

# **EXHIBIT A**

## Chapter 246. Zoning and Land Use

### Article V. Zoning

#### § 246-39. Retail Business Zone.

- A. Within the Retail Business Zone, no building or structure shall be used and no building shall be erected which is intended or designed to be used, in whole or in part, for any industrial or manufacturing purposes or for any other than the following specified purposes:

[Amended 12-20-2006 by Ord. No. 06-21; 12-17-2008 by Ord. No. 08-17]

- (1) Any uses specified in § 246-36 as permitted and regulated in the Residential Zone.
- (2) Retail establishments where goods are sold or personal services are rendered to the general public and which, by reason of the size of the establishment, the nature of the goods sold or services rendered and the scale, nature and character of the activity and facility, clearly relate to serving the convenience of the local community. Examples are banks, bakeshops, bookstores, pharmacies, gift shops, clothing and accessories shops, yard goods shops, delicatessens, barbershops or beauty shops, lawyers' offices, income tax service offices, automobile service stations, snack shops and other such uses.
- (3) Offices of public utilities and dial or switching equipment buildings.
- (4) Municipal buildings and other governmental and/or public uses, but not including warehouses, workshops, garages or other such uses or activities.
- (5) Offices and buildings of professional persons, such as but not limited to physicians, dentists, engineers, lawyers, accountants and architects.
- (6) Contractors' and builders' offices.
- (7) Clubs, lodges, association buildings, meeting rooms and halls.
- (8) Restaurants, and taverns and bars which have restaurant facilities on-premises and whose primary purpose is to regularly and principally provide restaurant meals to the public as an integral part of their operation.
- (9) Bus terminals.
- (10) Miniature golf concessions.
- (11) Marine sales offices.
- (12) Hobby shops, inclusive of tracks and other related amenities.
- (13) Hotels and motels.
- (14) Limited brewery and craft distillery (Boulevard only).

[Added 4-5-2017 by Ord. No. 17-06]

- B. No heavy manufacturing of any nature shall be permitted in said zone, and no outdoor storage of goods or materials shall be permitted. In no event shall storage of objectionable materials be permitted, including bottled fuel or the operation of any activity from which would emanate objectionable noise, smell, smoke, dust, glare or effluent which may adversely affect or impair the normal use of any property located in any zone.
- C. Any use not enumerated is not permitted.
- D. Lot standards; landscaping.  
[Amended 12-17-2008 by Ord. No. 08-17]
  - (1) The minimum lots standards for retail business areas shall be:
    - (a) Lot area: 4,000 square feet.
    - (b) Lot frontage: 40 feet.
    - (c) For hotel and motel units, lot area per unit: 500 square feet.
  - (2) Landscaping shall be provided where possible along street and lot lines. Where a commercial use abuts a Residential Zone, a solid landscaped screen of trees or hedge-type material not less than four feet high shall be planted and maintained.
- E. Description of Zone. The following described lands of the Borough of Seaside Heights are to be included within the Retail Business Zone:
  - (1) Beginning at the center line of Grant Avenue, at Ocean Terrace, southerly to Porter Avenue, including all lands between Ocean Terrace and a line 100 feet west of the right-of-way of Ocean Terrace.
  - (2) All Block Nos. 13, 14.01, 14.02, 15, 16 and 77.
  - (3) Lot Nos. 11, 13, 15, 17, 19, 21, 23 and 25 in Block No. 12.
  - (4) All even-numbered lots in Block No. 21.
  - (5) All odd-numbered lots in Block No. 20.
  - (6) Lot Nos. 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 33, 34, 35, 36 and 37 in Block No. 29.
  - (7) Lot Nos. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29 and 31 through 34 in Block No. 28.
  - (8) All lots 100 feet either side of the right-of-way line of Sumner Avenue between Ocean Terrace and the Boulevard in Block Nos. 6.01 and 7.01.
  - (9) Lot Nos. 59 through 68 in Block No. 33.01.
  - (10) All lots situated within 100 feet of the right-of-way of the Boulevard and Central Avenue from Porter Avenue northerly to the Dover Township line.<sup>[1]</sup>

[1] *Editor's Note: Former Subsections F through J, all of which immediately followed this subsection and were added 8-7-2002 by Ord. No. 2002-18, were repealed 12-20-2006 by Ord. No. 06-21. These subsections all provided regulations for buildings located on the boulevard or for buildings located on properties between the south side of Grant Avenue and the north side of Porter Avenue.*

# **EXHIBIT B**

RESOLUTION NO. 02-5 OF THE  
PLANNING BOARD OF THE BOROUGH OF SEASIDE HEIGHTS

WHEREAS, Atria, Inc., whose mailing address is 853 Brown Court, Toms River, New Jersey 08753, has applied for preliminary and final site plan approval together with variances affecting premises located on Lot 6, Block 13, as designated on the Tax Map of said Municipality; and

WHEREAS, such proof of service as may be required by New Jersey Statutory and Municipal Ordinance requirements upon appropriate property owners and Governmental bodies has been furnished; and

WHEREAS, a public hearing was held on the said application on February 27, 2002, in the Municipal Building of said Municipality and testimony and exhibits were presented on behalf of the applicant and all interested parties having been heard; and

WHEREAS, the said Board, having considered said application, testimony, exhibits submitted, and from its inspection of the site, it makes the following determinations:

1. The tract in question has an area of 9,500 s.f. ( $\pm$ ).
2. The tract in question is in the RB Zone.
3. The applicant is seeking to renovate the existing bar in conjunction with construction on the adjoining vacant land to create a restaurant/pub covering the entire site.
4. The applicant's representative, Vincent Crapparotta, testified as follows, to wit:
  - a. The proposed construction will contain a restaurant facility together with a pub on the first level and a banquet

facility on the second level. The pub would have a "sports bar" theme and would provide live entertainment on occasion featuring jazz and blues type music.

b. There would be no residential use on the premises whatsoever.

c. There would be interior dining for approximately 100 on the lower level. The banquet facility would accommodate approximately 150 diners.

d. There would be two bars on the main floor and two bars on the second floor, both of which would be open to the public on a regular and continuing basis.

e. The first floor would contain the main kitchen area and there would be an additional service kitchen on the second floor to accommodate the banquet facility.

f. A proposed third floor would be on the Boulevard side of the property only, covering less than 25% of the site. It would be an office for the facility's manager and a sitting room and changing room for bridal parties using the banquet facility.

g. There would no public dancing on site except in the banquet facility as may be required by the private parties using the same.

h. The existing bar and pizzeria would be completed removed.

i. The proposed railings on the second level balcony/dining area will be a minimum of 42" high; the second floor balcony deck would be approximately 10' wide except in the center area

where it would face the open courtyard and would be angled.

j. The proposed structure would meet the municipal height requirement (40' ft. permitted; 35' proposed that portion of the structure which is 3 stories).

5. No persons appeared in opposition to the application.

6. The Board reviewed the following in evidence:

a. A1 - application;

b. A2 - the proposed architectural renderings of the proposed structure consisting of 4 pages;

c. A3 - survey of property.

7. The Board makes the following findings, to wit:

a. In order to approve this site plan the Board would also have to approve the following variances: front yard setback along Hamilton Ave.: 10 ft. required, 0 ft. provided.

b. Front yard setback along the Boulevard: 10 ft. required, 0 ft. provided.

c. Side yard setback on the north side of the building: 3 ft. provided, 1 ft. provided.

d. Parking - there is no parking provided for on site.

e. The proposed structure is a permitted use within the zone and will remove an existing eyesore along the Borough's main commercial thoroughfare and replace the same with a building which meets the New Orleans theme currently under study by the Borough's governing body.

f. The proposal is a furtherance of the zone plan and

indeed a revitalization for currently under used commercial property.

g. Applicant's testimony indicates that the proposed structure will be food oriented and that the bar portion of the proposal is of a more answering nature to the principal use as a dining/banquet facility.

h. The Board acknowledges that the applicant must also seek approval from the governing body with regard to issues relating to the liquor license which will be used in regard to the operation of this facility.

8. The relief required is not of such a magnitude as to be a detriment to the public good nor an impairment of the intent and purpose of the zone plan.

NOW THEREFORE, BE IT RESOLVED, by the said Board, that on this 27th day of February 2002, based on the findings hereinabove stated, it does hereby grant the application subject to the following conditions:

1. Applicant should obtain any other approvals with respect to the submission from any other Federal, County, State or Municipal Agency having jurisdiction over same.

2. Applicant should re-submit this entire proposal should there be any deviation from this Resolution or the submitted documents which are hereby made a part hereof and shall be binding on the applicant.

3. Applicant shall construct at applicant's sole cost and expense all improvements reflected on the submitted documents or



required by this Resolution.

4. The relief granted hereunder shall be rendered null and void should the applicant fail to commence construction within one (1) year of the date of this Resolution.

5. The applicant shall comply with all representations and agreements made by the applicant or applicant's representative during the consideration of this Application.

6. The applicant shall comply with all conditions specified in this Resolution.

7. There shall no residential use on this property without further absent per this approval of this planning board.

8. A signed set of plans (A2 into evidence) must be filed with the planning board secretary and reviewed by the planning board engineer prior to issuance of any building permit for this property.

9. The applicant shall submit, with his revised plans, an architectural detail showing the north and west facade continuing the "New Orleans" theme that the applicant testified would be used throughout this construction.

Resolution 02-5 - Block 13 Lots 6 & 9 - 401 & 409 Boulevard - ATRIA, Inc.

Moved by: John Camera

Seconded by: Richard Tompkins

ROLL CALL VOTE

Those in Favor: John Camera; Bob Giles; Richard Tompkins; Tony De Luca; David Ciccozzi;  
Isabelle Santoro.

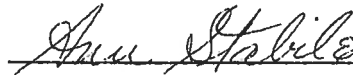
Those Opposed:

Those Absent: Dean Stabley; Leonard Ipri; Mayor Ken Hershey; Lou Urcinole; Ken Roberts.

Those Not Voting: Richard Crosby (conflict of interest).

The foregoing is a true copy of a Resolution adopted by said Board at its meeting on February 27, 2002, as copied from the Minutes of said meeting.

This written Resolution was memorialized at the meeting held on 3/27/02.



ANN STABILE, Secretary

DATED: 3/27/02

# **EXHIBIT C**

**RESOLUTION NO. 08-8  
OF THE BOROUGH OF SEASIDE HEIGHTS PLANNING BOARD**

**WHEREAS**, The Saddy Family Trust, whose mailing address is 401-411 Boulevard, Seaside Heights, New Jersey, 08751, has applied for Preliminary and Final Site Plan approval with Variances affecting premises located on Lots 1-10 and 13, Block 13, as designated on the Tax Map of said Municipality;

**WHEREAS**, such proof of service as may be required by New Jersey Statutory and Municipal Ordinance requirements upon appropriate property owners and Governmental bodies has been furnished; and

**WHEREAS**, a public hearing was held on the said application on February 27, 2008 in the Municipal Building of said Municipality and testimony and exhibits were presented on behalf of the Applicant and all interested parties having been heard; and

**WHEREAS**, the said Board, having considered said application, testimony and exhibits submitted, and from its inspection of the site, it makes the following determinations:

1. The tract in question has an area of 19,880 (+/-) square feet.
2. The tract in question is in the RB Zone.
3. The applicant is seeking to expand applicant's existing bar and restaurant facility.

Bl. 13 Lots 1-10, 13 - 401 Boulevard - Saddy Family Trust LLC - 2/27/08

4. The applicant's representative, John Saddy, testified as follows, to wit:

A. The first phase of construction is to extend the size of the kitchen by approximately 20 feet with a new first level dining room, approximately 40 feet by 60 feet and as set forth on the plan; the second phase of construction will consist of a larger restaurant on the second level, approximately 60 feet by 100 feet.

B. Applicant intends to lease the new restaurant area to the operators of Luna Rosa Restaurant.

C. Part of the reason for this expansion is to allow for private parties in a separate space. If this proposal is approved, the applicant will be able to book three to four parties at a time while keeping the main dining room open to the public.

D. Applicant believes that the entire project will take between five to six years to complete.

E. The applicant will purchase streetlights similar to those on the Boulevard and to be placed along Webster and Hamilton Avenues for a coordinated look with the Boulevard.

5. The applicant's Engineer, Edward Angster, testified as follows, to wit:

A. The proposed site plan calls for phased construction and the applicant's engineer will revise the plan to more clearly delineate what is to be included in phase1 and what is to be included in phase2.

B. The additional square footage requested will include another entrance at the corner of Webster and the Boulevard and this new proposed entrance will meet all fire code requirements. The doors opening onto the street will be offset so that they don't open directly onto the sidewalk and/or the municipal Right of Way.

C. The balconies as proposed in the plan will not project beyond the building line which is approximately half of a foot from the property line, on all three sides.

D. The proposed balcony railings will match the existing rounded top, glass railings, which are already in place on the existing structure. The balconies in the rear are "faux" and are there only to aesthetically "dress up" the back wall. Those rear balconies will not be functional or accessible.

E. The proposed addition will have a cafe type service on the second level and full restaurant service to be run by an independent restaurateur on the first level.

F. The proposed addition will not need any height variance and will accede the 40 foot height requirement.

G. The curb cut along the Boulevard will be filled once construction is complete. The curb cut further back on Webster Avenue will remain so as to service the dumpsters which will be located at the rear of the building off Webster in a fenced enclosure.

H. The applicant reviewed the Planning Board Engineer's letter dated February 21, 2008 and can meet all of the comments as set forth on page two, paragraphs 1 through 11.

I. The applicant is seeking a parking variance since no parking is provided on site; a front yard setback variance for all three sides of the building. This is an existing condition along a portion of the Boulevard and along Hamilton Avenue). There will be a new setback violation created along Webster and the remainder of the Boulevard, wherein 10 feet are required and only approximately one foot is being provided.

J. The applicant will combine lots 1 through 14 into one deed. The northerly portion is 100% vacant, the construction will occur on the vacant portion on the north side of the property.

K. Roof drains will run into filtration trenches which will run under the open patios in the outside areas.

l. The dumpster on the rear shall be fenced. There is approximately 15 feet from the rear of the building to the property line and this is where the dumpster will be placed. The engineer will modify the site plan to reflect this additional dimension and fencing.

6. No person appeared in opposition of the application.
7. The Board reviewed the following in evidence, to wit:
  - A. A-1 - The application.
  - B. A-2 - The Survey.
  - C. A-3 - The Applicant's Site Plan.
  - D. B-1 - The Planning Board Engineer's letter dated 2/21/08.
8. The Board makes the following findings, to wit:
  - A. The submission as presented complies with municipal zoning ordinances except for the pre-existing parking variance; no parking is currently provided for this



bar/restaurant site and no parking is proposed; front yard setback along Webster Avenue and a portion of the Boulevard: 10 feet required, less than one foot provided (applicant's existing building already sits within one foot of the property line along Hamilton Avenue and along a portion of the Boulevard); Applicant's request in its application for a height variance has been withdrawn as the proposal meets the municipal zoning regulations regarding height.

B. The request relief requested is not of such a magnitude as to be a detriment to the public good nor an impairment of the intent and purpose of the zone plan.

C. The Board would require applicant to undertake all of the changes discussed at this meeting including filling the curb cut along the Boulevard once construction is complete; carrying the paver sidewalk along the Webster Avenue for the length of applicant's property; and adding matching streetlights meeting all fire code restrictions, not only for the new entrance opening up onto the corner of the Boulevard and Webster Avenue but for the entire structure as proposed;

ensuring that the "faux" balcony(s) at the rear wall is non-accessible and non-functional.

NOW THEREFORE, BE IT RESOLVED, by the said Board, that on this 27th day of February, 2008, based on the findings hereinabove stated, it does hereby grant the application subject to the following conditions:

1. Applicant should obtain any other approvals with respect to the submission from any other Federal, County, State or Municipal Agency having jurisdiction over same.

2. Applicant should re-submit this entire proposal should there be any deviation from this Resolution or the submitted documents which are hereby made a part hereof and shall be binding on the applicant.

3. Applicant shall construct at applicant's sole cost and expense all improvements reflected on the submitted documents or required by this Resolution.

4. The relief granted hereunder shall be rendered null and void should the applicant fail to commence construction within (6) six months of the date of this Resolution.

5. The applicant shall comply with all representations and agreements made by the applicant or applicant's representative

during the consideration of this Application and as set forth in paragraph 4(b) above).

6. The applicant shall comply with all conditions in the report of the Planning Board Engineer dated 2/21/08.

Resolution 08-8 - Bl. 13 Lot 1-10,13 - 401 Boulevard - Saddy Family Trust LLC

Moved by: John Camera

Seconded by: Bob Brower

ROLL CALL VOTE

Those in Favor: Richard Crosby; John Camera; Dean Stabley; Richard Tompkins; Bob Brower.


Those Opposed:

Those Absent: Steve Sanzone; Leonard Ipri; Frank Gorman; Mayor Ken Hershey; Lou Nardone;  
Warren Harzer; Frank C. Gorman.

Those Not Voting:

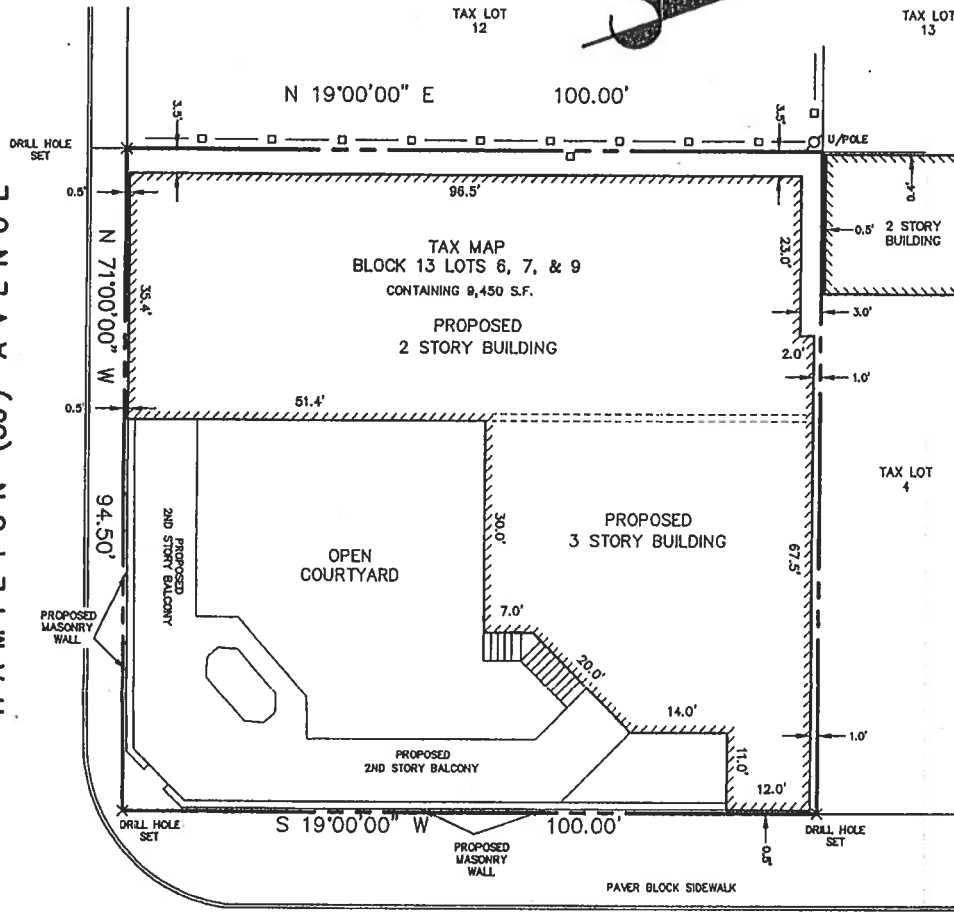
The foregoing is a true copy of a Resolution adopted by the Seaside Heights Planning Board at a meeting on Feb. 27, 2008, as copied from the Minutes of said meeting. This written Resolution was also memorialized at the meeting held on 4/23/08.

Dated: 4/23/08



ANN STABILE, Secretary

HAMILTON (50') AVENUE



BOULEVARD (70')

OFFSETS AS SHOWN HEREON ARE NOT TO BE USED FOR CONSTRUCTION OF FENCES OR OTHER PERMANENT STRUCTURES.

THIS CERTIFICATION IS MADE ONLY TO THE BELOW NAMED PARTIES FOR PURCHASE AND/OR MORTGAGE OF HEREIN DEUNATED PROPERTY BY BELOW NAMED PURCHASER. NO RESPONSIBILITY OR LIABILITY IS ASSUMED BY THE SURVEYOR FOR USE OF SURVEY FOR ANY OTHER PURPOSE, INCLUDING, BUT NOT LIMITED, TO USE OF SURVEY FOR SURVEY AFFIDAVIT, RESALE OF PROPERTY, OR TO ANY OTHER PERSON NOT LISTED IN CERTIFICATION, EITHER DIRECTLY OR INDIRECTLY.

THIS SURVEY DOES NOT PURPORT TO IDENTIFY ENCROACHMENTS, UTILITIES, SERVICE LINES OR STRUCTURES BELOW GRADE, IF ANY, EXCEPT AS SPECIFICALLY NOTED HEREON.

NOTE: THIS SURVEY IS SUBJECT TO SUCH FACTS A CURRENT AND COMPLETE TITLE REPORT MAY REVEAL.

MAP OF  
BLOCK 13 LOTS 6, 7 & 9  
BOROUGH OF SEASIDE HEIGHTS  
BLOCK LOT

OCEAN COUNTY NEW JERSEY

CERTIFIED TO:

PLOT PLAN

I HEREBY CERTIFY THAT THIS SURVEY WAS ACTUALLY MADE ON THE GROUND AS PER RECORD DESCRIPTION AND IS CORRECT AND THERE ARE NO ENCROACHMENTS EITHER WAY ACROSS PROPERTY LINES EXCEPT AS SHOWN.

DATE OF SURVEY: 01/28/02

HEWITT & MAGEE  
ASSOCIATES, INC.  
98-A EAST WATER STREET  
TOMS RIVER, NEW JERSEY 08753  
732-914-9393

HAYES A. HEWITT, P.L.S.  
Professional Land Surveyor, N.J. License No. 29351  
*Hayes A. Hewitt*  
TERRENCE D. MAGEE, P.L.S.  
Professional Land Surveyor, N.J. License No. 26794

DATE: 2/22/2002

DRAWN BY: HAH CHECKED BY: TDW DATE: 1/29/02 SCALE: 1"=20' JOB No. 02-01-2380