

Ruth Jenó
Acting Mayor

City of Red Bank
Municipal Planning Commission

Tim Thornbury
City Manager

WORK SESSION AGENDA
June 9, 2020
12:00 pm
Red Bank City Hall

I. CALL TO ORDER

II. ROLL CALL – Secretary – Billy Cannon

- | | |
|---|---|
| <input type="checkbox"/> Commissioner Cannon | <input type="checkbox"/> Commissioner Millard |
| <input type="checkbox"/> Commissioner Hafley | <input type="checkbox"/> Commissioner Smith |
| <input type="checkbox"/> Commissioner Browder | |

III. Agenda items for the June 9th regular planning commission meeting:

A. CONSIDERATION OF THE MINUTES

1. May 21st, 2020

B. NEW BUSINESS

1. Final Plat for Delashmitt Road Subdivision
2. Rezoning Request for 5005 Dayton Boulevard from R-1A Residential to R-3 Residential for use as a Planned Unit Development
3. Ordinance 20-1172 and 20-1173 – Amending the Standards for Adult Oriented Establishments in the Zoning Ordinance

C. UNFINISHED BUSINESS

1. Update on Special Exceptions Permits and the ImmunoTek BioCenter Proposal

D. OTHER BUSINESS

IV. ADJOURNMENT

City of Red Bank
Municipal Planning Commission

REGULAR MEETING AGENDA
June 9, 2020
6:00 pm
Red Bank City Hall

I. CALL TO ORDER

II. ROLL CALL – Secretary – Billy Cannon

- | | |
|---|---|
| <input type="checkbox"/> Commissioner Cannon | <input type="checkbox"/> Commissioner Millard |
| <input type="checkbox"/> Commissioner Hafley | <input type="checkbox"/> Commissioner Smith |
| <input type="checkbox"/> Commissioner Browder | |

III. INVOCATION – Commissioner Smith

IV. PLEDGE OF ALLEGIANCE – Commissioner Hafley

V. CONSIDERATION OF THE MINUTES

1. May 21, 2020

VI. NEW BUSINESS

1. Final Plat for Delashmitt Road Subdivision
2. Rezoning Request for 5005 Dayton Boulevard from R-1A Residential to R-3 Residential for use as a Planned Unit Development
3. Ordinance 20-1172 and 20-1173 – Amending the Standards for Adult Oriented Establishments in the Zoning Ordinance

VII. UNFINISHED BUSINESS

1. Update on Special Exceptions Permits and the ImmunoTek BioCenter Proposal

VIII. OTHER BUSINESS

IX. ADJOURNMENT



MUNICIPAL PLANNING COMMISSION

Eddie Pierce
Mayor

Tim Thornbury
City Manager

MINUTES
May 21, 2020
6:00 p.m.
Red Bank City Hall

I. CALL TO ORDER

Commissioner Hafley called the meeting to order at 6:05 PM.

II. ROLL CALL

Commissioner Cannon called the roll. Commissioners Browder, Cannon, Hafley, Millard and Smith were in attendance. The Commission's planning advisor from the Southeast Tennessee Development District was also present. Several attendees were attending via Zoom. Others having business before the Commission were also present.

III. INVOCATION

Commissioner Smith gave the invocation.

IV. PLEDGE OF ALLEGIANCE

Commissioner Hafley said the Pledge of Allegiance.

V. CONSIDERATION OF THE MINUTES

A. January 16, 2020 Meeting Minutes

Commissioner Hafley asked for any corrections to the minutes. Commissioner Browder motioned to approve the minutes. Commissioner Millard seconded the motion. The motion was approved unanimously.

VI. NEW BUSINESS

1. Special Exceptions Permit – ImmunoTek Bio Centers – 2102 Dayton Blvd.

The applicant were present via Zoom. Staff stated that she felt the business would have a limited negative impact on the neighboring properties and that it would be mitigated by the

existing vegetation buffer. Commissioner Hafley asked if there were any additional questions for the applicant. Seeing none, Commissioner Hafley asked if there was a motion.

Seeing none, Commissioner Hafley motioned to recommend approval of the Special Exceptions Permit. Commissioner Millard seconded the motion. The motion was approved 3 to 2, with Commissioners Browder and Smith voting against.

2. Revised PUD plan for Midvale Highlands

The applicant presented the revised PUD plan which will add additional land on the rear of nine existing homes. This was done to correct the rear setback. Commissioner Browder motioned to approve the PUD. Commissioner Millard seconded the motion. The motion was approved unanimously.

3. PUD Plan for Pine Breeze Road development

Staff presented the updates to the PUD plan, stating that the developer had made the recommended changes. The changes included adding the screening to the plan and labeling it the "Preliminary PUD Plan." Staff stated that a variance may be needed for the screening to allow existing vegetation to be used and to not require screening on the sewer easement. Staff stated that a separate motion for this variance will ensure that it is recommended properly.

Mr. Price addressed concerns from neighboring property owners who were present both in the room and on a Zoom meeting. The owners asked about the detention ponds. Mr. Price stated that they would only be full when there were heavy rains, otherwise would be a grassy area. Commissioner Cannons stated that their design followed the best practices for stormwater drainage.

Mr. Price also addressed lighting and noise concerns, stating that they will follow all relevant noise and light ordinances. He also addressed the concerns regarding the community lots, stating that it would be possible to have one additional community lot of the drainage, but did not feel that it was necessary and could be handled with easements and deed restrictions.

Commissioner Browder motioned to approve the requested variance for the screening, allowing for existing vegetation with supplemental plantings to be used and to not have screening along the sewer easement. Commissioner Smith seconded the motion. The motion approved unanimously.

Commissioner Millard motioned to recommend approval of the Special Exceptions Permit. Commissioner Browder seconded them motion. The motion passed unanimously.

4. Rezoning Request – 14 Kingson St. from R-1 to RZ-1

Staff stated that she recommended approval of this rezoning, as it fits the existing development pattern and will allow for slightly more density that still compatible with the neighboring properties.

The applicant, Mr. Barr, stated that he had canvased several of the neighbors and discussed his plans with them. He stated that all seemed favorable to the development and were eager to see the property improved. He also stated that the sewer moratorium would only allow one home to be built at this time, but that the would build the other home once he could connect it to the sewer system.

Neighboring property owners addressed the applicant, asking about noise during construction. He stated that he would only be building one house at a time and that he would follow the noise ordinance. He was also asked about the pricing of the homes, which he stated he expected would be around \$299,000.

Commissioner Browder motioned to recommend approval of the rezoning. Commissioner Millard seconded the motion. The motion passed unanimously.

VII. UNFINISHED BUSINESS

VIII. OTHER BUSINESS

No other business was presented. Commissioner Hafley motioned to adjourn. Commissioner Cannon seconded the motion. The meeting was adjourned at 7:15 PM.

Chairman



MEMORANDUM

To: Members of the Red Bank Planning Commission
Cc: Tim Thornbury, Public Works Director; Wiatt Wehunt, AD Engineering
From: Ashley Gates, Regional Planner
Date: June 4, 2020
Subject: Final Plat for Delashmitt Subdivision

SUMMARY

Tax Map #: Map 109C Group H Parcel 032	Address: 4701 Delashmitt	
Deed Book & Page:	Owner: Field LLC	
Plat Book & Page:	Area: 8.61 acres	Zoning: R-T/Z
Plat Purpose: Subdivide parcel into 34 residential lots and one community lot.		
Recommendation: Planning Commission approval with clerical corrections.		

Background: A final plat for the 8.61 acre property at 4701 Delashmitt Road has been submitted on behalf of Ethan Collier of Collier Construction. The property was rezoned to R-T/Z in November 2018, and the preliminary plat approved in July 2019. The plat divides the property into 34 residential lots and one community lot, ranging in size from 0.1 to 0.28 acres. Two streets will provide access to these lots. Water and sewer lines will be extended with connections for each lot. Improvements have been constructed, and will pass inspection prior to recording the plat.

Staff Recommendation: Approval

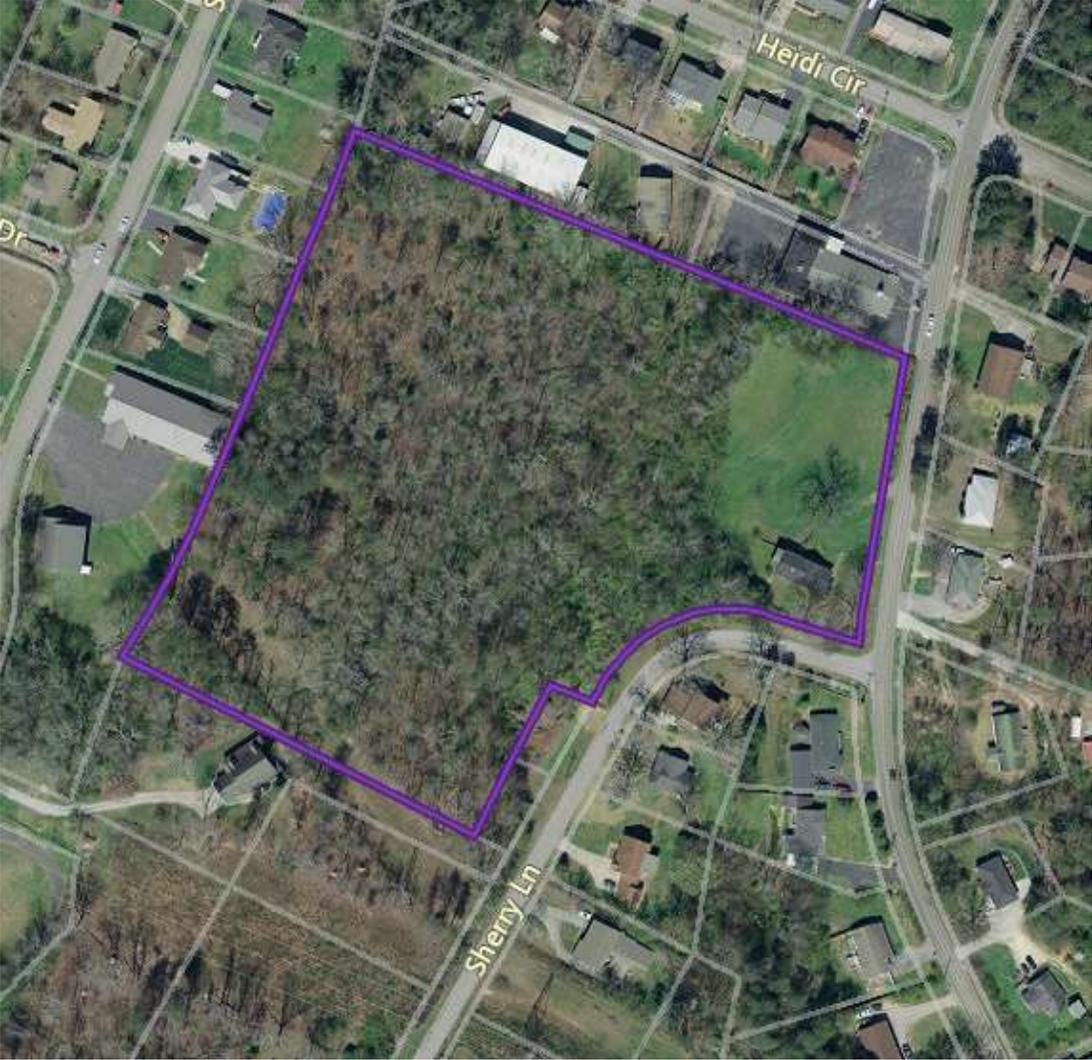
ANALYSIS

Existing and Proposed Use

The subject property is an 8.6-acre tract at 4701 Delashmitt Road. The property has 315 feet of frontage on Delashmitt Road and 337 feet of frontage on Sherry Lane. Strong Avenue and Stunner Lane have been constructed to provide access to the lots. Water and sewer lines have also been extended along the roadways.

The final plat subdivides the property into thirty-four lots for single-family detached homes and one community lot. The developer plans to construct single-family detached patio homes on each lot. The lots range in size from 4,950 square feet (0.1 acres) to 12,384 square feet (0.28 acres). The density of the subdivision is 3.9 units per acre. The subdivision will have two detention ponds for stormwater drainage and an undisturbed natural area in the southern corner closest to Sherry Lane. The Community Lot in the southwestern corner of the subdivision allows for a 30' stream buffer.

2018 Aerial of Subject Property



Existing Land Use Map

Note: Subject Property has been rezoned to R-T/Z



Subdivision Regulations

The preliminary plat appears to meet the requirements of the Subdivision Regulations apart from the following clerical corrections:

1. Show dimensions (width and depth) of each lot.
2. Add zoning (R-T/Z) to the notes.
3. Include vertical road profiles and vertical sanitary sewer profiles of all roads and sewers to be constructed per section 403 of the Red Bank Subdivision Regulations.

Zoning Ordinances

Dimensional Requirements

Each lot must have a minimum width of 35 feet for single-family detached units or 24 feet for zero lot line units. The lot dimensions are not labeled on the plat but appear to meet the requirements for single-family detached units. The maximum density for the R-T/Z zone is 8 units per acre. The density of the proposed subdivision is 3.9 units per acre.

Screening

The property abuts R-1A zoned property and must have Type C landscaping along this portion of the property.

Section 902.02 (C)

(C) Screening Type C: Provide a ten (10) feet deep (as measured towards the interior of the property) landscape yard along the shared property line planted with:

- 1) Evergreen trees spaced a maximum of ten (10) feet on-center or two (2) staggered rows (spaced a maximum of seven (7) feet apart) of shrubs spaced a maximum of eight (8) feet on-center.
- 2) All plantings shall meet the installation and planting size requirements specified in the Plant Installation Specifications section.

The 10-foot buffer will allow for this requirement to be met.

RECOMMENDATION

Staff recommends approval contingent on the following:

1. Addressing and changes as required by Hamilton County GIS
2. Approval by Hamilton County WWTA
3. All signatures as required

MEMORANDUM

To: Members of the Red Bank Planning Commission

Cc: Tim Thornbury, Public Works Director

From: Ashley Gates, Regional Planner

Date: June 4, 2020

Subject: Rezoning of 5005 Dayton Boulevard from R-1A Residential to R-3 Residential

SUMMARY

Property Address: 5005 Dayton Blvd.

Tax ID: 0990 B 001.01

Deed Book: DB 5158 Pg. 510

Property Owner: Capitalmark Bank and Trust

Applicant: Chris Andersen, GreenTech Homes

Present Zoning: R-1A Residential

Purpose: PUD with 48 lots

Staff Recommendation: Approval with conditions

ANALYSIS

Existing and Proposed Use

The 26.3-acre lot currently has one home, which sits more than 1,000 feet from Dayton Blvd. The applicant proposes a development of 58 single-family homes and 10 townhouses. Two roads will be built, with one extending perpendicular to Dayton Blvd., and the other creating a loop providing access to the remaining lots.

At the entrance off Dayton Boulevard, there will be a small community lot to the right, 29 feet deep. To the left is a large retention pond, on a community lot that will be more than 100 feet deep. This creates a buffer between the busy Dayton Boulevard and the residential lots.

Behind the houses, approximately 12.46 acres are reserved for future development. The overall proposed density is 2.6 units per acre. The density of the portion that is to be developed (not including that which is reserved for future development), is 4.9 units per acre.

Zoning Ordinance

The existing zoning is R-1A, which allows for single-family dwellings and community facilities. R-1A also requires a minimum square footage of 2,000 square feet per dwelling unit.

The proposed zoning, R-3, allows single-family homes, and two-family and multi-family apartments when part of a mixed-residential development. Homes must be a minimum of 1,200 square feet. The R-3 zone has the same setback and lot size requirements as the R-1A zone.

The developer has stated that they wish to develop the property as a Planned Unit Development (PUD). With a Special Exceptions Permit, a PUD will allow the developer to build townhomes in addition to the uses allowed in the R-3 zone. The developer proposes 10 townhouses and 58 single-family homes.

The Special Exceptions Permit will also allow the developer to subdivide the property into smaller lots, with no minimum frontage or square footage requirements. Compensating for the higher density, the developer must provide open recreational space for the residents of the PUD.

The Special Exceptions Permit process is a separate process that will allow the Planning Commissioners and City Commission to review the full design of the PUD. However, at this time the Planning Commission may apply conditions to the zoning of the property, requiring that it be developed as a PUD.

	R-1A	R-3	R-3 - PUD
Permitted Uses	<ul style="list-style-type: none"> ▪ Single-family dwellings ▪ Community facilities (schools, parks, etc.) 	<ul style="list-style-type: none"> ▪ Single-family dwellings ▪ Two- and multi-family dwellings if less than 50% of a mixed residential development ▪ Community facilities (schools, parks, etc.) ▪ Lodging/boarding houses 	<ul style="list-style-type: none"> ▪ Single-family and two-family ▪ Multi-family dwellings if part of a mixed residential development ▪ Townhouses ▪ Community facilities (schools, parks, etc.)
Front Yard	25 ft.	25 ft.	N/A
Side Yard	10 ft. / 25 ft. for corner lots	10 ft. / 25 ft. for corner lots	N/A
Rear Yard	25 ft.	25 ft.	N/A
Minimum Lot Size	7,500 sq. ft.	7,500 sq. ft. plus 2,000 sq. ft. for each additional dwelling unit	N/A
Minimum Frontage	60 feet	60 feet	N/A
Minimum Square Footage	2,000 sq. ft.	1,200 square feet; 2,000 sq. ft. if part of a mixed development	N/A
Maximum Density	N/A	N/A	24 units per acre
Other requirements			<ul style="list-style-type: none"> ▪ 10-foot building separation ▪ 25-foot setback from all exterior property lines ▪ Minimum 5-acre development

Compatibility with Surrounding Land Use

The property abuts residentially zone property on all sides, except to the south which borders a government building.

The proposed development will have smaller lots, and therefore a higher density than the neighboring properties. However, this will be mitigated with the required 10-foot screening. Additionally, with the rear of the property remaining undeveloped, there will be significant buffer between the development and the large lots that border the rear of the property. It should be noted, however, that these large undeveloped portions of the property are reserved for future development and not preserved as open space.

Land Use Plan

The Land Use Plan does not offer a map or prescribed use for the area. However, the development may be interpreted as being in line with goal C:

C-GOAL: Attract residential developers back to Red Bank for new development and redevelopment.

ACTION: New residential zones that provide more options and diversity of development while still protecting single-family neighborhoods.

ACTION: Reduced minimum lot size standards and setback requirements to make Red Bank competitive with surrounding communities.

The proposed development may be interpreted as being incompatible with goal I (see below). Being on the main thoroughfare in Red Bank, and near an existing residential development, the proposed use will preclude compatible commercial uses at this location. However, because the property is already zoned residential, staff does not feel that a change to a different residential zone conflicts with this goal.

I-GOAL: Provide for low-intensity, compatible and convenient commercial uses near neighborhoods.

ACTION: New restrictive Neighborhood Commercial Zone.

Subdivision Regulations

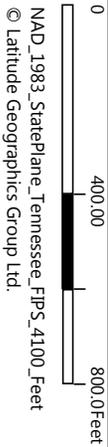
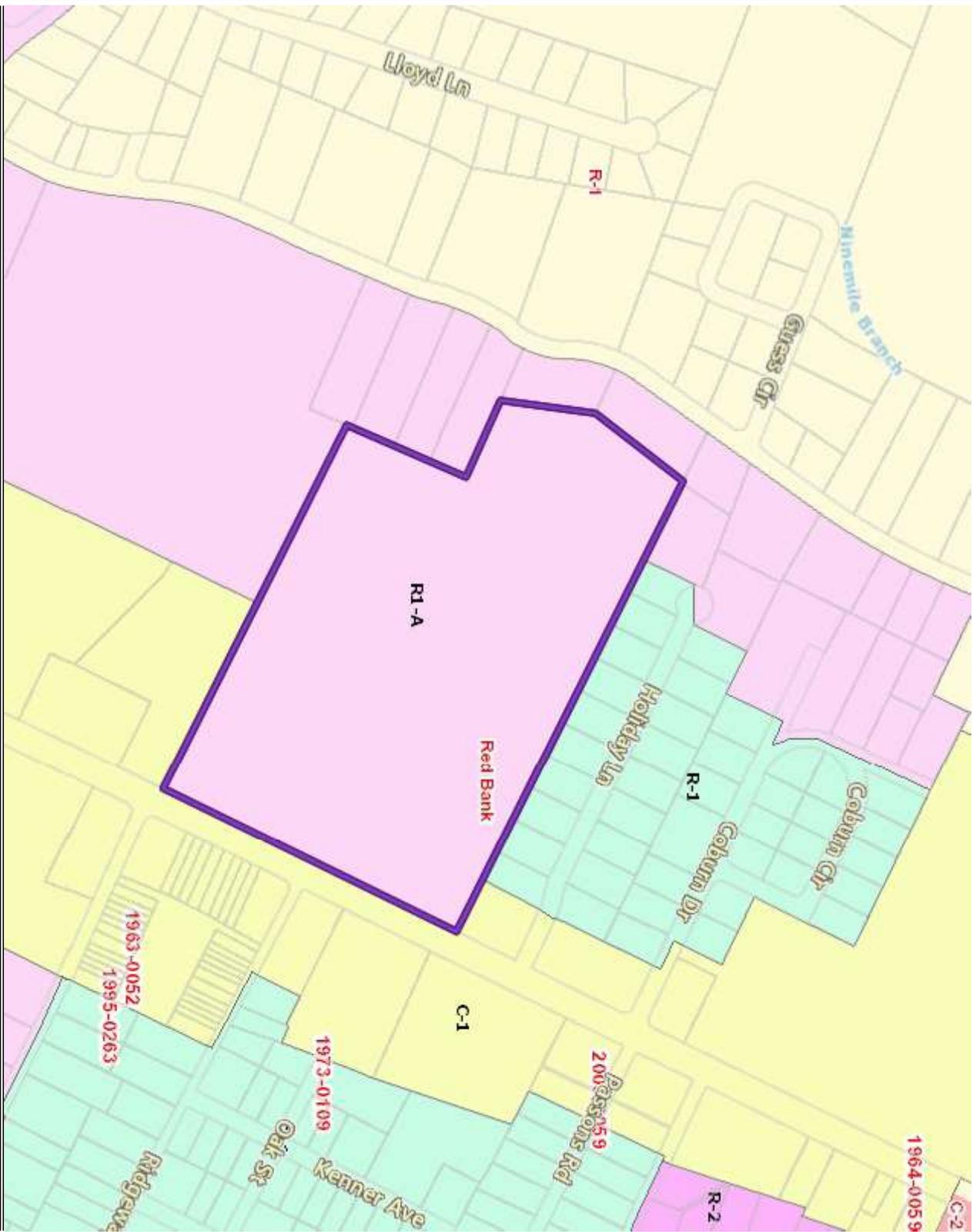
The proposed site plan appears to meet the subdivision requirements. Further review will be required once a preliminary plat is submitted.

RECOMMENDATION

Staff Recommends approval with the following conditions:

1. Property is only to be used for a Planned Unit Development with single-family detached dwellings and townhomes.
2. Development on this property is limited to an overall density of 5 units per acre.

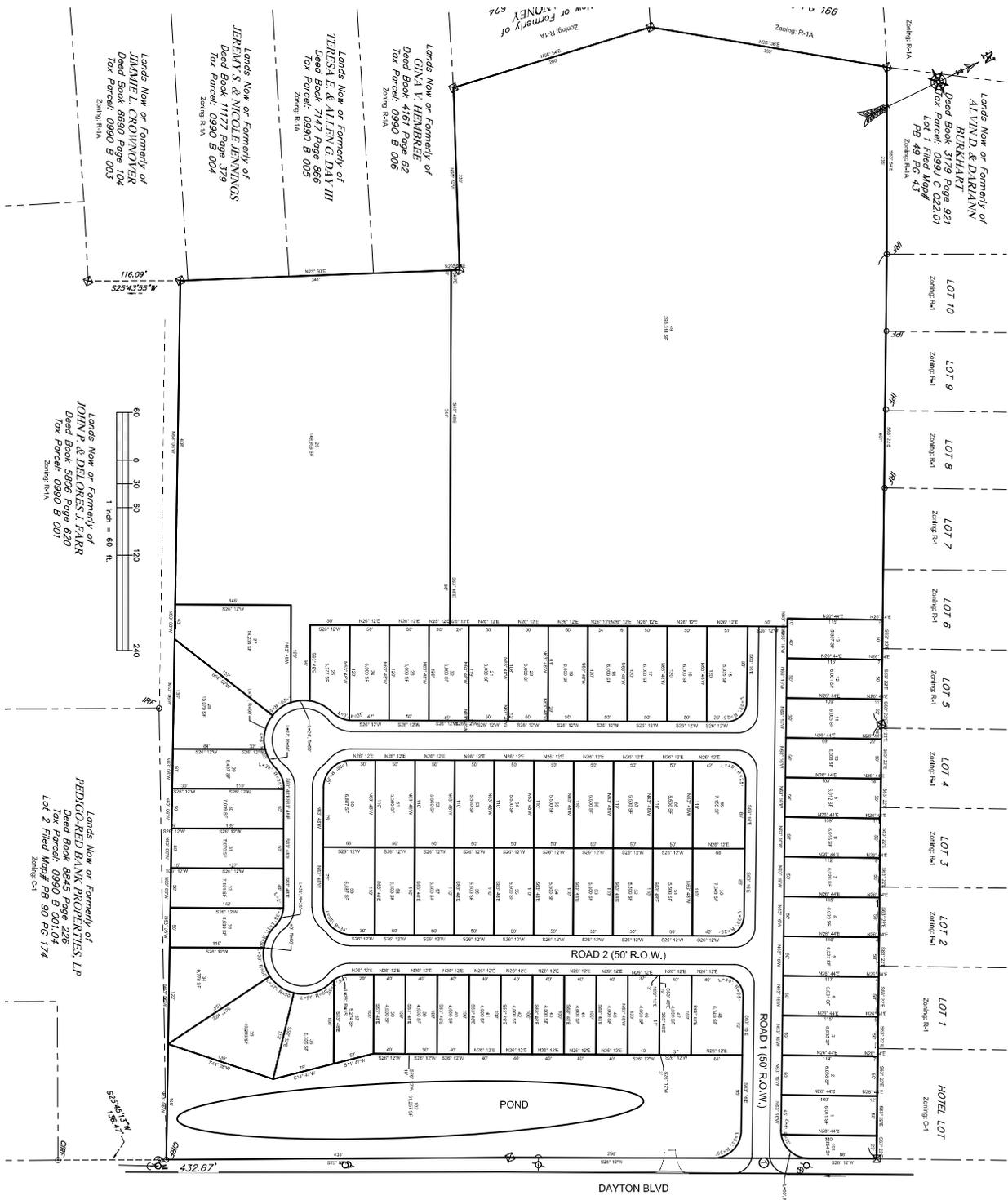
5005 Dayton Boulevard - Zoning



Disclaimer: This map is to be used for reference only, and no other use or reliance on the same is authorized. This map was automatically generated using HCGIS Mapping System. Parcel lines are shown for reference only and are not intended for conveyances, nor is it intended to substitute for a legal survey or property abstract.



- Legend**
- Parcels
 - Zoning_Collegedale
 - AG
 - C-1
 - C-2
 - C-3
 - I-1
 - MU-B/C
 - MU-T/C
 - PCD
 - PRD
 - R-1-H
 - R-1-L
 - R-2
 - R-3
 - U-1
 - Zoning_RevCond_RedBank
 - Zoning_RedBank
 - C-1
 - C-2
 - C-3
 - L-1
 - M-1
 - R-1
 - R-2
 - R-3
 - R-4
 - R-T/Z
 - R-TZ
 - R-1-A
 - R-1
 - RZ-1
 - Zoning_Soddy Daisy
 - A-1
 - C-2
 - C-3
 - M-1
 - M-2
 - O-1
 - MH
 - R-1
 - R-2
 - R-2A
 - R-3
 - R-3MD
 - R-5
 - R-T/Z



GENERAL NOTES

Source of boundary measurements is by a plat prepared by the Tennessee Land Survey, Inc. (Tennessee Land Survey, Inc., 10000 Highway 100, PO Box 671, Knoxville, Tennessee 37901)

DEED REFERENCES

1824 Rockwell Avenue
 4251 Rockwell Avenue
 (423) 504-5555

Lot Size: 26.3 acres

Proposed Residential Density: 7.0 units per acre

PLANNING DEPARTMENT

C201

PLUD PLAN

Project Name: Five Thousand Acres Subdivision
 Date: 08/26/2009
 Drawing No: 001
 Scale: As Shown
 Author: [Name]
 Checker: [Name]

Five Thousand Acres Subdivision

5005 Dayton Blvd
 Red Bank, Tennessee
 Tax ID: 0990 B 001.01

ENGINEERING GROUP

405 East Main Street, Suite 300
 Memphis, Tennessee 38103
 Phone: 901-242-5110
 www.thompsonengineering.com

PLANNING DEPARTMENT

C201

PLUD PLAN

Zoning Board

Application for Zoning Amendments or Changes of Zone Use

City of Red Bank, Tennessee

General

The proposed change or amendment must first be referred to the Red Bank Planning Commission for a recommendation. The Board shall give at least fifteen (15) days notice of the time and place for a public hearing, which shall be held in regard to the proposed changes or amendments. The notice shall be published in a newspaper of general circulation in the city. Certified notices shall be mailed to all property owners within 200 feet for the property under consideration for a change or amendment. The cost of the application and advertising is \$100.

1. Name of Applicant: Chris Anderson, GreenTech Homes
2. Street Address: 1644 Rossville Avenue
3. City: Chattanooga State: TN Zip: 37408
4. Telephone Number: (423) 475-6915
5. Property Address: 5005 Dayton Boulevard, Red Bank, TN 37415
6. Are you the owner of the property: Yes _____ No X
7. Please attach a drawing of the property boundaries. Show all easements, utility locations, and buildings. Describe any physical characteristics of the property such as wetlands, steep grades, ravines, Etc.
8. What is the present zoning classification for the subject property? R-1A
9. What is the requested zone desired or proposed use of the property? R-3 for the purpose of a residential planned used development for single-family detached houses and attached townhomes only.
10. Are you requesting special conditional use of the property? No
11. Is the proposed use compatible with that of surrounding properties? Yes

I certify that the above information is true and accurate to the best of my knowledge and belief:

Chris Anderson Date: 5-22-20

Amount Paid: _____ Date Paid: _____

By signing this application I understand that the application fee is non-refundable.

Recommendation of the Planning Commission: _____

Date Reviewed by the Planning Commission: _____

Action of the Zoning Board: _____

Date Reviewed by the Zoning Board: _____

List of any special conditions that may apply to the Zoning: _____

Approved by Ordinance Number: _____ Date: _____



MEMORANDUM

To: Members of the Red Bank Planning Commission

Cc: Tim Thornbury, Public Works Director

From: Ashley Gates, Regional Planner

Date: June 3, 2020

Subject: Ordinance Amending Chapter VII of the Zoning Ordinance – Adult Oriented Establishments

SUMMARY

Background: The City Attorney has drafted and recommended two ordinances that amend the requirements for adult-oriented establishments. The first ordinance places further restrictions and requirements to obtain a license to operate such an establishment. The second ordinance permits adult-oriented establishments in the C-1 Commercial zone rather than L-1 Light Manufacturing and M-1 Manufacturing zones.

Staff Recommendation: Approval.

ANALYSIS

License and Permitting Requirements

The proposed ordinance adds additional license and permitting requirements for applicants, including:

- Applicants must not have convictions within the last 5 years and will undergo a thorough background check, including fingerprinting
- A \$1,000 fee for each license, which expires after 12 months
- The City Manager or designee can revoke a license if the operator is found to be in violation of the restrictions

Operating Restrictions

The following are key restrictions on these businesses included in the ordinance:

- Operating hours may not include the hours between 3AM and 8AM, except Sundays which also excludes the hours between 8AM and noon.
- Maintain full employee records for a minimum of three years
- Post clear signage indicating that this is an adult-oriented establishment where minors may not be admitted
- Maintain clear visibility of all areas of the establishment from the common areas, with no private rooms, booths, etc.

Allowed Locations

Key to this ordinance and the impact of these establishments on the Red Bank community is where they are allowed to locate. This ordinance places the following restrictions on these types of businesses:

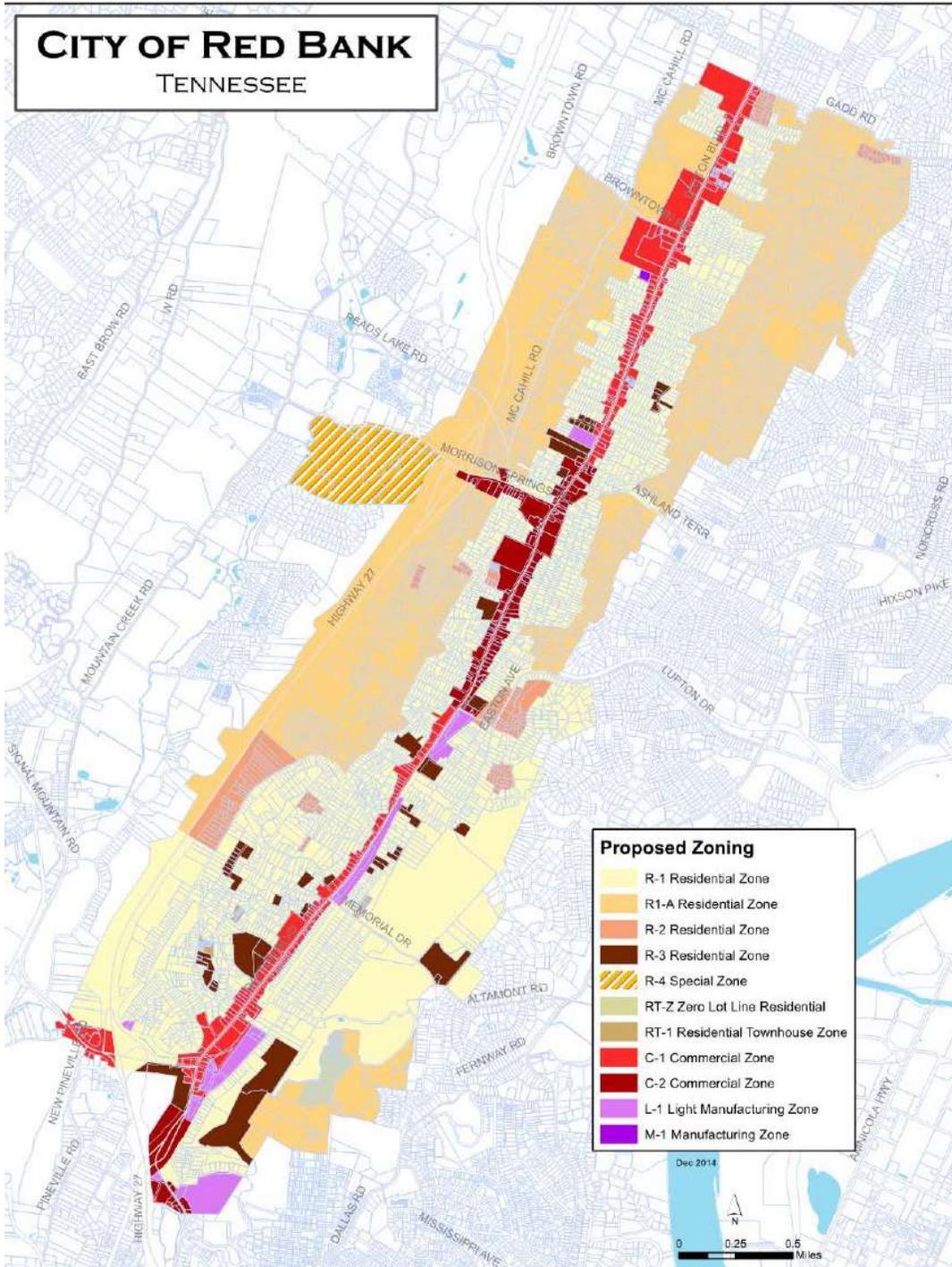
- **They are permitted only in the C-1 Commercial Zone when they meet the conditions listed below. They are no longer to be permitted in the L-1 Light Manufacturing or M-1 Manufacturing Zones.**
- Not permitted within 500 feet of any other adult-oriented establishment
- No more than 4 adult-oriented establishments in any zone where the same use is permitted
- Not permitted within 200 feet of any church, or other place of organized worship, any school, day care facility, public or private playground, ballfield, public swimming pool or parks or any other recreational facilities or place or location where children or groups of children are likely to congregate to participate in organized or casual sports and or recreational activities.
- Not permitted within 200 feet of any establishment which is licensed to sell or serve beer, wine or alcoholic beverages
- All sales, events and other permitted activities must take place inside the building, and are not permitted outside.
- Any location within 100 feet of a residentially-zoned property will require a Special Exceptions Permit. The City Commission may require additional conditions to issue this permit and protect the health, safety and welfare of the citizens.

RECOMMENDATION

Adult-Oriented Establishments can have a significant impact on the character and feel of a neighborhood. The leniency with which a community allows these types of establishments should reflect the community's values and existing development pattern. The findings at the beginning of this ordinance indicate that the proposed ordinance is in line with the Red Bank Community's values and priorities. Staff feels that the restrictions properly protect the commercial and residential properties within Red Bank and recommends approval.

APPENDIX

Red Bank Zoning Map



ORDINANCE NO. 20-1173

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND THE ZONING ORDINANCE NO. 15-1020 CODIFIED AT TITLE 14 OF THE RED BANK CITY CODE CHAPTER IV, SECTION 14-402, 14-501 AND 14-502 AS RELATES TO “PERMITTED USES” IN THE ZONES THEREIN SPECIFIED

WHEREAS, the City Commission and the City Planning Commission have recently undertaken a study and revision of the City’s Zoning Ordinance with respect to the topic of “Adult Oriented Establishments”; and

WHEREAS, the heretofore existing regulations of and with respect to that topic have not been updated or studied in several years; and

WHEREAS, intervening developments, court cases, professional studies and regulatory provisions existing in the surrounding City of Chattanooga recommend an update and revision of Red Bank’s Ordinances of and with respect to that same topic; and

WHEREAS, the City has been and is in the process of revising Title 14, Chapter VII, Sections 14-701 et seq. of the Red Bank City Code of and with respect to the topic of Adult Oriented Establishments.

NOW THEREFORE, in order to protect the health, safety, welfare and morals of the citizens of the City of Red Bank and to better align the City’s regulatory provisions of and with respect to the above referenced topic and findings to those of the geographically surrounding City of Chattanooga, be it **ORDAINED** by the City Commission of the City of Red Bank, Tennessee as follows:

SECTION I:

1. That the Zoning Ordinance of the City of Red Bank, Tennessee, codified at Title 14, Chapter IV, Section 14-402 of the Red Bank City Code, C-1 Commercial Zone, at Subsection 402.03 thereof be and the same is hereby Amended to add a new permitted use to wit:

(M) Adult Oriented Establishments
2. That the Zoning Ordinance of the City of Red Bank, Tennessee codified at Title 14, Chapter IV, Section 14-501.01 of the Red Bank City Code, with respect to the L-1 Light Manufacturing Zone be Amended to delete and remove Subsection (S) thereof “Adult Oriented Establishments”, from the list of permitted uses and to designate Subsection (S) thereof as “RESERVED”.
3. That the Zoning Ordinance of the City of Red Bank, Tennessee codified at Title 14, Chapter IV, Section 14-502.01 of the Red Bank City Code, with respect to the M-

1 Manufacturing Zone be Amended to delete and remove Subsection (B)(16) thereof “Adult Oriented Establishments”, from the list of permitted uses and to designate Subsection (B)(16) thereof as “RESERVED”.

BE IT FURTHER ORDAINED, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage, the health, safety and public welfare of the Citizens of the City of Red Bank requires it.

MAYOR

CITY RECORDER

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

CITY ATTORNEY

ORDINANCE NO. 20-

AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO AMEND THE ZONING ORDINANCE NO. 15-120 CODIFIED AT RED BANK CITY CODE TITLE 14, CHAPTER VII, SECTIONS 14-701 et. seq.

WHEREAS, the City of Red Bank finds that protection of the health, safety, and welfare supports the regulation of adult-oriented establishments, and

WHEREAS, in enacting this Ordinance, the Commission considered evidence of secondary negative effects from outside Hamilton County including the Houston, Texas City Council’s “Sexually Oriented Business Ordinance Revision Committee Legislative Report” dated January 7, 1997; the Newport News, Virginia “Adult Use Study” dated March 1996; and a “Report to: The American Center for Law and Justice on the Secondary Impacts of Sex Oriented Businesses” produced by Peter Hech, Ph.D. dated March 31, 1996 ; and

WHEREAS, the Commission also considered evidence of secondary negative effects relating to Hamilton County, including the “Community Protection Committee’s Final Report on Vice in Hamilton County with Recommendations” to the Hamilton County Executive and the Board of Commissioners, and the Mayor and the Members of the Chattanooga City including: Broadway Books v. Roberts, 642 F. Supp. 486 (E.D. Tenn. 1986); DLS, Inc. v. City of Chattanooga, 894 F. Supp. 1140 (E.D. Tenn. 1995); and City of Chattanooga v. Cinema 1, Inc., No. E2003-01038-COA-R3-CV, in the Court of Appeals of Tennessee, April 13, 2004; and

WHEREAS, the City Commission determines that the current provisions of Sections 14-701 et. seq., should be amended and revised;

NOW THEREFORE, BE IT ORDAINED by the City Commission of Red Bank, Tennessee;

SECTION I:

The provisions of Title 14, Chapter VII, Sections 14-701 of the Red Bank City Code are repealed in their entirety and there is substituted in its place and stead the following:

SECTION II:

SECTION 14-701 – Adult Oriented Establishments; Findings and purpose.

(a) The City Commission of the City of Red Bank, Tennessee, finds:

(1) That homogeneous and heterogeneous masturbatory acts and other sexual acts, including oral sex acts, have been being done in adult-oriented establishments in the City of Chattanooga.

(2) The City of Red Bank is geographically unique in that its City Limits are geographically surrounded by the City of Chattanooga and Red Bank is in effect a political island encompassed by the City of Chattanooga.

(3) That offering and providing such space, areas, and rooms where such activities may take place creates or potentially creates conditions that generate prostitution and other crimes.

(4) That several days and nights of the week such adult-oriented establishments, particularly adult book stores containing mini-motion picture facilities, in the City of Chattanooga are or have been historically overcrowded and contained more persons than such structures can safely accommodate resulting in a definite fire hazard since in the event of fire such persons would not be able to safely leave all the cubicles, booths and rooms of such establishments.

(5) That male prostitutes, particularly teenage males, have frequented said establishments for the purpose of providing, within the premises of such establishments, sex-for-hire.

(6) That permitting unregulated operation of adult-oriented establishments in the City of Red Bank would be detrimental to the general welfare, health, and safety of the citizens of the City of Red Bank.

(7) That there exists the undesirable probability and/or possibility of spill over and location of same or all of such undesirable activities from the City of Chattanooga to the City of Red Bank if and in the event that reasonable and lawful regulation of such (possible) situations are not duly regulated in the City of Red Bank and Red Bank's ordinances regarding same are not updated.

(8) That Red Bank's Ordinances regulating such activities and or potential activities, occurrences and/or business have not been updated in several years.

(b) It is the purpose of this article to promote and secure the general welfare, health, and safety of the citizens of the City of Red Bank and so as not to allow an unregulated or under-regulated exception to the surrounding City of Chattanooga's regulation of such activities and related businesses.

SECTION 14-702 - Definitions.

For the purpose of this article, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

(a) *Adult-oriented establishment* includes, but is not limited to sexually explicit establishments which cater to an exclusively or predominantly adult clientele and offer adult entertainment for business purposes such as: adult bookstores, adult motion picture theaters, adult cabarets, escort agencies, sexual encounter centers, massage parlors, adult saunas, adult video stores, and other enterprises which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined and/or sexual excitement or enticement. Adult-oriented Establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, exotic dance studio, encounter studio, sensitivity studio, model

studio, escort service, lingerie studio or any other term of like import which regularly feature materials, acts or displays involving complete nudity or exposure of the "Specified Anatomical Areas" herein below defined for sexual excitement or enticement as a business purpose.

(b) *Adult bookstore* means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations of sexual conduct which are characterized by their emphasis on the display of "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
- (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(c) *Adult cabaret* Any restaurant, bar, dance hall, nightclub or other such public place which as one (1) of its principal business purposes regularly features entertainment of an erotic nature, including exotic dancers, go-go dancers, strippers, male or female impersonators or similar entertainers, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or

- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (d) *Adult mini-motion picture theater* means an enclosed building with a capacity of less than fifty (50) persons regularly used for its principal business purposes to present material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas," as defined below, for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:
- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (e) *Adult motion picture theater* means any public place, whether open or enclosed, which is used as one (1) of its principal business purposes for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below) for observation by patrons therein. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:
- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or

- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (f) *Adult Video Store* means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) of the following: photographs, films, motion pictures, sexual devices, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis on the display of "Sexual Conduct," "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined below). A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:
- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (g) *City Commission* means the City Commission of the City of Red Bank, Tennessee.
- (h) *Employee* means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.
- (i) *Entertainer* means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for

entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(j) *Adult-entertainment* means any exhibition of any adult-oriented motion picture, live performance, display or dance of any type that has as a principal portion of such performance, any actual or simulated performance of specified sexual activities or sexual conduct exhibition and viewing of any specified anatomical areas, removal of articles of clothing or appearing unclothed, including pantomime, modeling, or any other personal service offered customers involving exhibition and viewing of specified anatomical areas.

(k) *Operator* means any person, partnership, or corporation operating, conducting or maintaining an adult-oriented establishment.

(l) *Principal Portion* means at least thirty-three and one-third percent (33 1/3 %) of the matter, products, conduct and/or thing so described, whenever such term is used in this ordinance.

(m) *Sauna* means an establishment or place which as one (1) of its principal business purposes is in the business of providing:

- (i) A steam bath; or
- (ii) Massage and are reasonably related services or conduct.

A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (n) *School* — An academic learning center, whether public or private, from the level of nursery through twelfth grade and including secondary education centers, not limited to, but including, community colleges and universities.
- (o) *Sexual Conduct* means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, buttocks or female breast of a person for the purpose of arousing or gratifying the sexual desire of another person.

(p) *Sexual Device* means any three-dimensional object primarily designed and marketed for the stimulation of the male or female human genital organs or anus, and shall include three-dimensional reproductions or representations of the human genital organs or anus. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for prevention of pregnancy.

(q) *Sexual Device Shop* means a commercial establishment that regularly features sexual devices or offers for sale sexual devices as a principal portion of its business purpose. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises to minors by reason of age. A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or
- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
- (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
- (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
- (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.

(r) *Sexual Encounter Center* means a business or commercial enterprise that, as one (1) of its principal business purposes, offers for any form of consideration:

- (i) Physical contact in the form of wrestling or tumbling between persons of the opposite sex;
- (ii) Physical contact between male and female persons or persons of the same sex when one (1) or more of the persons exposes to view of the persons within such establishment, at any time, the bare female breast below a point immediately above the top of the areola, human genitals, pubic region, or buttocks, even if partially covered by opaque material or completely covered by translucent material.

A business purpose for purposes of these definitions shall be a principal business purpose if any one (1) or more of the following criteria applies:

- (1) A principal portion of the business's displayed merchandise consists of the foregoing enumerated items; or

- (2) A principal portion of the wholesale value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (3) A principal portion of the retail value of the business's displayed merchandise consists of the foregoing enumerated items; or
 - (4) A principal portion of the business's revenues derive from the sale or rental for any form of consideration, of the foregoing enumerated items; or
 - (5) A principal portion of the business's interior business space is used for the display, sale, or rental of the foregoing enumerated items; or
 - (6) The business regularly features the foregoing enumerated items, and prohibits access by minors, because of age, to the premises, and/or advertises itself as offering "adult" or "xxx" or "x-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right of way.
- (s) *Specified sexual activities* means:
- (i) Human genitals in a state of sexual stimulation or arousal;
 - (ii) Acts of human masturbation, sexual intercourse or sodomy;
 - (iii) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.
- (t) *Specified anatomical areas* means:
- (1) Less than completely and opaquely covered:
 - (i) Human genitals,
 - (ii) pubic region;
 - (iii) Buttocks;
 - (iv) Female breasts below a point immediately above the top of the areola; and
 - (2) Human male genitals in a discernibly turgid state, even if completely opaquely covered.

SECTION 14-703 - License required.

- (a) Except as provided in subsection (e) below, from and after the effective date of this article, no adult-oriented establishment shall be operated or maintained in the City of Red Bank without first obtaining a license to operate issued by the City of Red Bank.
- (b) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for each.
- (c) No license or interest in a license may be transferred to any person, partnership or corporation.
- (d) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

- (e) All existing adult-oriented establishments at the time of the passage of this article must submit an application for a license within one hundred twenty (120) days of the passage of this article on third and final reading. If a license is not issued within said one-hundred-twenty (120) day period, then such existing adult-oriented establishment shall cease operations.

SECTION 14-704 - Application for license.

- (a) Any person, partnership, or corporation desiring to secure a license shall make application to the City Manager. The application shall be filed in triplicate with and dated by the City Manager or designee. A copy of the application shall be distributed promptly by the City Manager to the Red Bank Police Department and to the applicant.
- (b) The application for a license shall be upon a form provided by the City Manager. An applicant for a license shall furnish the following information under oath:
 - (1) Name and address, including all aliases.
 - (2) Written proof that the individual is at least eighteen (18) years of age.
 - (3) All residential addresses of the applicant for the past three (3) years.
 - (4) The applicant's height, weight, color of eyes and hair.
 - (5) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
 - (6) Whether the applicant previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license: whether the applicant has ever had such a license revoked or suspended. The reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
 - (7) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
 - (8) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
 - (9) The address of the adult-oriented establishment to be operated by the applicant.
 - (10) The names and addresses of all persons, partnerships, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
 - (11) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
 - (12) The length of time the applicant has been a resident of the City of Red Bank, or its environs, immediately preceding the date of the application.
 - (13) If the applicant is a corporation, the application shall specify the name, address and telephone number of the corporation, the date and state of incorporation, the name and address of the registered agent for service of process of the corporation, the names and

addresses of the officers and directors of the corporation, and the names and addresses of any persons holding fifty percent (50%) or more of the stock of the corporation; if the applicant is a partnership, the application shall specify the name and address of the partnership, the name and address of all general partners of the partnership; if the partnership is a limited partnership, the application shall specify the name and address of all general partners who have a controlling interest in the partnership.

- (14) A statement by the applicant that he or she is familiar with the provisions of this article and is in compliance with them.
 - (15) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address, phone number, and representative's name.
- (c) Within ten (10) days of receiving the results of the investigation conducted by the Red Bank Police Department, the City Manager shall notify the applicant that his application is granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the City Manager shall advise the applicant in writing whether the application is granted or denied.
 - (d) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this article, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the City Manager.

SECTION 14-705- Standards for issuance of license.

- (a) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:
 - (1) If the applicant is an individual:
 - (i) The applicant shall be at least eighteen (18) years of age.
 - (ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 - (iii) The applicant shall not have been found to have previously violated this article within five (5) years immediately preceding the date of the application.
 - (2) If the applicant is a corporation:
 - (i) All officers, directors and stockholders required to be named under section 11-424(b) shall be at least eighteen (18) years of age.

- (ii) No officer, director or stockholder required to be named under section 11-424(b) shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application;
 - (iii) No officer, director, or stockholder required to be named under section 11-424(b) shall have been found to have previously violated this article within five (5) years immediately preceding the date of the application.
- (3) If the applicant is a partnership, joint venture, or any other type of organization where two (2) or more persons have a financial interest:
- (i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.
 - (ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 - (iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this article within five (5) years immediately preceding the date of the application.
- (b) No license shall be issued unless the Red Bank Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the City Manager no later than twenty (20) days after the date of the application.

SECTION 14-706 - Permit required.

In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the City Manager.

SECTION 14-707 - Application for permit.

- (a) Any person desiring to secure a permit shall make application to the City Manager. The application shall be filed in triplicate with and dated by the City Manager. A copy of the application shall be distributed promptly by the City Manager to the Red Bank Police Department and to the applicant.
- (b) The application for a permit shall be upon a form provided by the City Manager. An applicant for a permit shall furnish the following information under oath:
 - (1) Name and address, including all aliases.
 - (2) Written proof that the individual is at least eighteen (18) years of age.
 - (3) All residential addresses of the applicant for the past three (3) years.
 - (4) The applicant's height, weight, color of eyes, and hair.

- (5) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
 - (6) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefor, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
 - (7) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
 - (8) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
 - (9) The length of time the applicant has been a resident of the City of Red Bank, or its environs immediately preceding the date of the application.
 - (10) A statement by the applicant that he or she is familiar with the provisions of this article and is in compliance with them.
- (c) Within ten (10) days of receiving the results of the investigation conducted by the Red Bank Police Department, the City Manager shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the City Manager shall advise the applicant in writing whether the application is granted or denied.
 - (d) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this article, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the board.

Section 14-708 - Standards for issuance of permit.

- (a) To receive a permit as an employee, an applicant must meet the following standards:
 - (1) The applicant shall be at least eighteen (18) years of age.
 - (2) The applicant shall not have been convicted of or pleaded no contest to a felony or any crime involving moral turpitude or prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.
 - (3) The applicant shall not have been found to violate any provision of this article within five (5) years immediately preceding the date of the application.
- (b) No permit shall be issued until the Red Bank Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the City Manager not later than twenty (20) days after the date of the application.

Section 14-709 - Fees.

- (a) In order to defray the cost of the investigation(s) related to the license and permit applications, a license fee of one thousand dollars (\$1,000.00) shall be submitted with the application for a license. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned.
- (b) A permit fee of one hundred dollars (\$100.00) shall be submitted with the application for a permit. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned.

SECTION 14-710 - Display of license or permit.

- (a) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.
- (b) The permit shall be carried by an employee upon his or her person and shall be displayed upon request of a customer, any member of the Red Bank Police Department, or any person designated by the City Commission.

SECTION 14-711 - Renewal of license or permit.

- (a) Every license issued pursuant to this article will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the City Manager. The application for renewal must be filed not later than sixty days (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the City Manager. A copy of the application for renewal shall be filed in triplicate with and dated by the City Manager. A copy of the application for renewal shall be distributed promptly by the City Manager to the Red Bank Police Department and to the operator/licensee/applicant. The application for renewal shall be upon a form provided by the City Manager and shall contain such information and data, given under oath or affirmation, as may be required by the City Commission.
- (b) A license renewal fee of one thousand dollars (\$1,000.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half ($\frac{1}{2}$) of the total fees collected shall be returned.
- (c) If the Red Bank Police Department is aware of any information bearing on the operator/licensee's qualifications, that information shall be filed in writing with the City Manager.
- (d) Every permit issued pursuant to this article will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee desiring to renew a permit shall make application to the City Manager. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the City Manager. A copy of the application for renewal shall be distributed promptly by the City Manager to the Red Bank Police Department and to the employee. The application for renewal

shall be upon a form provided by the City Manager and shall contain such information and data, given under oath or affirmation, as may be required by the City Manager.

- (e) A permit renewal fee of one hundred dollars (\$100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars (\$50.00) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the fee shall be returned.
- (f) If the Red Bank Police Department is aware of any information bearing on the licensee's or any employee of licensee's qualifications, that information shall be filed in writing with the City Manager.
- (g) Notwithstanding anything herein to the contrary, any application for renewal of a license or for renewal for a permit shall be handled, investigated and approved or denied within the same time periods as those established in this Article for original license applications and permit applications. In the event a license renewal application or permit renewal application is denied, the applicant shall have all rights of appeal to the City Commission as set forth in § 14-717 of this Article.

SECTION 14-712 - Revocation of license or permit.

- (a) The City Manager shall revoke a license or permit for any of the following reasons:
 - (1) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.
 - (2) The operator, entertainer, or any employee of the operator, violates any provision of this article or any rule or regulation adopted by the City Commission pursuant to this article; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of thirty (30) days if the City Commission shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.
 - (3) The operator or employee becomes ineligible to obtain a license or permit.
 - (4) Any cost or fee required to be paid by this article is not paid within the time period provided for such payment.
 - (5) An operator employs an employee who does not have a permit or provides space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.
 - (6) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.
 - (7) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.
 - (8) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or

to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

- (9) Any operator allows continuing violations of the rules and regulations of the Hamilton County Health Department and/or violations of State law or City Ordinance.
 - (10) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.
- (b) Notwithstanding anything herein to the contrary, before revoking or suspending any license or permit, the City Manager shall give the license holder or permit holder not less than ten (10) nor more than twenty (20) days' written notice of the charges against such license holder or permit holder and of the revocation of such license or permit, or of the period of time such license or permit is to be suspended; such notice shall also advise the license holder or permit holder of the license holder's or permit holder's right to request a hearing before the City Commission. In the event the license holder or permit holder does not request in writing a hearing before the City Commission within the time set forth in such notice, the suspension or revocation shall be effective beginning the date set forth in such notice.

If the license holder or permit holder desires to request a hearing before the City Commission to contest the suspension or revocation, such request shall be made in writing to the Clerk of the City Commission within ten (10) days of the license holder's or permit holder's receipt of the notification from the City Manager. If the license holder or permit holder timely requests such a hearing, the effective date of a suspension or hearing shall be stayed pending the final outcome of judicial proceedings to determine whether such license or permit has been properly revoked or suspended under the law.

If the license holder or permit holder timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the Clerk's receipt of such request before the City Commission at which time the license holder or permit holder may present evidence as to why the suspension or revocation is improper or contrary to the provisions of this Article. The City Commission shall hear evidence concerning the basis for such suspension or revocation and shall affirm or reverse the suspension or revocation at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-eight (28) days after the license holder's or permit holder's receipt of notification of the suspension or revocation, unless an extension beyond such time period is requested by the license holder or permit holder and granted by the City Commission.

- (c) If the City Commission affirms the suspension or revocation, the Office of the City Attorney shall institute suit for declaratory judgment in a court of record in Hamilton County, Tennessee, within ten (10) days of the date of any such affirmation seeking an immediate judicial determination of whether such license or permit has been properly revoked or suspended under the law.
- (d) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license.

SECTION 14-713 - Hours of operation.

- (a) No adult-oriented establishment shall be open between the hours of 3:00 a.m. and 8:00 a.m. on weekdays or between the hours of 3:00 a.m. and 12:00 noon on Sundays.
- (b) All adult-oriented establishments shall be open to inspection at all reasonable times by the Red Bank Police Department or such other persons as the City Manager and/or the Hamilton County Health Department may designate.

SECTION 14-714 - Responsibilities of the operator.

- (a) The operator/licensee shall maintain a register of all employees, showing the name, and aliases used by the employee, home address, age, birthdate, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the City Commission. The above information on each employee shall be maintained in a physical/paper and in an electronic register kept on the premises for a period of three (3) years following termination.
- (b) The operator shall make the register of employees available immediately for inspection by upon demand of the City Manager or designee and/or a member of the Red Bank Police Department and/or Hamilton County Health Department at all reasonable times.
- (c) Every act or omission by an employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- (d) An operator shall be responsible for the conduct of all employees while on the licensed premises and any act or omission of any employee constituting a violation of the provisions of this article shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.
- (e) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the City Manager or designee and/or Red Bank Police Department at all reasonable times.
- (f) No employee of an adult-oriented establishment shall allow any minor to enter or loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.
- (g) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures or other types of adult entertainment.

- (h) The operator shall be responsible for and shall provide that any room or area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be readily accessible at all times and shall be continuously opened to view in its entirety.
- (i) No operator, entertainer, or employee of an adult-oriented establishment shall demand or collect all or any portion of a fee for entertainment before its completion.
- (j) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by Red Bank City Code. Entertainers Are:

1. *Not permitted to engage in any type of sexual conduct;*
2. *Not permitted to expose their sex organs;*
3. *Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.*

SECTION 14-715 - Prohibitions and unlawful sexual acts.

- (a) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers or any persons to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia with any other person or any beast or animal.
- (b) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.
- (c) No operator, entertainer, employee, person, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with the intent to arouse or gratify the sexual desires of the operator, entertainer, employee, customer or person.
- (d) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18) inches above the immediate floor level and removed at least six (6) feet from the nearest entertainer, employee and/or customer.

SECTION 14-716 - Penalties and prosecution.

- (a) Any person, partnership, or corporation who is found to have violated this article shall be fined a definite sum not exceeding fifty dollars (\$50.00) and shall result in the suspension or revocation of any permit or license.
- (b) Each violation of this article shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation.
- (c) Any violation of State Law may be separately charged and prosecuted as such, shall be subject to application penalties, including imprisonment and shall not be subject to the "\$50 fine" limitations.

SECTION 14-717 - Invalidity of part.

Should any court of competent jurisdiction declare any section, clause, or provision of this article to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this article.

SECTION 14-718 - Denial of applications or renewals.

- (a) As used in this section, "application" shall mean (i) an application for a license, (ii) an application for a permit, (iii) an application for a license renewal, and (iv) an application for a permit renewal.
- (b) Whenever an application is denied, the City Manager shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the City Commission. If the applicant desires to request a hearing before the City Commission to contest the denial of an application, such request shall be made in writing to the City Manager within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be held within fifteen (15) days of the City Manager's receipt of such request before the City Commission at which time the applicant may present evidence as to why the application should not be denied. The City Commission shall hear evidence concerning the basis for denial of the application and shall affirm or reverse the denial of an application at the conclusion of said hearing; any such hearing shall be concluded no later than twenty-eight (28) days after the applicant's receipt of notification of denial of an application, unless an extension beyond such time period is requested by the applicant and granted by the City Manager.
- (c) If the City Commission affirms the denial of an application, the Office of the City Attorney shall institute suit for declaratory judgment in a court of record in Hamilton County, Tennessee, within ten (10) days of the date of any such denial seeking an immediate judicial determination of whether such application has been properly denied under the law.

SECTION 14-719 – Location, Distancing, and Special Use Permits.

- (a) No two Adult Oriented Establishments, may be located within five hundred feet (500) of any other Adult Oriented Establishment, measured in a straight surveyed line from the nearest property line. In the event of rejection by the City of a license application for reason of this “distance requirement”, the obligation to prove, by registered land surveyor, location eligibility for the later to apply applicant/prospective licensee/operator shall be upon such applicant.
- (b) There shall be no more than four (4) Adult Oriented Establishments located in any zone where the same is a permitted use, within the City of Red Bank.
- (c)(1) No Adult Oriented Establishment shall be located within two hundred feet (200) of any church,
- (c)(2) No Adult Oriented Establishment shall be located within two hundred feet (200) of any establishment which is licensed to sell or serve beer, wine or alcoholic beverages.

- (d) All permitted activities, including but not limited to sales or display of merchandise, shall necessarily and at all times take place indoor/inside the building premises, and in no event shall any such occur or take place “outside”, in the open air or under or adjacent to or in any tent, awning or temporary structure or covering.
- (e) In the event any otherwise qualifying or eligible location shall abut or be located within one hundred feet (100) (measured in a straight surveyed line from the nearest property line) of any residential zoned property in the City of Red Bank, then the issuance of a license for operation of an adult oriented business on such property shall be subject to the issuance of a Special Exception Permit, upon application by the Applicant to the Red Bank City Commission and as to which the City may require additional conditions to address the health, safety and welfare of the citizens, including but not limited to additional screening and or landscaping requirements, parking regulations, noise muffling, exterior lighting, and other requirements and conditions as may be reasonably necessary under the circumstances there existing.
- (f) Nothing contained in this Section 14-719 shall be interpreted or construed to repeal, suspend or otherwise modify any other provisions of the Red Bank City Code and all other provisions shall continue in full force and affect including specifically, but not by way of limitation all design review requirements, landscaping, sight screening, lighting, signage provisions and requirements, noise, traffic, parking and other ordinances and regulations.

BE IT FURTHER ORDAINED, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

FINALLY, BE IT ORDAINED that this ordinance shall take effect from and after the date of its final passage, the health, safety and public welfare of the Citizens of the City of Red Bank requiring it.

MAYOR

CITY RECORDER

PASSED ON FIRST READING

PASSED ON SECOND AND FINAL READING