

**LEGISLATIVE #**

**110522B**



PLANNING DEPARTMENT  
PO BOX 490, STATION 11  
GAINESVILLE, FL 32602-0490

306 N.E. 6<sup>TH</sup> AVENUE  
P: (352) 334-5022  
P: (352) 334-5023  
F: (352) 334-2648

**TO:** City Plan Board **Item Number: 1**

**FROM:** Planning and Development Services Staff **DATE: Nov. 1, 2011**

**SUBJECT:** Petition PB-11-123 TCH. City of Gainesville. Amend the Land Development Code Section 30-105 Alcoholic Beverage Establishment to eliminate the distance requirements between certain uses and alcoholic beverage establishments in the Central City District(CCD) zoning district.

---

**Recommendation:**

Approve the petition.

**Discussion:**

Recently a place of religious assembly opened a center in the downtown entertainment district on Main Street. Based on concerns from downtown business owners staff reviewed the code issues and the impact related to a place of religious assembly locating in downtown, on restaurants (eating places) and alcoholic beverage establishments. The code provision of concern is Section 30-105 which state that no alcoholic beverage establishment may be located within 300 linear feet of an established place of religious assembly. To understand the impact of this provision on the downtown, we must distinguish the different between an eating place and an alcoholic beverage establishment. The Code defines an eating place as, "any use located in any structure or building or portion thereof where the use primarily involves the retail sale, which may include caterers and industrial and institutional food service establishments, of food and beverage which may include alcoholic beverages, for consumption on the premises and where at least 51 percent of the monthly gross revenues derived from such use are attributable to the sale of food and nonalcoholic beverages."

Based on the definition of an eating place there are no impacts to businesses (restaurants) that meet that definition, if a place of religious assembly locates downtown. However, as this relates to an alcoholic beverage establishment (bar) there will be impacts. The current code provision would not allow any new alcoholic beverage establishments to locate within 300 feet of a place of religious assembly. An existing alcoholic beverage establishment could continue to operate and change ownership, however an existing business within 300 feet would not be allowed to be expanded, reconstructed, remodeled or structurally altered except in changing the use of the structure to an allowable use. The Plan Board through a special use permit would be able to allow minor decorative, functional or safety improvement.

In discussing this issue with legal staff one possible solution would be to eliminate the spacing requirements for all assembly type uses in the CCD. It is staff's opinion that we can justify

Petition PB-11-123TCH  
November 1, 2011

eliminating the spacing requirements as it relates to alcoholic beverage establishments and places of religious assembly in the CCD, Gainesville's entertainment district. The justification would be that it is not unreasonable to expect that high density mixed use areas such as an entertainment area would have a diversity of uses located next to each other, and that there are also several places of religious assembly located in the downtown currently within 300 feet of alcoholic beverage establishments. Staff recommends Section 30-105 be amended as follows:

### Section 30-105 Alcoholic Beverage Establishment

(a)

#### *Spacing.*

(1)

No alcoholic beverage establishment may be located within three hundred (300) linear feet of an established place of religious assembly, which distance shall be measured by extending a straight line from the main entrance of the alcoholic beverage establishment to the main entrance of the place of religious assembly. This spacing requirement shall not apply in the CCD (Central City District).

(2)

No alcoholic beverage establishment may be located within four hundred (400) linear feet of any public or private school, duly accredited and offering any grades from kindergarten through the twelfth grade, which distance shall be measured by a straight line from the main entrance of the alcoholic beverage establishment to the nearest part of the school grounds normally and regularly used in connection with such school program. This spacing requirement shall not apply in the CCD (Central City District).

In summary staff's recommendation would eliminate the distance requirement between alcoholic beverage establishments, and places of religious assembly and public or private schools.

Respectfully submitted



Ralph Hilliard  
Planning Manager