



**AGENDA
CITY OF LAKE WORTH BEACH
PLANNING & ZONING BOARD REGULAR MEETING
BY TELECONFERENCE
WEDNESDAY, SEPTEMBER 02, 2020 -- 6:00 PM**

ROLL CALL and RECORDING OF ABSENCES:

PLEDGE OF ALLEGIANCE

ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA

APPROVAL OF MINUTES:

A. [August 5, 2020 Regular Meeting Minutes](#)

CASES:

SWEARING IN OF STAFF AND APPLICANTS

PROOF OF PUBLICATION

- 1) [PZHP LDR 20-03100005 and 20-03100006 Proof](#)
- 2) [Dr. Spirits Proof](#)

WITHDRAWALS / POSTPONEMENTS

CONSENT

PUBLIC HEARINGS:

BOARD DISCLOSURE

UNFINISHED BUSINESS:

NEW BUSINESS:

- A. [PZB Project Number 20-00500010 and PZB Project Number 20-00600001](#): A request for [a conditional use permit to allow a specialty distillery/bar at 604 Lake Avenue, pursuant to the City of Lake Worth Beach Land Development Regulations \(LDR's\) Section 23.2-29, Conditional use permits, and a request for two alcohol beverage distance waivers to allow the onsite consumption and the packaged sales of alcoholic beverages at the subject property.](#)
- B. [PZHP 20-03100006](#): Consideration of an ordinance (Ordinance # 2020-14) to amend Chapter 23 "Land Development Regulations" to update and clarify the quasi-judicial process for land use and zoning matters.

C. PZHP 20-03100005: Consideration of an ordinance (Ordinance # 2020-13) to amend Chapter 23 “Land Development Regulations” to provide consistency and clarity for time limitations related to development orders and building permits.

PLANNING ISSUES:

PUBLIC COMMENTS (3 minute limit)

DEPARTMENT REPORTS:

BOARD MEMBER COMMENTS:

ADJOURNMENT:

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105)

NOTE: ALL CITY BOARDS ARE AUTHORIZED TO CONVERT ANY PUBLICLY NOTICED MEETING INTO A WORKSHOP SESSION WHEN A QUORUM IS NOT REACHED. THE DECISION TO CONVERT THE MEETING INTO A WORKSHOP SESSION SHALL BE DETERMINED BY THE CHAIR OR THE CHAIR'S DESIGNEE, WHO IS PRESENT AT THE MEETING. NO OFFICIAL ACTION SHALL BE TAKEN AT THE WORKSHOP SESSION, AND THE MEMBERS PRESENT SHOULD LIMIT THEIR DISCUSSION TO THE ITEMS ON THE AGENDA FOR THE PUBLICLY NOTICED MEETING. *(Sec. 2-12 Lake Worth Code of Ordinances)*

Note: One or more members of any Board, Authority or Commission may attend and speak at any meeting of another City Board, Authority or Commission.



**AGENDA
CITY OF LAKE WORTH BEACH
PLANNING & ZONING BOARD REGULAR MEETING
CITY HALL COMMISSION CHAMBER
WEDNESDAY, AUGUST 05, 2020 -- 6:17 PM**

ROLL CALL and RECORDING OF ABSENCES:

Present were: Greg Rice, Chairman; Anthony Marotta, Vice-Chair; Mark Humm; Daniel Tanner; Laura Starr. Also present: Alexis Rosenberg, Senior Community Planner; Erin Sita, Assistant Director for Community Sustainability; Pamala Ryan, Board Attorney; Sherie Coale, Board Secretary.

PLEDGE OF ALLEGIANCE

ADDITIONS / DELETIONS / RECORDING AND APPROVAL OF THE AGENDA: Approved.

APPROVAL OF MINUTES:

A. July 15, 2020 Regular Meeting Minutes

Motion: A. Marotta moved to accept minutes as presented; M. Humm 2nd.

Vote: Ayes all, unanimous.

CASES:

SWEARING IN OF STAFF AND APPLICANTS: Board Secretary administered oath to those wishing to give testimony. All are identified via audio and video.

PROOF OF PUBLICATION: Provided in meeting packet.

WITHDRAWALS / POSTPONEMENTS: None

CONSENT: None

PUBLIC HEARINGS:

BOARD DISCLOSURE: Chairman mentions he received a courtesy notice from the applicant and owns a parcel within 400 feet of the subject parcel.

UNFINISHED BUSINESS: None

NEW BUSINESS:

A. A request by Carlos Marcet, AIA of Studio+ LLC on behalf of Julie Seaver (Compass) and Bill Shevlin (CAN) of Compass, Inc. and CAN Community Health for consideration of a Conditional Use Permit to allow a health clinic at 202 North H Street, within the Public (P) zoning district.

Staff: A. Rosenberg presented case findings and analysis. Since 2007, the City holds a lease agreement with Compass Inc. (tenant). The proposal is an expansion of health services that are currently being provided, an increase of +/- 830 square feet of clinic area. The proposal for expansion is consistent with the City Comprehensive Plan and supports the Strategic Plan.

Board: A question was posed regarding landscaping and if the City or Compass would bear the responsibility and costs of improvements. **Response:** Compass, as the lease is written with that performance standard.

Would there be dispensing of prescription medication? **Response:** No.

Regarding parking, how many patients daily and how would this impact parking? **Response from applicant:** The existing client base would continue to be served and the typical mode of transportation is by Uber, PBC transit (which stops nearby) or by foot.

Would there be an increase in number of employees? **Response:** yes, 3 new employees-Nurse Practitioner; Medical Assistant and Receptionist. Currently there 25 fulltime employees.

What type of services are offered? **Response:** HIV testing, LGBTQ services, mental health services have seen a 10-fold increase. They are also home to several non-profits needing meeting space.

Motion: A. Marotta moves to approve PZB 20-00500005 with staff recommended conditions of approval based upon meeting the conditional use criteria and data and analysis found in the staff report. M. Humm 2nd.

Vote: Ayes all, unanimous.

The Chairman and Vice-Chair both give thanks to Julie Seaver for providing these services to the City.

- B. **PZB Project Number 20-01400003:** Request by Juan Contin of Contin Architecture on behalf of Jin Yu Jin for consideration of a Major Site Plan and Sustainable Bonus to construct a +/- 7,038 square foot mixed use building at 1303 & 1305 Lucerne Avenue, including 4 dwelling units and +/-1,900 square feet of retail space within the Downtown (DT) zoning district.

Staff: A. Meyer presents case findings and analysis. Makes note of the error of zoning district. Correction: the parcel is located within the Mixed-Use East zoning district rather than the Downtown zoning district as indicated in the staff report. The proposal includes 4 dwelling units over ground floor commercial/retail space. Meets and is consistent with the City's Comprehensive Plan and supports the Strategic Plan.

Agent for the owner: Juan Contin- Each living unit on the 2nd floor will encompass approximately 957 square feet; the 3rd floor units about 977 square feet. Each unit will have 2 terraces, one facing north and one facing south.

Board: What is the approximate rent? Two-thousand. As they are rentals, who will manage the property? The property owner. Why not combine the end lot with these two parcels? Applicant response: His firm is representing that project as well with a different property owner. As the rooftop was included in the sustainable bonus program, is it accessible to the public? No, the tenants of the rental units.

Motion: M. Humm moves to approve PZB 20-01400003 with staff recommended conditions of approval based on applicable criteria and the data and analysis in the staff report; A. Marotta 2nd.

Vote: Ayes all, unanimous.

PLANNING ISSUES:

The recently reviewed and recommended Land Development Regulations were approved upon 1st reading with the second reading scheduled for August 18.

A distillery application was received for downtown; a new business at the previous location of Callaro's is scheduled to go before HRPB for a mural; another round of LDR amendments will be coming before the Board in September.

PUBLIC COMMENTS (3 minute limit) None

DEPARTMENT REPORTS: None

BOARD MEMBER COMMENTS: L. Starr inquires about time limits for murals, if they are approved for a specific amount of time. In particular 1200 N Dixie Hwy.. Who removes the murals? Staff response: It would be the responsibility of the property owner. Is there a completion time frame? That would be in the conditions of approval related to permitting.

G. Rice inquires about the Bohemian. Staff response: The requested entitlements were recently approved by the State; to date no permits have been received for review by planning staff. In response to a query about road improvements adjacent to the Bohemian it was noted they would be providing improvements for the segments adjoining their property.

Chairman commends staff for keeping development moving in the City during these times.

ADJOURNMENT: 7:28 P.M.

LEGAL NOTICE

PLEASE TAKE NOTICE that due to the Novel Coronavirus Disease 2019 (COVID-19) and Federal, State and Palm Beach County's Declarations of State of Emergency, the City of Lake Worth Beach will conduct the **September 2020 Planning & Zoning Board and Historic Resources Preservation Board meetings** via Communication Media Technology ("CMT").

Live streaming of the meeting, agenda, backup materials, and public comment forms can be accessed at <https://lakeworthbeachfl.gov/virtual-meetings/> to consider the following:

Public comment will be accommodated prior to and during the meetings through the City's virtual meetings webpage. If you are unable to access the webpage during the meeting, please leave a message at 561-586-1687 to be read into the record by a staff member. Written responses or comments can be sent to the PZB/HRPB at 1900 2nd Avenue North, Lake Worth Beach, FL 33461 and must arrive before the hearing date to be included in the formal record.

PLEASE TAKE NOTICE that the City of Lake Worth Beach **Planning & Zoning Board ("PZB")**, acting as the local planning agency, will hold a public hearing via CMT on **Wednesday, September 2, 2020 at 6pm** or soon thereafter to consider the recommendation to the City Commission of two (2) ordinances regarding amendments to the City's Code of Ordinances.

PLEASE TAKE NOTICE that the City of Lake Worth Beach **Historic Resources Preservation Board ("HRPB")**, acting as the local planning agency, will hold a public hearing via CMT on **Wednesday, September 9, 2020 at 6pm** or soon thereafter to consider the recommendation to the City Commission of two (2) ordinances regarding amendments to the City's Code of Ordinances.

- **PZHP 20-0310000** Consideration of an ordinance (Ordinance # 2020-13) addressing development orders and building permits for clarity and consistency as follows: AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 "LAND DEVELOPMENT REGULATIONS," ARTICLE 2, "ADMINISTRATION", DIVISION 3 "PERMITS" BY ADDING A NEW SECTION "EXPIRATION OF DEVELOPMENT ORDERS" TO PROVIDE FINALTY TO APPROVALS AND CONSTRUCTION PROJECTS; AMENDING ARTICLE 1 "GENERAL PROVISIONS," DIVISION 1 "GENERALLY," SECTION 23.1-11 "TIME LIMITATIONS OF APPROVALS," TO PROVIDE UNIFORM TIME LIMITATIONS ON BUILDING PERMITS FOR ALL USES IN THE LAND DEVELOPMENT REGULATIONS AND AMENDING THE SPECIFIC REGULATIONS TO REFLECT THE UNIFORMITY; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

- **PZHP 20-03100006** Consideration of an ordinance (Ordinance # 2020-14) clarifying and consolidating language regarding quasi-judicial hearings and appeals processes relating to land use and zoning matters as follows: AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 "LAND DEVELOPMENT REGULATIONS," ARTICLE 2, "ADMINISTRATION", DIVISION 2 "PROCEDURES," SECTION 23.2-16 "QUASIJUDICIAL PROCEDURES" AND SECTION 23.2-17 "APPEALS" TO UPDATE AND CLARIFY THE QUASI-JUDICIAL PROCESS FOR LAND USE AND ZONING MATTERS; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

If a person decides to appeal any decision made by the Board, Agency, or Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105). In accordance with the provisions of the American with Disabilities Act (ADA) this document may be requested in an alternative format. Persons in need of special accommodation to participate in this proceeding are entitled to the provision of certain assistance. Please call 561-586-687 no later than five (5) days before the hearing if assistance is required.

Sherie Coale
Planning Zoning and Historic Preservation
Ph: 561.586.1687

WP-000590654-01

PROOF O.K. BY: _____ O.K. WITH CORRECTIONS BY: _____

PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

WP-000590654-01 (100%)

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Legal Notice

PLEASE TAKE NOTICE that due to the Novel Coronavirus 2019 (COVID-19) and Federal, State, and Palm Beach County's Declarations of State of Emergency, the City of Lake Worth Beach will conduct Planning and Zoning Board (PZB) meetings via Communication Media Technology ("CMT"). The meeting will be conducted on **Wednesday, September 2, 2020, at 6:00 p.m.** or as soon thereafter as possible.

Live streaming of the hearing and public comment forms can be accessed at <https://lakeworthbeachfl.gov/virtual-meeting/> to consider the following:

PZB Project # 20-00500010: Consideration of a request for a conditional use permit to allow a specialty distillery/bar at 604 Lake Avenue, pursuant to the City of Lake Worth Beach Land Development Regulations (LDR's) Section 23.2-29, Conditional use permits. The subject property is located in the Downtown (DT) zoning district. PCN # 38-43-44-21-15-509-0100.

PZB Project #20-00600001: Consideration of a request for an alcohol beverage distance waiver for the onsite consumption of alcohol and for the package sales of alcohol within 500 feet of another place of business holding a beverage license, pursuant to the City of Lake Worth Beach Code of Ordinances, Chapter 5, Alcoholic Beverages. The subject property is located in the Downtown (DT) zoning district. PCN # 38-43-44-21-15-509-0100.

Public comment will be accommodated prior to and during the meeting through the web portal. If you are unable to access the web portal during the meeting, please leave a message at 561-586-1687 to be read into the record by a staff member. Mailed written responses can be sent to the Lake Worth Beach Planning and Zoning Board at 1900 2nd Avenue N, Lake Worth Beach, FL 33461 and must arrive before the hearing date to be included in the formal record. Affected parties, as defined in section 23.1-12 of the Lake Worth Beach Code of Ordinances, who are interested in virtual participation, must notify the City of their status and submit evidence they wish the PZB to consider, five (5) days prior to the meeting for technical accommodation. For additional information, please contact City Staff at 561-586-1687.

If a person decides to appeal any decision made by the Board, Agency, or Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105). In accordance with the provisions of the American with Disabilities Act (ADA) this document may be requested in an alternative format. Persons in need of special accommodation to participate in this proceeding are entitled to the provision of certain assistance. Please call 561-586-1687 no later than five (5) days before the hearing if this assistance is required.

8-21/2020

0000590577-01



DEPARTMENT FOR COMMUNITY SUSTAINABILITY
Planning Zoning Historic Preservation Division
1900 2ND Avenue North
Lake Worth Beach, FL 33461
561-586-1687

DATE: August 26, 2020

TO: Members of the Planning and Zoning Board

FROM: Alexis Rosenberg, Senior Community Planner

THRU: William Waters, AIA, NCARB, LEED, AP BD+C, ID SEED, Director for Community Sustainability

MEETING: September 2, 2020

SUBJECT: **PZB Project Number 20-00500010 and PZB Project Number 20-00600001**: Request for a conditional use permit to allow a specialty distillery/bar at 604 Lake Avenue, pursuant to the City of Lake Worth Beach Land Development Regulations (LDR's) Section 23.2-29, Conditional use permits, and a request for two alcohol beverage distance waivers to allow the onsite consumption and the packaged sales of alcoholic beverages at the subject property. The subject property is located in the Downtown (DT) zoning district. The subject property PCN is 38-43-44-21-15-509-0100.

PROJECT DESCRIPTION:

The Applicant, Daniel De Liege of Deli Brands on behalf of David Kislin of JEL Development is requesting approval of a conditional use permit and an alcohol beverage distance waiver to allow the use of a specialty distillery/bar that will sell alcohol for onsite consumption as well as packaged sales. The site, 604 Lake Avenue, is located in the north 600 Block of Lake Avenue, on the northwest corner of Lake Avenue and North L Street. The 8,500 square foot site is comprised of a two-story, +/-9,029 square foot building.

This subject application is for a conditional use permit (CUP) for a specialty distillery/bar (Pages 7 - 13) and two (2) alcohol waivers (Page 13). The alcohol waiver for on-site consumption requires Planning & Zoning Board approval, while the alcohol waiver for package sales requires review by the City Commission. The Applicant also has concurrent administrative applications (staff review) in process for an administrative use permit (AUP) to operate a +/-6,274 square foot restaurant, and a minor site plan amendment for façade renovations to the building. The +/-9,029 square foot building is intended to be utilized by Dr. Spirits (CUP – Specialty Distillery/Bar) and Doc Holliday's BBQ (AUP - Restaurant). The project is split into two phases:

- Phase I – Remodel +/- 2,647 square feet of the first floor of the building into Dr. Spirits, a specialty distillery with a tasting room.
- Phase II – Remodel the remaining +/- 6,274 square feet of the first and second floor of the building into Doc Holliday's BBQ, a restaurant with a bar and accessory office.

There is currently no parking on the site. However, the Applicant has entered into a parking agreement with the parking lot to the north – 601, 605, and 607 Lucerne Avenue, which is under the same ownership as the subject

site. The parking agreement would allow Dr. Spirits to utilize four parking spaces from the 28-space parking lot. Dr. Spirits will be allowed to use the four parking spaces during Phase I of project while the restaurant component is not open. Once the restaurant component is open in Phase II, both Dr. Spirits and the restaurant, Doc Holliday's BBQ, will be allowed to utilize all 28 parking spaces on 601 Lucerne Avenue, 605 Lucerne Avenue, and 607 Lucerne Avenue. Based on the Applicant's justification statement, Dr. Spirits Co. is a world-class craft distillery, tasting room, and retail outlet that produces Dr. Spirits Handcrafted Vodka using a copper pot still. The tasting room is designed to provide a peak into the distilling process with tours behind glass enclosures that allow patrons to see the process. Small complimentary samples of vodka will be available for adult visitors, and the business will also have a retail area selling branded merchandise and packaged sales of their alcohol product.

Staff Recommendation:

Staff has reviewed the documentation and materials provided, applying the applicable guidelines and standards found in the City of Lake Worth Zoning Code. The proposed request meets the criteria of the Comprehensive Plan (page 4), LDRs (pages 4 - 7), Conditional Use Criteria (pages 7 - 13), and Alcohol Waiver Criteria (page 13). Therefore, staff is recommending approval with conditions outlined in the conclusion on page 14. If the subject application is approved, staff will review the concurrent site plan application for consistency with any conditions of approval related to the conditional use.

PROPERTY DESCRIPTION:

Applicant	Daniel De Liege of Deli Brands on behalf of David Kislin of JEL Development
Owner	David Kislin of JEL Development
General Location	North 600 Block of Lake Avenue, on the northwest corner of Lake Avenue and North L Street
Existing PCN Numbers	38-43-44-21-15-509-0100
Existing Land Use	+/-9,029 square foot building
Zoning	Downtown (DT)
Future Land Use Designation	Downtown Mixed Use (DMU)

LOCATION MAP**BACKGROUND:**

The subject site is comprised of a two-story, +/-9,029 square foot building. As stated, the site currently has no parking. However, the Applicant has entered into a parking agreement with the property owner of the parking lot to the north, allowing Dr. Spirits to utilize four parking spaces during Phase I of the project while the restaurant component is not open. Once the restaurant component is open in Phase II, both Dr. Spirits and the restaurant, Doc Holliday's BBQ, will be allowed to utilize all 28 parking spaces on 601 Lucerne Avenue, 605 Lucerne Avenue, and 607 Lucerne Avenue. Below is a summarized history of 604 Lake Avenue based on Palm Beach Property Appraiser's records and City records:

- 1999 – The +/-9,029 building was constructed at 604 Lake Avenue.
- December 14, 1999 – September 30, 2004 – Rosie's Key West Grill held a business license at 604 Lake Avenue for restaurant/bar and sidewalk café.
- May 2, 2001 – September 30, 2013 – Andy M Custer, PA held a business license at 604 Lake Avenue for a professional office.
- March 18, 2003 – September 30, 2004 – Sal Messina held a business license at 604 Lake Avenue for a mobile ice cream vendor.
- February 13, 2004 – September 30, 2007 - Ray's Key West Grill held a business license at 604 Lake Avenue for a restaurant and sidewalk café.
- August 4, 2004 – September 30, 2008 - The Pier Group/The Lucerne held a business license at 604 Lake Avenue for a professional office.
- September 5, 2006 – September 30, 2010 – Lake Worth Rum Shack held a business license at 604 Lake Avenue for a restaurant and sidewalk café.
- July 10, 2014 – September 30, 2019 – Prestige Realty of the Palm Beaches held a business license at 604 Lake Avenue for a professional/business office.
- August 19, 2020 – There are no active business licenses at this site.

- August 19, 2020 – There are no active code cases for the site.

ANALYSIS:

Public Support/Opposition

Staff has not received any letters of support or opposition.

Consistency with the Comprehensive Plan and Strategic Plan

The subject site has a Future Land Use (FLU) designation of Downtown Mixed Use (DMU). Per Policy 1.1.1.7, the DMU FLU is intended to provide for the establishment and expansion of a broad range of office, retail and commercial uses, including higher intensity commercial, and some residential within the traditional down-town core of the City. Per Goal 1.2.1, the City shall promote the location of high-quality retail, office, and mixed-use projects in the DMU and MU-E designations as the prime retail and commercial areas of the City. The proposed specialty distillery/bar would be the first specialty distillery/bar in the City. Dr. Spirits intends to operate a world-class craft distillery, tasting room and retail outlet that adds to the diversity of uses in the downtown area. Therefore, the proposed distillery/bar is consistent with the intent of the DMU FLUM and consistent with Goal 1.2.1 of the City's Comprehensive Plan.

The City's Strategic Plan focuses on fostering safer neighborhoods, encouraging community pride, building a vibrant and diverse economy, planning for the future, and enhancing the natural, historic, and cultural environment of the City. Pillar III.C states that the City shall encourage tourism by increasing options for visitors to stay and experience in the City. The proposed specialty distillery/bar has the potential to attract tourists and enthusiasts to the City with their craft distillery, tours of the facility, merchandise, and unique copper pots. Allowing the establishment of the specialty distillery/bar will prove consistent with Pillar III.C of the Strategic Plan. Pillar III.A, Pillar III.B, and Pillar III.D are not applicable to this application. Furthermore, Pillar IV.A, Pillar IV.B, Pillar IV.C, Pillar IV.D, and Pillar IV.E encourages the City to achieve economic sustainability, attract investment, influence the supply and expansion of jobs, and ensure facility placement that embraces the future. The proposed specialty distillery/bar is anticipated to attract investment, increase job supply in the City, and help sustain the City's tax base. Therefore, the proposal is consistent with Pillar IV.A, Pillar IV.B, Pillar IV.C, Pillar IV.D, and Pillar IV.E. Pillar IV.F is not applicable to this application.

Based on the analysis above, the proposed specialty distillery/bar is consistent with the goals, objectives, and polices of the City of Lake Worth Beach's Comprehensive Plan and Strategic Plan.

Consistency with the City's Land Development Regulations

Per Section 23.2-29, conditional uses are defined as generally compatible with the other uses permitted in a district, but that require individual review of their location, design, structure, configuration, density and intensity of use, and may require the imposition of pertinent conditions to ensure the appropriateness and compatibility of the use at a particular location and to prevent or minimize potential adverse impacts to the surrounding area. The Department of Community Sustainability is tasked in the Code to review conditional use applications for consistency with the City's LDRs, for compliance with the findings for granting conditional uses (analyzed in the next section) and to provide a recommendation for whether the application should be approved, approved with conditions, or denied.

Staff Analysis: The subject site is located on the northwest corner of North Dixie Highway and 2nd Avenue North. The existing +/-9,029 square foot building was constructed in 1999 and has no parking spaces on site. The Applicant intends to build-out the interior building in two phases. Phase I involves constructing a +/- 2,647 square foot

specialty distillery with a tasting room called Dr. Spirits, and Phase II involves constructing a +/- 6,274 square foot restaurant called Doc Holliday's BBQ. This project is being reviewed concurrently with an administrative use permit to establish the use of a restaurant, and a minor site plan amendment for façade renovations to the building. Staff has found that the building currently does not conform to the current land development regulations, which subjects the site to the nonconformities section, LDR Section 23.5-3, of the land development regulations.

Based on Staff analysis, the site is not consistent with the City's LDRs in the following areas:

- Landscaping
- Minimum front setback
- Minimum side street setback
- Minimum rear setback
- Maximum impermeable surface for all structures
- Maximum impermeable surface coverage

These items are detailed in the paragraphs below. Based on Staff's analysis, the existing nonconformities cannot be easily remedied and the proposed use would not expand any existing non-conformities. Further, the development of the site is consistent with the historic development pattern in the downtown. Therefore, no change is proposed or recommended to bring the structure into conformance with the current code requirements at this time. The proposed application is consistent with the City's LDRs with conditions based on the following data and analysis:

Downtown Zoning District: Per LDR Section 23.3-14(a), the DT zoning district is designed for the commercial core of Lake Worth, primarily along Lake and Lucerne Avenues from Golfview to the Florida East Coast Railroad right-of-way. The DT district is intended to provide the establishment and expansion of a broad range of office and commercial uses, including higher density residential use. The proposed specialty distillery/bar is a commercial use that is anticipated in the DT zoning district and the building has been consistently used as a bar and/or restaurant use since it was constructed. Based on the information provided by the Applicant, Staff does not anticipate negative impacts on surrounding properties and has determined that the application complies with the Conditional Use Criteria outlined in LDR Section 23.2.29 and the Alcohol Waiver Criteria in Chapter 5-5 of the City's Code of Ordinances.

Setbacks: The placement of the existing building exceeds the minimum required front setback of five feet, the minimum west side setback of 10 feet, and the minimum rear setback of 10 feet. Based on the survey provided, the front of the building is 4.9 feet from the front property line and has three covered canvases that encroach into the front setbacks. One of the canvases appear to encroach into the public right of way by 7.7 feet. Additionally, the property is 2.8 feet from the west side property line that is adjacent to a public right of way, John Rice Way, and is 7.9 feet from the rear property line which abuts the parking lot to the north. As noted, the building was constructed in 1999 prior to the current setback requirements and is subject to non-conformities regulations in LDR Section 23.5-3. No change is proposed or recommended to bring the structure into conformance with the current code requirements at this time as the building is a legal non-conforming structure.

Structure/Building Lot Coverage: The existing building on the site exceeds the maximum allowed structure coverage of 60%. Based on the survey provided, the structure appears to cover 81.7% of the lot, which is 21.7% over the maximum structure coverage allowance. As noted, the building was constructed in 1999 prior to the current setback requirements and is subject to non-conformities regulations in LDR Section 23.5-3. Therefore, no change is proposed or recommended to bring the structure into conformance with the current code requirements.

Impermeable Surface Coverage: The site does not conform to the maximum allowed impermeable surface coverage. Based on the survey provided, the lot appears to have a total impermeable surface coverage of 87%, which is 7% over the maximum coverage allowance. However, the site is consistent with the approved development plan which was adopted prior to the current impermeable surface coverage requirements. Further, the impermeable surface coverage non-conformity is not easily remedied without substantial redevelopment of the site. Therefore, at this time, no change is proposed or recommended to reduce the existing impermeable surface area.

Parking: There is currently no parking on the site. However, per LDR Section 23.4-10(f)(2)(A), additional parking is not required for a change of use and occupancy or the remodeling of existing buildings which do not increase floor area or number of overall existing dwelling units. Therefore, no additional parking is required for the proposed specialty distillery/bar use. If this were a newly constructed project, the parking breakdown would be as follows:

- Specialty Distillery, 2,674 square feet – 2.7 parking spaces required
- Restaurant, 6,080 square feet – 40.5 parking spaces required
- Office, 194 square feet – 0.5 parking spaces required
 - Minus the 25% parking reduction for a mixed-use project (LDR Section 23.4-10(f)(1)(B))
- Total parking spaces – 33 parking spaces

In order to provide additional parking to guests, the Applicant has entered into a parking agreement with the property owner of 601, 605, and 607 Lucerne Avenue, allowing Dr. Spirits to utilize four parking spaces from the 28-space parking lot during Phase I of project while the restaurant component is not open. Once the restaurant component is open in Phase II, both Dr. Spirits and the restaurant, Doc Holliday's BBQ, will be allowed to utilize all 28 parking spaces on 601 Lucerne Avenue, 605 Lucerne Avenue, and 607 Lucerne Avenue. The parking agreement is affective for the entire duration of Dr. Spirits and Doc Holliday's BBQ's lease at 604 Lake Avenue.

Landscaping: The site's existing landscape does not comply with the City's Landscape Code requirements. However, because the building takes up a majority of the site, there is not enough room on the site to plant landscaping that will survive long term. Therefore, no change is proposed or recommended to bring the site into conformance with the current landscape code requirements at this time.

Signage: All signage from previous businesses at this location have been removed from the building. Staff is currently reviewing the signage plan for the project which is part of the minor site plan amendment application. The Applicant will be required to permit all new signage in accordance with the regulations outlined in LDR Section 23.5-1, Signs.

Refuse: The property has an existing dumpster located at the northeast corner of the property. The dumpster enclosure gate does not meet current code screening requirements and the condition of the gate has deteriorated. Therefore, a condition of approval has been crafted to require the replacement of the dumpster enclosure gate with an opaque material such as a wood gate or PVC gate.

Section 23.2-29(d): General findings relating to harmony with LDRs and protection of public interest

The land development regulations require all conditional uses to be analyzed for consistency with Section 23.2-29(d). Staff has reviewed the application against this section and has determined that the proposed application is consistent with the following general findings relating to harmony with the LDRs and protection of public interest:

1. The conditional use exactly as proposed at the location where proposed will be in harmony with the uses which, under these LDRs and the future land use element, are most likely to occur in the immediate area where located.

Staff Analysis: The site contains a zoning designation of DT. The proposed use is consistent with other types of commercial uses in the commercial core and is an anticipated use within the DT zoning district. Therefore, the proposed specialty distillery/bar is found to be compatible and harmonious with the existing and anticipated surrounding uses. **Meets Criterion.**

2. The conditional use exactly as proposed at the location where proposed will be in harmony with existing uses in the immediate area where located.

Staff Analysis: The existing uses in the surrounding area are as follows:

Direction	Future Land Use	Zoning District	Current Use
North (adjacent)	Downtown Mixed Use	Downtown	Privately-Owned Parking Lot
South (across Lake Ave)	Downtown Mixed Use	Downtown	Retail/Personal Service Shops
East (adjacent)	Downtown Mixed Use	Downtown	Retail Shop
West (adjacent)	Downtown Mixed Use	Downtown	John Rice Way (City ROW)

To the north of the subject site is a privately-owned parking lot. The owner of the parking lot, David Kislin of JEL Development is the same owner of the subject site, 604 Lake Avenue. To the south of the site, across from Lake Avenue, are a mix of retail and personal service businesses. To the east is a retail shop and to the west is City-owned right of way named “John Rice Way.” Staff finds that the use of a specialty distillery/bar is in harmony with the existing uses in the immediate area. **Meets Criterion.**

3. The conditional use exactly as proposed will not result in substantially less public benefit or greater harm than would result from use of the Property for some use permitted by right or some other conditional use permitted on the Property.

Staff Analysis: The conditional use request will not negatively affect the public benefit or cause greater harm than that of a use permitted by right in the DT zoning district. The use is similar in nature and function to the previous permitted use at this site, the Lake Worth Rum Shack, and is an anticipated commercial/retail use within the DT zoning district. Further, based on the analysis on pages 6 - 13, the use will be utilizing the existing infrastructure on the site and will not generate levels of light, noise, pollution or traffic higher than that of the previous approved use at this site. **Meets Criterion.**

4. The conditional use exactly as proposed will not result in more intensive development in advance of when such development is approved by the future land use element of the comprehensive plan.

Staff Analysis: The conditional use request to allow a specialty distillery/bar in the subject space will not result in a more intensive development in advance of the Future Land Use Element of the City’s Comprehensive Plan. As mentioned, the DMU land use designation is intended to provide for the establishment and expansion of a broad range of office, retail and commercial uses, including higher intensity commercial, and some residential within the

traditional down-town core of the City. The proposed specialty distillery/bar is an anticipated use within the DT zoning district and DMU FLU area and does not propose to increase the size of the building. Therefore, the proposal will not result in a more intensive use than the Comprehensive Plan envisions. **Meets Criterion.**

Section 23.2-29(e): Specific standards for all conditional uses

The land development regulations require all conditional uses to be analyzed for consistency with Section 23.2-29(e). Staff has reviewed the application against this section and has determined that the proposed application is consistent with the following general findings relating to the specific standards for all conditional uses:

1. The proposed conditional use will not generate traffic volumes or movements which will result in a significant adverse impact or reduce the level of service provided on any street to a level lower than would result from a development permitted by right.

Staff Analysis: As stated, the proposal of the specialty distillery/bar will not result in an increase of building size. Based on the Florida Department of Transportation's (FDOT) 8th Edition of the Trip Generation Table and the Traffic Statement from WGI, no increase of daily trips is anticipated with the proposed specialty distillery/bar use. In addition, the subject building has, either in part or as a whole, been used as a bar and/or restaurant since it was constructed. The use is similar in nature and function to the previous bar and restaurant use at this site, which was the Lake Worth Rum Shack. As such, no additional traffic impacts are projected. **Meets Criterion.**

2. The proposed conditional use will not result in a significantly greater amount of through traffic on local streets than would result from a development permitted by right and is appropriately located with respect to collector and arterial streets.

Staff Analysis: This use is not anticipated to significantly affect the volumes of traffic expected on the City's roadway network. The square footage of building has not expanded from its original approved area, +/- 9,029 square feet. Therefore, the traffic generated from the proposed business is consistent with adjacent commercial uses as well as the anticipated uses in this area. **Meets Criterion.**

3. The proposed conditional use will not produce significant air pollution emissions, to a level compatible with that which would result from a development permitted by right.

Staff Analysis: The Applicant states that the specialty distillery/bar is not projected to produce significant levels of air pollution emissions, as the copper pot distilling process does not generate hazardous by-product waste. The Applicant states that the business' byproduct from the distilling process is a high protein, high fiber mixture that will be recycled/disposed of in accordance with local and state guidelines or sold as livestock feed additive. **Meets Criterion.**

4. The proposed conditional use will be so located in relation to the thoroughfare system that neither extension nor enlargement nor any other alteration of that system in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.

Staff Analysis: Being an anticipated use in the DT zoning district, the proposed specialty distillery/bar at the subject site is not anticipated to cause a higher net public cost or earlier incursion of public cost than what would result from a development permitted by right. Staff has determined that the existing infrastructure is sufficient to accommodate the proposed use. **Meets Criterion.**

5. The proposed conditional use will be so located in relation to water lines, sanitary sewers, storm sewers, surface drainage systems and other utility systems that neither extension nor enlargement nor any other alteration of such systems in a manner resulting in higher net public cost or earlier incursion of public cost than would result from development permitted by right.

Staff Analysis: The Applicant will be utilizing the existing water lines, sanitary sewers, storm sewers, surface drainage systems, and other utility systems. No adverse impact to infrastructure or public utilities is anticipated to occur as a result of this request. **Meets Criterion.**

6. The proposed conditional use will not place a demand on municipal police or fire protection service beyond the capacity of those services.

Staff Analysis: Being an anticipated use in the DT zoning district, this use should not place a demand on municipal police or fire protection services beyond capacity. **Meets Criterion.**

7. The proposed conditional use will not generate significant noise, or will appropriately mitigate anticipated noise to a level compatible with that which would result from a development permitted by right. Any proposed use must meet all the requirements and stipulations set forth in section 15.24, Noise control.

Staff Analysis: The proposed specialty distillery/bar is not anticipated to generate noise levels greater than that of a use permitted by right. The Applicant states that copper pot distilling process is thousands of years old and does not generate any noise. The distilling process involves hearing water through a low-pressure steam system. The Applicant states that all noise emissions will be compliant with the City's Noise regulations. Per the City's Noise Ordinance, unreasonable noise, which is defined in Section 15.24-1, is prohibited in the City when:

- Equal to or greater than 65 dba between 11:00 p.m. and 8:00 a.m., Sunday through Thursday
- Greater than 85 dba between 8:00 a.m. and 11:00 p.m., Sunday through Thursday
- Equal to or greater than 65 dba between 12:00 a.m. and 8:00 a.m., Friday through Saturday
- Equal to or greater than 85 dba between 8:00 a.m. and 12:00 a.m., Friday through Saturday

This application is conditioned so that the business shall generate noise levels that are compliant with Section 15.24. **Meets Criterion.**

8. The proposed conditional use will not generate light or glare which encroaches onto any adjacent property in excess of that allowed in Section 23.4-3, Exterior lighting.

Staff Analysis: The distilling process will not generate additional light. Further, the Applicant has not proposed additional lighting on the site as part of this application and states that the Conditional Use will not generate light or glare onto any residential properties. **Meets Criterion.**

Section 23.4-13(c)(18): Breweries, Distilleries, Micro-breweries, Micro-distilleries, Specialty breweries, and Specialty distilleries

The land development regulations require all specialty distilleries to be analyzed for consistency with Section 23.4-13(c)(18). Staff has reviewed the application against this section and has determined that the proposed application is consistent with the following specific use criteria for specialty distilleries:

1. The minimum size area shall be 7,500 square feet.

Staff Analysis: Based on the survey provided, the lot is 8,500 square feet. **Meets Criterion.**

2. The minimum lot width shall be 75 feet.

Staff Analysis: Based on the survey provided, the lot width is 85 feet. **Meets Criterion.**

3. All such uses shall be located a minimum of 500 feet from each other.

Staff Analysis: The proposed specialty distillery/bar is the first one of its kind in the City, and therefore, is more than 500 feet from another specialty distillery/bar. Based on the alcohol beverage license proximity map, the proposed specialty distillery/bar is also more than 500 feet from another establishment that is license to sell the package sales of alcohol. **Meets Criterion.**

4. The site must be provided with a minimum five-foot-wide perimeter planting area when adjacent to residential uses.

Staff Analysis: The site is not adjacent to residential uses. **Meets Criterion.**

5. A fence or wall shall be erected at a height of not less than six feet when the parking area(s) or other common area(s) is within 25 feet of a residential district, in addition to the landscaping requirements outlined in subsection five above.

Staff Analysis: The property is surrounded by DT zoned properties and therefore is not within 25 feet of a residential district. **Meets Criterion.**

6. Variances for minimum site area shall not be granted.

Staff Analysis: The site meets the minimum site area of 7,500 square feet and will not be applying for a variance. **Meets Criterion.**

7. Specialty breweries and specialty distilleries shall front one of the City's major thoroughfares.

Staff Analysis: The site fronts Lake Avenue, which is one of the City's major thoroughfares. **Meets Criterion.**

8. Outdoor display of items is strictly prohibited.

Staff Analysis: There are no outdoor display items proposed within this application. **Meets Criterion.**

9. Establishments must have at least 25% clear glazing and fenestration along frontages with entrances clearly identifiable.

Staff Analysis: Based on the elevations proposed within the minor site plan amendment application, the front façade has over 25% of clear glazing and fenestration and the entrances are clear and identifiable. **Meets Criterion.**

10. Display windows must have engaging and pedestrian friendly vignettes.

Staff Analysis: A condition of approval has been crafted so that the portion of glazing that is used for signage and with visible merchandise display shall have pedestrian friendly vignettes. **Meets Criterion.**

11. All sales, transactions, except during City approved special events, shall take place within the building.

Staff Analysis: A condition of approval has been crafted to that all sales, transactions, except during City approved special events, shall take place within the building. **Meets Criterion.**

12. Walk up sale windows shall not be allowed.

Staff Analysis: The proposal does not show walk up sale windows. **Meets Criterion.**

13. All storage, production, shipping, and receiving associated with the use must be confined within an approved building or structure.

Staff Analysis: Based on the Applicant's floorplan, all storage and production will be inside the building at Lake Avenue. All trucks for shipping and deliveries will utilize the parking lot to the north of the building which is under the same ownership as 604 Lake Avenue. **Meets Criterion.**

14. All deliveries and distribution activities shall take place between the hours of 8am and 6pm, Monday through Saturday, except when located within an industrial zoning district.

Staff Analysis: The Applicant states that at maximum capacity, the business will experience deliveries/pick-ups two times per week. A condition of approval has been crafted so that all deliveries and pick-ups shall be between the hours of 8am and 6pm, Monday through Saturday. **Meets Criterion.**

15. Each facility shall abide by the following restrictions on production capacity:

- a) Specialty breweries and specialty distilleries shall have a production capacity of no more than 325,000 proof gallons on an annual basis, or 1,009,500, 750 mL bottles production per year.

Staff Analysis: The proposed craft distillery/bar intends to produce their spirits in small batches. The Applicant states that initially, Dr. Spirits plans on producing 12,000 gallons of 80-proof spirits per year. At full capacity, Dr. Spirits is expecting to produce 300,000 gallons of 80-proof spirits per year. **Meets Criterion.**

16. Each facility shall abide by the following restrictions on deliveries:

- a) Specialty breweries and specialty distilleries shall have no more than six commercial truck deliveries for shipping, receiving and distribution each week and no deliveries or distribution on Sunday. All deliveries must take place on site and off public rights of way.

Staff Analysis: The Applicant states that initially, Dr. Spirits is planning on have one delivery/pick-up truck come to the facility every other week. At maximum capacity, the business will experience deliveries/pick-ups two times per week. A condition of approval has been crafted so that no more than six commercial truck deliveries shall come to the facility each week. As stated, all trucks for shipping and deliveries will utilize the parking lot to the north of the building which is under the same ownership as 604 Lake Avenue. **Meets Criterion.**

17. All micro-breweries, micro-distilleries, specialty breweries and specialty distilleries shall be required to have a retail sales component and a consumption on premises component. For micro-breweries, micro-distilleries, specialty breweries and specialty distilleries in mixed-use districts, no more than seventy (70%) percent of the use area shall be used for brewery or distillery manufacturing or production, including packaging with the balance consisting of office, retail sales and taprooms / tasting areas.

Staff Analysis: The business plans on having the retail sale of their distilled product as well as a tasting room for on-site consumption. Dr. Spirits also plans on having branded merchandise for sale. Based on the floor plan submitted, the manufacturing and production area does not appear to take up more than 70% of the use area. Staff will ensure this condition is met through the minor site plan review process. **Meets Criterion.**

18. For micro-breweries, micro-distilleries, specialty breweries and specialty distilleries, guest taps may be allowed in conjunction with a tap or tasting room not to exceed 30% of the number of taps or on-site production unless as part of a restaurant with bar or bar use approval.

Staff Analysis: The proposed use does not appear to exceed 30% of guest taps. However, the conditional use request includes the approval of a bar in the event the business may desire to designate over 30% of its taps for guest taps in the future. Staff anticipated that specialty distilleries and breweries in the downtown would be reviewed for concurrent approval as a bar and/or restaurant in the City's commercial core. **Meets Criterion.**

19. All spoils generated as the result of the fermentation and production shall be disposed in an appropriate manner meeting all requisite health and safety standards.

Staff Analysis: The Applicant states that all waste will be disposed of property and conform to all health and safety standards. A condition of approval has been crafted to require all spoils to be disposed in an appropriate manner and meet all required health and safety standards. **Meets Criterion.**

20. Other appropriate conditions may be placed on the use approval depending on location, building/structure and orientation to ensure nuisance type of activities including but not limited to noise, dust, pollutants, odors, and waste by products and other use impacts do not occur.

Staff Analysis: Additional conditions of approval have been added where Staff felt appropriate in order to ensure nuisance activities do not occur at the site. **Meets Criterion.**

Chapter 5-5(d): Alcoholic Beverages, Standards for review

This application includes two alcohol beverage distance waiver requests. The alcohol waiver for on-site consumption requires Planning & Zoning Board approval, while the alcohol waiver for package sales requires review by the City Commission. The land development regulations require all alcohol beverage distance waivers to be analyzed for consistency with Chapter 5-5(d). Staff has reviewed the application against this section and has determined that the proposed waivers requested are consistent with the following standards for review:

1. Whether approval of the waiver will result in two or more alcoholic beverage establishments having a license within 500 feet of a protected land use or each other, or within 500 feet of a property zoned for residential use.

Staff Analysis: The approval of the waivers would result in the proposed business being within 500 feet of 19 other businesses that hold an alcohol beverage license. A full list of those businesses are included in Attachment B. The property is greater than 500 feet from a residential zoning district and is similar in nature and function to the other restaurant/bar uses within the downtown core area. As mentioned, the proposed specialty distillery/bar is not intended to create adverse impacts to the surrounding area. **Meets Criterion.**

2. Whether the license is being added to or is a license upgrade of an existing use or to an establishment which is relocating to the subject location.

Staff Analysis: There appears to have been alcohol beverage licenses at this location for the onsite consumption of alcohol linked to previous operating businesses at this site such as Rosie's Key West Grill, Ray's Key West Grill, and Lake Worth Rum Shack. The requested alcohol beverage distance waiver would allow the onsite consumption of alcohol, which is similar in nature to previous activities at this site, and would allow for packaged sales. If approved, the proposed specialty distillery/bar will be subject to the limited hours of sale outlined in Chapter 5-4, which states that establishments with an alcohol license for onsite consumption shall only sell alcohol between the hours of 7am – 2am. Establishments with an alcohol license for packaged sales shall only sell between the hours of 7am – 10pm. **Meets Criterion.**

3. If the property contains a structure which is on the National Register of Historic Places or otherwise has been designated by the city as having historic architectural significance, whether the structure will be preserved or developed so as to retain its architectural and historic character

Staff Analysis: The property is not on the National Register of Historic Places nor is it designated as a local contributing historic structure. **Meets Criterion.**

4. Whether the waiver promotes the health, safety and welfare of the neighborhood and the public.

Staff Analysis: The waiver is crucial to the operations of the proposed specialty distillery/bar. The Applicant states that the proposed use will enhance the City by establishing a unique use within the City that will be well utilized by locals and tourists. **Meets Criterion.**

CONCLUSION:

The analysis has shown that the required findings can be made with respect to the conditional use permit and Alcohol Beverage Distance Waiver requests. The use as proposed is in harmony with the Comprehensive Plan, underlying zoning district, and surrounding areas, subject to compliance with staff's proposed conditions of approval. Therefore, staff is recommending approval of the conditional use permit with conditions below:

Planning/Urban Design:

1. Prior to the approval of a City business license, the following shall be completed:
 - a. The building shall complete a Use and Occupancy inspection.
 - b. The Applicant shall receive minor site plan approval for the proposed exterior renovations.
 - c. The gate for the dumpster enclosure shall be replaced with an opaque material such as a wood gate or PVC gate. Note that the gate change requires a City building permit.

2. Prior to the approval of the minor site plan amendment, the portion of glazing that is used for signage and with visible merchandise display shall show pedestrian friendly vignettes.
3. All proposed exterior renovations to the building shall be completed as part of Phase I.
4. All sales, transactions, except during City approved special events, shall take place within the building.
5. Walk up sale windows shall not be allowed.
6. All spoils generated as the result of the fermentation and production shall 707 be disposed in an appropriate manner meeting all requisite health and 708 safety standards.
7. All deliveries and distribution activities shall take place between the hours of 8am and 6pm, Monday through Saturday.
8. The business shall have no more than six commercial truck deliveries for shipping, receiving and distribution each week.
9. As stated by the Applicant, all delivery/shipping trucks shall utilize the rear parking lot, also owned by David Kislin of JEL Development. Shipping and delivery trucks are not permitted to park in the right-of-way.
10. All spoils generated as the result of the fermentation and production shall be disposed in an appropriate manner meeting all requisite health and safety standards.
11. Prior to Dr. Spirits obtaining a City business license, the Applicant shall provide the City with proof of a parking agreement allowing Dr. Spirits to use a minimum of four spaces at 601, 605, and 607 Lucerne Avenue. Once Phase II is complete, prior to Doc Holliday's BBQ obtaining a City business license, the Applicant shall provide the City with proof of an updated parking agreement allowing Dr. Spirits and Doc Holliday's BBQ to use a minimum of 28 spaces at 601, 605, and 607 Lucerne Avenue.

Board Actions:Conditional Use Permit: PZB 20-00500010:

- I MOVE TO APPROVE PZB PROJECT NUMBER 20-00500010 with staff conditions based on the data and analysis in the staff report for a **Conditional Use Permit** to allow a specialty distillery/bar use at 604 Lake Avenue. The project meets the conditional use criteria based on the data and analysis in the staff report.
- I MOVE TO DISAPPROVE PZB PROJECT NUMBER 20-00500010 for a **Conditional Use Permit** to allow a specialty distillery/bar use at 604 Lake Avenue. The project does not meet the conditional use criteria for the following reasons [Board member please state reasons.]

Alcohol Beverage Distance Waiver (Onsite Consumption), PZB 20-00600001:

- I MOVE TO APPROVE PZB PROJECT NUMBER 20-00600001 based on the data and analysis in the staff report for an **Alcohol Beverage Distance Waiver** to allow the onsite consumption of alcoholic beverages at 604 Lake Avenue.
- I MOVE TO DISAPPROVE PZB PROJECT NUMBER 20-00600001 for an **Alcohol Beverage Distance Waiver** to allow the onsite consumption of alcoholic beverages at 604 Lake Avenue. The project does not meet the alcohol waiver criteria for the follow reasons [Board member please state reasons.]

Alcohol Beverage Distance Waiver (Packaged Sales), PZB 20-00600001:

- I MOVE TO RECOMMEND APPROVAL OF PZB PROJECT NUMBER 20-00600001 with a staff condition limiting package sales to products produced on-site based on the data and analysis in the staff report for an **Alcohol Beverage Distance Waiver** to allow for packaged sales of alcoholic beverages at 604 Lake Avenue to the City Commission.

- I MOVE TO RECOMMEND DENIAL OF PZB PROJECT NUMBER 20-00600001 for an **Alcohol Beverage Distance Waiver** to allow for packaged sales of alcoholic beverages at 604 Lake Avenue to the City Commission. The project does not meet the alcohol waiver criteria for the following reasons [Board member please state reasons.]

Consequent Action:

The Planning & Zoning Board's decision will be final authority for the Conditional Use Permit and for the Alcohol Beverage Distance Waiver to allow the onsite consumption of alcohol. The Applicant may appeal the Board's decision to the City Commission.

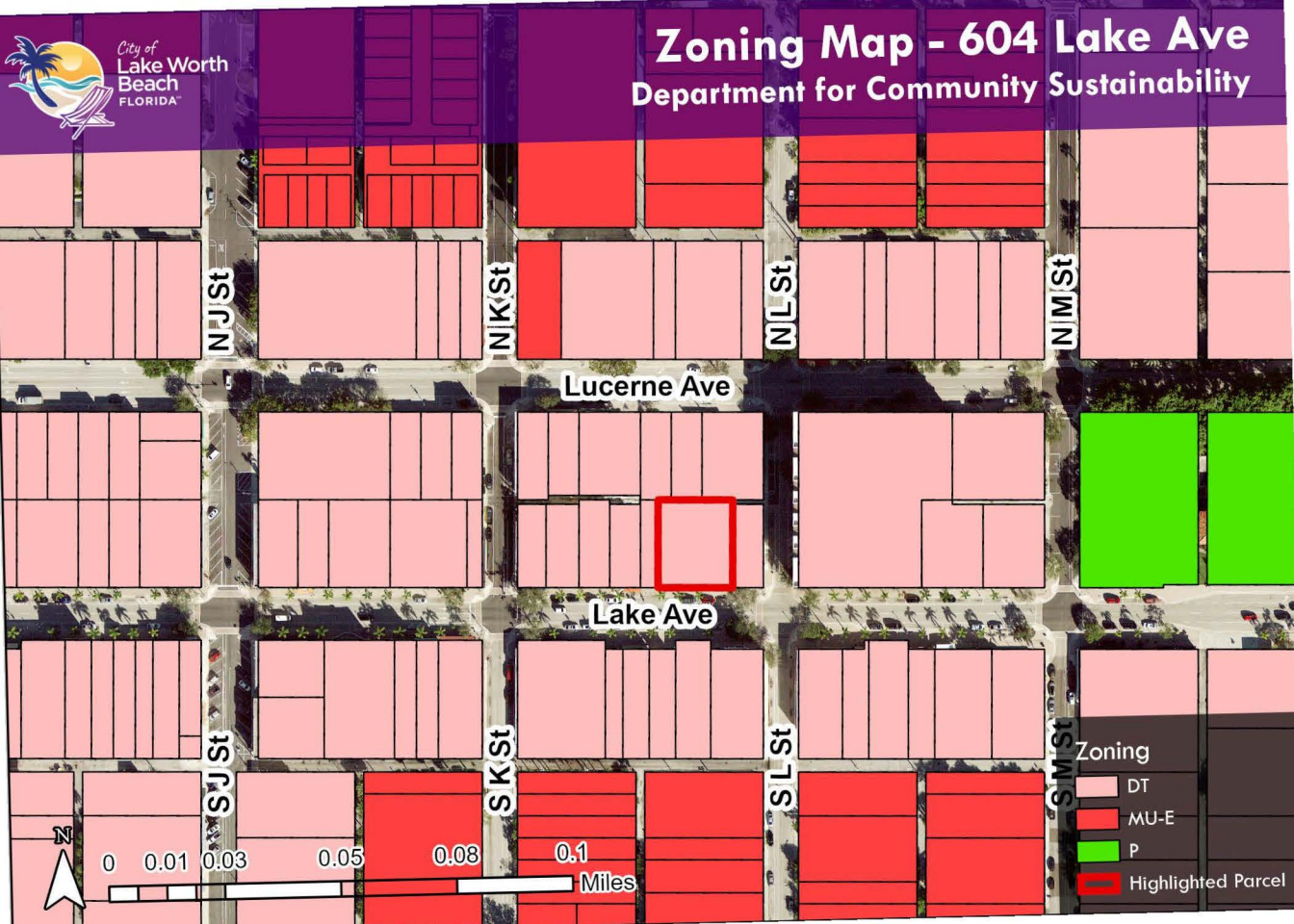
ATTACHMENTS:

- A. Zoning Map
- B. Application Package
- C. Site Photos



Zoning Map - 604 Lake Ave

Department for Community Sustainability



Zoning	
	DT
	MU-E
	P
	Highlighted Parcel





City Of Lake Worth
Department for Community Sustainability
Planning, Zoning and Historic Preservation Division
1900 Second Avenue North · Lake Worth · Florida 33461 · Phone: 561-586-1687

DATE: August 26, 2020

TO: Members of the Planning & Zoning and Historic Resources Preservation Boards

FROM: William Waters, Director Community Sustainability

MEETING: September 2, 2020 and September 9, 2020

SUBJECT: **PZHP 20-03100006**: Consideration of an ordinance (Ordinance # 2020-14) to amend Chapter 23 “Land Development Regulations” to update and clarify the quasi-judicial process for land use and zoning matters.

BACKGROUND/ PROPOSAL:

On March 5, 2020, the City Commission held a workshop on the prioritization of amendments to the City’s Land Development Regulations (LDR) that were previously identified by staff and the Commission. The subject LDR amendments address the third series of prioritized items identified at the March meeting. These include changes to update and clarify the quasi-judicial process for land use and zoning matters including appeals. The proposed amendments to the Land Development Regulations have been reviewed by staff for consistency with the City’s Comprehensive Plan.

The proposed LDR amendments for Chapter 23 will modify the following sections of the City’s Code of Ordinances:

- Sec. 23.2-16. - Quasi-judicial procedures
- Sec. 23.2-17. - Appeals

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2020-14 (PZB / HRPB Project Number PZHP 20-03100006).

POTENTIAL MOTION:

I move to RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION **TO ADOPT** the proposed LDR text amendments included in PZB / HRPB Project Number 20-03100006 (Ordinance 2020-14).

Attachments

- A. Draft Ordinance 2020-14

1
2
3 **ORDINANCE 2020-14 - AN ORDINANCE OF THE CITY OF LAKE**
4 **WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND**
5 **DEVELOPMENT REGULATIONS,” ARTICLE 2, “ADMINISTRATION”,**
6 **DIVISION 2 “PROCEDURES,” SECTION 23.2-16 “QUASI-JUDICIAL**
7 **PROCEDURES” AND SECTION 23.2-17 “APPEALS” TO UPDATE AND**
8 **CLARIFY THE QUASI-JUDICIAL PROCESS FOR LAND USE AND**
9 **ZONING MATTERS; PROVIDING FOR SEVERABILITY, THE REPEAL**
10 **OF LAWS IN CONFLICT, CODIFICATION; AND PROVIDING AN**
11 **EFFECTIVE DATE.**

12
13 **WHEREAS**, as provided in Section 2(b), Article VIII of the Constitution of the State
14 of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the
15 “City”), a municipal corporation, enjoys all governmental, corporate, and proprietary
16 powers necessary to conduct municipal government, perform municipal functions, and
17 render municipal services, and may exercise any power for municipal purposes, except
18 as expressly prohibited by law; and

19
20 **WHEREAS**, as provided in Section 166.021(3), Florida Statutes, the governing
21 body of each municipality in the state has the power to enact legislation concerning any
22 subject matter upon which the state legislature may act, except when expressly prohibited
23 by law; and

24
25 **WHEREAS**, the City wishes to amend its regulations pertaining to quasi-judicial
26 procedures and appeals to provide clarity to the processes; and

27
28 **WHEREAS**, the Planning and Zoning Board, in its capacity as the local planning
29 agency, considered the proposed amendments at a duly advertised public hearing; and

30
31 **WHEREAS**, the Historic Resources Preservation Board, in its capacity as the local
32 planning agency, considered the proposed amendments at a duly advertised public
33 hearing; and

34
35 **WHEREAS**, the City Commission has reviewed the proposed amendments and
36 has determined that it is in the best interest of the public health, safety, and general
37 welfare of the City to adopt this ordinance.

38
39 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
40 **CITY OF LAKE WORTH BEACH, FLORIDA, that:**

41
42 **Section 1.** The foregoing “WHEREAS” clauses are ratified and confirmed as
43 being true and correct and are made a specific part of this Ordinance as if set forth herein.

44
45 **Section 2.** Chapter 23 “Land Development Regulations,” Article 2,
46 “Administration,” Divisions 2 “Procedures,” Section 23.2-16 “Quasi-Judicial Procedures”
47 of the City’s Code of Ordinances, is hereby amended by adding the words shown in
48 underlined type and deleting the words as ~~struck through~~.

51 **Sec. 23.2-16. - Quasi-judicial procedures.**

52

53 a) *In general*. ~~Except in the case of appeals,~~ The provisions of this section apply
54 to all quasi-judicial hearings held pursuant to these LDRs. Quasi-judicial hearings
55 shall be conducted generally in accordance with the following order of
56 presentation:

- 57 1. Disclosure of ex parte communications and personal investigations
58 pursuant to subsection h below.
- 59 2. Presentation by city staff.
- 60 3. Presentation by the applicant.
- 61 4. Presentation by affected party, if applicable.
- 62 ~~45.~~ Public comment.
- 63 ~~56.~~ Cross-examination by city staff.
- 64 ~~67.~~ Cross-examination by the applicant.
- 65 8. Cross-examination by affected party, if applicable.
- 66 ~~79.~~ ~~Cross-examination~~ Questions by the decisionmaking body.
- 67 ~~810.~~ Rebuttal or closing argument by the applicant.
- 68 ~~911.~~ Closing of the public hearing.
- 69 ~~4012.~~ Deliberation by the decisionmaking body. ~~Motion by the decisionmaking~~
70 ~~body with explanation.~~
- 71 ~~11.~~ ~~Discussion among members of the decisionmaking body.~~
- 72 12. Action by the decisionmaking body making reference to and entry of
73 specific findings. In the case of denials a citation(s) shall be provided
74 referencing to the legal authority (e.g., code citation) forming the basis
75 of the denial.

76 The chairperson, upon motion or by consensus of the decisionmaking body, may
77 change the order of presentation. Each party shall have the right to call and examine
78 witnesses, to introduce evidence/exhibits into the record, to cross-examine opposing
79 witnesses on any relevant matter, subject to the rules contained herein, and to rebut
80 evidence.

81 b) *Sworn testimony.* The applicant, staff, and all participants requesting to speak shall
82 be collectively sworn by oath or affirmation.

83 c) *Waiver by applicant.* The applicant may waive its right to an evidentiary hearing if it
84 agrees with the staff recommendation ~~and no one from the audience wishes to speak~~
85 ~~for or against the application.~~ The decisionmaking body may then take public
86 comment and vote on the item, based upon the staff report and any other materials
87 entered by staff from the official file into the record of the hearing.

88 d) *Decorum.* The chair shall keep order, and without requiring an objection, may direct
89 a party conducting cross-examination to stop a particular line of questioning that
90 merely harasses, intimidates or embarrasses the individual being cross-examined; is
91 unduly repetitious and not relevant; or is beyond the scope of the testimony by the
92 individual being cross-examined. If the party conducting the cross-examination
93 continuously violates directions from the chair to end a line of questioning deemed

- 94 irrelevant and merely designed to harass, intimidate or embarrass the individual, the
95 chair may terminate the cross-examination.
- 96 e) *Affected parties.* Affected parties, as defined in section 23.1-12 (Definitions), (1) shall
97 be allowed to present evidence, to produced witnesses, and to cross-examine
98 witnesses produced by others; (2) may appeal final decisions of staff, HRPB, planning
99 and zoning board, or city commission; and (3) may file suit to enforce the provisions
100 of this article should the city fail or decline to do so. Notwithstanding the foregoing;
101 however, in any suit brought by an affected party, the applicable circuit court shall
102 determine whether the affected party has the requisite standing to bring suit. An
103 affected party who wishes to participate as a party in the quasi-judicial hearing must
104 fill out a city form and deliver it, along with documentary evidence, to the Department
105 of Community Sustainability at least ten (10) days before the hearing. Failure to
106 follow the process shall be deemed a waiver and the affected party will not be allowed
107 to participate in the quasi-judicial hearing.
- 108 f) *Deliberation.* After the presentations, and at the conclusion of any continuances, the
109 decisionmaking body shall deliberate on the application ~~or appeal, as the case may~~
110 ~~be~~. Once the decisionmaking body begins its deliberations no further presentations
111 or testimony shall be permitted except at the sole discretion of the decisionmaking
112 body. The decisionmaking body's decisions must be based upon competent
113 substantial evidence in the record.
- 114 g) *Continuance.* The decisionmaking body may, on its own motion or at the request of
115 an applicant, continue the hearing to a fixed date, time and place. The applicant shall
116 have the right to one (1) continuance; however, all subsequent continuances shall be
117 granted at the sole discretion of the decisionmaking body. Notwithstanding the
118 foregoing, a continuance shall not be granted if to do so would delay a decision on
119 an appeal from the HRPB regarding a certificate of appropriateness beyond the
120 ninety-day requirement specified in section 23.2-17.
- 121 h) *Ex parte communications.* Members of the decisionmaking body shall disclose on the
122 record any ex parte communications and personal investigations regarding pending
123 quasi-judicial decisions in accordance with applicable Florida law.
- 124 1. Members of the decision-making body shall disclose on the record any ex parte
125 communications, site visits, expert opinions sought, and personal investigations
126 regarding pending quasi-judicial decisions prior to any final action on the matter.
 - 127 2. The substance of any ex parte communication shall be disclosed including the
128 subject of the communication and the identity of the person, group, or entity with
129 whom the communication took place.
 - 130 3. Any written communication shall be made part of the record.
 - 131 4. Any site visit, personal investigation or expert opinions received shall be
132 disclosed and made part of the record.
 - 133 5. Pursuant to section 286.0115(1), Florida Statutes, the foregoing process
134 removes the presumption of prejudice from ex parte communications.
- 135 i) *Official file.* All written communication received by a decisionmaking body or staff
136 concerning an application, the staff report on the application, any petitions or other
137 submissions from the public, and all other documents pertaining to the application
138 upon receipt shall be filed in the official file for the application, which shall be

139 maintained by staff. The comprehensive plan and the City Code of Ordinances shall
140 be deemed to be part of the official file. The official file shall be available for inspection
141 during normal business hours.

142 j) *Record of the hearing.* All evidence admitted into the record at the hearing, and the
143 adopted development order of the decisionmaking body shall be maintained by the
144 city in a hearing file available for public review for a period of at least forty-five (45)
145 days from the rendering of the decision.

146 k) *First Reading.* For all quasi-judicial matters which require more than one (1) reading,
147 the first reading shall constitute the quasi-judicial hearing. If a decision is rendered to
148 grant or grant with conditions the relief sought by the applicant, then the second
149 reading shall be procedural in nature with the quasi-judicial body ratifying and
150 affirming its prior decision. If new evidence is introduced which, if brought to the
151 attention of the quasi-judicial body at the first reading, would have had a material
152 impact on its decision, the quasi-judicial body may reopen the quasi-judicial hearing
153 and give all parties the opportunity to address the new evidence.

154
155 **Section 3.** Chapter 23 “Land Development Regulations,” Article 2,
156 “Administration,” Division 2 “Procedures,” Section 23.2-17 “Appeals” of the City’s Code of
157 Ordinances, is hereby amended by adding the words shown in underlined type and
158 ~~deleting~~ the words as struck through.

159
160 Sec. 23.2-17. - Appeals.

161
162 a) *To planning and zoning board and historic resources preservation board.* An
163 applicant may appeal a final decision of the development review official to the
164 planning and zoning board or the historic resources preservation board, as
165 applicable. The procedures set forth in Sec. 23.2-16 shall apply except as
166 modified herein.

167 1. The applicant shall submit to the development review official, a notice of appeal
168 within thirty (30) days of the official's written decision. The appeal shall be in writing
169 on a form provided by city staff.

170 2. The appeal shall be accompanied by the applicable fee and filed with the
171 development review official.

172 3. The appeal shall be heard at a quasi-judicial hearing and be based on the record
173 made in the proceeding below. evidence relied upon by the development review
174 official in making his/her decision, which shall include submissions from the
175 applicant.

176 4. Notwithstanding the above, on appeals of administrative decisions regarding
177 certificates of appropriateness, the process shall be guided by Section 23.5-
178 4(n)(1), which provides that a notice of appeal must be submitted within fourteen
179 (14) days of the administrative decision, and that the administrative decision must
180 be reviewed within sixty (60) days and may be reversed only if it was contrary to
181 law or arbitrary and capricious.

182 b) *To city commission.* Should an applicant for development approval or an affected
183 party with demonstrated standing decide to appeal a decision of the planning and

- 184 zoning board or the historic resources preservation board the procedures set forth in
 185 Sec. 23.2-16 shall apply except as modified herein.
- 186 1. ~~he~~The applicant or affected party shall submit to the development review official
 187 a notice of appeal within fourteen (14) days of the ~~issuance of the~~ board's written
 188 decision.
- 189 2. Thereafter, the applicant or affected party shall submit to the development review
 190 official in writing the basis for the appeal within thirty (30) days of the board's
 191 written decision; except appeals from decisions pertaining to variances shall be
 192 appealed directly to circuit court as described in subsection c). The basis of
 193 appeal must relate to the evidence and testimony presented to the planning and
 194 zoning board or the HRPB. The basis of appeal should include all evidence the
 195 appealing party would like to have the city commission review. New evidence is
 196 not allowed and will not be considered.
- 197 3. The appeal shall be submitted with a city application and the applicable fee and
 198 filed with the development review official. An affected party must have
 199 participated in the hearing before the planning and zoning board or HRPB to
 200 participate in an appeal before the city commission.
- 201 4. The development review official shall forward the appeal, the staff report, and the
 202 board's decision to the city commission for review.
- 203 5. The development review official may also have the right to appeal a decision of
 204 the planning and zoning board or the HRPB.
- 205 46. After courtesy notice as provided in this article, the city commission shall conduct
 206 a quasi-judicial hearing, and shall consider those applications on appeal from the
 207 planning and zoning board or the HRPB based on the record ~~made in the~~
 208 ~~proceeding below~~ created at the planning and zoning board or the HRPB. The
 209 considerations substantiating the decision of the city commission shall be
 210 discussed. The city commission shall convey its decision in writing to the
 211 ~~appellant~~ applicant, affected parties, if applicable, and to the development review
 212 ~~official. The considerations substantiating the decision of the city commission~~
 213 ~~shall be documented.~~
- 214 27. For appeals from the decisions of the HRPB regarding certificates of
 215 appropriateness, the city commission shall consider the appeal within ninety (90)
 216 days after the filing of the appeal. The city commission may uphold or reverse
 217 the HRPB's decision in whole or in part or remand with instructions for further
 218 consideration. ~~approve, approve with modifications or disapprove the application~~
 219 ~~within ninety (90) days after the filing of the appeal.~~ A reversal of an HRPB
 220 decision, whether in whole or in part, of the historic resources preservation board
 221 shall require no less than four (4) votes of the full city commission or by no less
 222 than three (3) votes of those in attendance, and in accordance with Section 23.5-
 223 4(n)(2), a reversal shall be rendered only if the city commission determines that
 224 the HRPB decision was contrary to law or arbitrary and capricious.
- 225 c) *To circuit court.* Any person or persons, jointly or severally, or entity, aggrieved by
 226 ~~any~~ the decision of the city commission, after first exhausting all administrative
 227 remedies, may present to a circuit court a petition for issuance of a writ of certiorari
 228 pursuant to the Florida law. If a planning and zoning board or HRPB variance
 229 determination is being appealed and is a part of an overall order being appealed for

230 certificates of appropriateness, site plans, etc., then the entire order shall be appealed
231 to the circuit court and it is not necessary to exhaust administrative remedies by
232 appealing any portion of the order to the city commission.

233 d) Quasi-judicial procedure. Quasi-judicial hearings on appeals shall be conducted
234 generally in accordance with the following order of presentation, which may be
235 adjusted by the chairperson. At these hearings no new evidence may be introduced
236 and presentations will be limited to ten (10) minutes per party unless the time is
237 extended by majority vote of the decisionmaking body.

- 238
- 239 1. Disclosure of ex parte communications and personal investigations.
 - 240 2. Presentation by city staff.
 - 241 3. Presentation by the applicant.
 - 242 4. Presentation by affected party, if applicable.
 - 243 5. Public Comment.
 - 244 6. Questions by the decisionmaking body.
 - 245 7. Closing of the public hearing.
 - 246 8. Deliberation by the decisionmaking body. The decisionmaking body shall
247 be restricted to the record developed from the hearing before the
248 appropriate board which shall include submissions from the applicant.
249 The standard of review for these deliberations shall be competent,
250 substantial evidence unless indicated otherwise in these LDRs.
 - 251 9. Action by the decisionmaking body.
- 252

253

254 **Section 4. Severability.** If any section, subsection, sentence, clause, phrase or
255 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of
256 competent jurisdiction, such portion shall be deemed a separate, distinct, and
257 independent provision, and such holding shall not affect the validity of the remaining
258 portions thereof.

259

260 **Section 5. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in
261 conflict herewith are hereby repealed to the extent of such conflict.

262

263 **Section 6. Codification.** The sections of the ordinance may be made a part of
264 the City Code of Laws and ordinances and may be re-numbered or re-lettered to
265 accomplish such, and the word "ordinance" may be changed to "section", "division", or
266 any other appropriate word.

267

268 **Section 7. Effective Date.** This ordinance shall become effective 10 days after
269 passage.

270

271

272 The passage of this ordinance on first reading was moved by
273 _____, seconded by _____, and upon
274 being put to a vote, the vote was as follows:

275

276 Mayor Pam Triolo
277 Vice Mayor Andy Amoroso
278 Commissioner Scott Maxwell
279 Commissioner Omari Hardy
280 Commissioner Herman Robinson

281
282 The Mayor thereupon declared this ordinance duly passed on first reading on the
283 _____ day of _____, 2020.

284
285
286 The passage of this ordinance on second reading was moved by
287 _____, seconded by _____, and upon being put to a vote,
288 the vote was as follows:

289
290 Mayor Pam Triolo
291 Vice Mayor Andy Amoroso
292 Commissioner Scott Maxwell
293 Commissioner Omari Hardy
294 Commissioner Herman Robinson

295
296
297 The Mayor thereupon declared this ordinance duly passed on the _____ day of
298 _____, 2020.

301
302 LAKE WORTH BEACH CITY COMMISSION

303
304
305 By: _____
306 Pam Triolo, Mayor

307
308 ATTEST:

309
310
311 _____
312 Deborah Andrea, CMC, City Clerk



City Of Lake Worth
Department for Community Sustainability
Planning, Zoning and Historic Preservation Division
1900 Second Avenue North · Lake Worth · Florida 33461 · Phone: 561-586-1687

DATE: August 26, 2020

TO: Members of the Planning & Zoning and Historic Resources Preservation Boards

FROM: William Waters, Director Community Sustainability

MEETING: September 2, 2020 and September 9, 2020

SUBJECT: **PZHP 20-03100005**: Consideration of an ordinance (Ordinance # 2020-13) to amend Chapter 23 “Land Development Regulations” to provide consistency and clarity for time limitations related to development orders and building permits.

BACKGROUND/ PROPOSAL:

On March 5, 2020, the City Commission held a workshop on the prioritization of amendments to the City’s Land Development Regulations (LDR) that were previously identified by staff and the Commission. The subject LDR amendments address the third series of prioritized items identified at the March meeting, which include modifications to provide consistency and clarity for time extension for all development order types and to provide uniform language related to the development order expiration.

The proposed amendments consolidate language related to the expiration of development orders into a new code section that provides for finality to approvals and construction projects. Currently, time limitations related to development orders are addressed in separate sections by development order type. The proposed ordinance would also amend language, for clarity and consistency, related to building permit application timeframes for development orders and time limitations related to issued building permits. The proposed amendments to the Land Development Regulations have been reviewed by staff for consistency with the City’s Comprehensive Plan.

The proposed LDR amendments for Chapter 23 will modify the following sections of the City’s Code of Ordinances:

- Sec. 23.2-37. – Expiration of Development Orders (New Section)
- Sec 23.1-11 -Time Limitations of Approvals - building permits
- Sec. 23.2-26. – Variances
- Sec. 23.2-29. – Conditional use permits
- Sec. 23.2-30. – Site plan review
- Sec. 23.5-4. - Historic preservation
- Sec. 23.7-4. - Permits
- Sec. 23.2-20 – Site Plan Review

STAFF RECOMMENDATION:

Staff recommends that the Planning and Zoning Board and Historic Resources Preservation Board recommend that the City Commission adopt Ordinance 2020-13: PZB (HRPB Project Number 20-03100005)

POTENTIAL MOTION:

I move to RECOMMEND/NOT RECOMMEND TO THE CITY COMMISSION **TO ADOPT** the proposed LDR text amendments included in PZB / HRPB Project Number 20-03100005 (Ordinance 2020-13).

Attachments

- A. Draft Ordinance 2020-13

1
2
3 **ORDINANCE 2020-13 - AN ORDINANCE OF THE CITY OF LAKE**
4 **WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND**
5 **DEVELOPMENT REGULATIONS,” ARTICLE 2, “ADMINISTRATION,”**
6 **DIVISION 3 “PERMITS,” BY ADDING A NEW SECTION “EXPIRATION**
7 **OF DEVELOPMENT ORDERS” TO PROVIDE FINALITY TO**
8 **APPROVALS AND CONSTRUCTION PROJECTS; AMENDING ARTICLE**
9 **1 “GENERAL PROVISIONS,” DIVISION 1 “GENERALLY,” SECTION**
10 **23.1-11 “TIME LIMITATIONS OF APPROVALS,” TO PROVIDE**
11 **UNIFORM TIME LIMITATIONS ON BUILDING PERMITS FOR ALL USES**
12 **IN THE LAND DEVELOPMENT REGULATIONS AND AMENDING THE**
13 **SPECIFIC REGULATIONS TO REFLECT THE UNIFORMITY;**
14 **PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN**
15 **CONFLICT, CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

16
17 **WHEREAS**, as provided in Section 2(b), Article VIII of the Constitution of the State
18 of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the
19 “City”), a municipal corporation, enjoys all governmental, corporate, and proprietary
20 powers necessary to conduct municipal government, perform municipal functions, and
21 render municipal services, and may exercise any power for municipal purposes, except
22 as expressly prohibited by law; and

23
24 **WHEREAS**, as provided in Section 166.021(3), Florida Statutes, the governing
25 body of each municipality in the state has the power to enact legislation concerning any
26 subject matter upon which the state legislature may act, except when expressly prohibited
27 by law; and

28
29 **WHEREAS**, the City wishes to amend its regulations to provide a final expiration
30 date of no more than three years for approvals without specific expiration dates and for a
31 period of no more than four years when as a condition of approval, an expiration date is
32 included in the development order; and

33
34 **WHEREAS**, the City wishes to amend its regulations to provide time limitations to
35 apply for building permits as it relates to approved projects in the City; and

36
37 **WHEREAS**, this ordinance provides uniformity finality to building permits and
38 approvals throughout the land development regulations; and

39
40 **WHEREAS**, the Planning and Zoning Board, in its capacity as the local planning
41 agency, considered the proposed amendments at a duly advertised public hearing; and

42
43 **WHEREAS**, the Historic Resources Preservation Board, in its capacity as the local
44 planning agency, considered the proposed amendments at a duly advertised public
45 hearing; and

46
47 **WHEREAS**, the City Commission has reviewed the proposed amendments and
48 has determined that it is in the best interest of the public health, safety, and general
49 welfare of the City to adopt this ordinance.
50

51 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
52 **CITY OF LAKE WORTH BEACH, FLORIDA, that:**

53
54 **Section 1.** The foregoing “WHEREAS” clauses are ratified and confirmed as
55 being true and correct and are made a specific part of this Ordinance as if set forth herein.

56
57 **Section 2.** Chapter 23 “Land Development Regulations,” Article 2
58 “Administration,” “Division 3 “Permits,” of the City’s Code of Ordinances, is hereby
59 amended by adding a new Section 23.2-37 “Expiration of Development Orders” as
60 indicated in **Exhibit A** (underlined type is added).

61
62 **Section 3.** Chapter 23 “Land Development Regulations,” Article 1, “General
63 Provisions,” Division 1 “Generally,” Section 23.1-11 “Time limitations of approvals,” is
64 hereby amended by adding the words shown in underlined type and deleting the words
65 ~~struck through~~ as indicated in **Exhibit B**.

66
67 **Section 4.** Chapter 23 “Land Development Regulations,” section 23.2-26(c)
68 “Time limit for variances,” section 23.2-29(k) “Expiration of conditional use approval,”
69 section 23.2-30(f) “Expiration of site plan approval,” section 23.5-4(j) “Issuance of
70 certificate of appropriateness; commencement of permitted improvements,” and section
71 23.7(4)(e) “Expiration” as it relates to flood plain permits, are hereby amended to be
72 consistent with and provide uniformity with the regulations set forth in Exhibits A and B.
73 These sections are amended by adding the words shown in underlined type and deleting
74 the words ~~struck through~~ as indicated in **Exhibit C**.

75
76 **Section 5.** Severability. If any section, subsection, sentence, clause, phrase or
77 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of
78 competent jurisdiction, such portion shall be deemed a separate, distinct, and
79 independent provision, and such holding shall not affect the validity of the remaining
80 portions thereof.

81
82 **Section 6.** Repeal of Laws in Conflict. All ordinances or parts of ordinances in
83 conflict herewith are hereby repealed to the extent of such conflict.

84
85 **Section 7.** Codification. The sections of the ordinance may be made a part of
86 the City Code of Laws and ordinances and may be re-numbered or re-lettered to
87 accomplish such, and the word “ordinance” may be changed to “section”, “division”, or
88 any other appropriate word.

89
90 **Section 8.** Effective Date. This ordinance shall become effective 10 days after
91 passage.

92
93
94 The passage of this ordinance on first reading was moved by
95 _____, seconded by _____, and upon
96 being put to a vote, the vote was as follows:

97
98

99 Mayor Pam Triolo
100 Vice Mayor Andy Amoroso
101 Commissioner Scott Maxwell
102 Commissioner Omari Hardy
103 Commissioner Herman Robinson

104
105 The Mayor thereupon declared this ordinance duly passed on first reading on the
106 _____ day of _____, 2020.

107
108
109 The passage of this ordinance on second reading was moved by
110 _____, seconded by _____, and upon being put to a vote,
111 the vote was as follows:

112
113 Mayor Pam Triolo
114 Vice Mayor Andy Amoroso
115 Commissioner Scott Maxwell
116 Commissioner Omari Hardy
117 Commissioner Herman Robinson

118
119
120 The Mayor thereupon declared this ordinance duly passed on the _____ day of
121 _____, 2020.

122
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124
125 LAKE WORTH BEACH CITY COMMISSION

126
127
128 By: _____
129 Pam Triolo, Mayor

130
131 ATTEST:

132
133
134 _____
135 Deborah Andrea, CMC, City Clerk
136

EXHIBIT A

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 2 "ADMINISTRATION"

Article 2, "Administration," Division 3 "PERMITS"

Sec. 23.2-37. – Expiration of Development Orders.

- a) Generally. A development order shall automatically expire three (3) years from the date of issuance. If these LDRs provide for a shorter period of expiration, then those time limitations shall apply. If a development order expires, the approval shall terminate and become void. In such event, the applicant or property owner shall be required to make application for a new approval, subject to any changes in the law.
- b) As a Condition of Approval. The planning and zoning board, the historic resources preservation board or the city commission, as applicable, may condition the approval of a development order on a period of time not exceeding four (4) years or on a final expiration date of up to four (4) years. If certificates of use, completion, or occupancy are not issued by the appropriate city official at the end of the period or on the date specified in the development order, then the development order shall automatically expire at the end of the period or on the date specified in the development order. In such event, the applicant or property owner shall be required to make application for a new approval, subject to any changes in the law.
- c) Phased Plans. If a phased site plan expires, the following shall apply as applicable.
 - 1. The allocation of dwelling units granted for any principal structure that has not received a certificate of occupancy or equivalent certification shall expire at the time the site plan expires, or
 - 2. The portion of the property not developed prior to the expiration shall not be developed without the applicant or property owner submitting an application for and receiving an approval of a new site plan.
- d) Finality. This section is intended to add finality to development orders and construction projects. In no event may the expiration of a development order exceed the number of years set forth in this section.

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EXHIBIT B

Chapter 23

LAND DEVELOPMENT REGULATIONS

Article 1, "General Provisions," Division 1 "Generally"

Sec. 23.1-11. -Time limitations -- building permits approvals.

a) Application.

1. Unless specified otherwise herein, approvals granted pursuant to these regulations shall require the owner to submit an application for a building permit(s) within ~~eighteen (18)~~ twelve (12) months from ~~time~~ the date of the approval. Failure to submit an application for a building permit(s) within that timeframe shall render the approval null and void unless an extension is granted as set forth herein.

2. Building permit application ~~Permitted~~ time frames do not change with successive owners, provided however, ~~one (1), two (2) separate but successive six (6) month extensions of time to apply for a building permit may be granted by the development review official for good cause shown. One (1) additional six (6) month extension of time may be granted by submitting a request for extension to the city authority which granted the approval.~~

b) Building permit. After a building permit application has been approved, a request to extend the building permit may be granted by the building official or designee in the building official's or designee's discretion in six (6) month increments or as otherwise provided by the Florida Building Code. In no event may a building permit exceed the time limitations set forth in section 23.2-37, nor may it be interpreted as extending the time limitations of the underlying order as set forth in section 23.2-37.

EXHIBIT C

Chapter 23

LAND DEVELOPMENT REGULATIONS

Article 2, "Administration," Division 3 "Permits"

Sec. 23.2-26. – Variances.

c) *Time limit for variances.* Any variance granted under this section shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~become null and void and of no effect twelve (12) months from and after the date of its final approval, unless within such period of twelve (12) months a building permit is issued if required, or if no permit is required, unless the action permitted by the variance shall have taken place within the twelve-month period. An extension of six (6) months may be granted by the development review official for good cause.~~

Sec. 23.2-29. – Conditional use permits.

k) *Expiration of conditional use approval.* Any approval of a conditional use granted by the planning and zoning board, the historic resources preservation board or by the city commission shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~void one (1) year after the date of the approval unless a building permit has been issued for the construction of all facilities provided in the site plan associated with the conditional use or otherwise needed to house the use, and construction is diligently pursued. If a building permit is issued within one (1) year of approval of the conditional use, the building official shall make periodic inspections in order to determine whether or not construction is being diligently pursued. If the building official determines that the construction is not being diligently pursued, then he shall notify in writing the owner of property and any other person who has requested such notice. The conditional use approval shall be void one hundred eighty (180) days after the date of such notice unless construction has been diligently resumed within that one hundred eighty-day period. Minor construction related work which does not substantially advance the project to completion will not be deemed sufficient to keep from voiding of a conditional use approval. If new facilities are constructed but are not occupied within one (1) year following completion of construction, then the conditional use approval shall be void. If no new facilities are~~

268 needed to house the use, then the conditional use approval shall be void one hundred
269 eighty (180) days after the date of the approval unless the use has been established.

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271 **Sec. 23.2-30. – Site plan review.**
272

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275 f) ~~Expiration of site plan approval unless building permit(s) issued within one (1) year.~~
276 Any site plan approval shall be subject to the time limits set forth in section 23.1-11
277 regarding building permits and section 23.2-37 regarding the expiration of
278 development orders. ~~void one (1) year after the date of the approval unless a building~~
279 ~~permit has been issued for the construction of all facilities provided in the site plan~~
280 ~~and construction is diligently pursued. If a building permit is issued within one (1) year~~
281 ~~of approval of the site plan, the building official shall make periodic inspections in~~
282 ~~order to determine whether or not construction is being diligently pursued. If the~~
283 ~~building official determines that construction is not being diligently pursued, then he~~
284 ~~shall notify in writing the owner of property and any other person who has requested~~
285 ~~such notice. The site plan approval shall be void one hundred eighty (180) days after~~
286 ~~the date of such notice unless construction has been diligently resumed within that~~
287 ~~one hundred eighty-day period. Minor construction related work which does not~~
288 ~~substantially advance the project to completion will not be deemed sufficient to keep~~
289 ~~from voiding of site plan approval~~

290

291 g) ~~Extension of time.~~ An extension of time may be requested by the applicant prior to
292 the expiration of the original approval. The development review official may grant one
293 (1) time extension for a period not to exceed six (6) months and only within the original
294 period of validity.

295 h) g) Compliance with LDRs required. In all cases requiring site plan review, no
296 structure, or part thereof, shall be erected or used, or land or water used, or any
297 change of use consummated, nor shall any building permit be issued, unless a site
298 plan has been reviewed and approved, and in no instance shall the decisionmaking
299 body modify the written standards of these LDRs in approving a site plan; except as
300 provided for in this section.

301 i) h) Violations. Failure to complete and continually maintain all approved elements of
302 an approved site plan including landscape, appearance and other site development
303 features, shall be a violation of these LDRs subject to enforcement and penalty
304 procedure of the City Code of Ordinances.

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Article 5, "Substantial Regulations"

Sec. 23.5-4. - Historic preservation.

- j) ~~Issuance of certificate of appropriateness; time limits-commencement of permitted improvements. If the department for community sustainability or HRPB approves an application, a certificate of appropriateness shall be issued in a timely manner. Issuance of a certificate of appropriateness shall not relieve the applicant from obtaining all other required development permits, orders and approvals required by law. No building permit or other development order for a designated landmark or a property within a historic district shall be valid unless accompanied by a certificate of appropriateness. A certificate of appropriateness approval shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~Construction approved by a certificate of appropriateness shall commence within twelve (12) months of the date of issuance, and the certificate shall automatically expire if less than fifty (50) percent of the approved improvements are completed within twelve (12) months of the date of commencement. A certificate of occupancy for the required improvements shall be received within twenty four (24) months of commencement of the work. The department for community sustainability may grant a one-time time extension not exceeding twelve (12) months if the permit holder can demonstrate that delays have been unavoidable and that work will be completed in a timely manner. The HRPB may in its absolute discretion grant additional time extensions as necessary if the permit holder can demonstrate that delays have been unavoidable and that work will be completed in a timely manner. If the department for community sustainability or HRPB denies an application, it shall state its reasons for doing so in writing and present them to the applicant within ten (10) calendar days of the denial.~~~~

Article 7, "Floodplain Management," Division 1 "Administration"

Sec. 23.7-4. - Permits.

- e) Expiration. A floodplain development permit or approval shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~become invalid unless the work authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized is suspended or abandoned for a period of one hundred eighty (180) days after the work commences. Extensions for periods of not more than one hundred eighty (180) days each shall be requested in writing and justifiable cause shall be demonstrated.~~