

Exhibit "A"

**QUASI-JUDICIAL HEARING PROCEDURES
AND RULES FOR EX PARTE COMMUNICATIONS**

I. Scope and Applicability. These procedures shall apply to all quasi-judicial hearings held by the City Commission.

II. Proceedings. The Mayor (hereafter, the "Presiding Officer") shall conduct the proceedings and maintain order. The City Attorney shall represent the City Commission, rule on all evidentiary and procedural issues and objections, and advise the City Commission as to the applicable law and necessary factual findings. Hearings shall be conducted informally, but with decorum. Formal rules of procedure shall not apply except as set forth herein; however, fundamental due process shall be accorded.

III. Unauthorized Communications. In all quasi-judicial hearings, all rulings must be based only upon the evidence presented at the hearing. Ex parte communications with City Commissioners in quasi-judicial matters are permissible and the adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with City Commissioners:

A. The substance of any ex parte communication with a City Commissioner which relates to a quasi-judicial action pending before the Commission is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before the final action on the matter.

B. A City Commissioner may read a written communication from any person. However, a written communication that relates to a quasi-judicial action pending before the Commission shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

C. City Commissioners may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

D. Disclosure made pursuant to subparagraphs A, B and C must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication.

IV. Witnesses and Supporting Materials. At least five (5) calendar days before a quasi-judicial hearing:

A. Staff shall prepare a report, recommendation and supporting materials, a copy of which shall be available to the applicant and to the public at the City Clerk's Office. Included in the supporting materials will be copies of all exhibits and documents upon which staff's recommendation is based.

B. The Applicant shall submit a detailed outline of the argument in support of their application, copies of all exhibits which will be presented at hearing and the names and addresses of all witnesses who will be called to testify in support of the application (including resumes for any witness the party intends to qualify as an expert).

C. The five calendar days deadline is necessary to ensure the Commission is given sufficient opportunity to review the written submissions prior to the hearing, and shall be strictly observed. Should the five (5) calendar day deadline be missed by either staff or the Applicant, the item may be continued at the discretion of the City Commission to the next available agenda.

V. Party Intervenors. The City Attorney may allow a person to intervene as a Party Intervenor if they meet the following requirements:

A. The person must have an interest in the application, which is different than the public at large.

B. At least three (3) calendar days prior to the hearing, the person shall submit a written request to intervene including: a detailed outline of his or her interest in the application and argument in favor or against it, copies of all exhibits which will be presented at the hearing and the names and addresses of all witnesses who will be called to testify on their behalf (including resumes for any witness the person intends to qualify as an expert).

VI. Conduct of Hearing.

A. The Presiding Officer shall call the proceeding to order and announce that the hearing has begun.

B. The Presiding Officer shall inquire whether all parties, members of the public and Commission agrees to waive the quasi-judicial hearing.

C. When the quasi-judicial hearing is not waived, the City Attorney or Presiding Officer shall explain the rules concerning procedure, testimony, and admission of evidence.

D. When the quasi-judicial hearing is not waived, the City Clerk shall swear in all witnesses who are to testify at the hearing.

E. The order of proof shall be as follows:

1. A representative of the City's staff shall briefly describe the Applicant's request, introduce and review all relevant exhibits and evidence, report staff's recommendation, and present any testimony in support of staff's recommendation. Staff shall have a maximum of twenty (20) minutes to make their full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the Commission. Any requests for extension of time shall be made to the Presiding Officer, but shall be solely at the discretion of the Presiding Officer.

2. The Applicant (or his/her representative or counsel) shall present evidence and testimony in support of the application. Applicant shall have a maximum of twenty (20) minutes to make his/her full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the Commission. Any requests for extension of time shall be made to the Presiding Officer, but shall be solely at the discretion of the Presiding Officer.

3. Any Party Intervenor (or his/her representative or counsel) shall present evidence and testimony in support of or opposed to the application. A Party Intervenor shall have a maximum of twenty (20) minutes to make his/her full presentation, including opening statement and all direct presentation by witnesses, but excluding any cross-examination or questions from the Commission. Any requests for extension of time shall be made to the Presiding Officer, but shall be solely at the discretion of the Presiding Officer.

4. Any other persons present who wish to submit relevant information to the City Commission shall speak next for a maximum of three (3) minutes each. Members of the public will be permitted to present their non-expert opinions, but the Commission will be expressly advised that public sentiment is not relevant to the decision, which must be based only upon competent substantial evidence.

5. The Applicant will be permitted to make final comments.
6. The Party Intervenor will be permitted to make final comments.
7. The City's staff will make final comments.

8. At the discretion of the Presiding Officer, the Applicant may be permitted to respond to the final Party Intervenor and staff comments and recommendations.

F. The City Commission will conduct open deliberation of the application. The Presiding Officer shall have the ability to reopen the proceeding for additional testimony or argument by the parties when it is necessary and appropriate as determined at the discretion of the Presiding Officer. After deliberations, a vote shall be taken to approve, approve with conditions or deny the application.

VII. Examination by Commissioners and City Attorney or Legal Advisor. Commissioners and the City Attorney may ask questions of City staff, the Applicant (or his/her representative or counsel) or Any Party Intervenor (or his/her representative or counsel) who presents testimony or evidence at any time during the proceedings until commencement of deliberation.

VIII. Cross-Examination of Witnesses. After each witness testifies, the City staff representative, the Applicant's representative and/or the Party Intervenor's representative shall be permitted to question the witness, but such cross-examination shall be limited to matters about which the witness testified and shall be limited to five (5) minutes per side. Members of the public will not be permitted to cross-examine witnesses. Cross-examination shall be permitted only as would be permitted in a Florida court of law.

IX. Rules of Evidence.

A. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be admissible in a court of law in Florida. Irrelevant, immaterial, harassing, defamatory or unduly repetitive evidence shall be excluded.

B. Hearsay evidence may be used for the purposes of supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding unless it would be admissible over objection in a civil action.

C. Documentary evidence may be presented in the form of a copy or the original. Upon request, parties shall be given an opportunity to compare the copy with the original.

X. Statements of Counsel. Statements of counsel, or any non-attorney representative, shall only be considered as argument and not testimony unless counsel or the representative is sworn in and the testimony is based on actual personal knowledge of the matters which are the subject of the statements.

XI. Standard of Proof. The decision of the City Commission to approve, deny or modify an agenda item shall be based on competent substantial evidence. Competent substantial evidence is evidence which will establish a substantial basis from which the fact at issue can reasonably be inferred. It includes fact or opinion evidence offered by an expert on a matter that requires specialized knowledge and that is relevant to the issues to be decided. It is evidence a reasonable mind could accept as having probative weight and adequate to support a legal conclusion. Hypothetical, speculative, fear or emotion based generalized statements that do not address the relevant issues and that cannot be reasonably said to support the action advocated, are not competent substantial evidence.

XII. Continuances and Deferrals. The City Commission shall consider requests for continuances made by City staff, the Applicant or a Party Intervenor and may grant continuances in its sole discretion. If, in the opinion of the City Commission, any testimony

or documentary evidence or information presented at the hearing justifies allowing additional research or review in order to properly determine the issue presented, then the City Commission may continue the matter to a time certain to allow for such research or review.

XIII. Maintenance of Evidence and Other Documents. The Office of the City Clerk shall retain all of the evidence and documents presented at the hearing unless any such evidence is too large to be stored by the City Clerk or staff liaison. In that event, such evidence will be stored in the Planning Department.



QUASI-JUDICIAL PROCEDURES – NO INTERVENOR

1. **CLERK:** Read agenda item title indicating it is a quasi-judicial hearing.
2. **MAYOR:** Mr. City Attorney, please explain the procedures for the hearing before us.
3. **CITY ATTORNEY:** The city commission serves both a legislative and quasi-judicial role. When acting as a legislative body, the commission engages in law-making activity by passing laws and establishing policies. When acting as a quasi-judicial body, the commission applies those laws and policies, and is held to stricter procedural requirements. Quasi-judicial proceedings are less formal than proceedings before a circuit court, but are more formal than the normal commission meeting. Quasi-judicial proceedings must follow basic standards of notice and due process, and decisions must be made based on competent substantial evidence. Therefore, commissioners have a duty to conduct the quasi-judicial proceedings more like judges than legislators. That is why the commission has established the uniform procedures for quasi-judicial hearings that will be followed this evening.
4. **MAYOR:** These proceedings are now called to order. Will the City Clerk please confirm compliance with the advertising and notice requirements?
5. **CITY CLERK:** Advertising has been met for this item.
6. **MAYOR:** At this time, any ex-parte communications should be disclosed by each member of the City Commission, as well as any investigations or site visits that have been conducted, or any expert opinions received. Madam Clerk, please call the roll.

[Clerk will call roll]

7. **MAYOR:** We will now proceed to open the hearing on this matter. Will the City Clerk please swear in the witnesses?

8. **CITY CLERK:** Will anyone wishing to speak on this item, please stand and raise your right hand. Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth?

When you come forward, please state your name and address clearly for the record, sign in, and confirm you have been sworn-in.

9. **MAYOR:** The City's Staff will now make its presentation on this matter. **This is the time for questions of staff by the Commission.** Staff has a maximum of 20 minutes, excluding any cross-examination or questions from the Commission.

[Staff Presentation]

10. **MAYOR:** Will the applicant please come forward and sign in. Applicant may now conduct cross-examination of staff. **If you have no questions of staff, staff is excused** and the Applicant will now make your presentation on this matter.

This is the time for questions of the applicant by the Commission. Applicant has a maximum of 20 minutes, excluding any cross-examination or questions from the Commission.

[Applicant Presentation]

11. **MAYOR:** Does Staff have any questions of the applicant?

[Time is limited to 5 minutes - Staff Cross of Applicant]

12. **MAYOR:** **Applicant is now excused.** At this time, any other member of the public who wishes to submit relevant information to the City Commission may come forward and speak for a maximum of three minutes each. For each person that comes forward, please state your name and address, sign in, and indicate whether or not you have been sworn-in. Anyone wishing to speak should now line up in the center isle.

[General Public Comment]

13. **MAYOR:** The applicant will now make final comments which are limited to 3 minutes.

[Applicant Final Comments]

14. **MAYOR:** Staff will make final comments which are limited to 3 minutes.

[Staff Final Comments]

15. **MAYOR:** At this time, if desired the applicant may respond to staff's final comments which is limited to 1 minute.

[Applicant Response if Needed]

16. **MAYOR:** The time for questions is now closed. We will now proceed with comments and deliberation by Commission followed by a vote to approve, to approve with conditions or deny the application.