONS FOR SPECIAL DISTRICT T-1-- THE TRANSITION CORRIDOR OVERLAY DISTRICT.**

**T-1 -- THE TRANSITION CORRIDOR OVERLAY DISTRICT**

**DISTRICT INTENT:** To promote the District as a unique, attractive, vibrant, and economically prosperous community, and to further regulate commercial development for certain property located within the Transition Corridor Overlay District.

**SECTION 5: EFFECTIVE DATE.**

This Ordinance shall take effect as provided by law.

**SECTION 6: CONFLICTS**

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Passed on First Reading the 2<sup>nd</sup> day of July, 2019.

PASSED and ADOPTED, in regular session, with a quorum present and voting, by the City Commission, by a vote of 4 in favor and 0 opposed, upon second and final reading this 6<sup>th</sup> day of August, 2019

**CITY COMMISSION OF THE  
CITY OF APALACHICOLA, FLORIDA**

(SEAL)

By: 

Van W. Johnson, Sr., Mayor

**ATTESTED BY:**

By: 

Deborah Guillotte  
City Clerk

**APPROVED** as to form:

By: 

J. Patrick Floyd  
Attorney for the City of Apalachicola, Florida

February 21, 2019

City of Apalachicola  
192 Coach Wagoner Blvd.  
Apalachicola, FL 32320

Via email only  
rnalley@cityofapalachicola.com

Attention: Mr. Ron Nalley, City Manager

Re: Request for ground floor transient rentals on Part of  
Lot 4 & all of Lot 5, Block 11, City of Apalachicola,  
Florida, whose addresses are 40-4<sup>th</sup> Street (Lot 5) and 34-4<sup>th</sup> Street (Lot 4)

Dear Mr. Nalley:

The above referenced C1 commercially zoned properties are owned by the Shuler Limited Partnership, a Florida limited partnership. At present, the lots are developed with two commercial one story buildings connected by a storage area. I attach the following copies for your convenience: a copy of my deed, part of the city's zoning map, two FEMA flood related maps showing the elevation of my structures and that they are outside the flood hazard area, the property appraiser's record showing the location and dimension of the two buildings and storage area, and photographs of my property and its surrounds.

I request that I be allowed to place ground floor transient rentals at 40-4<sup>th</sup> Street and the storage area. The other building at 34-4<sup>th</sup> Street will continue to be used as a law office and a title insurance company, or other commercial use consistent with the city's zoning code.

According to the FEMA flood maps, my structures are not in a special flood hazard zone. Furthermore, I have ample space for on-site parking and there is no issue concerning the city's height restriction or the allowed lot coverage. No protected trees will be removed. The only apparent issue is that the city code seems to prohibit ground floor transient rentals on my property and I have been told that there is no option to apply for either a variance or special exception.


I believe that my property has special circumstances not faced by the vast majority of the C1 district; to wit: My block is split at the alley by a commercial zoning category on my side and a residential zoning category on the other side of the alley. Partly as a result of this split zoning, I am surrounded by residential houses on three sides (North, South and West – at present the residence to the North is not used as a residence but was historically). The Gibson Inn is catty corner to the Northeast. Publicly owned land lies across the street to my East (Mark's Memorial and Highway 98) and will not be developed. Essentially, I am boxed in by either residential uses or transient uses. Furthermore, my property is located at the very southern tip of the commercial district far from the heart of Apalachicola's commercial downtown and is surrounded by the aforementioned residential and transient rental uses, as opposed to being surrounded by commercial retail.

I respectfully request that you consider at your soonest opportunity how the city code may accommodate my request for ground floor transient rentals as stated herein.

I also ask that in your report to the city commission on March 5, 2019 that you request authorization to commence the process to consider changes to the city code which can accommodate my request for transient rentals on the ground floor at 40-4<sup>th</sup> Street and the storage area.

Thank you for your consideration of this request.

Respectfully Submitted,



Shuler Limited Partnership

Thomas M. Shuler

General Partner

40-4<sup>th</sup> Street

Apalachicola, FL 32320

850-653-5166

TMS/kj

Enc: Deed

Partial copy of the city's zoning map

FEMA flood zone information and property elevation

Property Appraiser's property record

Photographs of my property and surroundings



## **A proposal to accommodate first floor transient lodging within C-1 district transition zone.**

### **Overview**

Along the western fringe of the C-1 district, there is an area of blocks that are split in land use between Commercial and Residential and split in zoning between C-1 and R-1. The area is located along 4<sup>th</sup> Street where the C-1 district contains a mixture of residential and commercial use and is on the fringe of, but not actually part of the established downtown commercial district. This particular stretch of mixed zoning can best be described as a transition area between commercial and residential.

### **The Request**

At their March meeting, the City Commission directed staff to bring a proposal forward to P&Z for consideration. The proposal is this. A business owner has requested that the C-1 district regulations be modified to allow first floor transient lodging for property he owns in that transition area. The parcel in question is currently a law office surrounded by residential on one side and transient lodging across the street.

### **Consistency with LDRs**

The current C-1 regulations require transient lodging to be located above existing commercial development. The reasons for that existing requirement have been two-fold: The City wants to encourage pedestrian-friendly development to occur in the downtown core area and it is believed that allowing first floor transient rental development shuts off the pedestrian flow of commerce and pedestrian traffic. Historical City development included provisions for first floor commercial and 2<sup>nd</sup> floor residential. Additionally, FEMA flood regulations prohibit new construction or substantial improvement of residential development below base flood elevation – much of which is located in the core downtown district.

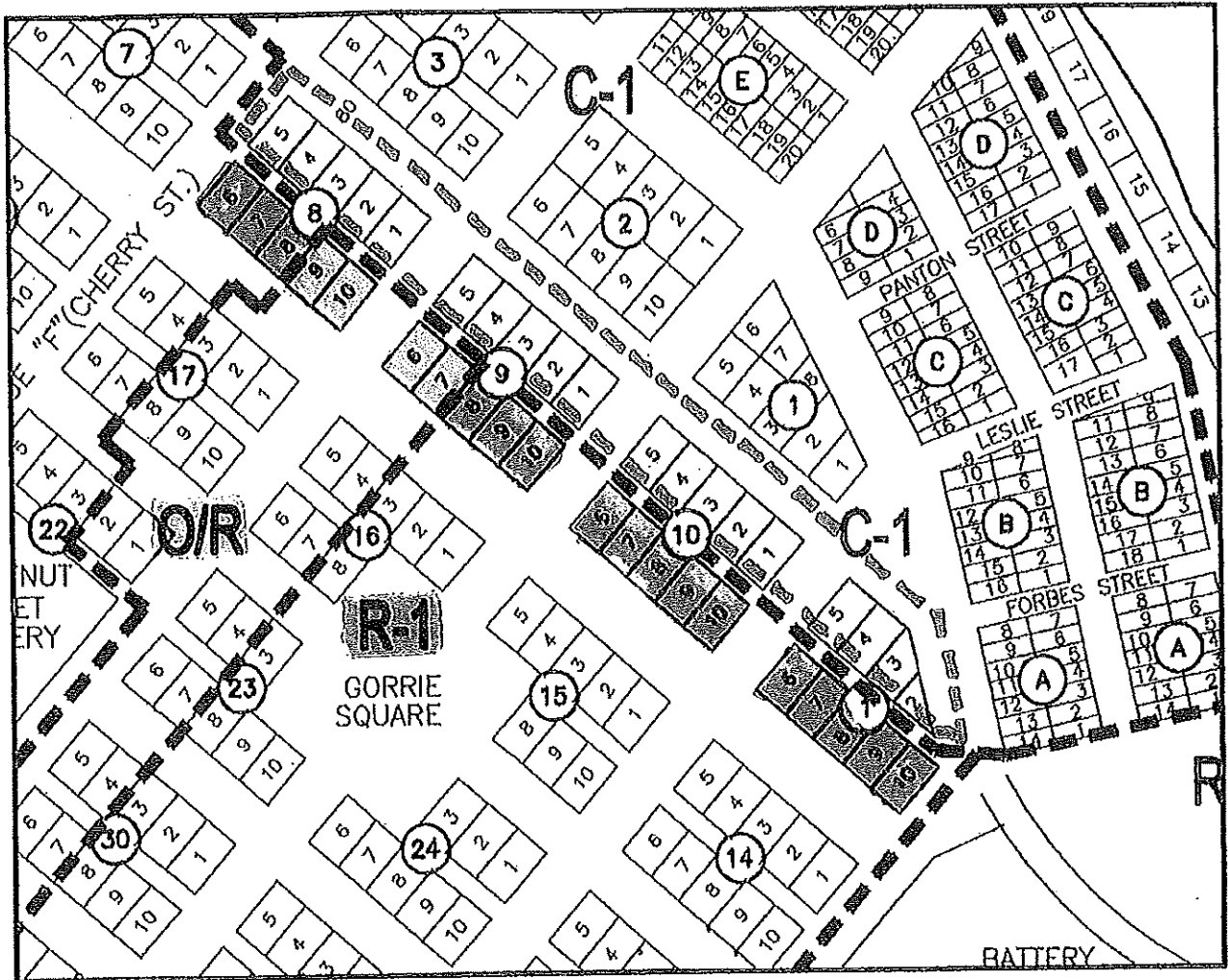
In 2017, (Ordinance #2017-07) a similar petition was made and granted that would allow existing residential development within the C-1 district to convert to transient lodging use provided the activity met all other regulatory requirements (floodplain management, parking, etc.)

### **Staff Opinion**

Regulations are already in place that allow existing residential structures within the C-1 corridor to be used as transient lodging without requiring the use to occur on the second floor. Additionally, the structure footprint in question is NOT within the flood zone. Therefore, staff supports the property owners' petition with the stipulation that the provision apply only to existing structures and only apply to those transition areas (blocks which share mixed land use and mixed zoning boundaries).

### **Options**

1. Deny the applicant request.
2. Approve the concept and direct staff to create a C-1 transition district overlay for the mixed use C-1 parcels which will allow first floor bed and breakfast use to occur for all existing structures provided the other requirements relating to transient lodging facilities are met and that the existing structure footprints do not lie within the FEMA Area of Special Hazard (rated A & V zones).



--- TRANSITION CORRIDOR  
 OVERLAY DISTRICT

T-1



**STATE OF FLORIDA  
DEPARTMENT OF ECONOMIC OPPORTUNITY**

In re: A LAND DEVELOPMENT REGULATION  
ADOPTED BY CITY OF APALACHICOLA,  
ORDINANCE NO. 2019-05

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**FINAL ORDER  
APPROVING APALACHICOLA ORDINANCE NO. 2019-05**

The Department of Economic Opportunity ("Department") hereby issues its Final Order, pursuant to Section 380.05(6), Florida Statutes, approving land development regulations adopted by the City of Apalachicola ("City"), Ordinance No. 2019-05 (the "Ordinance").

**FINDINGS OF FACT**

1. The Apalachicola Bay Area is designated by Section 380.0555, Florida Statutes, as an area of critical state concern. The City is within the Apalachicola Bay Area.
2. The Ordinance was adopted by the City on August 6, 2019, and rendered to the Department on August 15, 2019.
3. The Ordinance amends the City's Land Development Regulations by creating and establishing standards for a Transitional Corridor Overlay District for commercially zoned property located in blocks 8, 9, 10, and 11 along South 4<sup>th</sup> Street in the City of Apalachicola. The Ordinance provides the principal uses permitted include all uses permitted by the underlying C1 zoning district and transient lodging on the first and/or upper floors. The Ordinance also provides for accessory uses and special exceptions including churches, community houses, and certain public utilities.

CONCLUSIONS OF LAW

4. The Department is required to approve or reject land development regulations that are adopted by any local government in an area of critical state concern. *See* Section 380.05(6), Florida Statutes.

5. "Land development regulations" include local zoning, subdivision, building, and other regulations controlling the development of land. Section 380.031(8), Florida Statutes. The regulations adopted by the Ordinance are land development regulations.

6. The Ordinance is consistent with the City's Comprehensive Plan as required by Section 163.3177(1), Florida Statutes, generally, and is specifically consistent with Future Land Use Element Policy 1.3 and Economic Development Element Policy 2.1.

7. All land development regulations enacted, amended, or rescinded within an area of critical state concern must be consistent with the principles for guiding development for that area. *See* Section 380.05(6), Florida Statutes. The Principles for Guiding Development for the Apalachicola Bay Area of Critical State Concern are set forth in Section 380.0555(7), Florida Statutes.

8. The Ordinance is consistent with the Principles for Guiding Development in Section 380.0555(7), Florida Statutes, as a whole, and is specifically consistent with the following Principles:

(a) Land development shall be guided so that the basic functions and productivity of the Apalachicola Bay Area's natural land and water systems will be conserved to reduce or avoid health, safety, and economic problems for present and future residents of the Apalachicola Bay Area.

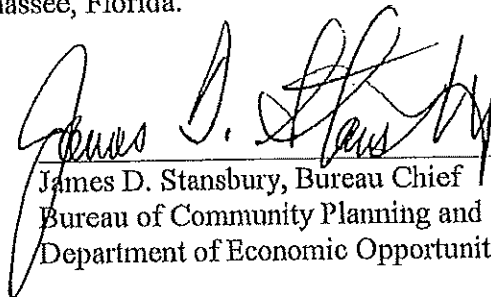
(b) Land development shall be consistent with a safe environment, adequate community facilities, a superior quality of life, and a desire to minimize environmental hazards.

(c) Growth and diversification of the local economy shall be fostered only if it is consistent with protecting the natural resources of the Apalachicola Bay Area through appropriate management of the land and water systems.

WHEREFORE, IT IS ORDERED that the Department finds that the City of Apalachicola Ordinance No. 2019-05 is consistent with the City of Apalachicola's Comprehensive Plan and the Principles for Guiding Development for the Apalachicola Bay Area of Critical State Concern and is hereby APPROVED.

This Final Order becomes final 21 days after publication in the Florida Administrative Register unless a petition is timely filed as described in the Notice of Administrative Rights below.

DONE AND ORDERED in Tallahassee, Florida.

  
James D. Stansbury, Bureau Chief  
Bureau of Community Planning and Growth  
Department of Economic Opportunity

**NOTICE OF ADMINISTRATIVE RIGHTS**

ANY PERSON WHOSE SUBSTANTIAL INTERESTS ARE AFFECTED BY THIS ORDER HAS THE OPPORTUNITY FOR AN ADMINISTRATIVE PROCEEDING PURSUANT TO SECTION 120.569, FLORIDA STATUTES, BY FILING A PETITION.

A PETITION MUST BE FILED WITH THE AGENCY CLERK OF THE DEPARTMENT OF ECONOMIC OPPORTUNITY WITHIN 21 CALENDAR DAYS OF THE DATE OF FILING OF THE FINAL ORDER AS INDICATED ON THE CERTIFICATE OF SERVICE. A PETITION IS FILED WHEN IT IS RECEIVED BY:

AGENCY CLERK  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
OFFICE OF THE GENERAL COUNSEL  
107 EAST MADISON ST., MSC 110  
TALLAHASSEE, FLORIDA 32399-4128  
FAX 850-921-3230  
AGENCY.CLERK@DEO.MYFLORIDA.COM

YOU WAIVE THE RIGHT TO ANY ADMINISTRATIVE PROCEEDING IF YOU DO NOT FILE A PETITION WITH THE AGENCY CLERK WITHIN 21 CALENDAR DAYS OF THE DATE OF THE FILING OF THE FINAL ORDER.

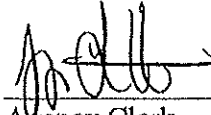
FOR THE REQUIRED CONTENTS OF A PETITION CHALLENGING AGENCY ACTION, REFER TO RULES 28-106.104(2), 28-106.201(2), AND 28-106.301, FLORIDA ADMINISTRATIVE CODE.

DEPENDING ON WHETHER OR NOT MATERIAL FACTS ARE DISPUTED IN THE PETITION, A HEARING WILL BE CONDUCTED PURSUANT TO EITHER SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES, OR SECTIONS 120.569 AND 120.57(2), FLORIDA STATUTES.

PURSUANT TO SECTION 120.573, FLORIDA STATUTES, AND CHAPTER 28, PART IV, FLORIDA ADMINISTRATIVE CODE, YOU ARE NOTIFIED THAT MEDIATION IS NOT AVAILABLE.

**CERTIFICATE OF FILING AND SERVICE**

I HEREBY CERTIFY that the original of the foregoing Final Order has been filed with the undersigned designated Agency Clerk, and that true and correct copies have been furnished to the following persons by the methods indicated this 10th day of October, 2019.



\_\_\_\_\_  
Agency Clerk  
Department of Economic Opportunity  
107 East Madison Street, MSC 110  
Tallahassee, FL 32399-4128

By U.S. Mail:

The Honorable Van W. Johnson, Sr., Mayor  
Apalachicola City Hall  
192 Coach Wagoner Boulevard, Suite 1  
Apalachicola, Florida 32320

Deborah Guillotte, City Clerk  
Apalachicola City Hall  
192 Coach Wagoner Boulevard, Suite 1  
Apalachicola, Florida 32320

Cindy Clark, City Planner  
Apalachicola City Hall  
192 Coach Wagoner Boulevard, Suite 1  
Apalachicola, Florida 32320