



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

PLANNING AND ZONING BOARD STAFF REPORT

Ordinance No. 02-20, Standalone Bars with Outdoor Use Areas

| Meeting | File No. | Application Type |
|-------------------|--------------|--|
| December 16, 2019 | 2020-039-LDR | Land Development Regulations Amendment |

Request

Consideration of a privately-initiated request by Neil M. Schiller, Attorney at Law, on behalf of Delray Spirits, to amend the Land Development Regulations to specify a process and provide regulations for outdoor use areas associated with standalone bars and list "standalone bars with outdoor use areas" as an allowed conditional use within the West Atlantic Neighborhood Sub-district of the Central Business District.

Background Information

The Land Development Regulations (LDR) specify that "all commercial and industrial uses shall be conducted within a completely enclosed building rather than outside regardless of the zoning district." However, the LDR also specifies certain uses or aspects of a certain use that may be conducted outside. Those uses that are excepted for outdoor use area do not include standalone bars; they do include "outdoor dining." In addition, the City's Code of Ordinances specifies that consumption of alcohol is unlawful when "on business property outside the building" except for "patrons seated at permanent tables provided by the business". Therefore, standalone bars are not currently allowed to have outdoor use areas anywhere on their property. There are presently 10 approved and established standalone bars in Delray Beach (see attached map); standalone bars are required to be a minimum of 750' apart.

Description of Proposal

The proposed amendments to the LDRs adds specific regulations to Section 4.3.3(V), Special Requirements For Specific Uses: Uses involving alcoholic beverages, by requiring a conditional use approval for standalone bars with outdoor use areas, and include the following regulations that must be in compliance:

- All proposed outdoor service, game, or activity areas, and accessory structures shall be represented on a site plan and considered as a part of the conditional use.
- Amplified music is limited to the provisions of the conditional use approval, unless located within an enclosed building. Requests for amplified music must include the following:
 - a noise management plan; and,
 - a plan illustrating the setup of any live entertainment.
- Screening. The outdoor use area must be screened at the property line by a fence or wall and landscaping to provide adequate screening and soundproofing barriers around the outdoor area.
- Parking. Off-street parking shall be provided for the outdoor use area at the same parking rate as the main (inside) use.

The amendment also limits the listed use of "standalone bars with outdoor use area" to the West Atlantic Neighborhood Sub-district of the Central Business District as a conditional use. Of the 10 approved and established standalone bars in Delray Beach, only one is within the West Atlantic Neighborhood Sub-district and is located at 524 West Atlantic Avenue.

Section 4.6.6 is also proposed to be amended to clarify that outside dining areas, which are already excepted from the limitation of commercial uses to be conducted inside a completely enclosed building, must be associated with "bona fide restaurants or businesses where the food product is prepared, processed, or assembled on the premises where the food product preparation is the main or sole purpose of the business." The proposed amendment adds an additional provision to Section 4.6.6 by specifying that "standalone bars with outdoor use area that are listed as an allowable use within a zoning district, subject to the provisions of Section 4.3.3(V), Uses involving alcoholic beverages."

Project Planner:

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Attachments:

- Draft Ordinance 33-19
- Request Justification Statement
- Standalone Bar Map

It is important to note that the applicant has also submitted a request to amend the Code of Ordinances, which will accompany the subject request (Ordinance No. 02-20) for both the First and Second Readings by the City Commission. A draft of Ordinance No. 03-20 is attached.

Review and Analysis

Pursuant to **LDR Section 2.4.5(M)(1)**, amendments to the Land Development Regulations may be initiated by the City Commission, Planning and Zoning Board or City Administration; or an individual.

The proposed amendment is privately-initiated by Neil M. Schiller, Attorney at Law, on behalf of Delray Spirits.

Pursuant to **LDR Section 2.4.5(M)(5), Findings**, in addition to LDR Section 1.1.6(A), the City Commission must make a finding that the text amendment is consistent with and furthers the Goals, Objectives and Policies of the Comprehensive Plan. The following GOPs of the adopted Comprehensive Plan are applicable to the proposed amendment:

Future Land Use Element Objective A-1: Property shall be developed or redeveloped, in a manner so that the future use, intensity and density are appropriate in terms of soil, topographic, and other applicable physical considerations; encourage affordable goods and services; are complementary to and compatible with adjacent land uses; and fulfill remaining land use needs.

The proposed amendments increase use area for standalone bars to the outdoors through the conditional use approval process and provide additional regulations to limit outdoor noise and require screening and buffering. The LDRs require that findings be made for conditional use requests “that establishing the conditional use will not have a significantly detrimental effect upon the stability of the neighborhood within which it will be located, or hinder development or redevelopment of nearby properties.” Through this process, the intent of the subject Objective can be met by ensuring the outdoor use area is “compatible with adjacent land uses”; consideration can also be given to the requirement that if the standalone bar is within 300 feet of a residential zoning district an additional conditional use approval is needed.

Future Land Use Policy C-1.5 The following pertains to the redevelopment of the West Atlantic Avenue Area: This area extends in a corridor along Atlantic Avenue eastward from I-95 to Swinton Avenue. The present land uses in this area include single family homes, duplexes, mini-parks, commercial uses along Atlantic Avenue and N.W. 5th Avenue, and scattered vacant parcels. The West Atlantic Avenue Redevelopment Plan was adopted by the City Commission on July 11, 1995. The plan establishes Future Land Use Map designations, zonings, special development standards, and design guidelines for the Redevelopment Area. Future development in the area must be in accordance with the provisions of the redevelopment plan.

The amendment is presently applicable to a single property within the West Atlantic Neighborhood Sub-district, which was established as the “Clear View Lounge” many years ago. While not specific to a commercial use or property, the adopted West Atlantic Avenue Redevelopment Plan discusses strategies for a need to “eradicate problems” such as public intoxication and “other nuisance complaints that lead to a negative image of the area.” Since the Plan’s adoption in 1995, the West Atlantic Avenue neighborhood area has significantly improved; the proposed amendments include measures that would not “lead to a negative image of the area”.

Review By Others

The **Downtown Development Authority (DDA)** will review the proposed LDR Amendments at its January 13, 2020 meeting.

The proposed LDR Amendments have been reported to the **Community Redevelopment Agency (CRA)**; a review date has not yet been determined.

The **City Commission** review of the proposed LDR Amendments is anticipated at the meetings of January 21, 2020 (First Reading) and March 3, 2020 (Second Reading).

Alternative Actions

- A. Recommend **approval** to the City Commission of Ordinance No.02-20, amending the Land Development Regulations to specify a process and provide regulations for outdoor use areas associated with standalone bars and list “standalone bars with outdoor use areas” as an allowed conditional use within the West Atlantic Neighborhood Sub-district of the Central Business District, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.

- B. Recommend **approval** to the City Commission of Ordinance No. 02-20, **as amended**, amending the Land Development Regulations to specify a process and provide regulations for outdoor use areas associated with standalone bars and list “standalone bars with outdoor use areas” as an allowed conditional use within the West Atlantic Neighborhood Sub-district of the Central Business District, by finding that the amendment as amended and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- C. Recommend **denial** to the City Commission of Ordinance No. 02-20, amending the Land Development Regulations to specify a process and provide regulations for outdoor use areas associated with standalone bars and list “standalone bars with outdoor use areas” as an allowed conditional use within the West Atlantic Neighborhood Sub-district of the Central Business District, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.

Public and Courtesy Notices

☐ Courtesy Notices are not applicable to this request

☒ Courtesy Notices were provided to the following, at least 5 working days prior to the meeting:

- Chamber of Commerce

N/A Public Notices are not required for this request.

N/A Public Notice was posted at the property on (insert date), 7 calendar days prior to the meeting.

N/A Public Notice was mailed to property owners within a 500' radius on (insert date), 10 days prior to the meeting.

N/A Public Notice was mailed to the adjacent property owners on (insert date), 20 days prior to the meeting.

X Public Notice was published in the Sun Sentinel on Friday, December 6, 2019, 10 calendar days prior to the meeting.

X Public Notice was posted to the City's website on Friday, December 6, 2019, 10 calendar days prior to the meeting.

X Public Notice was posted in the main lobby at City Hall on Friday, December 6, 2019, 10 working days prior to the meeting.

X Agenda was posted on Friday, December 6, 2019, at least 5 working days prior to meeting.