



Legislation Text

File #: 23-545, Version: 1

CITY COUNCIL AGENDA ITEM

Memo Date: September 5, 2023
Agenda Date: September 12, 2023
Prepared By: Charlene Neuterman, Community Services Director
Through: Stockton Whitten, City Manager
Requested Action:

Adopt on **Second and Final Reading** Ordinance 16-2023 of a Land Development Code Amendment to amend the list of permitted uses related to restaurants in the M-2 District..

BACKGROUND:

The applicant, Mr. Robert B. Scale, of Pint & Pistol, LLC, has requested the City amend the Land Development Code (LDC) as it relates to restaurants in the M-2 Zoning District to allow restaurants in the district to serve liquor. Currently, restaurants in the M-2 Zoning District may only serve beer and wine. Pint & Pistol currently operates at 2911 Oxbow Cir, Cocoa, FL 32926, as a shooting range with restaurant that serves beer and wine. The applicant wishes to also serve liquor as part of the restaurant use.

Future Land Use Designation: Current: IND, Industrial
Zoning District: Current: M-2, Manufacturing and Industrial District
Existing Land Use: Pint & Pistol Shooting Range and Restaurant
Council District: District 3 - Councilmember Dyal
Legal Ad Date: September 1, 2023

Overview of Surrounding Area:

	Future Land Use Designations	Zoning Districts	Land Uses
North	IND, Industrial	M-2, Manufacturing and Industrial District	Vacant Industrial Land
South	IND, Industrial	M-2, Manufacturing and Industrial District	Light Manufacturing
East	IND, Industrial	M-2, Manufacturing and Industrial District	Vacant Industrial Land
West	RES 1:2.5 Residential (1 unit per 2.5 acres)	Brevard County GU, General Use	Single-Family Residences

I. Staff Analysis

Pursuant to Appendix A, Zoning, Article XXI, Amendment, Section 1(G)(2), the planning board shall consider and study:

- a. The need and justification for the change.
- b. The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.

Need and justification for the change.

Restaurants are currently allowed in the following districts:

- C-N, Neighborhood Commercial, with the following conditions:
 - o Outdoor entertainment shall be prohibited;
 - o The restaurant shall be required to close no later than 10:00 PM on Sunday through Thursday and no later than 12:00 AM on Friday and Saturday; and
 - o Walls and/or opaque vegetative screening buffers shall be required between the restaurant and adjacent properties with residential zoning designations.
- C-G, General Commercial, with the same restrictions as C-N noted above.
- CBD, Central Business District, by right with no additional restrictions.
- C-C, Core Commercial District, with bars and lounges allowed only as an accessory use to restaurant.
- PUD, Planned Unit Development, with the following conditions:
 - o Outdoor entertainment shall be prohibited;
 - o The restaurant shall be required to close no later than 10:00 PM on Sunday through Thursday and no later than 12:00 AM on Friday and Saturday; and
- UMD, Urban Mixed-Use District, including the sale and service of alcoholic beverages for on-site consumption.

The M-2, Manufacturing and Industrial District, allows for the following limited commercial uses:

1. Retail sales of carpet, tile, pool, furniture, construction products or materials sold directly to the end user (builder, installer, or homeowner).
2. Restaurants located within one (1) principal structure, including the sale of beer and wine for on-site consumption only, with a minimum three thousand (3,000) linear feet spacing requirement between restaurant uses as measured between the nearest property lines. This distance requirement shall not apply if the proposed restaurant is part of a master planned industrial park and the restaurant is located within four hundred (400) feet of Grissom Parkway.
3. Business service establishments.
4. Veterinary hospitals, clinics, and animal boarding facilities.
5. Indoor shooting ranges, with ancillary retail sales and restaurant subject to the requirements of subsection (A)(12)(d)2. of this section, shall be permitted with the following conditions:
 - a. All firing shall take place within a completely enclosed building.
 - b. Site plan applications for the development of an indoor shooting range shall include a plan by

a Florida registered engineer demonstrating that the building is soundproof and appropriately designed for such use.

The applicant wishes to modify Section 2, as shown above, to strike “including the sale of beer and wine for on-site consumption only”. By doing so, the applicant would be able to sell beer, wine, and liquor. The applicant and any future restaurant in M-2 would still be required to follow all Florida Division of Alcoholic Beverages and Tobacco licensing requirements, as well as separation requirements from schools and other sensitive uses as outlined by the Florida Statutes. In accordance with App. A, Zoning, Article XIII, Section 20, Alcoholic Beverages, the sale of alcoholic beverages for on-premise consumption is allowed as an accessory use where the restaurant has seating accommodations for at least 40 persons, excluding seats or stools in a bar or lounge area, and has a kitchen to prepare and serve meals when open for business.

Given that the M-2 zoning district is the only zoning district to specifically detail the types of alcohol that may be sold, this revision will make the language more consistent with the other zoning categories that allow for restaurants. In addition, the City has been supportive of the Applicant’s business by supporting and approving other, similar code amendments. This amendment will continue that trend and may allow for other service-based industry uses to occur in the M-2 zoning district.

Relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan.

This request relates to both Goal 1.1 and Objective 1.1.1 of the Future Land Use Element:

GOAL 1.1: Create and maintain a broad range of land use activities that maximize the City's potential as a growth center while protecting the public health, safety, welfare, and appearance through the thoughtful planned use and development of the land and public facilities.

Objective 1.1.1: Future Land Use Categories Established. The City hereby establishes land use categories and a Future Land Use Map (FLUM) that provide for compatible and coordinated land uses, allowing for the protection of natural and historic resources as well as maximizing economic development opportunities.

By being allowing a mixture of appropriate commercial uses and providing for flexibility within the administration of those uses, the City is providing for a broad range of land use activities, as well as maximizing economic development opportunities.

Figure FLU-1 of the FLU Element continues to be met as the subject property will continue to comply with the overlying FLU designation of IND, Industrial. Additionally, Policy 1.1.2.10 (B) states:

Commercial and office uses that are complementary to and support industrial development and operations may be permitted within industrial designated areas.

The applicant was able to take advantage of these policies by opening his facility within the M-2 district, as allowed by the Comprehensive Plan and Land Development Code. This code amendment will expand the implementation of this policy.

At the August 16th Planning and Zoning Meeting, Board members voted to recommend approval by City Council. At the August 22nd Council meeting, Council approved the First Reading of Ordinance 16-2023.

Staff recommends consideration of the Second and Final Reading of Ordinance 16-2023.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

Approval Ordinance 04-2019 to allow indoor shooting ranges as a permitted use subject to certain conditions, including ancillary retail sales and restaurant in the M-2 (Manufacturing and Industrial) Zoning District on May 8, 2019.

Planning & Zoning recommended approval at the August 16, 2023 meeting.
City Council approved First Reading at the August 22nd, 2023 meeting.

RECOMMENDED MOTION:

Adopt on **Second and Final Reading** Ordinance 16-2023 of a Land Development Code Amendment to amend the list of permitted uses related to restaurants in the M-2 District..