



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Silverball Museum

Meeting	File No.	Application Type
December 15, 2025	2025-203-USE-PZB	Modification of Conditional Use (Commercial Recreation)
Applicant	Owner	Authorized Agent
Silverball Museum, LLC	ZI REALTY, LLC	Betsy Chavez, JSR Design Group

#### Request

Review and consider a modification to an existing conditional use approval for the Silverball Museum, a Commercial Recreation Facility, located at 19 NE 3<sup>rd</sup> Avenue.

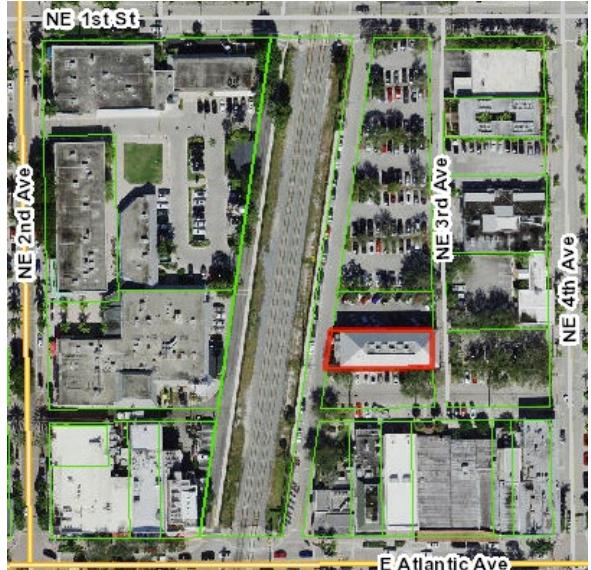
#### Background Information

The subject property is an 8,325 square foot two-story building located at 19 NE 3<sup>rd</sup> Avenue, on the east side of NE 3<sup>rd</sup> Avenue, between East Atlantic Avenue and NE 1<sup>st</sup> Street, within the Central Business District (CBD), Central Core Sub-District. The site has a Land Use Designation of Central Core (CC). The Silverball Museum, a vintage arcade game museum, has been operating at the subject site since early 2016.

The Silverball Museum operates from 11:00 AM to 12:00 AM, Sunday through Thursday and 11:00 AM to 2:00 AM, Friday and Saturday. Food and bar service is limited to specific areas on both floors of the building.

The approval history is summarized as follows:

- **2016.** Silverball Museum received conditional use approval to expand the business from vintage arcade games to include a full liquor bar, food service, occasional on-site entertainment and event hosting, either during normal operations or through rental of the entire facility. The commercial recreation use was approved for a total of 7,697 square feet, and the designated café/bar portion of the business was approved to occupy 1,339 square feet.



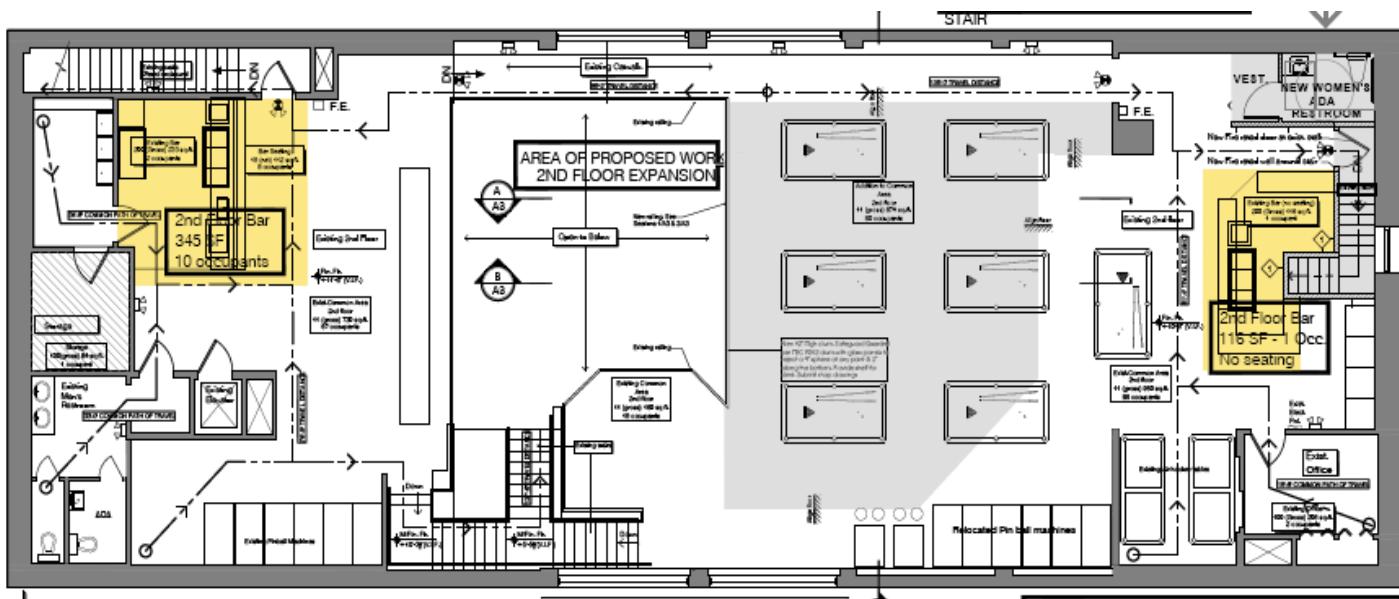
The establishment was only required to provide off-street parking for the restaurant and lounge portion of the business, pursuant to Land Development Regulations (LDR) Section 4.4.13(I)(2)(d) that exempts properties less than 65 feet in width (the property is approximately 45 feet in width) from providing parking, **except for restaurant and lounge uses**. Table 4.4.13(L) of the LDRs requires that six spaces per 1,000 square feet of gross floor area be provided for restaurants and lounges not located in the Atlantic Avenue Parking District.

Parking demand was calculated to include 100 percent of the 1,339 square foot restaurant-bar area and 10 percent of the remaining 6,358 square feet of open arcade floor area (636 square feet) for a total of 1,975 square feet. Food is not permitted in the game area and is limited to the bar/café area, and the applicant estimated that up to 10 percent of the floor area outside of the café/bar could be utilized for drink service. The total required parking for the cafe / bar use areas was 12 off-street parking spaces, which was addressed via the In-Lieu of Parking and Public Parking Fee option, that required a fee of \$10,140 per parking space for a total contribution of \$121,680.

- **2021.** Planning and Zoning Board **approved** a conditional use modification for an expansion to **8,325 square feet of commercial recreational use**. No additional parking was required for this approval.

### Description of Proposal

The request is for approval to modify the existing conditional use for the Silverball Museum, to **increase the building interior square footage from 8,325 square feet to 9,199 square feet**. The site modifications include an 874-square foot interior addition to the 2<sup>nd</sup> floor, shaded in grey in the illustration below. Because the second-floor expansion exceeds the allowable area to be considered a mezzanine, per the National Fire Prevention Code, the mezzanine is now considered a second floor. The second floor will still have an opening to view the first floor.



The food and bar areas on the second floor increase to 1,560 square feet of existing floor area with the conversion of 116 square feet of floor area for a bar addition, and the proposed 874 square-foot addition results in an additional 87.4 square feet of floor area for which parking is required (using the 10 percent calculation applied previously) for a total of 2,241 square feet of area subject to the parking requirement of 6 spaces per thousand square feet. This equates to one added space (2,241 square feet x 6 space / 1000 square feet = 13.45 spaces). To satisfy the additional parking space requirement, the Applicant is invoking LDR Section 4.4.13(l)(2)(c) "When the parking requirements are applied to new development or expansion of an existing use, which results in the requirement of only one new parking space, a one space exemption shall be allowed. This exemption may only occur once per property."

Conditional Use Expansion Approvals			
Year	2016 Approval	2021 Approval	Proposed 2025
Total Interior Area	7,697 sf	8,325 sf	9,199 sf
Area subject to parking	1,975 sf	2,038 sf	2,241 sf <u>(10% of the new floor area + 116 sf for the area converted to a bar)</u>
Required Parking (6:1,000 sf)	11.85	12.19	13.45

Sometime between the plan approval in 2021 and the present, the configuration of the bathrooms were changed from five men's toilets in one bathroom on the first floor, another single-user bathroom on the first floor, and six women's toilets on the second floor, to four women's toilets on the first floor, one single-user bathroom on the first floor, a single-user ADA-accessible bathroom on the second floor, and a two-toilet men's restroom on the second floor. The total occupancy limit will be determined based on compliance with the Florida Building Code requirements, including restroom facilities.

The Level 2 site plan, submitted concurrently with the conditional use modification, will be approved administratively.

## Review and Analysis

### LDR Section 2.4.6(A)(6), Modification of a Conditional Use Approval

An approved conditional use may be modified. If the modification involves only the implementation of or compliance with the conditions of approval, the modification may be approved by the Director. If the modification involves intensity of use or hours of operation, the modification must be approved by the Planning and Zoning Board. If the Board finds that the requested modification is significant, then the modification must be heard as a new Conditional Use application. Any request for a modification may be denied.

The requested modification represents an increase in the intensity of use, therefore, action by the Planning and Zoning Board is required to review the application. The Board may vote to approve or deny the request. However, if the Board finds that the modification is significant and should be heard as a new Conditional Use, then the vote would be to make a recommendation to the City Commission and the application would proceed to Commission for final approval.

### LDR Section 2.4.6(A)(5), Required Findings

The City Commission must make findings that establishing the conditional use will not:

- a) Have a significantly detrimental effect upon the stability of the neighborhood within which it will be located;
- b) Hinder development or redevelopment of nearby properties.

Municipal parking facilities are located to the north, south, and east; on-street parking within the NE 3<sup>rd</sup> Avenue right-of-way is located to the west, adjacent to the Florida East Coast Railway right-of-way. A negative impact on the surrounding properties is not anticipated from the proposed expansion of the interior space. Additionally, any expansion of bathroom facilities may lead to an increase in the occupancy load beyond the current limit. The Board could consider if there would be any negative impact on the neighborhood as a result of increasing the floor area (and potentially the occupancy load) of the establishment.

### Required Findings: LDR Section 3.1.1

Prior to the approval of development applications, certain findings must be made in a form which is a part of the official record. This may be achieved through information on the application, written materials submitted by the applicant, the staff report, or minutes. Findings shall be made by the body which has the authority to approve or deny the development application.

**(A) Land Use Map.** The resulting use of land or structures must be allowed in the zoning district within which the land is situated and said zoning must be consistent with the applicable land use designation as shown on the Land Use Map.

The subject property is designated Commercial Core (CC) on the Land Use Map, and zoned CBD; CBD zoning and the CC land use designation are considered consistent. The primary use of the Silverball Museum is a Commercial Recreational facility, which is permissible as a conditional use in the CBD district, per LDR Table 4.4.13(A). The facility's accessory uses include the café/bar, on-site entertainment and event rental, which are permitted uses within the CBD zoning district.

**(B) Concurrency.** Concurrency as defined by Objective NDC 3.1 of the Neighborhoods, Districts, and Corridors Element of the adopted Comprehensive Plan must be met and a determination made that the public facility needs, including public schools, of the requested land use and/or development application will not exceed the ability of the City and The School District of Palm Beach County to fund and provide, or to require the provision of, needed capital improvements in order to maintain the Levels of Service Standards established in Table CIF-2, Level of Service Standards, of the Capital Improvements Element of the adopted Comprehensive Plan of the City of Delray Beach.

Compliance with traffic, utilities, solid waste schools, and parks, is described below.

Traffic. A previous traffic impact statement was submitted by the applicant. Based upon the need for only 1 additional parking space, traffic expansion is considered minimal. The subject property is located within the City's Traffic Concurrency Exception Area (TCEA) within the Central Business District. This designation allows the city to develop and redevelop without being constrained by the capacity standards of Palm Beach County's Transportation Performance Standards Ordinance. The TCEA provides alternatives to expanding roadway capacity that benefit overall mobility. Also of note, because the occupancy would increase, the facility will see an increase in visitor traffic associated with the expansion of added restrooms.

Water & Sewer: The site is already served by City water and sewer, which has capacity to provide services.

Solid Waste: The museum portion of the building (7,074 sq. ft.) will generate 5.66 tons of solid waste per year. The bar and food area (2,125 sq. ft.) will generate 16 tons of solid waste per year for a total of 21.66 tons of solid waste per year. The existing facility generates 18.53 tons of solid waste per year. This results in a net increase of 3.13 tons of solid waste per year. The Solid Waste Authority has indicated that its facilities have sufficient capacity to accommodate all development proposals until 2054.

Schools: Non-residential development is not subject to school concurrency evaluation.

Parks and Recreation Facilities: Park dedication requirements do not apply to non-residential uses.

**(C) Consistency.** *A finding of overall consistency may be made even though the action will be in conflict with some individual performance standards contained within Article 3.2, provided that the approving body specifically finds that the beneficial aspects of the proposed project (hence compliance with some standards) outweighs the negative impacts of identified points of conflict.*

The following policies are applicable to the request:

#### **Neighborhoods, Districts, and Corridors Element**

Policy NDC 1.1.14 *Continue to require that property be developed or redeveloped or accommodated, in a manner so that the use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; affordable goods and encourage services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.*

The request does not alter the exterior of the building and increases the useable interior space

Objective NDC 2.2 Downtown and Surrounding Neighborhoods *Protect and enhance the “Village by the Sea” character of the downtown and neighborhoods located east of I-95.*

The 874 square-foot expansion to the existing 8,325 square-foot building is expected to enhance the district by increasing the Commercial Recreation component to an existing museum and will complement adjacent commercial land uses. This use furthers the theme of the CBD.

#### **Economic Prosperity Element**

Objective ECP 6.5 Small Business Growth *Support the growth and development of small businesses that enhance the vitality and quality of life in Delray Beach neighborhoods.*

Expansion of the interior space at the subject property supports a local small business by enhancing the existing approved Commercial Recreation facility and improving its sustainability. The use compliments adjacent development and furthers the intent of the downtown area.

**(D) Compliance with the LDRs.** *Whenever an item is identified elsewhere in these Land Development Regulations (LDRs), it shall specifically be addressed by the body taking final action on a land development application/request. Such items are found in Section 2.4.5 and in special regulation portions of individual zoning district regulations*

Pursuant to **LDR Section 4.6.9(B)(1)(c)**, off-street parking facilities shall be provided “for any addition or enlargement of an existing building or use,” which again is limited to food and beverage areas in the subject request. As calculated above, **Silverball Museum’s new obligation is for 13.45 parking spaces** (an increase from the 12.19 spaces required as a result of the 2021 approval). Per LDR Section 4.6.9, any fraction of less than one-half space shall be rounded down to the nearest whole number and any fraction of one-half space or more shall be rounded up. In this case, the fractional obligations are rounded down. Therefore, one additional parking space is required because of the interior expansion and conversion, and the Applicant is invoking the parking space exemption in LDR Section 4.4.13(I)(2)(c): *When the parking requirements are applied to new development or expansion of an existing use, which results in the requirement of only one new parking space, a one space exemption shall be allowed. This exemption may be used only once per property.*

#### Technical Notes

- The site plan table must be updated to include the 116 square feet converted to a bar in the food and beverage square footage.
- At the time of building permit:
  - The occupant count will be determined at time of building permit application.
  - The applicant must comply with the stairwell fire exit design requirements identified in the Fire Department's review.

#### Review by Others

The request was sent to the **Downtown Development Authority (DDA)**. The applicant will present if requested by the DDA.

#### Options for Board Action

- A. **Approve** the request to modify a Conditional Use approval for the **Silverball Museum** located at **19 NE 3<sup>rd</sup> Avenue** to allow the interior expansion of 874 square feet of Commercial Recreation use, finding that the request is consistent with the Land Development Regulations and the policies of the Comprehensive Plan.
- B. **Approve, with conditions**, the request to modify a Conditional Use approval for the **Silverball Museum** located at **19 NE 3<sup>rd</sup> Avenue** to allow the interior expansion of 874 square feet of Commercial Recreation use, finding that the request is consistent with the Land Development Regulations and the policies of the Comprehensive Plan.
- C. **Deny** the request to modify a Conditional Use approval for the **Silverball Museum** located at **19 NE 3<sup>rd</sup> Avenue** to allow the interior expansion of 874 square feet of Commercial Recreation use, finding that the request is inconsistent with the Land Development Regulations and the policies of the Comprehensive Plan.
- D. **Continue with direction.**

#### Public and Courtesy Notices

Courtesy Notices were sent to the following:

- ✓ Downtown Development Authority

Public Notice was posted at the property 7 calendar days prior to the meeting.

Public Notice was mailed to property owners within a 500' radius 10 days prior to the meeting.

Public Notice was posted to the City's website 10 calendar days prior to the meeting.

Public Notice was posted in the main lobby at City Hall 10 working days prior to the meeting.

Agenda was posted at least 5 working days prior to meeting.