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DATE: February 26, 2013
TO: Paul Folkers, Assistant City Manager
FROM: Planning & Development Services Staff
SUBJECT: Public Safety Committee Item: Special Events and the Outdoor Sales and Consumption of Alcoholic Beverages

It is City staff's understanding that legal staff has opined that the outdoor sales and consumption of alcoholic beverages are only allowed during University of Florida Football Home Game Day Events and only within the University Context Area as per Map 1. Due to this opinion, staff has denied applications for outdoor sales and consumption of alcohol beverages when not in the University Context Area and when not associated with University of Florida Football Home Game Day events. Prior to this opinion, staff was able to approve this use as part of the Special Events Permit process.

This report examines the City's current regulations pertaining to the temporary outdoor sales and consumption of alcoholic beverages within City limits and provides options for potential changes including the addition of events beyond UF Football Home Games and whether this use should be allowed outside of the University Context Area (See Map 1).

This report proposes that the City revisit its current policy and consider the following three options for regulating the temporary outdoor sales and consumption of alcoholic beverages:

- Option 1 Maintain the status quo by allowing the temporary outdoor sales and consumption of alcoholic beverages only in the University Context Area (See Map 1) and only during University of Florida Football Home Game Day Events.
- Option 2 Design a set of regulations that would allow the temporary outdoor sales and consumption of alcoholic beverages in the University Context Area during University of Florida Football Home Game Day Events and for up to four additional events.
- Option 3 Design a set of regulations that would allow the temporary outdoor sales and consumption of alcoholic beverages throughout the City during University of Florida Football Home Game Day Events and for up to four additional events at appropriate locations subject to zoning use regulations.

The regulations establishing the temporary outdoor sales and consumption of alcoholic beverages in the University Context Area during UF Football Home Games were adopted by Ordinance #000903 on May 14, 2001. This ordinance was developed to address issues and problems related to game day events and to improve the operations and safety of those events; associated problems were crowd control, open container, traffic and pedestrian circulation and other public safety problems.

Prior to adoption of that ordinance, the City allowed “Extension of Boundaries” for existing establishments with approved zoning compliance permits through the Special Events Permit process. The events were allowed on the basis that a business operating an approved establishment with indoor sales and consumption of alcoholic beverages qualifies for a Special Events permit per Section 30-67(g). That practice was consistent with the standards outlined in Chapter 4 of the Code of Ordinances. The owner of an establishment seeking to conduct an outdoor event would apply for a temporary outdoor extension of its internal operations to a specifically defined area contiguous to the main building on the same premises. Related permits for tents and associated facilities would be permitted together with the Special Events Permit. The application would be subject to approval by the State Alcoholic Beverages and Tobacco agency before final approval.

Non-profit establishments and requests for special promotional events were allowed subject to zoning regulations of the site where the event would be conducted. Those were typically allowed in zoning districts where the sale and consumption of alcoholic beverages are allowed by right or by special use permit according to the zoning code.

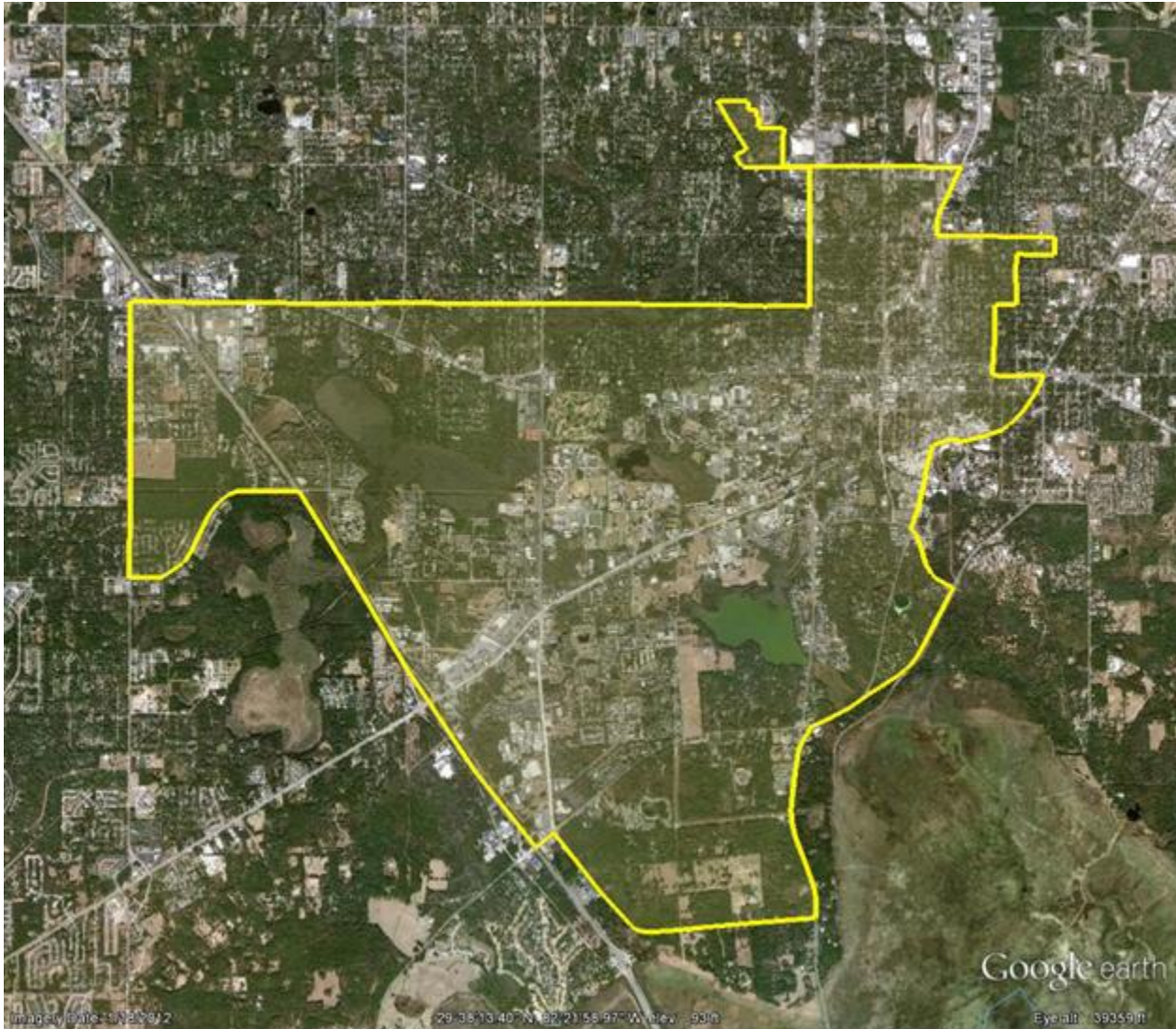
A Brief Review of the Options

The main differences between the existing ordinance (Option 1) and the possible modifications (Options 2 and 3) are:

1. The allowable events could be expanded to include up to four additional events beyond UF Football Home Games.
2. The geographic area where the event could be conducted could be expanded from the University Context Area (see Map 1) to include all areas of the City where the sales and consumption of alcoholic beverages are allowed by zoning districts.
3. The duration of UF Football Home Game Day events would be longer than what is allowed for the other events.
4. The hours of operation would be limited for events located within 1000 feet of properties zoned residential.
5. The regulations and standards for conducting the event would be modified to provide better control of the event.

City staff recommends Option 2 as the most equitable, fair and economically beneficial creating a City-wide approach to the issue. Option 2 treats all areas of the City the same, allows for addition events beyond UF Football Home Games, provides a clearer process, stronger regulations and better protection for the site and its surrounding neighbors.

MAP 1 UNIVERSITY CONTEXT AREA



Option 1

This status quo option limits the temporary outside sales and consumption of alcoholic beverages to businesses in the University Context Area and only during UF Football Home Games. This provides for different regulation of businesses in the University Context Area and elsewhere in the City. It precludes the ability of businesses to provide for the temporary outdoor sales and consumption of alcoholic beverages during other recreational events, special events and holidays such as basketball, baseball, St. Patrick's Day, Cinco de Mayo, New Year's Eve, chili cook-offs, etc.

Option 2

This option returns City regulations closer to where they were before the change in interpretation concluded that the temporary outdoor sales and consumption of alcoholic beverages are allowed only for UF Football Game Day events in the University Context Area by allowing up to four additional events.

Option 3

This option adopts and broadens the policies of options 1 and 2. Successful implementation would depend upon allowing businesses and non-profit organizations conducting activities involving the temporary outdoor sales and consumption of alcoholic beverages in a manner that does not have an overall negative impact on the health, welfare, safety quality of life of the community.

In this option, the temporary outdoor sale and consumption of alcoholic beverages may be allowed only in zoning districts where the sale and consumption of alcoholic beverages are allowed. Any legally established business would be eligible to apply for a permit to conduct an event that includes the temporary outdoor sale and consumption of alcoholic beverages during the following recognized events:

1. *University of Florida Home Football Game Day events, no more than one permit per applicant per location shall be allowed.*
2. *In addition to the events allowed under #1 above, a maximum of four additional events may be allowed. The event must be conducted by the operator of the primary business and must be on the premises where the business is located. The event shall be conducted only during a prescribed time period and shall be subject to standards for operating an outdoor special event as proposed below.*

This option presumes that request for outdoor events from non-local business are not allowed.

Potentially Negative Aspects Associated with the Events

1. Some activities conducted within adjacent vehicular use areas tend to create conflicts with the typical and expected traffic circulation in the immediate vicinity of the site. This creates additional burden on the City's resources and causes conflicts with adjacent neighborhoods and local businesses. Where businesses share the vehicular use area, the event causes conflict with the operations of those businesses which are non-participants of the event. There is also a tendency for the event to spill over beyond the limits of the approved site causing concerns for the neighborhoods, adjacent businesses and enforcing officials.
2. Crowd Control is another element of those events which causes problems for enforcing officials and creates negative impacts to adjacent businesses and residential neighborhoods.
3. Noise and music associated with those events are frequent causes of complaints to enforcing officials. Noise generated at events and the source of the noise is typically a difficult element to address in terms of an established noise level that becomes a

violation. The current ordinance was adopted in the early 1990s and has not been updated recently. It defines noise disturbance as follows:

- a. *Noise disturbance* means any sound which:
 - i. Disturbs a reasonable person of normal sensitivities;
 - ii. Exceeds the sound level limits set forth in this chapter; or
 - iii. Is plainly audible as defined in this section.

Each of the above criteria entails very subjective determinations and varies from one area to another within a neighborhood. The sound level limits set forth in Chapter 15 are also difficult to enforce due to the occurrence of existing ambient noise levels and the inability to identify the source of the various components of noise level reading from a particular point. Those elements place an unusual burden on the enforcing official as well as the City, making it difficult to address noise generated at some of those events based on the existing ordinances. Staff recommends a separate review of the Noise Ordinance based on an existing Committee referral.

4. Size and type of events: There appears to be varying types of events involving an expansion onto the primary parcel where a business is located; those with extensions into a portion of the establishments vehicular use area; those involving a substantial expansion onto vacant areas on premise; and expansions into shared vehicular use areas. The smaller events have demonstrated successful and uneventful occurrence of the function with no noise violations, limited and controlled patrons and no involvement with the City's enforcing officials. The larger events tend to become more noticeable to the enforcing officials. They generate higher decibel noise levels, create conflicts with local pedestrians, create friction with nearby traffic circulation, tend to extend beyond approved boundaries and result in neighborhood complaints.

Special events and events involving the temporary outdoor sales and consumption of alcoholic beverages are addressed in Section 30-67 of the Land Development Code and Chapter 4 of the City's Code of Ordinances. This report recognizes the regulations of Chapter 4 but the proposed changes would mostly relate to Section 30-67 of the Land Development Code.

The event should be renamed "Outdoor Special Event with Sales and Consumption of Alcoholic Beverages."

Example - Potential Ordinance Changes Based on Options 2 and 3

Sec. 30-67(g) (3). - General provisions for business and mixed use districts.

- (3) *Temporary outdoor alcoholic beverage sales for University of Florida Home Football Game Day events, in the University Context Area. and consumption for existing businesses.*

- A. ~~The City Manager or Designee may issue a permit for~~ allow the outdoor sale and consumption of alcoholic beverages sales in the University Context Area provided the following conditions and requirements are met: during the *University of Florida Home Football Game Day events*, with the following stipulations:
1. The area used for the temporary sales event cannot be more than 75 % of the total floor area of the primary building housing the principal use of the business conducting the event. 1.5 times the square footage of the on-site business conducting the sale. Permits for use of the area will be issued for the period of the day before the specified event and the day of the event.
- B. In addition to the University of Florida Home Football Game Day Events, the City Manager or Designee may allow the temporary outdoor sale and consumption of alcoholic beverages during a Special Event, not to exceed a maximum of four Special Events per year. Special Events is hereby further referred to as “Events” throughout this section.
1. If the site of the event is within 1000 feet of property zoned single-family residential per Section 30-41, the event shall be conducted no later than 10:00pm.
 2. The event permit shall be issued for a period of one day.
 3. The area used for the temporary sales event cannot be more than 500 square feet or 50 % of the total floor area of the primary building housing the principal use of the business conducting the event, whichever is the greater. 1.5 times the square footage of the on-site business conducting the sale. Permits for the use of the area will be issued for the period of the day before the specified event and the day of the event.
- C. The events listed above may be issued subject to compliance with the following additional regulations:
- a. The event must be conducted on the site where the business is located. The business conducting the event sale must be an a legally established existing business permitted by the City of Gainesville and operating in a permanently fixed location operating with an alcoholic beverage license issued by the State of Florida.
 - b. The location of the event must be contiguous to the business operating the event. If the event is operated in a commonly used vehicular use area, the event shall be conducted in front of the business operating the event or as close to the front or exterior wall of the business operating the event. The applicant must obtain approval of the property owner/s plus approval of the other businesses with common access to the site of the event or the vehicular use area where the event is conducted.

- c. Businesses with a location on the second floor or higher may operate the event on the grounds of the premises or within the vehicular use area subject to approval of the property owner plus the other businesses with common access to the site of the event or the vehicular use area.
- d. The temporary sale event must be conducted on the site where the business is located. The site of the temporary sale event must be owned or leased by the business as part of the normal daily operations of the business. Where the event will be conducted on premise or within a vehicular use area which is shared by multiple businesses, regardless of owner authorization, the applicant must obtain permission from all businesses sharing access to the location of the event. Where it is not possible to obtain approval of all businesses with a common interest in the location of the event the owner and applicant/s may petition the City to conduct the event on the basis that operation of the event will not impact the businesses which have not granted authorization. In such cases there must be a 75% or higher approval from other businesses sharing the site.
- e. If a business plans on using a portion of a vehicular use area, it must demonstrate that the remaining non-event portion of the vehicular use area is functional and accessible to regular and typical traffic circulation.
- f. ~~All permit applications must include a site plan sketch showing the following: the location, access, barriers delineating the event site from other public areas and all other details of the site. All permit applications must be submitted to the city manager or designee, along with the fee as set out in Appendix A of this Code at least ten days prior to the event.~~
 - i. The location of the primary business in relationship to all adjoining streets
 - ii. Land Use and zoning of the subject property
 - iii. The location of the nearest residential neighborhood or property zoned residential.
 - iv. Adjoining properties surrounding the property and properties which will be included in the event.
 - v. The proposed area on site where the event will be conducted
 - vi. All existing access driveways to the property and those that will remain open and those that will be closed.
 - vii. Proposed barriers delineating the event site from other public areas and all other details of the site. Chain-link fencing shall not be used as a type of material to delineate the event area. The barrier delineating the event area must be durable and able to remain in place throughout the event.
 - viii. Proposed advertising and directional signage for pedestrian bicycle and vehicle circulation, as permitted by code.

- ix. If the event will be operated after sunset, approved lighting to ensure safety of patrons.
 - x. All permit applications must be submitted to the city manager or designee, along with the fee as set out in Appendix A of this Code at least 30 days prior to the event.
 - xi. If the event is adjacent to another business; the plan shall show the relationship of the event to the operation of the adjacent business and whether or not the adjacent business is conducting its own event.
- g. All permit applications must include a report detailing how many people are expected to attend, the capacity of any proposed temporary structures, whether there will be outdoor entertainment, a plan for the storage and pickup of garbage during and after the sale event. ~~and a public safety plan detailing how the permittee will maintain crowd control and public safety, and comply with the city's noise ordinance.~~
 - h. A public safety plan detailing how the permittee will maintain crowd control and public safety.
 - i. A plan submitted by the permittee indicating whether or not outdoor music will be provided, whether the music will be provided as pre-corded media or a live band; how music and noise will be contained to comply with all aspects of the city's noise ordinance including the "plainly audible" standard.
 - j. Permit applications shall be examined by the appropriate departments of the city to ensure protection of the public health, safety and general welfare.
 - k. In addition to normal concerns of each such department, particular attention will be given to traffic flow and control, auto and pedestrian safety, and the effect that the use and activity will have on surrounding uses, particularly where the adjoining use is residential.
 - l. In addition to the requirements shown above, entities cited for violations of State or local law during the preceding 12 months from the date of application shall not be eligible to receive a permit.
 - m. The permit may be approved with conditions or denied by the city manager or designee based on these the above factors.