

**ORDINANCE NO. \_\_\_\_\_**

**PROPOSED ORDINANCE NO. 14-029**

**AN ORDINANCE RELATING TO ZONING; APPROVING A CONDITIONAL USE TO ALLOW A BAR ON PROPERTY LOCATED AT 108 S. TENNESSEE AVENUE; FINDING CONFORMITY WITH THE COMPREHENSIVE PLAN; MAKING FINDINGS; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, an application was filed by Soloman Wassef, on behalf of Hi Shabnam, LLC, for a conditional use to allow a bar on property located at 108 S. Tennessee Avenue, and more particularly described on Attachment "A" and graphically depicted on Attachments "B" and "C", attached hereto; and

**WHEREAS**, on May 20, 2014, the Planning and Zoning Board held a public hearing on the request of the applicant to have such conditional use granted; and

**WHEREAS**, the Planning and Zoning Board approved the application on June 17, 2014 and recommended to the City Commission that the conditional use be granted.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKELAND, FLORIDA:**

**SECTION 1.** The foregoing findings are incorporated herein by reference and made a part hereof.

**SECTION 2.** Use as a bar on property more particularly described on Attachment “A” and graphically depicted on Attachments “B” and “C”, attached hereto, is hereby approved, subject to the following conditions:

1. The project shall be developed in substantial accordance with the proposed site development plan included as Attachment “C.”
2. Permitted Uses: A bar serving beer, wine and liquor.
3. This conditional use shall be for the benefit of the applicant only. Should the ownership of the establishment change or the business tax receipt allowing for the bar at this location lapse for a period of 365 days or longer, a bar shall not be re-established without the approval of the City Commission.
4. The City Commission may revoke this conditional use upon the occurrence of more than one (1) violation of the provisions of this Ordinance or upon the occurrence in any twelve (12) month period of more than five (5) City of Lakeland Code violations, Lakeland Police Department registered incident reports, or any combination thereof.
5. The conditions contained herein are intended to operate cumulatively. In the event of a conflict between any of the above conditions, the more restrictive condition(s) shall apply.

**SECTION 3.** The City Commission does hereby expressly find that the provisions of this ordinance are in conformity with the Comprehensive Plan of the City of Lakeland adopted by Ordinance 5188.

**SECTION 4.** If any word, sentence, clause, phrase, or provision of this ordinance, for any reason, is held to be unconstitutional, void, or invalid, the validity of the remainder of this ordinance shall not be affected thereby.

**SECTION 5.** This ordinance shall take effect immediately upon its passage.

**PASSED AND CERTIFIED AS TO PASSAGE** this 21st day of July, A.D.  
2014.

\_\_\_\_\_  
R. HOWARD WIGGS, MAYOR

ATTEST: \_\_\_\_\_  
KELLY S. KOOS, CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS: \_\_\_\_\_  
TIMOTHY J. McCAUSLAND  
CITY ATTORNEY

ATTACHMENT "A"

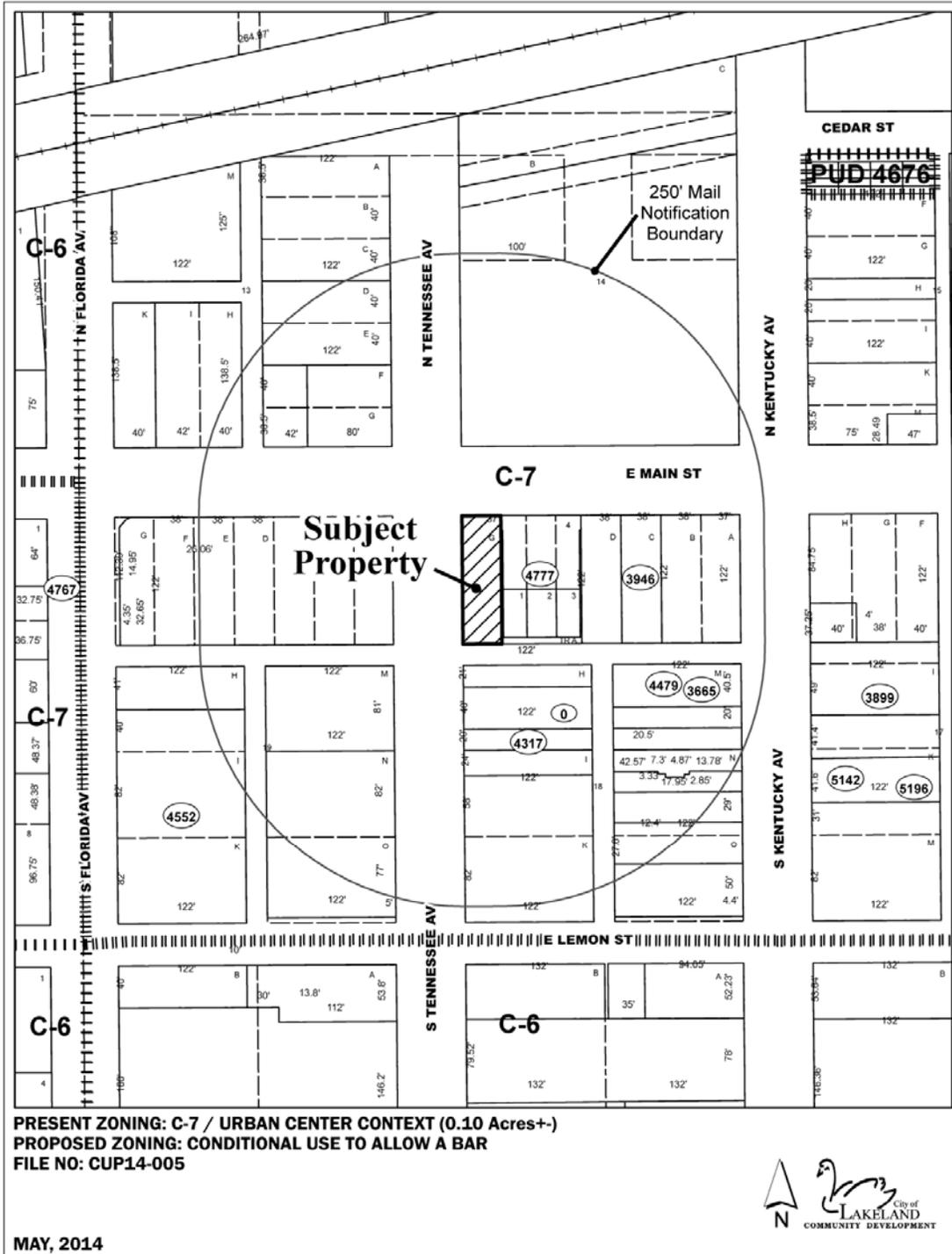
Parcel Description

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Parcel of land lying within Section 18, Township 28 S, Range 24 E of Polk County, Florida being further described as:

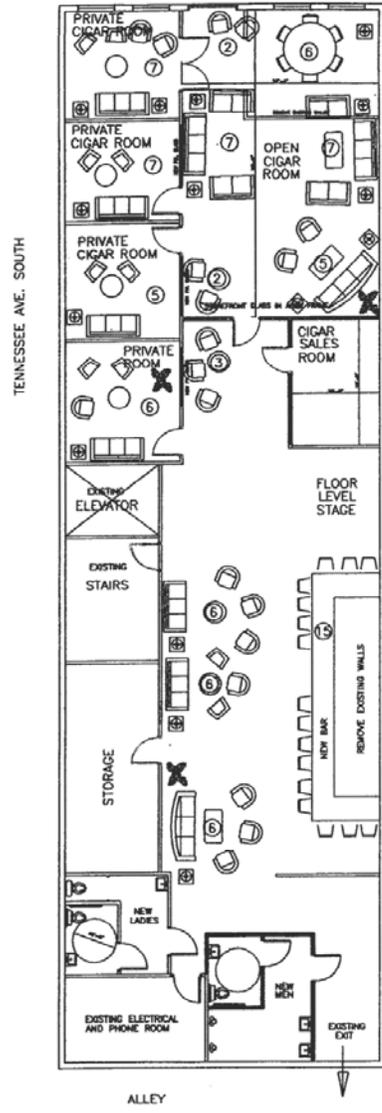
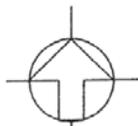
MUNNS SURVEY DB G PG 392 BLK 18 LOT G

ATTACHMENT "B"



ATTACHMENT "C"

TOTAL AREA 3025 SQ. FT.  
EXCLUDING CIGAR ROOM,  
RESTROOMS, STAIR, ELEVATOR,  
STORAGE ROOM AND  
REAR HALLS



**MEMORANDUM**

DATE: JULY 7, 2014

TO: MAYOR & CITY COMMISSION

FROM: EDWARD LUNZ, CHAIRMAN  
PLANNING & ZONING BOARD

SUBJECT: CONDITIONAL USE TO ALLOW A BAR ON  
PROPERTY LOCATED AT 108 S. TENNESSEE  
AVENUE

CASE NUMBER: CUP14-005

OWNER: HI SHABNAM, LLC

APPLICANT: SOLOMAN WASSEF

P&Z HEARING: MAY 20, 2014

P&Z FINAL DECISION: JUNE 17, 2014

**LEGAL DESCRIPTION:**

A legal description of the subject property is included as Attachment "A."

Background

Soloman Wassef requests a conditional use to allow a bar on property located at 108 S. Tennessee Avenue. A map of the subject property is included as Attachment "B."

The subject property consists of a two-story commercial building located at the southeast corner of S. Tennessee Avenue and E. Main Street. The proposed bar would be located on the second floor of the building which is currently vacant and contains approximately 4,100 square feet of total floor area. The first floor of the building is currently being utilized for office uses. The only access to the second floor is from S. Tennessee Avenue. The subject property has a future land use designation of RAC (Regional Activity Center) and C-7 (Munn Park Historic)/Urban Center Context zoning.

The applicant seeks to operate a full service bar serving beer, wine and liquor. Food service would not be provided. The sale and consumption of alcoholic beverages would be limited to the second floor portion of the building which would

have a maximum occupancy of 90 persons. The total floor area of the bar is 3,025 square feet, excluding a cigar room, restrooms, stairs/elevator, hallways and storage. A conceptual floor plan showing the layout of the proposed bar within the second floor space is included as Attachment "C." Not shown on the floor plan is a second floor balcony at the north end of the building, facing Munn Park.

<b>Existing Land Use, FLUM and Zoning/Context of Adjacent Properties</b>			
<b>Adjacent to</b>	<b>Existing Land Use</b>	<b>FLUM</b>	<b>Zoning/Context</b>
North	Park	R	C-7/Urban Center
South	Retail Commercial	RAC	C-7/Urban Center
East	Restaurant	RAC	C-7/Urban Center
West	Office Commercial	RAC	C-7/Urban Center

Discussion

Properly managed, bars can be positive elements which enhance the social and cultural life of downtown Lakeland. Conceptually, the proposed establishment would be marketed as an upscale cigar and jazz bar with the target demographic being adults over the age of 30. A small indoor stage is planned for live music performances. Separate smoking rooms and a humidor for cigar aficionados would also be provided. Proposed hours of operation are from 12:00 P.M. to 2:00 A.M. daily, except for Sundays when the bar would be closed.

In accordance with Sub-Section 5.4.5 of the Land Development Code, bars in Downtown are subject to specific review criteria. Each of the criteria is addressed as follows.

**a. Whether the proposed use will result in a concentration of such uses within a particular block or part of a block so as to be detrimental to the growth and revitalization of downtown.**

There are a total of 20 alcoholic beverage licenses in the downtown area with the majority being located on Kentucky Avenue, south of E. Main Street. Six of the establishments have conditional use approvals to operate as bars with minimal or no food sales. In the immediate area of the subject property, there are a total of three alcoholic beverage licenses. The Black & Brew Coffee House & Bistro, located at 205 E. Main Street, serves beer and wine only (2 COP) with a majority of their business coming from food sales. Linksters Tap Room, located at 209 E. Main Street, is a full service bar serving beer, wine and liquor (4 COP). Preservation Hall, located at 215 E. Main Street, is a restaurant with a special license allowing for the sale and consumption on premises of beer, wine and liquor (4 COP SRX) with associated food sales. With regard to the number of bars, approval of the proposed use would not result in a

concentration of such uses within this block of S. Tennessee so as to be detrimental to the growth and revitalization of downtown.

**b. Whether the proposed use is in close proximity to other land uses that may be particularly sensitive or unduly harmed by the negative impacts of the proposed use, such as facilities for children or for the elderly.**

Within the conditional use notification area of 250 ft. there are no land uses that are particularly sensitive to the proposed use. The nearest church is located more than 1,000 feet from the proposed establishment. The nearest public recreation facility is Munn Park, a multi-purpose civic green space that serves as the primary public gathering space within Lakeland's historic commercial core. Despite the proximity, the potential for impacts is minimized given that access to the establishment is limited to S. Tennessee Avenue and there are no ground floor outdoor seating areas.

**c. Whether the size or scale of the proposed use is appropriate at the specific location.**

The size and scale of the proposed use is appropriate at this location. The applicant's business plan caters to a more mature demographic which suggests that the negative impacts typically associated with alcohol consumption will be minimized. In terms of usable floor area, the proposed bar is comparable in size to downtown bars such as The Socialite and Linksters but about half the size of Molly McHugh's.

**d. Whether the owners and operators of the establishment are unlikely to manage and control negative impacts as evidenced by prior criminal records, code enforcement citations or police service calls concerning other properties owned or operated by them, citizen complaints, or similar indicators.**

The applicant is a resident of the City of Lakeland and has more than 10 years of restaurant/bar management experience. As of this writing, the applicant has no prior criminal record and there is nothing to suggest that the he will have difficulty managing and controlling impacts. Since 2008, the applicant has operated the Hookah Palace, a full service bar on property located at 122 S. Kentucky Avenue. With regard to this establishment, there are no records of code enforcement violations; or a significant amount of police service calls; or citizen complaints or similar indicators, which would suggest that the applicant will be unlikely to manage and control the negative impacts associated with a bar at this location. From the period of 1/13/13 to 4/13/14, the Hookah Palace had a total of 8 calls for service related to the operation of the bar. By

comparison, during this same time period Molly McHugh's, Linksters and Hurricane Alley had 18, 20 and 33 calls for service respectively. The Socialite had a total of 150 calls for service during the same time period.

**e. Whether the Board of Directors of the Lakeland Downtown Development Authority supports the proposed use.**

The applicant presented his project to the Lakeland Downtown Development Authority (LDDA) at its regular meeting on April 17, 2014. At that meeting, the LDDA approved a motion to recommend to the Planning and Zoning Board its support of the applicant's request to operate a cigar/jazz bar with a 4COP license. The motion was approved by a unanimous vote.

**f. Other criteria which the City Commission shall consider appropriate in the particular case.**

As provided for in the conditional use for Linksters Tap Room (Ordinance 4777), Linksters' approval is subject to it being the sole bar within the 200 block of E. Main Street. The subject property, while located at the corner of S. Tennessee and E. Main Street, has limited visibility and no access from E. Main Street. Access to the building is limited to a single ground floor entrance located on S. Tennessee Avenue. On February 6, 2014, the address for the subject property was changed from 201 E. Main Street, Suite 205, to the current address of 108 S. Tennessee Avenue. The address change was approved based on the fact that the second floor unit is only accessible from S. Tennessee Avenue and that an address on S. Tennessee Avenue would cause less confusion for emergency responders. Based on the limited visibility and lack of access from E. Main Street, a determination was made that the limitation on bars within the 200 block of E. Main Street, as specified by Ordinance 4777, was not applicable to the subject property.

With respect to these criteria, staff finds that the applicant meets the standards for approval specified by the Land Development Code.

The Community Development Department and the Board reviewed this request for compliance with Lakeland Comprehensive Plan: 2010-2020 and it is our opinion that the request is consistent with the Comprehensive Plan.

The Community Development Department reviewed this request and recommended approval of the conditional use. Letters of notification were mailed to 23 property owners within 250 feet of the subject property and no objections were received.

This recommendation was approved by a 5-0 vote of the Board.

## Recommendation

It is recommended that the request for a conditional use for a bar at 108 S. Tennessee Avenue, as described above and in Attachments "A," "B" and "C," be approved, subject to the following conditions:

1. The project shall be developed in substantial accordance with the proposed site development plan included as Attachment "C."
2. Permitted Uses: A bar serving beer, wine and liquor.
3. This conditional use shall be for the benefit of the applicant only. Should the ownership of the establishment change or the business tax receipt allowing for the bar at this location lapse for a period of 365 days or longer, a bar shall not be re-established without the approval of the City Commission.
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