



CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING

#19-0279

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Chris Lagerbloom, ICMA-CM, City Manager

DATE: March 19, 2019

TITLE: Ordinance Amending Section 5-26 of the Code of Ordinances of the City
of Fort Lauderdale to Allow Additional Establishments to Request a
Special Exception for the Distance Measurement Between Establishments
that Serve Alcohol or Intoxicating Beverages

Recommendation

It is recommended that the City Commission approve an ordinance amending Section 5-26 of the Code of Ordinances of Fort Lauderdale, Florida, ("Code of Ordinances") to allow additional business establishments to request a special exception for the distance measurement between establishments that serve alcohol or intoxicating beverages.

Background

The Code of Ordinances generally prohibits the sale of alcoholic beverage in any place of business with certain state licenses to sell beer, wine and liquor if the place of business is within 300 feet of another business licensed to sell alcoholic or intoxicating beverages. Section 5-26(b), Fort Lauderdale Code of Ordinances, however, permits the Board of Adjustment to grant a special exception from this distance requirement to dining rooms or restaurants where the sale and service of alcoholic or intoxicating beverages is incidental to the sale and service of food and for hotels with fifty (50) rooms or more.

Places of businesses that did not meet the criteria of Section 5-26(b) were in the past permitted to submit variance requests to the Board of Adjustment ("BOA") to permit establishments other than hotels and restaurant bars to be less than 300-feet from another place of business that sells these types of beverages.

Approximately a year ago the City Attorney's Office determined that variances from the requirements of Section 5-26 are outside of the scope of authority of the Board of Adjustment which is limited to the provisions of the Unified Land Development Regulations ("ULDR"). As a result a variance from the distance requirements of Section 5-26(a) could no longer be granted and no other method was identified through which relief could be sought. The statuses of past variances granted from this section are also in question. As an impermanent solution, applicants were issued temporary nonconforming use permits for one year pursuant to Section 47-24.12.A.8 of the ULDR,

with the anticipation that the adoption of this amendment would resolve this issue. This proposed amendment will allow any business establishments subject to the 300-foot distance limitation to request a special exception to the distance separation requirements to sell alcoholic beverages.

The criteria for requesting a Special Exception can be found in ULDR Section 47-24.12.A.5, which states:

5. *Criteria—Special exceptions. A special exception shall be granted upon demonstration by a preponderance of the evidence of all of the following criteria:*
 - a. *Whether the proposed development or use meets the requirements for a special exception as provided by the ULDR; and*
 - b. *Granting of the special exception shall not be incompatible with adjoining properties or the surrounding neighborhood or otherwise contrary to the public interest.*

It should be noted that this amendment does not alter the current special exception criteria, but only allows for expanded use of the criteria to those establishments that are not hotels or restaurant bars (i.e. standalone bars).

To review the proposed amendment, please refer to Exhibit 1.

Public Outreach

The proposed amendment was presented to the Board of Adjustment as a “For the Good of City of Fort Lauderdale” item at the December 11, 2018 meeting.

The proposed amendment was also presented to the Council of Fort Lauderdale Civic Association (CFLCA) on February 12, 2019 meeting. The CFLCA made the following comments:

- Provisions should be considered that will mitigate the negative impacts to residential districts abutting commercial districts where businesses serving alcohol may be requested that does not meet the minimum distance requirements and request a special exception;
- The language should address the proliferation of businesses requesting a special exception to serve alcohol;
- The distance requirement should be larger than 300-feet; and
- The request should not be permitted in all zoning districts.

At the March 5, 2019 City Commission meeting 2 members of the CFLCA made comments to the City Commission about the need to take a closer look at the criteria for special exceptions and requested the item be deferred to allow time for staff to meet with

neighbors and develop additional proposed criteria. The City Commission passed the item on first reading and directed staff to return to the CFLCA to further clarify the language and intent of the proposed amendment between first and second reading

At the March 12, 2019 CFLCA meeting the City Attorney made a presentation to the members explaining the issue from a legal perspective and answered various questions. The CFLCA held a vote to recommend deferral of the item to allow time for staff to have additional meetings with the CFLCA and other neighbors to explore the various options for additional criteria for special exceptions as it relates to those establishments that would not meet the 300-foot minimum distance requirements and that serve alcoholic beverages.

Resource Impact

There is no fiscal impact to the City associated with this action.

Strategic Connections

This item is a *Press Play Fort Lauderdale Strategic Plan* initiative, included within the Infrastructure Cylinder of Excellence, specifically advancing:

- Goal 7: Be a well-positioned City within the global economic and tourism markets of the South Florida region, leveraging our airports, and rail connections
- Objective 2: Facilitate a responsive and proactive business climate.
- Initiative 5: Annually review and streamline the development and permitting process to reflect business and customer feedback and trends.

This item advances the *Fast Forward Fort Lauderdale 2035 Vision Plan: We are Connected*.

Attachments

Exhibit 1 – Ordinance

Prepared by: Karlanne Grant, Department of Sustainable Development

Department Director: Anthony Greg Fajardo, Sustainable Development