

# City of South Daytona


## Office of the City Manager

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### MEMORANDUM

To: James L. Gillis, Jr., City Manager

From: John Dillard, Community Development Director 

Date: February 1, 2019

Re: **Consideration of Approving a Special Exception for Alcohol Sales, Allowed Under a 4COP License, for the Property Located at 561 Beville Road (Pool & Brew)**

**AGENDA ITEM**

# 9C DATE 02/01/19

#### **A. Background Information:**

The applicant, Stonce, LLC, 4032 Access Road, Englewood, Florida 34224, is the owner of the property and has owned the building since January 2013, according to the Volusia County Property Appraisers website. The property is a commercial strip center building that was built in 1977. For over 30 years, this building has been home to Pool & Brew, a pool hall that has served beer and wine during this time. The beer and wine bar was grandfathered in due to being established prior to the requirements for procuring a Special Exception for alcohol sales in South Daytona. However, the business owner possesses a 4COP Alcohol license that allows a full service bar and wishes to transfer this license to the 561 Beville Road address.

Since the business is a grandfathered non-conforming use, the business is allowed to continue operating as is (i.e. beer and wine sales), but it cannot expand or change its operation (i.e. alcohol sales) without receiving a Special Exception as now required by City Code.

#### **B. Facts and Analysis:**

1. Existing Zoning: The existing zoning is Business General Commercial (BGC), which allows the proposed use under special exception. The proposal does not involve a change in the zoning district classification.
2. Parking: The parking is adequate for the site and could exceed the minimum requirements of the Code by three spaces. Code requires 1 space for every 4 seats plus 1 space for every 3 staff members. The projected staff is 3 members and a maximum of 36 seats. This equates to 10 spaces required and the site has numerous existing parking spaces and the peak business hours are non-congruent with the operating hours of the adjacent businesses.
3. General Requirements: When approving a special exception, the City Council

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shall consider the following requirements:

- a. Traffic generated and its access and flow to the proposed use shall not adversely impact adjoining properties and the general public safety.

*The analysis is unique since the Pool and Brew is already in operation. The existing parking lot configuration can easily accommodate the traffic flow anticipated for the expanded use of alcohol sales.*

- b. Off-street parking, loading and service areas shall be provided and located such that there is no additional impact on adjoining properties, beyond that generally experienced in the district.

*There is an alley behind the additional parking area to the back of the Pool and Brew unit which serves as an access for loading and garbage collection. This area should ensure there is no additional impact to adjoining properties.*

- c. Required yards, screening or buffering and landscaping shall be consistent with the district in general and specific needs of abutting land uses.

*The Pool and Brew currently exists in a shopping center with multiple units. The shopping center meets with the standards of the district and abutting land uses. The unit that the Pool and Brew occupies is required to have a landscape buffer as discussed in the Specific Requirements in Discussion Point #4 below.*

- d. Architectural and signage treatments shall be sensitive to the surrounding land uses.

*The shopping center that houses the Pool and Brew is architecturally consistent with the surrounding shopping centers in the district. The signage is similar as well.*

- e. Utility service levels to the surrounding area shall not be reduced below design standards.

*The Pool and Brew is in operation today and the added use of a full alcohol license in conjunction with its location shouldn't reduce utility service below design standards.*

- f. Size, location or number of special exception uses in an area shall be limited so as to maintain the overall character of the district as intended in this Code.

*If the Pool and Brew's special exception use is granted, it would not adversely impact the overall character of the district since the bar has been there for over 30 years (albeit as a beer and wine serving facility).*

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4. **Specific Requirements: Bars, Lounges and Night Clubs:** A special use may be granted under the following conditions:

- a. The lot containing the proposed use conforms to all alcoholic beverage requirements of the City Code.

*The City Code of Ordinances states that no alcoholic beverages shall be sold for consumption on premises within five hundred (500) feet of any other establishment selling alcoholic beverages and, no alcoholic beverages shall be sold for consumption on the premises within five hundred (500) feet of any church or school within the city limits. However, if located in a shopping center with 6 or more businesses and less than 25% of those businesses have a business tax receipt to sell alcoholic beverages, the setbacks are not required.*

*Since the Pool and Brew is located within a shopping center with at least six other businesses and less than 25% of those businesses have a business tax receipt to sell alcoholic beverages, the setbacks are not required by Code. Furthermore, the Pool and Brew establishment supersedes any existing businesses in the center.*

- b. The proposed site does not directly abut a residential zone unless special buffering based on an intensity factor of six and functional separation is provided.

*The Pool and Brew unit abuts multi-family (R-3) zoning to the south of the site. The distance of separation between the Pool and Brew unit and the residential buildings is about 120 feet. A six-foot high wood stockade fence is also located along the property line between the Pool and Brew unit and the multi-family zoning.*

*If the Special Exception is approved, a 10-foot wide by 30-foot long landscape buffer will have to be created to separate the Pool and Brew unit from the residential zoning directly behind them. The landscape buffer shall consist of the following:*

- *One shade tree that shall have a minimum diameter of 3-inches measured 6-inches above ground and shall be a minimum of 12-feet high at the time of planting.*
- *One understory tree that shall have a minimum diameter of 2.5-inches measured 6-inches above ground and shall be a minimum of 8-feet high at the time of planting.*
- *Twelve shrubs that shall be a minimum of 2½ feet in height at the time of planting and a minimum of 3-gallon size.*

- c. The proposed site is on an arterial road.

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*The property meets this requirement as it is located on Beville Road, a major arterial roadway in South Daytona.*

The City records show the existing business has been at the current address since January 1986. However, the business may have been there earlier, but that was the earliest Business Tax Receipt in the files. The proposed use is going from a beer and wine establishment to a full service bar. No other changes are being proposed at this time. Adequate fire protection and ingress/egress and assembly use must be able to meet the current fire and building codes. The facility has been inspected and passed on an annual basis and will be inspected again by the City Fire Inspector to insure the facilities are in proper working order, prior to signing off on the transfer of the 4COP license.

**C. STAFF RECOMMENDATION:** This business has been in the same location for over 30 years. In reviewing our files, the business has been a successful, well run establishment with few problems with our City Code or Police Departments.

The Pool and Brew unit will meet the requirements of the Special Exception for a bar when they install the required landscape buffer; therefore, staff is recommending conditional approval for this use. The condition for approval is defined as the installation, inspection and City-acceptance of the required landscape buffer by April 12, 2019 and prior to the City signing the 4OCP license application. Failure to complete the required landscape buffer by that time will result in the conditional approval, if granted, being revoked.

The Pool and Brew's 4COP license requires the City's signature on the application ensuring that the business meets the zoning requirements. If the Special Exception is conditionally approved, staff will ensure the landscape buffer is fully installed, inspected and approved prior to the City Manager signing the 4COP license application.

The Special Exception, if approved, will allow the business to have a full-service bar as opposed to just beer and wine. Staff expects the business to continue operations as it has in the past. However, if we receive complaints, the City has the authority to revoke the 12:00am to 2:00am special license required to serve alcohol after midnight.