

1       **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY**  
2       **OF ORLANDO, FLORIDA, AMENDING THE SHAH**  
3       **PLANNED DEVELOPMENT DISTRICT, GENERALLY**  
4       **LOCATED NORTH OF VINELAND ROAD, SOUTH OF**  
5       **WINDHOVER DRIVE, WEST OF KIRKMAN ROAD AND**  
6       **EAST OF PEREGRINE AVENUE AND COMPRISED OF**  
7       **3.15 ACRES OF LAND, MORE OR LESS; PROVIDING**  
8       **SPECIAL LAND DEVELOPMENT REGULATIONS;**  
9       **PROVIDING FOR SEVERABILITY, CORRECTION OF**  
10       **SCRIVENER'S ERRORS, PERMIT DISCLAIMER, AND AN**  
11       **EFFECTIVE DATE.**  
12

13       **WHEREAS**, at its regularly scheduled meeting of July 19, 2016, the Municipal  
14 Planning Board (the "MPB") of the City of Orlando, Florida (the "City"), considered  
15 zoning application case number ZON2015-00056, requesting amendments to the land  
16 development regulations of the Shah Planned Development zoning district (City of  
17 Orlando Ordinance #0605011002), generally located north of Vineland Road, south of  
18 Windhover Drive, west of Kirkman Road and east of Peregrine Avenue, comprising  
19 approximately 3.15 acres of land, and being more particularly described and depicted in  
20 **Exhibit A** (hereinafter the "Property"); and  
21

22       **WHEREAS**, the Property owner, JNS Real Properties, LLC (the "Owner"),  
23 through zoning application case number ZON2015-00056 requested an amendment to  
24 the Shah Planned Development zoning district to: (1) increase the maximum height of  
25 the hotel from 75 feet to 130 feet; (2) amend locations of onsite signage to allow a high  
26 rise sign on the southern façade; (3) increase the allowable sign area by 350 square  
27 feet for the hotel; (4) change the footprint of the hotel; and (5) reduce the parking  
28 requirements (the "Shah PD Amendment" or the "Project"); and  
29

30       **WHEREAS**, based upon the evidence presented to the MPB, including the  
31 information and analysis contained in the "Staff Report to the Municipal Planning Board"  
32 for application case number ZON2015-00056 (entitled "Item #10-Shah PD  
33 Amendment"), the MPB recommended that the City Council of the City of Orlando,  
34 Florida (the "Orlando City Council"), deny the zoning application; and  
35

36       **WHEREAS**, pursuant to Orlando City Code Section 2.205, Owner requested an  
37 additional de novo quasi-judicial hearing held on October 19, 2016 before an  
38 independent hearing officer, and on January 23, 2017, the Orlando City Council  
39 adopted the hearing officer's recommendation that the application was not consistent  
40 with: (1) the requirements for approval of Planned Development applications contained

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41 in the Orlando City Code; (2) the City's GMP; and (3) the purpose and intent of the PD  
42 zoning district, and that the proposal was not compatible with surrounding land uses  
43 and the general character of the area; and

44  
45 **WHEREAS**, Owner filed a petition pursuant to the Florida Land Use and  
46 Environmental Dispute Resolution Act, Section 70.51, Florida Statutes, for a special  
47 magistrate proceeding to contest the Orlando City Council's denial of the proposed  
48 Shah PD Amendment; and

49  
50 **WHEREAS**, Owner concurrently filed a Petition for Writ of Certiorari in the Circuit  
51 Court to challenge the Orlando City's Council's denial of the proposed Shah PD  
52 Amendment; and

53  
54 **WHEREAS**, in accordance with Section 70.51(17)(a), Florida Statutes, the City  
55 and Owner participated in mediation conferences in an effort to amicably resolve their  
56 dispute regarding the proposed Shah PD Amendment; and

57  
58 **WHEREAS**, pursuant to the terms agreed upon by the parties, the Orlando City  
59 Council hereby finds that the Project is consistent with the intent and purpose of the  
60 planned development district zoning designation as established by Part 2Q, Chapter 58,  
61 Code of the City of Orlando, Florida (the "Orlando City Code"); and

62  
63 **WHEREAS**, in accordance with the settlement agreement, the special magistrate  
64 proceeding and pending Petition for Writ of Certiorari will be dismissed upon approval of  
65 the Shah PD Amendment and expiration of any applicable appeal periods; and

66  
67 **WHEREAS**, the Orlando City Council hereby finds that the Project and this  
68 Ordinance are in the best interest of the public health, safety, and welfare, and are  
69 consistent with the applicable provisions of the City's GMP, including the applicable  
70 Goals, Objectives, and Policies associated with the Property's Future Land Use Map  
71 designation of Metropolitan Activity Center.

72  
73 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**  
74 **OF ORLANDO, FLORIDA, AS FOLLOWS:**

75  
76 **SECTION 1. ZONING DISTRICT AND PD AMENDMENT.** The Property was  
77 rezoned from Neighborhood Activity Center (AC/N) zoning district to Planned  
78 Development (PD) zoning district on the City's official zoning map series by City of

Orlando Ordinance #0605011002, adopted by the Orlando City Council on May 1, 2006. After due notice and public hearing, and pursuant to Part 2Q, Chapter 58, Orlando City Code, and other relevant portions of the Orlando City Code, Ordinance #0605011002 is hereby amended, restated, and completely superseded by this Ordinance. This planned development district may be referred to as the Shah Planned Development District.

**SECTION 2. OTHER DEVELOPMENT LAWS.** In accordance with Section 58.367, Orlando City Code, except as expressly provided in this ordinance, the Shah Planned Development District remains subject to all applicable federal, state, and local laws, and nothing in this Ordinance shall be construed to exempt the Property from the lawful authority or jurisdiction of any federal, state, or local agency.

**SECTION 3. DEFAULT ZONING DISTRICT.** Except as expressly provided otherwise by this Ordinance, the Property is governed by the land development regulations of the AC-3 Metropolitan Activity Center zoning district.

**SECTION 4. SPECIAL LAND DEVELOPMENT REGULATIONS.** The Shah Planned Development District is subject to the following special land development regulations:

**A. Permitted Uses**

The Property may include the following:

1. A hotel of up to 175 rooms; and
2. A two story commercial building with up to 16,000 square feet of light retail space and up to 16,000 square feet of office space.

**B. Land Development**

1. *Development Plan.* Subject to any modifications expressly contained in the text of this Ordinance, development and maintenance of the Property must be consistent with the conceptual development plan attached to this Ordinance as **Exhibit B** (hereinafter the "Development Plan"), as may be modified during final engineering and permitting. In the event of a conflict between the text of this Ordinance and the Development Plan, the text of this Ordinance controls.
2. *General Code Compliance.* Development of the Project should be consistent with the conditions herein, and all codes and ordinances of the City of Orlando, the State of Florida, and all other applicable regulatory agencies.
3. *Minor Modifications.* Minor modifications to the project, including changes to the design and site plan reviewed by the Municipal Planning Board or City

Council may be approved by the Planning Official without further review by the Municipal Planning Board. Major changes require additional review by the Municipal Planning Board.

4. *Consistency*. Unless amended by any conditions found herein or any modifications recommended by the MPB and approved by City Council, this project will operate and be developed only as described and conditioned within this Ordinance and in accordance with the attached Development Plan, as may be modified during final engineering and permitting. Any changes in the use of the site, the operation of the project, or the Development Plan as provided herein may require an amendment to the project and review by the MPB and City Council (see "Minor Modifications" condition above.) This approval is not transferable to another property.
5. *Impervious Surface Ratio*. The impervious surface ratio for the Property may not exceed 0.85.
6. *Phasing*. The mixed-use commercial building was constructed first and was part of Phase II. Phase I is comprised of the hotel and requires a final site plan and appearance review via determination prior to submitting for building permits.
7. *Height*. Maximum height must not exceed 106 feet. Architectural features such as parapets or other approved designs may extend to a maximum height of 110 feet. The building height of 106 feet does not include any elevator overruns. Roof articulations up to four (4) feet above the 106-foot building height are permitted for up to thirty percent (30%) of the roof area; provided that, mechanical items on the roof (e.g., air conditioning units) are placed at least four (4) feet from the parapet wall and screened as necessary.
8. *Setbacks*. The minimum required setbacks for the overall property are as follows: 0 feet along Vineland Road, 25 feet in the rear, 0 feet or greater along the east property line and 10 feet from the existing mixed-use building.
9. *Intensity*. The maximum permitted intensity on the Property is 1.5 FAR.
10. *Amenities*. In consideration of the reduction of the required amount of parking on the Property as detailed below, amenities within the proposed hotel building on the Property (e.g., dining and meeting room facilities, health club, and pool area) must not be marketed or rented to non-guests.

### C. Urban Design

1. *Appearance Review*. An appearance review is required prior to submittal for building permits to ensure a consistent architectural theme between the hotel and the retail/office building.

2. *Bufferyard.* A 25-foot wide bufferyard must be provided along the rear property line and landscaped to satisfy the requirements of the S1 Level of Figure 8, Section 60.265, Orlando City Code, and must additionally include the following:
  - a. A continuous row of shrubs of 30 to 36 inches in height, three (3) gallon in size, planted 30 to 36 inches on center; and
  - b. Groundcover of 8 to 12 inches in height planted 12 to 24 inches on center. Such groundcover may extend along the front of the shrub row or be clustered in an equivalent amount.
  - c. A six (6) foot high masonry wall shall be erected along the northern boundary of the Property.
3. *Driveway Buffer.* The driveway and sidewalk along the eastern side of the retail/office building must be separated by the following buffer:
  - a. Installation of a planting area at least five (5) feet wide, complete with understory trees, along the east side of the sidewalk; or
  - b. Installation of a colonnade to be located at least one and one-half (1 ½) feet from the edge of the driveway along with a width of clear sidewalk at least five (5) feet wide next to the retail/office building.
4. *Trees.* Canopy trees must be planted along Vineland Road every 50 feet on center.
  - a. A tree survey of the Property must be provided prior to issuance of building permits.
  - b. Should the tree survey indicate, pursuant to City Code, that certain on-site trees located in the 25-foot wide rear bufferyard must be preserved or planted, the Owner/Developer must ensure that such trees are preserved or planted.
5. *Signs.*
  - a. Two (2) monument signs, each of a maximum height of 15 feet, are permitted on the Property.
  - b. All signage must be designed and constructed so as to appear architecturally similar to other signs and the buildings.
  - c. The retail/office building is permitted up to 380 square feet of sign copy area. The existing monument sign square footage counts towards the permitted 380 square feet of sign copy area.
  - d. The hotel is permitted up to 160 square feet of sign copy area. In addition, the hotel is allowed a total of 500 square feet of high rise signage. High-rise signs are permitted on the southern and eastern sides of the proposed hotel building, and each sign must not exceed 250 square feet.

The maximum height of the letters on the high-rise signs must not exceed 6 feet.

- e. Owner must submit a sign master plan prior to submitting for building permits.

#### Retail/Office Design

1. At least 15% of the front façade of the retail/office building must be transparent between three (3) and seven (7) feet as measured from ground level.
2. At least three (3) of the following façade treatments must be used along all sides of the retail/office building:
  - a. Vertical architectural elements at least 12 inches wide placed at intervals of no more than 25 feet;
  - b. Building projections and recesses at least three (3) feet in width;
  - c. At least two (2) color changes between the principal building and the architectural accents;
  - d. At least two (2) texture and/or material changes between the principal building and the architectural accents;
  - e. At least two (2) pattern changes between the principal building and the architectural accents;
  - f. Architectural banding to create shadow lines; or
  - g. Awnings and/or canopies.
3. The roof of the retail/office building must either have a parapet wall or incorporate at least two (2) of the following treatments:
  - a. A cornice treatment at least 12 inches high with three (3) changes in the relief or thickness;
  - b. An overhang extending at least three (3) feet away from the supporting wall; or
  - c. Three (3) or more roof heights.

#### Hotel Design

1. At least 15% of all facades on all floors of the hotel must be transparent. (Glass panels located within doors may be included in calculating transparency.)
2. Architectural treatments on the hotel façade must continue around all sides of the building.
3. The following façade treatments must be incorporated into the hotel:

- a. The ground floor must be differentiated from upper floors through the use of:
  - i. Strong cornice lines;
  - ii. Awnings;
  - iii. Distinct but compatible exterior colors or materials;
  - iv. Exterior lighting;
  - v. Colonnades or overhangs that cover the sidewalk;
  - vi. Increased setbacks for upper floors; or
  - vii. Similar treatments.
- b. Projections and recesses, such as balconies and vertical architectural elements must be incorporated into all floors above the ground floor;
4. The rooftop must be sculpted into an architecturally distinct building accent as determined by the Appearance Review Officer; provided, however, that the building height of 106 feet does not include any rooftop sculpting required by the Appearance Review Officer.

#### **D. Transportation**

1. *Sidewalks*. A sidewalk at least five (5) feet wide must be provided along the eastern boundary of the Property or at a City approved alternate location from the sidewalk along Vineland Road to the sidewalk along the hotel entrance.
2. *Crosswalks*. All on-site crosswalks must include pavers or textured/raised concrete and high-intensity pavement markings.
3. *Trash Pick-up*. Collection of trash bins must occur internal to the site. Details must be approved through final site plan prior to applying for building permits.
4. *Cross Access Easement*. Owner must provide stub-outs along the western boundary of the Property to provide future cross-access at the north and south. Owner must provide a stub-out along the eastern boundary of the Property to provide for future potential cross-access through the Property to the property immediately to the east, if and when such access because available. Owner must create and record a cross-access easement prior to the completion of the hotel for the use of the foregoing connections. The cross-access easement may be written to make such easement rights contingent and effective only upon a similar easement being granted by the owners of the adjoining properties to the east and west, as applicable.
5. *Parking*.

- a. The Property must maintain a minimum of 150 parking spaces, based upon shared parking between the proposed hotel and the existing retail/office uses.
- b. The following minimum number of bicycle parking spaces must be provided on the hotel site: Two (2) long-term spaces (inside the building or otherwise covered and protected from the rain, etc. – may be accessible only to employees); and six (6) short-term spaces (outdoor bike racks).

**SECTION 5. EXPIRATION.** Upon approval of the PD by City Council, a complete building permit application must be submitted for work related to the PD amendment within five (5) years of the PD approval or the PD will expire.

**SECTION 6. DISCLAIMER.** In accordance with Section 166.033(5), Florida Statutes, the issuance of this development permit does not in any way create any right on the part of the applicant to obtain a permit from a state or federal agency, and does not create any liability on the part of the city for issuance of this permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. All other applicable state or federal permits must be obtained before commencement of the development authorized by this development permit.

**SECTION 7. SCRIVENER'S ERROR.** The city attorney may correct scrivener's errors found in this Ordinance by filing a corrected copy of this Ordinance with the city clerk.

**SECTION 8. SEVERABILITY.** If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**SECTION 9. EFFECTIVE DATE.** This Ordinance takes effect upon adoption.

**DONE, THE FIRST READING,** by the City Council of the City of Orlando, Florida, at a regular meeting, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**DONE, THE PUBLIC NOTICE,** in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.



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**DONE, THE SECOND READING, A PUBLIC HEARING, AND ENACTED ON  
FINAL PASSAGE**, by an affirmative vote of a majority of a quorum present of the City  
Council of the City of Orlando, Florida, at a regular meeting, this \_\_\_\_\_ day of  
\_\_\_\_\_, 2017.

BY THE MAYOR OF THE CITY OF  
ORLANDO, FLORIDA:

\_\_\_\_\_  
Mayor

ATTEST, BY THE CLERK OF THE  
CITY COUNCIL OF THE CITY OF  
ORLANDO, FLORIDA:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Print Name

APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND RELIANCE OF THE  
CITY OF ORLANDO, FLORIDA:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Print Name

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