

REQUESTED COMMISSION ACTION:

Consent X Ordinance Resolution Consideration/ Discussion Presentation

SHORT TITLE

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH AMENDING CHAPTER 155 "ZONING CODE", BY AMENDING SECTION 155.4222, "COMMERCIAL: RETAIL SALES AND SERVICE USES – RETAIL SALES"; BY AMENDING SECTION 155.4227 "INDUSTRIAL: MANUFACTURING AND PRODUCTION USES"; BY AMENDING SECTION 155.4303, "STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES"; BY AMENDING SECTION 155.4501, "SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS"; BY AMENDING SECTION 155.5102, "OFF-STREET PARKING AND LOADING"; BY AMENDING PART 5, "TERMS AND USES DEFINED"; BY AMENDING APPENDIX A: "CONSOLIDATED USE TABLE"; PROVIDING SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

In order to allow sufficient time to study the provision of liquor or package stores and convenience stores in the City, on July 14, 2015 the City Commission adopted Ordinance 2015-67, which enacted a temporary moratorium on these uses. Staff has undertaken the study and has prepared text amendments based on the findings of the study (A copy of the study is attached). The proposed text amendments create a separate use for the sales of beer or wine, establish standards to better distinguish between a convenience store and a beer or wine store, create two categories of liquor stores, address the retail sales of liquor at bars, require special exception approval for beer or wine stores and liquor stores in the B-1, B-2, and B-3 Zoning Districts, and amend the list of alcoholic beverage uses that are exempt from separation standards. Staff will present a brief PowerPoint presentation highlighting the proposed recommendations; a copy of which is included at the end of the back-up for this item. The text amendments were unanimously recommended at the November 30, 2015 Planning and Zoning Board meeting (A copy of the draft minutes from the meeting are included.).

- (1) Origin of request for this action: Development Services Dept.
- (2) Primary staff contact: Robin M. Bird/ Karen Friedman YBF Ext. 7792
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	11/19/2015	Approval <i>JD</i>	Memo #15-621 <i>[Signature]</i>
City Attorney	01/26/2016	Approval <i>1/26/16</i>	Memo #2016-436 <i>[Signature]</i>
X Planning and Zoning Board		Approval	Memo #15-075 (01/11/2016)
X City Manager	<i>[Signature]</i>		<i>[Signature]</i>

Ordinance Workshop	Resolution	Consideration
1 st Reading	1 st Reading	Results:
2 nd Reading		Results:



City Attorney's Communication #2016-436

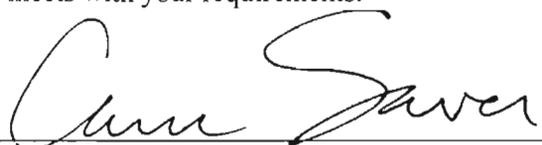
January 26, 2016

TO: Karen Friedman, AICP, Principal Planner
FROM: Carrie L. Sarver, Assistant City Attorney
RE: Ordinance Amending Section 155, Zoning Code

As requested, the following form of Ordinance, relative to the above-referenced matter, has been prepared and is attached:

AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.4222, "COMMERCIAL: RETAIL SALES AND SERVICE USES – RETAIL SALES," TO PROVIDE STANDARDS FOR GROCERY AND CONVENIENCE STORES; TO MODIFY THE PERMITTED LOCATIONS FOR, THE DEFINITION OF, AND STANDARDS FOR LOCAL LIQUOR OR PACKAGE STORES, REGIONAL LIQUOR OR PACKAGE STORES AND BEER OR WINE STORES; BY AMENDING SECTION 155.4227, "INDUSTRIAL: MANUFACTURING AND PRODUCTION USES" TO AMEND THE DEFINITION OF FOOD AND OR BEVERAGE PRODUCTS MANUFACTURING; BY AMENDING SECTION 155.4303, "STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES," TO AMEND THE DEFINITION OF ALCOHOLIC BEVERAGE SALES AS AN ACCESSORY USE TO A BREWERY, WINERY OR DISTILLERY AND PROVIDE FOR DISTRICTS WHERE PERMITTED; AMENDING THE DEFINITION OF PACKAGE SALES AS AN ACCESSORY USE TO A BAR OR LOUNGE AND PROVIDING FOR DISTRICTS WHERE PERMITTED; BY AMENDING SECTION 155.4501, "SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO AMEND THE USES THAT ARE EXEMPT FROM SEPARATION REQUIREMENTS; BY AMENDING SECTION 155.5102, "OFF-STREET PARKING AND LOADING" TO AMEND THE MINIMUM NUMBER OF OFF-STREET PARKING SPACES FOR VARIOUS ALCOHOL BEVERAGE ESTABLISHMENTS; BY AMENDING PART 5, "TERMS AND USES DEFINED," BY REVISING TERMS USED OR REFERENCED IN THIS ORDINANCE; BY AMENDING APPENDIX A: "CONSOLIDATED USE TABLE," TO REVISE TABLE TO CONFORM TO AMENDMENTS MADE BY THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Please carefully review the ordinance to ensure that it meets with your requirements.


CARRIE L. SARVER

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING CHAPTER 155, "ZONING CODE," OF THE CODE OF ORDINANCES OF THE CITY OF POMPANO BEACH, FLORIDA, BY AMENDING SECTION 155.4222, "COMMERCIAL: RETAIL SALES AND SERVICE USES – RETAIL SALES," TO PROVIDE STANDARDS FOR GROCERY AND CONVENIENCE STORES; TO MODIFY THE PERMITTED LOCATIONS FOR, THE DEFINITION OF, AND STANDARDS FOR LOCAL LIQUOR OR PACKAGE STORES, REGIONAL LIQUOR OR PACKAGE STORES AND BEER OR WINE STORES; BY AMENDING SECTION 155.4227, "INDUSTRIAL: MANUFACTURING AND PRODUCTION USES" TO AMEND THE DEFINITION OF FOOD AND OR BEVERAGE PRODUCTS MANUFACTURING; BY AMENDING SECTION 155.4303, "STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES," TO AMEND THE DEFINITION OF ALCOHOLIC BEVERAGE SALES AS AN ACCESSORY USE TO A BREWERY, WINERY OR DISTILLERY AND PROVIDE FOR DISTRICTS WHERE PERMITTED; AMENDING THE DEFINITION OF PACKAGE SALES AS AN ACCESSORY USE TO A BAR OR LOUNGE AND PROVIDING FOR DISTRICTS WHERE PERMITTED; BY AMENDING SECTION 155.4501, "SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS," TO AMEND THE USES THAT ARE EXEMPT FROM SEPARATION REQUIREMENTS; BY AMENDING SECTION 155.5102, "OFF-STREET PARKING AND LOADING" TO AMEND THE MINIMUM NUMBER OF OFF-STREET PARKING SPACES FOR VARIOUS ALCOHOL BEVERAGE ESTABLISHMENTS; BY AMENDING PART 5, "TERMS AND USES DEFINED," BY REVISING TERMS USED OR REFERENCED IN THIS ORDINANCE; BY AMENDING APPENDIX A: "CONSOLIDATED USE TABLE," TO REVISE TABLE TO CONFORM TO AMENDMENTS MADE BY THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 155.4222., "Commercial: Retail Sales and Service Uses – Retail Sales," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.4222. COMMERCIAL: RETAIL SALES AND SERVICE USES – RETAIL SALES

...

F. GROCERY OR CONVENIENCE STORE

...

3. Standards

- a. Sales of beer or wine may only be considered an accessory use to a Grocery or Convenience Store provided the display area for the sales of beer or wine does not exceed 20% of the total display area used for all other merchandise and no exterior signage for the sale of beer or wine is provided.
- b. Grocery or Convenience Stores with sales of beer or wine which exceed the standards listed in subsection a. above and/or provide exterior signage for the sale of beer or wine also be considered a Beer or Wine Store and subject to all of the standards for such use.

...

K. LOCAL LIQUOR OR PACKAGE STORE

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P
												S	S	S	S

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPU-D	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A local liquor or package store is an alcoholic beverage establishment with a gross floor area of less than 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

3. Standards

Drive-through service is strictly prohibited.

L. REGIONAL LIQUOR OR PACKAGE STORE

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>
												<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>

<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-IX</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>T</u>	<u>BP</u>	<u>RP-UD</u>	<u>PC-D</u>	<u>PD-TO</u>	<u>LA-C</u>	<u>PD-I</u>
						<u>P</u>							<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

2. Definition

A regional liquor or package store is an alcoholic beverage establishment with a gross floor area of at least 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

3. Standards

Drive-through service is strictly prohibited.

M. BEER OR WINE STORE

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>
												<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>

<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-IX</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>T</u>	<u>BP</u>	<u>RP-UD</u>	<u>PC-D</u>	<u>PD-TO</u>	<u>LA-C</u>	<u>PD-I</u>
						<u>P</u>							<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

2. Definition

A beer or wine store is an alcoholic beverage establishment licensed by the state exclusively for the retail sale of beer and/or wine in sealed containers for consumption off the premises where sold. A beer or wine store maybe considered a specialty store if the establishment

emphasizes a single unique type of specialty beer or wine not readily available at a grocery or convenience store, such as beer or wine made from craft or microbreweries or wineries, or beer or wine from a specific geographic region.

3. Standards

Drive-through service is strictly prohibited.

LN. Pawn Shop

...

MQ. THRIFT SHOP

...

NP. RETAIL SALES ESTABLISHMENT, LARGE

...

OQ. INDOOR MALL OR MARKETPLACE

...

PR. OTHER RETAIL SALES ESTABLISHMENT

SECTION 2. That Section 155.4227., "Industrial: Manufacturing and Production Uses," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§155.4227. INDUSTRIAL: MANUFACTURING AND PRODUCTION USES

...

E. FOOD AND/OR BEVERAGE PRODUCTS MANUFACTURING (WITHOUT SLAUGHTERING)

...

2. Definition

A food and/or beverage products manufacturing use is an establishment primarily engaged in manufacturing of food and/or beverage products including, but not limited to, products made from livestock or agricultural products; fresh and frozen bread and other bakery products (e.g., cookies, crackers); frozen food products such as ice or ice cream; alcoholic beverages such as ale, beer, malt liquors, wine brewery, winery, or distillery; and nonalcoholic beverages. This use also

includes vegetable or fruit packing, fish hatcheries and hydroponic garden facilities.

...

SECTION 3. That Section 155.4303., "Standards for Specific Accessory Uses and Structures," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

...

SS. ALCOHOLIC BEVERAGE SALES AS AN ACCESSORY USE TO A BREWERY, WINERY, OR DISTILLERY

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>	
															<u>A</u>	
<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-IX</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>T</u>	<u>BP</u>	<u>RP-UD</u>	<u>PC-D</u>	<u>PD-TO</u>	<u>LA-C</u>	<u>PD-I</u>
		<u>A</u>	<u>A</u>	<u>A</u>									<u>A</u>			

2. Definition

Alcoholic beverage sales as an accessory use to a brewery, winery, or distillery is the accessory retail sales of beer, wine, or liquor at the same location where the beverage is manufactured, including for consumption on the premises and for consumption off the premises.

TT. PACKAGE SALES AS AN ACCESSORY USE TO A BAR OR LOUNGE

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>	
												<u>S</u>	<u>S</u>	<u>S</u>	<u>A</u>	
<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-IX</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>T</u>	<u>BP</u>	<u>RP-UD</u>	<u>PC-D</u>	<u>PD-TO</u>	<u>LA-C</u>	<u>PD-I</u>
		<u>A</u>	<u>A</u>	<u>A</u>		<u>A</u>						<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>

2. Definition

Package sales as an accessory use to a bar or lounge is the accessory retail sales of beer, wine, or liquor for consumption off the premises at a bar or lounge.

SECTION 4. That Section 155.4501., "Separation Requirements for Alcoholic Beverage Establishments," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§155.4501. SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS

...

B. EXCEPTIONS

Table 155.4501.B lists uses that are exempt from the separation requirements in Table 155.4501.A.

TABLE 155.4501.B: EXCEPTIONS TO THE MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES		
Use and Criteria	Required Separation	
	Any other use involving the sales of alcoholic beverages; and Sexually oriented business	Child Care facility; School; and Place of Worship
<u>An establishment limited by its state beverage license to the sale of beer or wine for consumption off the premises for the distribution of alcoholic beverages to vendors and other distributors.</u>	Exempt	Exempt
<u>Grocery or Convenience Store with accessory sales of beer or wine. Sales of beer or wine may only be considered an accessory use to a Grocery or Convenience Store provided the display area for the sales of beer or wine does not exceed 20% of the total display area used for all other merchandise and no exterior signage for the sale of beer or wine is provided.</u>	Exempt	Exempt
<u>Beer or Wine Store which meets the definition of a specialty store.</u>	Exempt	Exempt
<u>An enclosed restaurant which sells only beer and/or wine for consumption on the premises.</u>	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
<u>A food and/or beverage manufacturer limited by its state beverage license for manufacturing of wines and cordials, brewing malt beverages, or distiller of spirituous liquor.</u>	Exempt	Exempt
<u>Alcoholic beverage sales as an accessory use to a</u>	Exempt	Exempt

<u>brewery, winery, or distillery.</u>		
A bowling alley that contains more than nine bowling lanes.	Exempt	Exempt
A motion picture theater that contains more than 100 seats.	Exempt	Exempt
A retail sales establishment that is an anchor store containing more than 10,000 square feet of gross floor area. <u>Regional Liquor or Package Store</u>	Exempt	Exempt
A bar or lounge which is operated as an accessory use to a restaurant and therefore meets the following standards: it is operated by the same management, and the restaurant has dining accommodations for service of 150 or more patrons at tables occupying more than 2,500 square feet, and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence
A bar or lounge which is operated as an accessory use to a hotel or apartment hotel that has more than 25 sleeping rooms and/or dwelling units and that is operated by the same management as the hotel or apartment hotel.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence
An enclosed restaurant which sells only beer and/or wine.	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
A lodge or club which limits on-premise consumption of alcoholic beverages to only lodge or club members.	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
A use located on property owned by the city.	Not Exempt	Exempt
Within the Atlantic Boulevard Overlay District (AOD) only, a bar or lounge, brewpub, restaurant, or specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory outdoor seating).	<u>Exempt if no package sales are offered at bar or lounge</u>	<u>Exempt if no package sales are offered at bar or lounge</u>

SECTION 5. That Section 155.5102., "Off-Street Parking and Loading," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 155.5102. OFF-STREET PARKING AND LOADING

...

D. OFF-STREET PARKING SPACE REQUIREMENTS

1. Minimum Number of Off-Street Parking Spaces

...

TABLE 155.5102.D.1: MINIMUM NUMBER OF OFF-STREET PARKING SPACES		
Use Category	Use Type	Minimum Number of Parking
COMMERCIAL USES		
Retail Sales and Service Uses - Retail Sales	<u>Local Liquor or Package Store</u>	1 per 300 sq ft
	<u>Regional Liquor or Package Store</u>	
	<u>Beer or Wine Store</u>	
	Pawn Shop	1 per 300 sq ft
...	...	
...
INDUSTRIAL USES		
...
Accessory Uses
	Dormitory (as accessory to educational use)	See Section 155.5102.D.2
	<u>Alcoholic Beverage Sales as an Accessory Use to a Brewery, Winery, or Distillery</u>	<u>1 per 300 sq ft. Except no parking is required if gross floor area used for accessory sales is less than 20% of total gross floor area of the principal use</u>
...

...

SECTION 6. That Article 9, "Definitions and Interpretations, Part 5, "Terms and Uses Defined," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

ARTICLE 9: DEFINITIONS AND INTERPRETATION

...

PART 5 TERMS AND USES DEFINED

The following words, terms, and phrases, when used in this Code, shall have the meaning ascribed to them in this section.

...

ALCOHOLIC BEVERAGE ESTABLISHMENT

Any facility that sells or provides alcoholic beverages to be consumed on or off the premises.

ALCOHOLIC BEVERAGE SALES AS AN ACCESSORY USE TO A BREWERY, WINERY, OR DISTILLERY

The accessory retail sales of beer, wine or liquor at the same location where the beverage is manufactured, including for consumption on the premises and for consumption off the premises.

...

BED AND BREAKFAST INN

A state-licensed private single-family dwelling engaged in renting one or more sleeping rooms on a daily basis and providing breakfast.

BEER OR WINE STORE

An alcoholic beverage establishment licensed by the state exclusively for the retail sale of beer and/or wine in sealed containers for consumption off the premises where sold. A beer or wine store maybe considered a specialty store if the establishment emphasizes a single unique type of specialty beer or wine not readily available at a grocery or convenience store, such as beer or wine made from craft or microbreweries or wineries, or beer or wine from a specific geographic region.

...

FOOD PROCESSING AND/OR BEVERAGE PRODUCTS MANUFACTURING (WITHOUT SLAUGHTERING)

An establishment primarily engaged in processing livestock or agricultural products into food products for immediate or final consumption. Such products are typically sold to wholesalers or retailers for distribution to consumers. Food processing does not include slaughtering animals. manufacturing of food and/or beverage products including, but not limited to, products made from livestock or agricultural products; fresh and frozen bread and other bakery products (e.g., cookies, crackers); frozen food products such as ice or ice cream; brewery, winery, or distillery; and nonalcoholic beverages. This use also includes vegetable or fruit packing, fish hatcheries and hydroponic garden facilities.

...

~~LIQUOR OR PACKAGE STORE~~

~~An alcoholic beverage establishment licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.~~

LIVE ENTERTAINMENT

Visual entertainment for the public usually accessory to a commercial use, in the form of an act, production, or performance, and that may include-but is not limited to-performances by a musical band, disc jockey, cancer, or other type of entertainer.

LOCAL LIQUOR OR PACKAGE STORE

An alcoholic beverage establishment with a gross floor area of less than 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

...

OWNER OF RECORD

The owner of a lot of record reflected on the current Broward County tax roll.

PACKAGE SALES AS AN ACCESSORY USE TO A BAR OR LOUNGE

The accessory retail sales of beer, wine, or liquor for consumption off the premises at a bar or lounge.

...

REDEVELOPMENT

Any proposed expansion, addition, reduction, or other alteration to an existing building, structure, or other constructed feature on a lot or site. Redevelopment also includes changes in use to existing buildings, as well as modifications to site features such as parking, signage, landscaping, grading, stormwater management devices, or changes to outdoor storage.

REGIONAL LIQUOR OR PACKAGE STORE

An alcoholic beverage establishment with a gross floor area of at least 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

...

SECTION 7. That Appendix A, "Consolidated Use Table," of Chapter 155, "Zoning Code," of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

SECTION 6. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 7. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2016.

PASSED SECOND READING this _____ day of _____, 2016.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK

:jrm
1/26/16 - 1/4/16
L:ord/ch155/2016-79

**PLANNING AND ZONING BOARD/ LOCAL PLANNING AGENCY
MEMORANDUM #15-076**

DATE: January 11, 2016
TO: City Commission
FROM: Planning and Zoning Board/ Local Planning Agency
SUBJECT: Proposed Text Amendments to Zoning Code,
Liquor Stores and other retail sales of alcoholic beverages

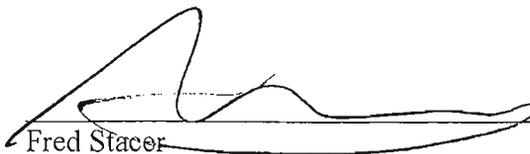
At the special set meeting of the Planning and Zoning Board/ Local Planning Agency held on November 30, 2015 to review the Moratorium Studies and Recommendations, the Board considered proposed text amendments to the Article 4 (Use Standards), Article 5 (Development Standards), Article 9 (Definitions and Interpretation), and Appendix A (Consolidated Use Table) of the Zoning Code, as set forth in the Department of Development Services Administrative Report 15-621 as well as the Staff Report entitled "The Right Use in the Right Location: Liquor Stores (& other retail sales of alcoholic beverages)".

Within Article 3 (Zoning Districts) Staff recommends revising the Downtown Pompano Beach Overlay District to prohibit Local Liquor or Package Store, require Special Exception approval for Regional Liquor or Package Store and require Special Exception approval for Beer or Wine Store.

Within Article 4 (Use Standards) Staff recommends revising the standards of "Grocery or Convenience Store"; revising "Liquor or Package Store"; adding "Regional liquor or package store"; adding "Beer or wine store"; revising the definition of "Food and /or Beverage Products Manufacturing (without slaughtering)"; adding "Alcoholic beverage sales as an accessory use to a brewery, winery or distillery" and "Package sales as an accessory use to a bar or lounge"; and revising Table 155.4101.B: Exceptions to the minimum separation of uses involving the sale of alcoholic beverages from certain existing uses.

Within other Articles Staff recommends revising Table 155.5102.D.1 "Minimum number of off-street parking spaces"; revising Article 9 Part 5; and revising Appendix A: Consolidated Use Table.

With a unanimous vote for the approval of the amendment, it is the recommendation of the Board that the text amendments be approved.



Fred Stacer
Chairman
Planning and Zoning Board/ Local Planning Agency



CITY OF POMPANO BEACH
FLORIDA

CITY HALL OFFICES:

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Pompano Beach, Florida
PHONE: (954) 786-4662

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PLANNING AND ZONING BOARD/LOCAL
PLANNING AGENCY

November 30th, 2015
Monday

City Commission Chambers

7:00 P.M.

SPECIAL MEETING AGENDA

A. Call to order by the Chairman of the Board, Mr. Fred Stacer at 7:03pm.

B. **ROLL CALL:**

- Elizabeth Anderson
- M. Dwight Evans
- Richard Klosiewicz
- Joan Kovac
- Jerold Mills
- Fred Stacer
- Tobi Aycock *for Jeff Torrey*

Also Present

- Karen Friedman
- Robin Bird
- Carrie Sarver
- Kerrie MacNeil
- Cecelia Ward
- Patrick Jovanov
- Tara Patton
- Vincente Thrower

Mr. Evans asked for a vocal or silent moment for prayer. Mr. Stacer called for a moment of silence.

C. INDIVIDUALS TESTIFYING PLACED UNDER OATH

Mr. Robin Bird reminded the Chairman that this is not a quasi-judicial hearing and it is not necessary to place individuals under oath. Carrie Sarver agreed that placing the audience who wishes to speak under oath is above the requirements.

City Staff and members of the public testifying before the Board at the meeting were placed under oath by Kerrie MacNeil, Zoning Technician and Notary Public in the State of Florida.

D. OTHER BUSINESS

1. Temporary Moratorium - Staff Reports

Staff has prepared reports and recommendations regarding several uses subject to the Temporary Moratorium. The reports are as follows: Health Care Uses, Thrift and Consignment Shops, and Liquor Stores (and other retail sales of alcoholic beverages), and Alternative Financing Uses.

Mr. Robin Bird introduced himself to the Board as the Director of Development Services and reviewed the temporary moratorium and the reasons why it was enacted. Mr. Bird stated that four reports are being presented tonight and a significant size team worked on the reports. Mr. Bird added that staff reserves the ability to bring items back to the next Planning and Zoning Board meeting.

Mrs. Kovac asked why restaurants were not included in the reports. Mr. Bird replied that the City Commission did not select restaurants to be placed under moratorium.

Mrs. Friedman, Principal Planner, introduced herself to the Board and stated that she would be presenting condensed versions of the reports that were included in staff's back up material and she will be focusing mostly on the recommendations. Mrs. Friedman stated that the various recommendations have the same theme: the City's need to balance access to these uses, economic development, protect single family neighborhoods and regulate secondary effects of the uses. Distance requirements.

Mrs. Friedman introduced the first topic: Thrift and consignment shops. Mrs. Friedman stated that often times the difference between thrift and consignment shops is not understood. Mrs. Friedman delivered a PowerPoint presentation to the Board which included staff's recommendations.

Mrs. Friedman introduced the next topic and began the PowerPoint presentation on Alternative Financing Uses. Mrs. Friedman presented the definition, location, history, problems, and staff's recommendations for these uses.

Mrs. Friedman gave the next presentation on Liquor Stores and other retail sales of alcoholic beverages.

Mrs. Friedman presented the next report on Health Care Uses.

Mr. Bird informed the Board that there will be four separate ordinances and suggested that the Board discuss and vote on one topic at a time. The Board agreed to discuss the reports in the order that they were presented in by staff. Mr. Stacer asked the Board if they had any questions for staff regarding Thrift and Consignment shops.

Mrs. Anderson if the consignment stores that were in B-3 that will now be considered thrift stores are considered nonconforming. Mrs. Friedman replied that they would likely be treated under the lawfully existing special exception use. Mrs. Anderson asked if this would be true even if they do not apply and Mrs. Friedman responded that it is just the designation.

Dr. Mills stated that he is unclear on the difference between consignment and thrift shop. Mrs. Friedman explained the difference between the two. Dr. Mills asked if no new business can be established under the moratorium and what is the length of the Moratorium. Mrs. Friedman responded that the Moratorium was enacted by the City Commission on July 14, 2015 and it is set to expire on January 14, 2016 unless further action is taken by the Commission. Dr. Mills asked if no new business can be established during this time and Mrs. Friedman replied that no new permits and no new business tax receipts were issued to any of the uses that have been subject to the Temporary Moratorium.

Mrs. Aycock asked why consignment boutiques are prohibited from fronting Atlantic Boulevard in the AOD but not thrift. Mrs. Friedman responded that they Thrift Shops are a prohibited use in the AOD; therefore, we would not have to regulate where they would be located.

Mr. Klosiewicz asked who will determine what is considered "luxury merchandise." Mrs. Friedman responded that staff will be looking to see if the business is focusing on selling one type of merchandise or if they focusing on multiple items (this is a way to determine the difference between thrift and consignment). Mrs. Friedman added that this is a standard used by several other cities in South Florida and staff will make their best determination. Mr. Klosiewicz expressed that he does not believe the word luxury should be included because the word luxury may be interpreted differently by different people. Mr. Klosiewicz stated that he suggests the word be stricken from the text amendment.

Dr. Mills asked what happens to the places that are not in compliance once this goes into effect. Mrs. Friedman responded that the use will become a legal non-conforming use or lawfully existing special exception use. Mrs. Friedman added that we do not force them to comply.

Mr. Evans asked for the distinction between a shop and a boutique and if a boutique is a more specialized. Mrs. Friedman answered that it is a more specialized type of retail establishment (ex. vintage clothing or furniture).

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Mrs. Anderson asked if the lawfully existing special exception is held to the same improvement as the legal nonconforming use. Mr. Bird responded that a lawful special exception use is held to a different standard.

Mr. Stacer asked if staff is looking for a recommendation to extend the Moratorium and Mrs. Friedman responded that they are only looking for a recommendation on the text amendments.

Mr. Stacer opened up the discussion to the public.

Patrick Jovanov (411 NE 18th Avenue Pompano Beach, FL) introduced himself to the Board and complimented Mrs. Friedman and the rest of the team on their research. Patrick stated that he has visited the Salvation Army over the years and he wishes that staff would come up with more equitable regulations. Patrick stated that this was a part of history. Patrick stated that "this is very good."

Tara Patton introduced herself to the Board as the representative of Festival Flea Market (2900 West Sample Road Pompano Beach, FL) and asked how outlet stores like Nordstrom Rack are categorized since they are selling goods below market value. Mrs. Friedman responded that there is a use in the code called "other retail establishment" that does not take into account the prices of the items sold. Mrs. Patton asked if there was an umbrella that grouped alike types of "luxury items." Mrs. Friedman answered that it would be related accessories (example: purses and jewelry). Mrs. Patton asked that her concern was who gets to make that determination.

Mrs. Kovac asked if clothing, jewelry and purses would be considered consignment and Mrs. Friedman confirmed.

Dr. Mills asked staff why the moratorium is necessary. Mr. Bird answered that staff and the City Commission have determined that the location of many of these uses were creating side effects that were concerning. The moratorium gives staff time to study the issues and decide how to go forward. Dr. Mills asked if we are currently under moratorium and Mr. Bird confirmed.

Mr. Klosiewicz asked the Chairman if the Board is going to have the opportunity, at this time, to amend the language in the text amendments. Mr. Stacer confirmed.

Mr. Stacer closed the public hearing.

MOTION made by Richard Klosiewicz and seconded by Dwight Evans to recommend approval of the proposed text amendments to Thrift and Consignment shops with the word "luxury" stricken from code sections 155.4222.E.2 and Article 9, Part 5. All vote in favor of the above motion; therefore, the motion passed.

Mr. Stacer asked the Board if anyone had questions on the Alternative Financing presentation and recommendations.

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Dr. Mills asked if the proposed changes would mean that he cannot go into a bank and cash a check. Mrs. Friedman answered that one would be able to cash a check at a bank and they are separate uses. Dr. Mills asked why staff is recommending to modify the definition of bank to exclude these items. Mrs. Friedman answered that the definition of "Bank or Financial Institution" today includes a check cashing store. If we do not exclude them, we would be treating them under two different categories. We are not taking the ability to cash a check away from a bank, but we are removing the description of a check cashing facility from the "Bank or Financial Institution" use.

Mrs. Aycock asked staff why there is no separation distance between these uses and residential uses. Mrs. Friedman responded that she found separation of like uses in her research and the intent of this is to prevent clustering.

Mr. Evans asked if staff stated that these uses cause an area to become blighted. Mrs. Friedman confirmed that this is what the report indicated and the secondary effects blight the area, attract crime, cause deterioration of shopping centers, and they have certain appearance issues that may cause blighting (ex. bullet proof glass windows). Mr. Evans asked about the benefits staff identified on page 8 of the report and stated that he thinks there is a greater benefit to keeping the uses rather than removing them. Mr. Evans asked if we have this blight in Pompano. Mrs. Friedman responded that we have four distinct clusters of these uses and three of four are within or directly adjacent to the Northwest CRA which is a blighted area of the City. Mr. Evans asked if there was more than one facility located on Atlantic Blvd just west of Dixie Highway. Mrs. Friedman pulled up the map and responded that there are multiple locations in Cluster #4.

Mr. Klosiewicz stated that he believes that these stores would not have opened if they were not needed and that competition may benefit the people that are being served.

Mr. Stacer asked staff about an inconsistency between what is permitted in the PD-I in the appendix and the backup material. Mrs. Friedman stated that check cashing facility should not be permitted in the PD-I and confirmed it is an error and the Appendix is correct.

Mrs. Anderson asked if staff considered implanting design criteria for these uses. Mrs. Friedman responded design guidelines were not one of the considerations.

Mr. Klosiewicz asked if the State of Florida has some control over the rates that can be charged. Mrs. Friedman answered that the state has some rates but she does not know them off hand. Mr. Klosiewicz asked why people would use this type of service. Mrs. Kovac answered that it is possible that clients of these uses do not have checking accounts. Mr. Klosiewicz asked what people would do if this use is reduced or eliminated. Mrs. Friedman responded that staff's recommendation is not to eliminate the use.

Mrs. Kovac asked staff for confirmation that we are only talking about going forward and not talking about closing any existing Alternative Financing stores. Mrs. Friedman confirmed.

Mrs. Anderson asked if any of the existing uses will become nonconforming due to the separation requirements and Mrs. Friedman confirmed (legal non-conforming use).

Mr. Klosiewicz stated that he did not say anything that expressed that he believed that the uses were being eliminated.

Mrs. Aycock stated that, according to the research, the goal is to spread them out in order to lower the crime rates and help with appearance.

Mr. Klosiewicz asked how many stores on the map would be nonconforming. Mrs. Friedman responded that she could not provide that information at that very moment; however she could return with the requested information. Mr. Bird suggested a cover memo to the Board.

Mr. Stacer opened up the discussion to the public.

Vincente Thrower (1890 NW 6 AV Pompano Beach, FL) stated that the check cashing stores are needed in the minority community. Vincente stated that he believes this is a neighborhood discussion and not a board discussion on whether the neighbors want the stores in the area. Vincente expressed that the check cashing stores are important for people who have bad credit and are not able to open a bank account.

Patrick Jovanov (411 NE 18th Avenue Pompano Beach, FL) asked staff why the research includes military bases if there are no military bases in Pompano Beach. Mr. Jovanov expressed that he does not understand why there is a reference to military bases. Mr. Jovanov shared a quote from Mark Twain and stated that what is being proposed is a recurring prejudice that was discussed at City Commission meetings several times. The lack of financial institutions in the Northwest CRA was planned or discouraged.

The Chairman closed the public hearing and asked if the Board had any additional questions.

MOTION made by Joan Kovac and seconded by Tobi Aycock to recommend approval of the text amendments to Alternative Financing Uses. All voted in favor of the above motion with the exception of Jerry Mills and Dwight Evans.

The Board moved on to discussing Liquor Stores and other retail sales of alcoholic beverages.

Dr. Mills asked if these amendments will affect the American Legion, the Elks Lodge etc. Mrs. Friedman responded that these uses are not included. Dr. Mills if regular bars are included. Mrs. Friedman responded that bars with accessory package sales will be affected because the package sales will now be a new accessory use that would require approval.

Mr. Stacer asked staff for clarification on the difference between a brew pub and a distillery. Mrs. Friedman answered that the City has both brew pubs and food and beverage manufacturing and she briefly explained the differences between the two.

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Patrick Jovanov (411 NE 18th Avenue Pompano Beach, FL) asked how the Costco Liquor store would be grouped. Mrs. Friedman stated that we treat these membership stores as retail establishments.

The Chairman closed the public hearing and asked if any Board members had any additional questions.

MOTION made by Richard Klosiewicz and seconded by Dwight Evans to recommend approval of the text amendments to Liquor Stores and other retail sales of alcoholic beverages. All voted in favor of the above motion; therefore, the motion passed.

The Chair asked the Board if they had any questions concerning the proposed text amendments regarding Health Care uses.

Dr. Mills asked for the geographic definition of the AOD and Mr. Bird provided Dr. Mills with an explanation. Dr. Mills asked if he could open a one story office and have treatment on the first floor. Dr. Mills also asked why someone would not be able to have a doctor's office open after 7pm and expressed that he does not agree with the proposed changes.

Mrs. Friedman stated that the intent is to balance the various needs including access (ex. hours of operation) as well as taking into consideration the impact on neighboring properties (especially the residential community). Mrs. Friedman answered that the hours of operation in the AOD would be affected. Dr. Mills mentioned that there are many senior citizens living east and he expressed that he thinks the restrictions are wrong.

Cecelia Ward introduced herself to the Board as the Planning Consultant for the Pompano CRA and stated that she would like to address a few of the comments. Mrs. Ward stated that they have performed an extensive analysis of the medical facilities in the AOD and the DPOD. The research discovered that facilities exist that close before 7pm and open after 7am. Mrs. Ward informed the Board that the purpose of the restriction on the hours of operation is to utilize the evening activity to support the pedestrian oriented uses that will help revitalize the area. The research shows that the restriction on the hours is consistent with the current operating hours of the existing facilities.

Mr. Stacer asked why Health Care uses are not proposed to be permitted in the I-1X zoning district. Mrs. Friedman stated that this district is intended for heavier uses. Mr. Bird added that no I-1X locations would be on a major corridor.

The Chairman opened up the discussion to the public.

Vincente Thrower (1890 NW 6th Ave Pompano Beach, FL) asked if someone would be prohibited from building an urgent care facility on Martin Luther King Boulevard. Mrs. Friedman responded that on MLK, a Specialty Medical Facility would be prohibited in the Downtown Pompano Beach Overlay District. Mr. Thrower asked staff why we would prohibit an urgent care facility from being constructed when there are no existing facilities in the Northwest CRA community. Mr. Bird stated that this would not prohibit an urgent

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care center in the Northwest CRA, only in the downtown overlay district (DPOD). Mr. Thrower stated that he objects this item. Mr. Thrower asked the Chair what the logic is behind this regulation.

Mr. Stacer asked staff if it is permitted today. Mr. Bird responded that it is allowed today. Mr. Thrower asked if the text amendment is adopted it will not be permitted. Mr. Bird responded that the use would be permitted west of I-95 on MLK but not east of I-95.

Mr. Thrower asked why there would not be urgent care center allowed near the new residential development across from the E. Pat Larkins Center. Mr. Thrower asked the Board to not support the text amendment. Mr. Thrower asked if the item will need to pass the City Commission and staff confirmed. Mr. Thrower stated that he believes that it does not make economic sense to restrict the urgent care centers from the MLK corridor in the DPOD.

Patrick Jovanov (411 NE 18th Avenue Pompano Beach, FL) stated that the slide 17 of the presentation lists the "Lamb of God Recovery Centers" as being licensed since 2007 when it has been here for decades. Mr. Jovanov shared a personal account regarding a sober home and an attempted kidnapping of a small child. Mr. Stacer asked what part of the code Mr. Jovanov is referring to. Mr. Jovanov stated that the issue is allowing sober homes to be located in a residential district adjacent to schools. Mr. Jovanov stated that he does not have proof, but it is the only explanation for something like this happening in his neighborhood. Mr. Jovanov asked if sober homes are still permitted in the City under the temporary moratorium. Mrs. Friedman answered that the recommended text amendments do not deal with any housing uses and added that the question is unrelated to the topic at hand. Mr. Jovanov stated that he agrees with Mr. Thrower that not allowing urgent care is discrimination, prejudice, etc.

Mr. Stacer asked if this will happen in the east and west CRA. Mrs. Friedman responded that the use "Specialty medical facility" would be a special exception in B-3, permitted in B-4, I-1 and OIP. However, it would be prohibited in the AOD and DPOD. Mrs. Friedman stated that it is consistent with the goals of these districts in terms of promoting pedestrian activity uses and active night life activity. Mr. Stacer asked which uses are allowed in the AOD and DPOD and Mrs. Friedman answered that retail clinics, personal care services, and medical offices are all permitted uses in these districts.

Mr. Klosiewicz asked if an urgent medical facility open from 7am to 7pm would be permitted and Mrs. Friedman responded that it would not because the hours of operation are not the only issue. Other issues are ambulances (noise) and medical waste etc.

Mrs. Friedman answered that it is also ambulances, medical waste, (specialty medical uses), more intense than a regular doctor's office. Go here in lieu of the ER. Mr. K asked if these uses are permitted in the area that Vincente was worried about.

Mr. Evans said he thought that being transported in an ambulance to an urgent care facility occurs very infrequently. Mrs. Friedman stated that these uses have some deleterious secondary effects and we need to treat them with more regulation. Mr. Evans asked why

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it is necessary to go outside of the core area if there are not significant adverse effects. Mr. Bird stated that these uses will negatively affect redevelopment efforts.

Mrs. Kovac asked how many blocks from Martin Luther King Boulevard could there be an urgent care center.

Cecilia Ward explained the purpose of the redevelopment efforts for the DPOD area.

Mrs. Friedman explained the boundaries of the DPOD.

Mr. Evans asked if the zoning regulations of the area should adjust in the area as time goes on and be updated to reflect changes. Mrs. Friedman stated that this is what staff is trying to do and the point of the moratorium. Mr. Evans asked staff if it is their belief if a specialty medical facility located in the DPOD on MLK Boulevard would adversely affect development of the area.

Mr. Bird stated that there are many uses within the specialty medical facility (not just the urgent care center). Dr. Mills stated that he is asking specifically about medical offices and how these text amendments would eliminate these uses from the area. Mrs. Friedman stated that these uses are not consistent with the redevelopment efforts in the AOD and DPOD.

Mrs. Kovac asked if Dr. Mills is aware the urgent care centers close at 7pm as well.

Dr. Evans asked if the Board will be making a recommendation regarding one of staff's recommendations and Mrs. Friedman responded that those (that Mr. Evans is referring to) are the overriding recommendations and the proposed text amendments came from these recommendations. Mrs. Friedman stated that the Board could think of them as "Considerations 1, 2, 3 and 4" and the text amendments were prepared from these considerations.

Mr. Stacer asked if staff mapped the locations of the medical facilities. Mrs. Friedman replied that staff did mapping and staff was able to conclude from the mapping is that the change in the location of uses has not changed significantly from 2005 to 2015. The maps would not be useful because they would be so cluttered with the multiple locations.

Mr. Stacer closed the discussion to the public.

MOTION made by Elizabeth Anderson and seconded by Richard Klosiewicz to recommend approval of the proposed text amendments. All voted in favor of the above motion, with the exception of Jerry Mills and Dwight Evans, therefore the motion passed.

Mr. Stacer stated that he has questions for staff that are specific to the AOD. Mrs. Friedman placed a document on the screens for the Board to see and Mr. Stacer directed her to page 2, item number 3. Mr. Stacer asked what uses fall under 3b. Mrs. Friedman stated that the changes that were made reflected the changes coming out of the moratorium. Mrs.

Friedman stated that staff will meet with the CRA and discuss visitor accommodation uses being permitted in a residential mixed use project.

Dr. Mills asked for clarification on the outcome of the most recent vote on health care uses and Mr. Stacer and Carrie Sarver clarified that there were two "Nays" or a 5-2 vote.

Mr. Stacer stated that, referring to page 3 and the parking exemptions, he is concerned about big projects that would theoretically not have to provide parking. Mrs. Friedman responded that this is an incentive for smaller projects that are looking to do adaptive reuse. Mrs. Friedman stated that this is an effective mechanism to get sites to convert their use to a more desirable use without meeting the parking requirements.

Mr. Stacer said that he considers it to be potentially dangerous to not require parking for new projects such as a large retail redevelopment project (100,000 square feet of retail).

Mr. Bird stated that this regulation has been in effect for 5 years and we have seen neither benefits nor deleterious effects. Mr. Bird used Delray Beach as an example of a City not requiring restaurants to provide additional parking and there were still new parking garages constructed. Mr. Stacer stated that he is still concerned about this concept. Mr. Bird suggested having staff come back before the Board with a separate report on this item. Mr. Stacer said that he is ok with this proposal.

Mrs. Aycock suggested staff look at the parking scheme in downtown Gainesville for ideas.

Mr. Klosiewicz complimented Mr. Bird and staff for their hard work regarding the reports on the moratorium uses.

E. AUDIENCE TO BE HEARD

Mr. Stacer asked if there was anyone in the audience who wished to speak and no one responded.

F. BOARD MEMBERS DISCUSSION

Mr. Stacer asked if the Board members had anything to discuss and there was no response.

G. REPORTS BY STAFF

Mr. Stacer asked if staff had anything to report and Ms. MacNeil announced that the next regularly scheduled meeting is December 16th, 2015.

H. ADJOURNMENT

MOTION made by Richard Klosiewicz and seconded by Dwight Evans to adjourn the meeting at 9:29pm; all voted in favor of the above motion.

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Approved at the meeting held on January 27, 2016.

Fred Stacer
Chairman
Planning and Zoning Board/Local Planning Agency

DRAFT

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MEMORANDUM

Development Services

ADMINISTRATIVE MEMORANDUM NO. 15-621

DATE: November 19, 2015

TO: Planning and Zoning Board

VIA: Robin M. Bird, Director of Development Services *RB*

FROM: Karen Friedman, AICP, Principal Planner *KBF*

RE: Temporary Moratorium – Staff Reports

Staff has prepared reports and recommendations regarding several uses subject to the temporary Moratorium. A copy of each report and supporting text amendments is following.

Staff's Request

Staff is requesting the Board approve the recommended changes to the Zoning Code to the City Commission for adoption.

Copy of Study

The background of the page is a dark, textured surface with a repeating pattern of white line-art illustrations of various liquor bottles and glasses. The bottles include a tall, slender bottle, a shorter, wider bottle, and a bottle with a distinctive shape. The glasses include a tall, narrow glass, a shorter, wider glass, and a glass with a wide rim. The overall aesthetic is that of a classic liquor store or bar.

The Right Use in the Right Location:
Liquor Stores
(& other retail sales of alcoholic beverages)

November 2015

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1. Need for Study
2. Pompano Beach Liquor Store Regulations
3. Research - Municipal Regulations
4. Primer: Florida Liquor Licenses
5. Overview: City's Existing Liquor Stores
6. Remaining Permitted Locations for Liquor Stores
7. Analysis – Number of Liquor Stores in Pompano Beach
vs. other Broward Municipalities
8. Outcome, Considerations, and Recommendation



Need for Study

Introduction and Purpose

Ordinance 2015-67, Temporary Moratorium on Liquor Stores

WHEREAS, the moratorium is intended to allow sufficient time to study the provision of these uses for the citizens of Pompano Beach and to create a long term strategy to ensure adequate access to such services is provided; and,

WHEREAS, the moratorium is intended to allow sufficient time to study the provision and location of these uses does not result in an over-concentration of these uses that will result in the blighting or downgrading of the surrounding neighborhood; and

WHEREAS, the moratorium is intended to allow sufficient time to study the provision of these uses to ensure that there is a balance between the existing residential uses and the projected demand for and location of these uses;

Liquor Stores are a valuable component of “Live, Work, Play”. However secondary impacts of establishments which sell alcoholic beverages can be detrimental to both neighboring properties and the community as a whole. This report analyzes the number, appearance and location of liquor stores, reviews the changing types of alcoholic beverage establishments, and proposes new definitions and use specific standards. The purpose of this report is to determine the right place in the city for the right alcoholic beverage retail uses.

Focus: Liquor Stores

“Liquor Stores and Community Health” by the Pacific Institute:

- Neighborhoods with a higher density of liquor stores had higher numbers of childhood accidents, assaults, and child abuse injuries.
- Liquor stores become places where social controls are weaker, increasing the likelihood of criminal and nuisance activities.
- A high density of liquor stores is linked to higher levels of crime and violence.

“Evidence-Based Strategies to Prevent Excessive Alcohol Consumption and Related Harms” by the Centers for Disease Control and Prevention

- The Community Preventive Services Task Force recommends several strategies to prevent excessive alcohol consumption and related harms. These strategies are based on systematic reviews of the scientific evidence on intervention effectiveness.
- Regulating the number of places in a given area where alcohol may be legally sold (outlet density) is an effective way to prevent excessive alcohol use
- The review was led by Community Guide scientists at the Centers for Disease Control and Prevention in collaboration with federal and nonfederal experts in research, practice, and policy.
- Based on this review, the Task Force recommends the use of regulatory authority (e.g., through licensing and zoning) to limit alcohol outlet density, on the basis of sufficient evidence of a positive association between outlet density and excessive alcohol consumption and related harms.
- Excessive alcohol consumption, which includes both binge drinking and heavy average daily alcohol consumption, is the third-leading cause of preventable death in the United States. According to the review, sufficient evidence exists of a positive link between outlet density and excessive alcohol use and related harms.

Report Considerations

- How does city regulate retail sales for:
 - Liquor
 - Beer
 - Wine
- How does the number of liquor stores in Pompano Beach compare to surrounding municipalities?
- Should the city create separate uses for sales of beer and wine?
- What type of liquor / beverage stores, if any, does the city want to encourage?



**Pompano Beach Liquor
Store Regulations**

Pompano Beach Regulations

Standards related to the sales of alcoholic beverages are listed in two Code Chapters:

- Chapter 155 (Zoning)
 - Permitted Zoning Districts
 - Required Separations
- Chapter 110 (Alcoholic Beverages)
 - Hours of Operations
 - Retail sales for consumption off the premises is prohibited between 2:00 a.m. and 7:00 a.m.
 - Unlawful Sales
 - Conduct on Premises

The Zoning Code treat uses with “liquor” more stringently than uses for only beer and/or wine.

BUT

Chapter 110 treats sales of liquor the same as sales of beer and wine.

Zoning Code Uses

- Pompano Beach has two uses that specifically include the sales of alcoholic beverages:

155.4220.K.2 - Liquor or Package Store

An alcoholic beverage establishment licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

Permitted Locations: B-1, B-2, B-3, B-4, TO, PCD, PD-TO, LAC, and PD-I

155.4220.F.2 - Grocery or convenience store

A retail establishment engaged in the sale of food and foodstuffs, sundries, tobacco products, beer, wine, papers and magazines.

Permitted Locations: B-1, B-2, B-3, B-4, M-1, TO, RPUD, PCD, PD-TO, LAC, and PD-I

- **Zoning Code does not:**

- Include a specific use solely for the sales of wine and/or beer
- Address package sales at bars
- Address sales of “growlers” from microbreweries or brewpubs

Required "Separations"

TABLE 155.4501.A: MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES ¹

EXISTING USE	MINIMUM SEPARATION ²
Any other use involving the sale of alcoholic beverages other than those uses listed in Section 155.4501.B	1,000 feet (Measurement Type 1)
Sexually oriented business	
Child care facility	500 feet (Measurement Type 2) and 300 feet (Measurement Type 3)
School	
Place of worship	

NOTES:

1. Measurement Type 1: Separation shall be measured from main entrance to main entrance of the establishments by airline route
2. Measurement Type 2: Separation shall be measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measured along public thoroughfares by the shortest route of ordinary pedestrian traffic.
3. Measurement Type 3: Separation shall be measured from main normal public entrance of Alcoholic Beverage Establishment to the nearest point of the Child Care facility, School, or Place of Worship's property used as a part of the facility measure by airline route.
4. All separations shall be measured from establishments located within or outside of the City limits.
5. Compliance with these separation standards shall not be affected by the subsequent rezoning of the site of the alcoholic beverage establishment to AOD, conveyance of city-owned property, or the establishment of one of the uses from which separation is required on a property closer than the required separation distance. In such case, the alcoholic beverage establishment shall be construed as continuing to comply with the separation standards.

Exemptions

TABLE 155.4501.B: EXCEPTIONS TO THE MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES

Use and Criteria	Required Separation	
	Any other use involving the sales of alcoholic beverages; and Sexually oriented business	Child Care Facility; School; and Place of Worship
An establishment limited by its state beverage license to the sale of beer or wine for consumption off the premises.	Exempt	Exempt
A bowling alley that contains more than nine bowling lanes.	Exempt	Exempt
A motion picture theater that contains more than 100 seats.	Exempt	Exempt
A retail sales establishment that is an anchor store containing more than 10,000 square feet of gross floor area.	Exempt	Exempt
A bar or lounge which is operated as an accessory use to a restaurant and therefore meets the following standards: it is operated by the same management, and the restaurant has indoor dining accommodations for service of 150 or more patrons at tables occupying more than 2,500 square feet of customer service area, and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence

TABLE 155.4501.B: EXCEPTIONS TO THE MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES

Use and Criteria	Required Separation	
	Any other use involving the sales of alcoholic beverages; and Sexually oriented business	Child Care Facility; School; and Place of Worship
A bar or lounge which is operated as an accessory use to a hotel or apartment hotel that has more than 25 sleeping rooms and/or dwelling units and that is operated by the same management as the hotel or apartment hotel.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence
An enclosed restaurant which sells only beer and/or wine.	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
A lodge or club which limits on-premise consumption of alcoholic beverages to only lodge or club members.	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
A use located on property owned by the city.	Not Exempt	Exempt
Within the Atlantic Boulevard Overlay District (AOD) only, a bar or lounge, brewpub, restaurant, or specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory outdoor seating).	Exempt	Exempt



**Research – Municipal
Regulations**

Separation Standards of Neighboring Municipalities

Distance / Separation Requirements for Alcoholic Beverage Establishments with Consumption Off Premises Only				
City	Distance	From	Measurement	Additional Information
Coconut Creek	500 feet	Place of Worship or School	Pedestrian travel on public-right-of way, main entrance to main entrance. Except for school, to the nearest point of the school grounds used as part of the school facilities.	Does not apply to – <ul style="list-style-type: none"> Establishments that are licensed for beer, wine, or beer and wine, only. Beverages containing alcohol of 14% or less by weight.
Coral Springs	Only has separation for consumption on the premises			
Deerfield Beach	Only has separation for consumption on the premises			
Fort Lauderdale	300 feet	Another place of business for sale of alcoholic beverages for consumption on or off site	Main normal public entrances along public thoroughfares by the shortest route of ordinary pedestrian traffic	Schools do not include pre-kindergarten school, nursery school or day care center, or adult education center
	500 feet	Church or public or private school	Main normal public entrance of ABE to the nearest point of the church or school property used as part of such facility along public thoroughfares by the shortest route of ordinary pedestrian traffic	
Hollywood	500 feet	Place of Worship or School	Nearest pedestrian travel on the public right-of-way from main entrance to main entrance, except that in case of a school, to the nearest point of the school grounds used as part of the school facilities	Does not apply to – <ul style="list-style-type: none"> Sale of malt beverages and wine for off-premise consumption.
Lauderdale by the Sea	500 feet	Another such establishment	Airline measurement from main entrance to main entrance	Does not apply to – <ul style="list-style-type: none"> Food Store (which does not include package store)
Lauderhill	1000 feet	Any other alcoholic beverage establishment OR Public or private elementary or secondary school OR Place of Worship	Shortest route of ordinary pedestrian travel along the public thoroughfare or any walkway made available for public use from the main entrance of the establishment in question to the main entrance of the other establishment	Does not apply to – <ul style="list-style-type: none"> grocery store, supermarket, a pharmacy Within the Commercial Entertainment (CE) and Town Center (TC) zoning districts
Margate	No distance separation required but city limits the number of licenses to be issued both city-wide and within five alcoholic beverage districts			
Miami Beach	300 feet	Public or private school operated for the instruction of minors in the common branches of learning OR Place of Worship OR Retail stores primarily selling alcohol beverages for consumption off the premises as a main permitted use	Straight line from the main entrance or exit in which the use associated with alcohol beverages occurs to the nearest point of the property used for a public or private school. In cases where a minimum distance is required between two uses associated with the alcohol beverages for consumption on or off the premises, the minimum requirement shall be determined by measuring a straight line between the principal means of entrance of each use.	Liquor can not be sold at filling stations
Oakland Park	500 feet	Church or school	Closest feasible route on public right-of-way from main entrance to main entrance, except, in case of a school, to the nearest point of the school grounds used as part of the school facilities	School shall mean any state-accredited elementary, middle or high school.

Comment: There is no consistent separation standard among neighboring municipalities.

Additional Florida Municipal Regulations

Orange County

- 2002 – Florida Supreme Court Decision (*Orange County vs. Costco Wholesale Corporation*)
- County requires 5,000 ft separation for “package store”: an establishment which sells beer, wine, and liquor for off-site consumption.
- “The 5000-foot distance separation requirement represents approximately a one-mile radius, which is “typically the distance for a primary market for a store or facility of this nature.” ...that this distance provides residents enough opportunity to use such facilities without allowing such businesses to become so dense that they, along with activities they generate, become a problem.”
- “The challenged ordinance is a valid exercise of police power, bearing a substantial relationship to the health, safety, morals, or general welfare of the community... Florida’s counties are diverse, and--absent clear proof that a challenged enactment in the area of liquor license regulation does not bear such a substantial relationship to the health, safety, morals, or general welfare of the community--the legitimate exercise of a governing body’s authority in addressing the particular needs of each community cannot be judicially constrained by requiring conformity to a single, inflexible rule.”

Fort Lauderdale

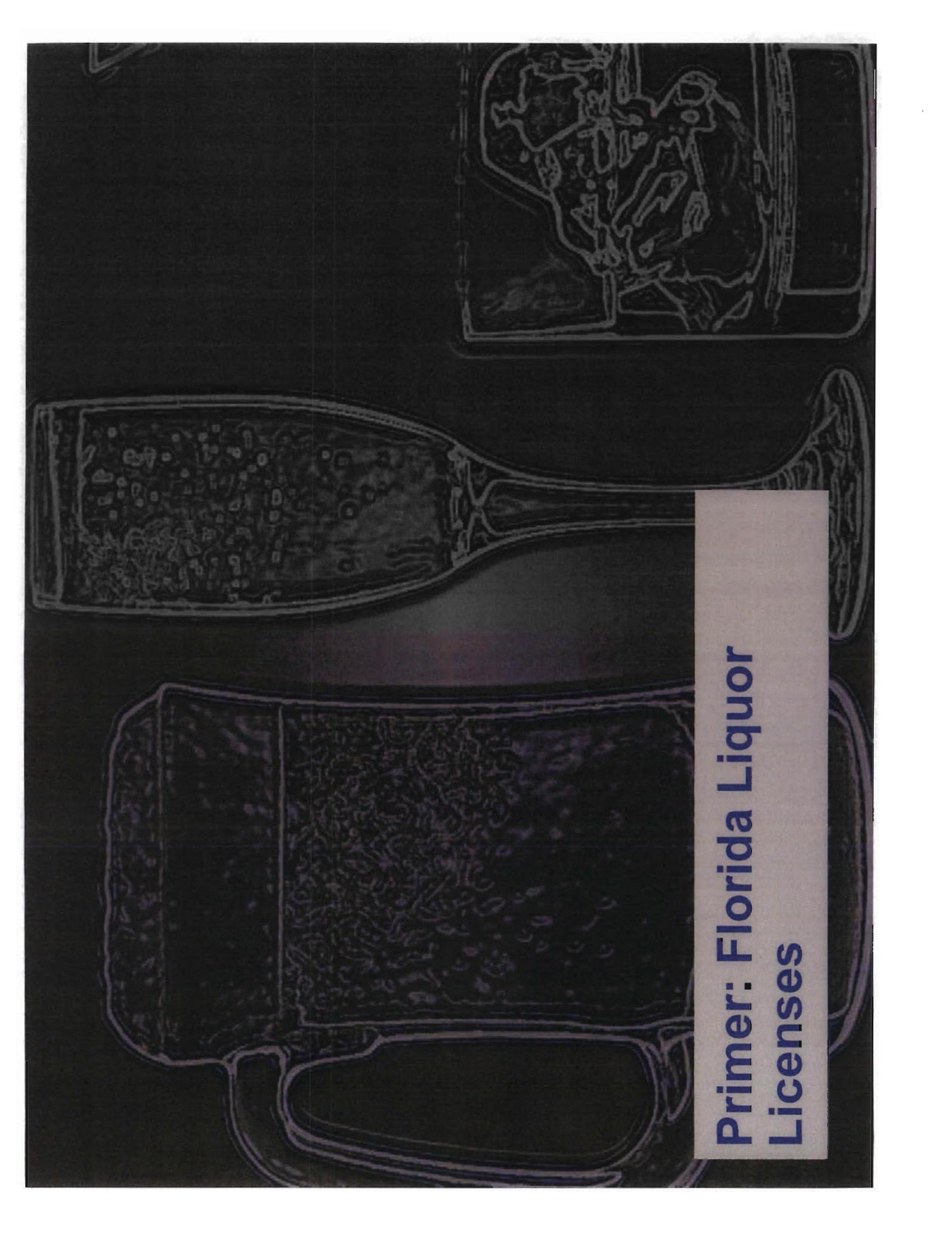
- 2013 – Prohibition on Liquor Stores and Convenience Stores in NW RAC
- “Whereas, City staff has conducted the necessary studies and have found that research generally supports the finding that neighborhoods where liquor and convenience stores are concentrated, have more incidences of violence and other alcohol-related problems and that there is a strong correlation between the density and location of establishments that sell packaged alcohol and incidences of violence”.

West Palm Beach

- 2012 – Prohibition on all retail sales of beer, wine, or liquor for consumption off the premises within the Northwest Neighborhood District or the Clematis Waterfront District.

Liquor Stores as Special Exception Uses:

- Charlotte County, FL
- Deland, FL
- North Miami, FL
- Palm Springs, FL
- Seminole County, FL
- Sunrise, FL



**Primer: Florida Liquor
Licenses**

Florida Department of Business and Professional Regulations

License Types: Non-Quota

- 1APS = Beer Package Sales
- 2APS = Beer and Wine Package Sales
- 1COP = Beer Consumption on Premises
- 2COP = Beer and Wine Consumption on Premises
- 4COP SRX = Beer, Wine, and Liquor Consumption on Premises, Special Restaurant
 - SRX licenses are available for issuance to restaurants meeting the specific requirements for the special restaurant license.

License Types: Quota*

**Quota license is based on County Population and limited to 1 license per 7,500 residents (FL SS 561.20)*

- 3APS = Beer, Wine and Liquor Package Sales
- 4COP = Beer, Wine, and Liquor Consumption on Premises and Package Sales
 - 4COP license allows "bars" to also sell package for off-site consumption.
 - i.e. "Big Daddy's" on E. Atlantic Blvd has a 4COP license / BEV1600460

Comment: The City currently does not regulate package stores in conjunction with a 4COP license as a "Liquor Store". There is a separate quote for 3APS (liquor store) and 4COP (bar with accessory package sales).

Number of 3APS Licenses: Broward County and Pompano Beach

Broward County

- 2015 = 180 3PS licenses issued
- 2014 Population = 1,869,235 = 249 3APS licenses max.
- 69 additional 3APS licenses are available for Broward County

Pompano Beach

- 2014 Population is 104,410 = 13.9 3PS licenses
- Currently there are 15 3APS licenses = 1 per 6,942 residents

Comment: Based on the County's existing population, there are 69 additional 3APS licenses available for the County. Currently, the city's amount of 3APS licenses is in-line with the state's quota ratio.



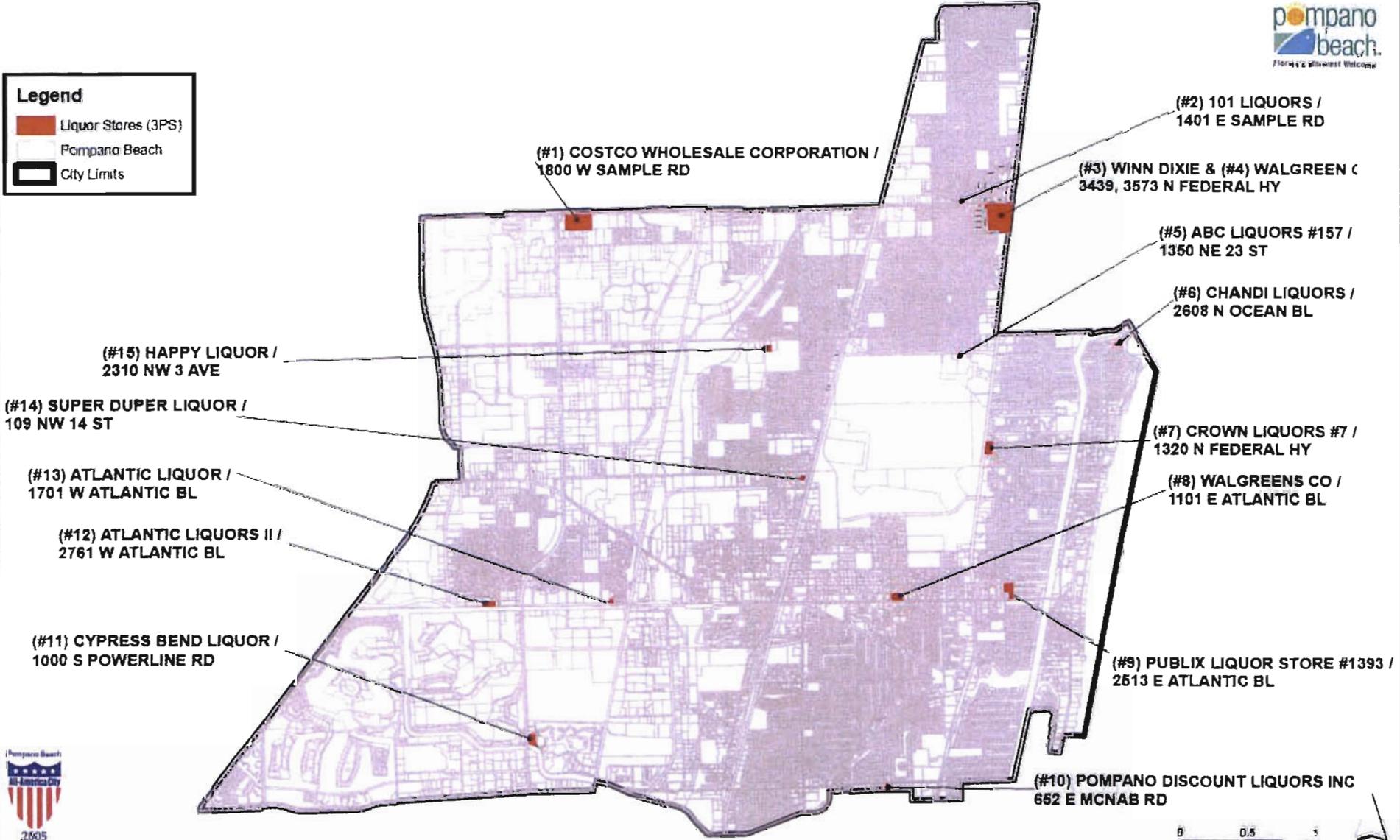
**Overview: Existing Liquor
Stores in Pompano Beach**

Locations of 15 Existing 3APS Establishments



Legend

- Liquor Stores (3PS)
- Pompano Beach
- City Limits



Pictorial Review - Existing 3APS Establishments

#1 - Costco Liquor Store
1800 W. Sample Rd.

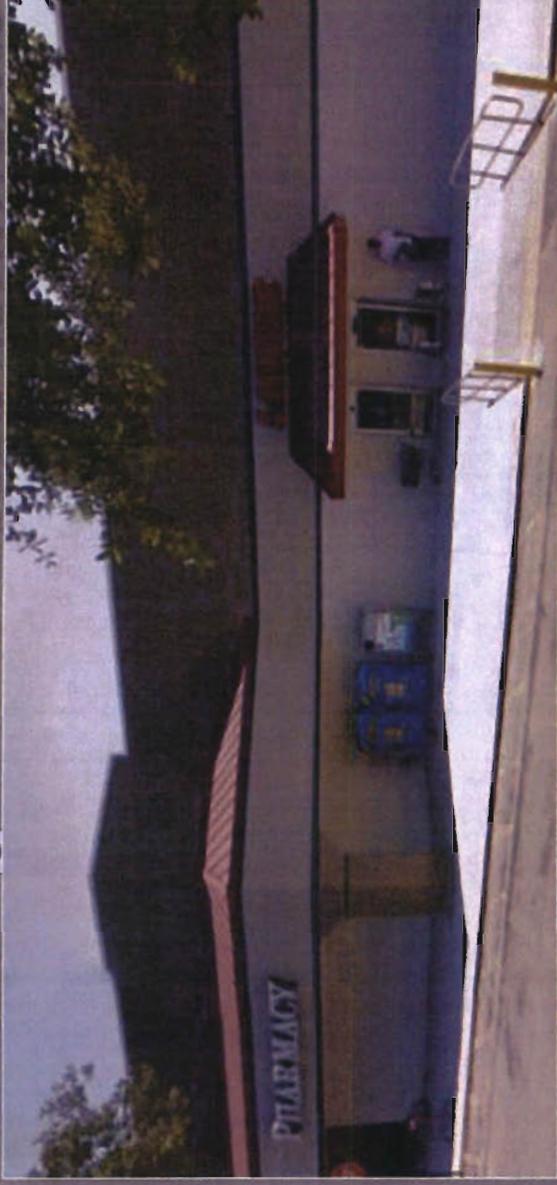


#2 - 101 Liquors
1401 E. Sample Rd.
(2,694 sq ft)

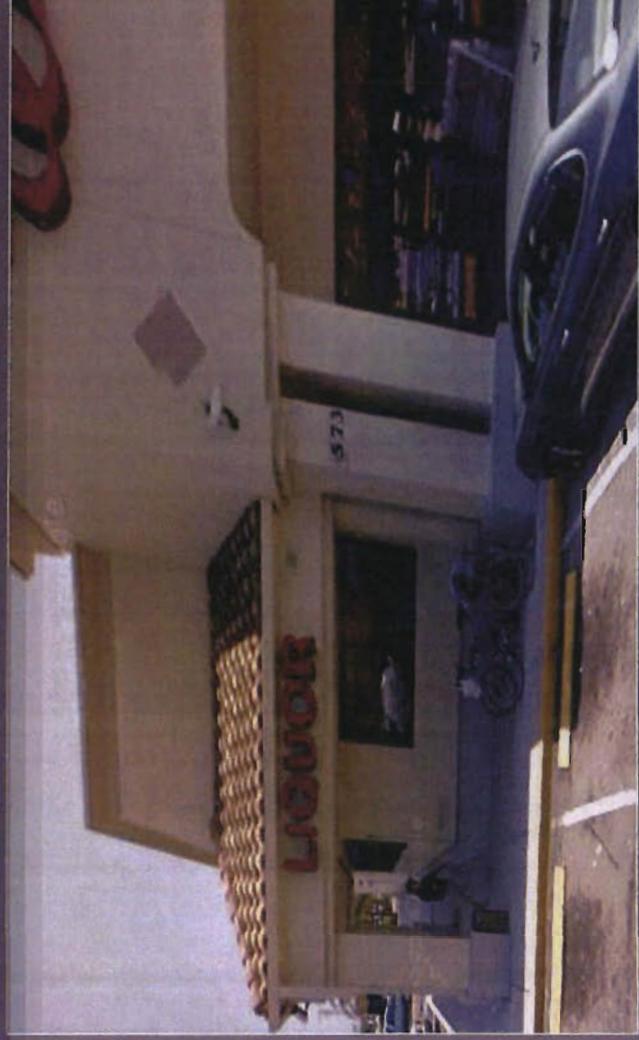


Pictorial Review - Existing 3APS Establishments

#3 - Winn Dixie
3439 N. Federal Hwy.



#4 - Walgreens
3573 N. Federal Hwy.



Pictorial Review - Existing 3APS Establishments

#5 - ABC Fine Wines & Spirits
1350 NE 23rd St.
(7,575 sq ft)

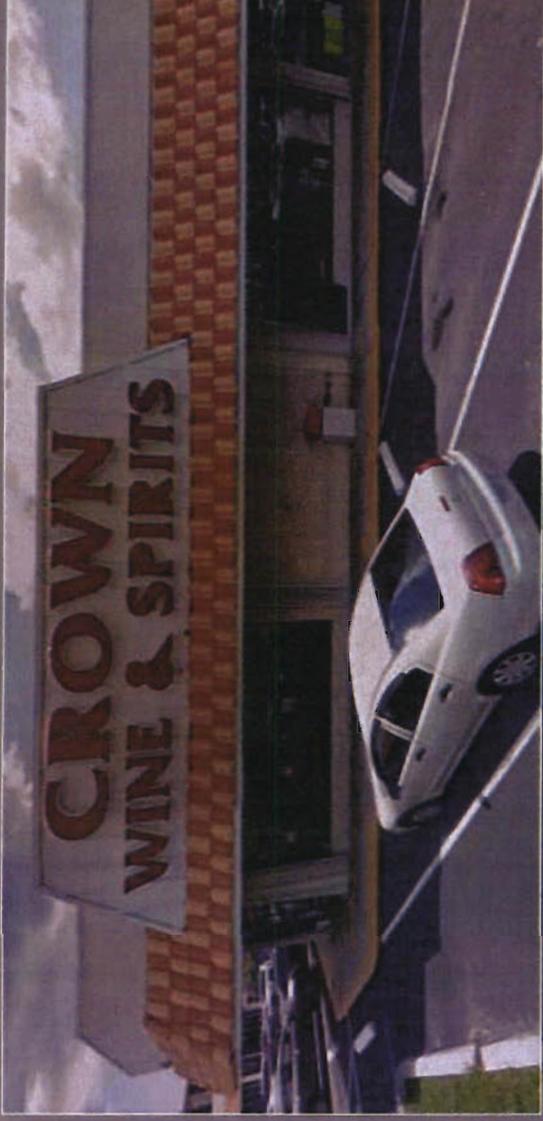


#6 - Chandli Liquors
2608 N. Ocean Blvd.
(~850 sq ft)



Pictorial Review - Existing 3APS Establishments

7 - Crown Wine & Spirits
1320 N. Federal Hwy.
(5,023 sq ft)



#8 - Walgreens
1101 E. Atlantic Blvd.



Pictorial Review - Existing 3APS Establishments



9 - Publix Liquor Store
2513 E. Atlantic Blvd.



#10 - Pompano Discount Liquors
652 E. McNab Rd.
(3,600 sq ft)

Pictorial Review - Existing 3APS Establishments

#11 - Cypress Bend Liquor
1000 S. Powerline Rd.
(1,770 sq ft)



#12 - Atlantic Liquor II
2761 W. Atlantic Blvd.
(~1,250 sq ft /drive-thru)

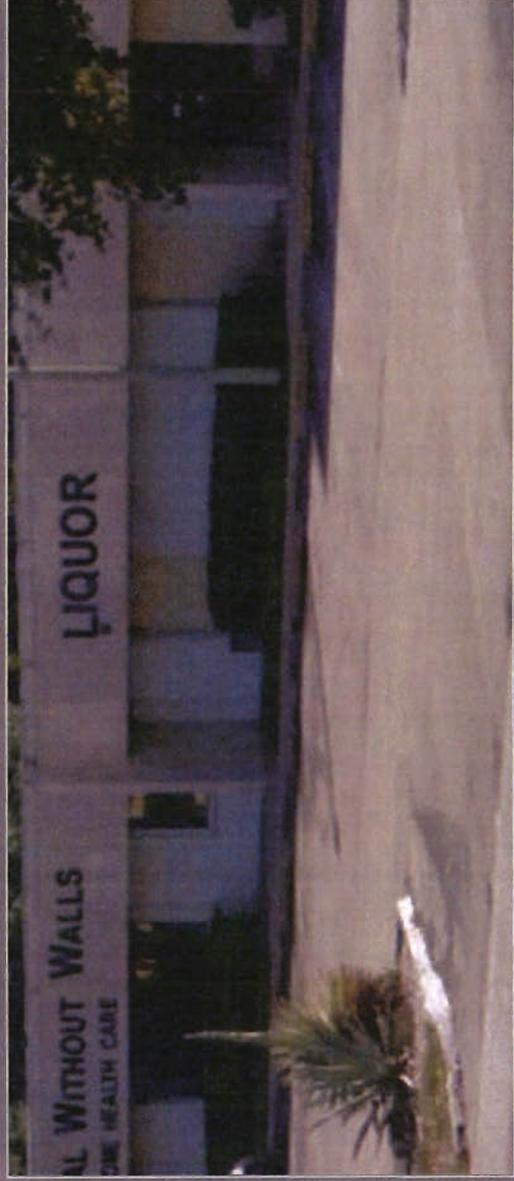


Pictorial Review - Existing 3APS Establishments

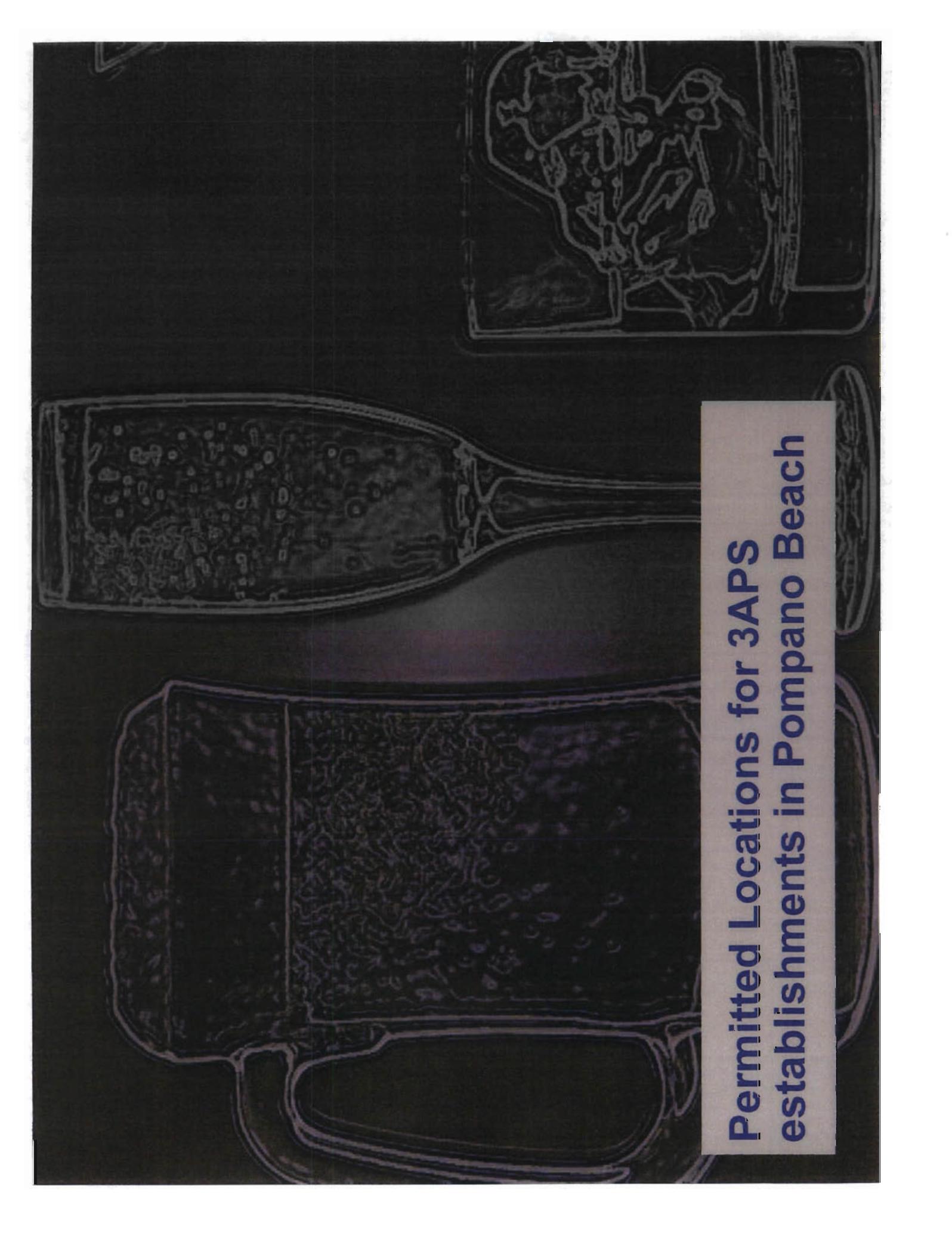
#13 - Atlantic Liquor
1701 W. Atlantic Blvd.
(2,192 sq ft / drive-thru)



**#14 - Super Duper
Liquor**
109 NW 14 St
(not shown / 5,665 sq ft)



#15 - Happy Liquors
2310 NW 3 Ave.
(2,400 sq ft)



**Permitted Locations for 3APS
establishments in Pompano Beach**

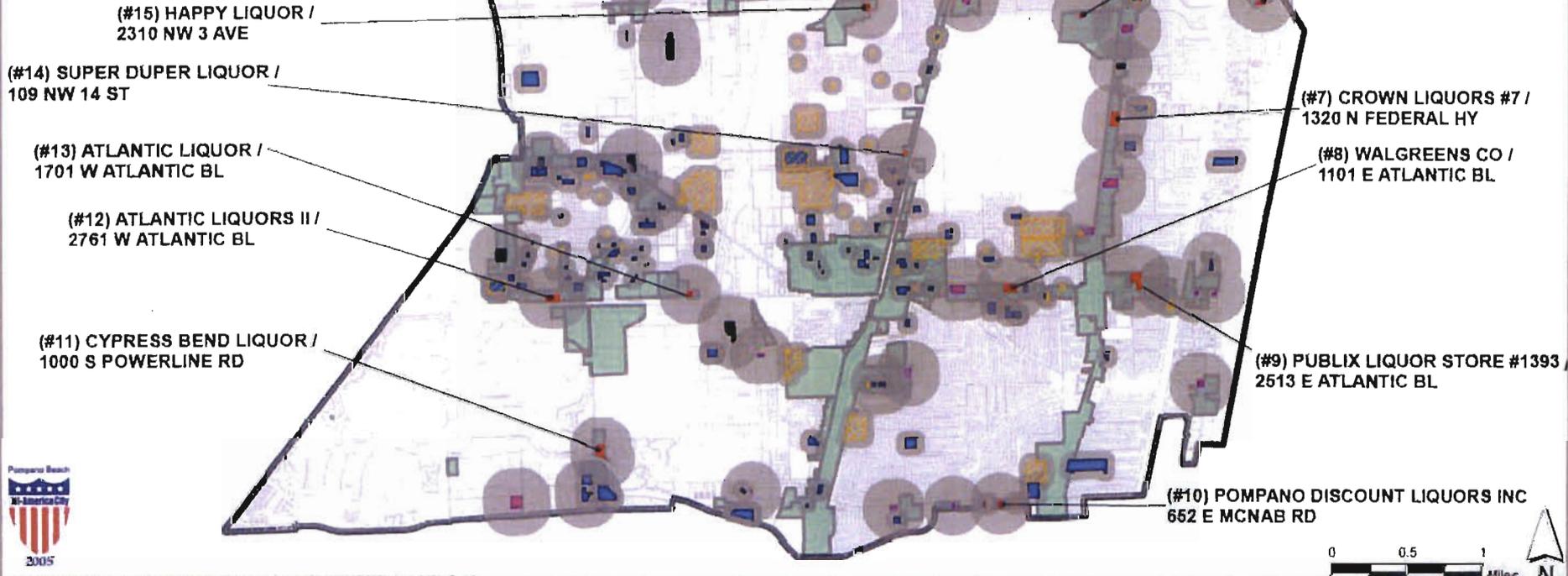
Remaining Permitted Locations

Legend

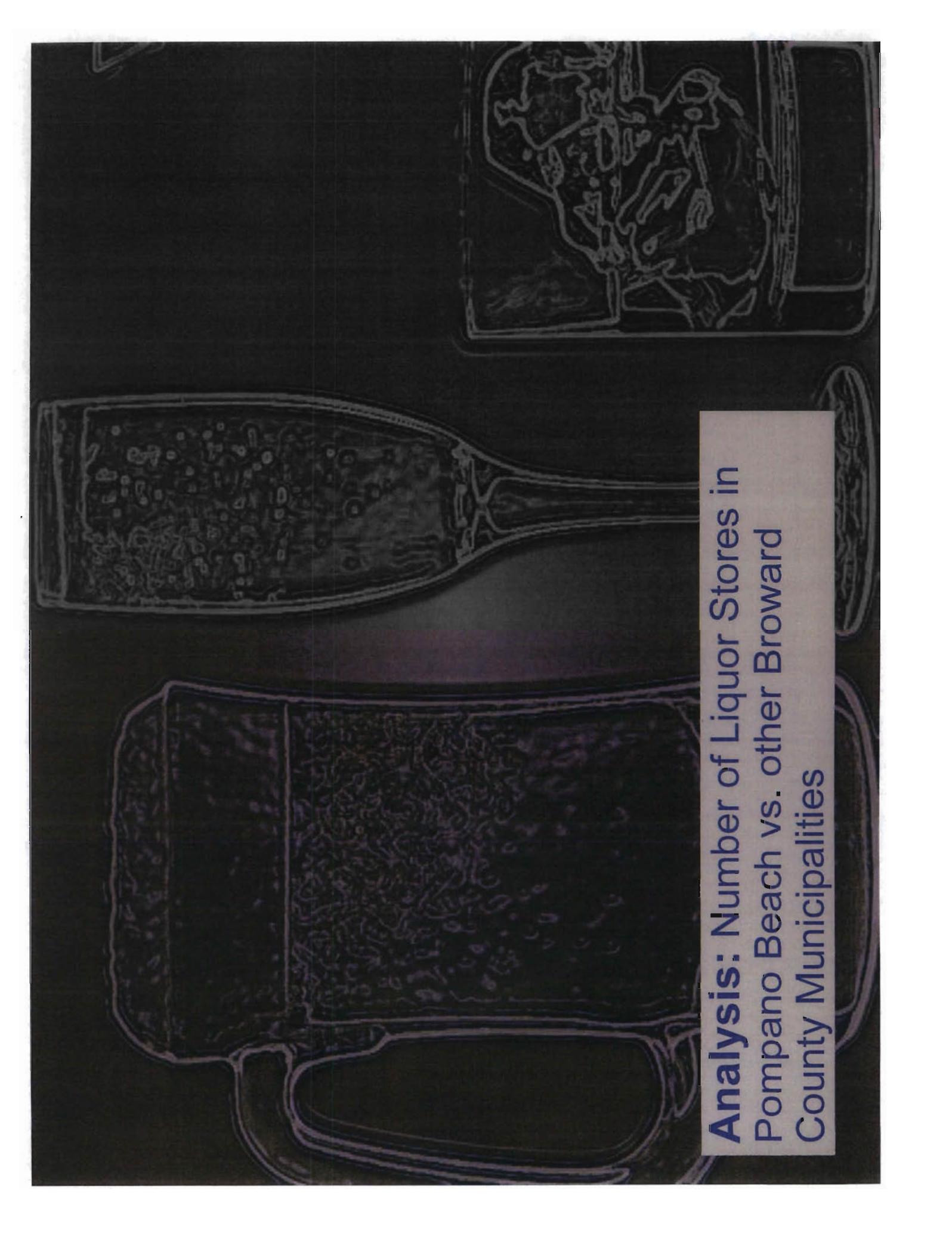
- Liquor Stores (3PS)
- Schools / Day Cares
- Churches
- Buffer (Airline, from P/L)
- Sexually Oriented Businesses (SOBs)
- Existing Bars/ Nightclubs

Zoning Districts

- Zoning Permits Liquor Stores
- Pompano Beach
- City Limits

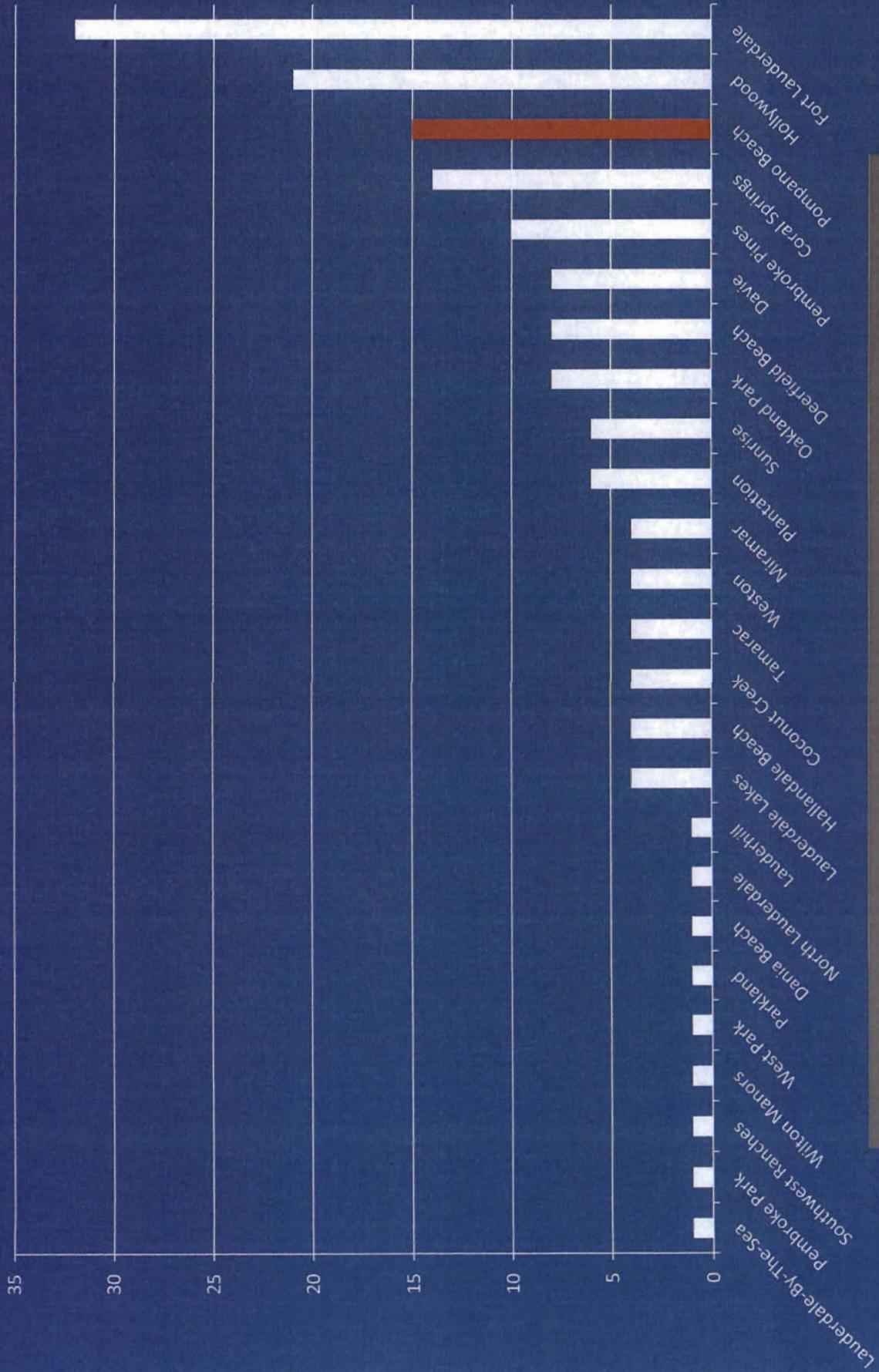


Comments: The “permitted” locations are those green areas not covered by a grey buffer. The buffers shown are an approximation based on existing locations of separated uses and measurements from property line. Also, the Zoning Code exempts liquor stores which are greater than 25,000 sq ft from separation requirements. Therefore the actual “permitted” locations may be slightly different than those shown in green. Finally, while the AOD and DPOD do not require separation for bars, brewpubs, etc..., these districts do not exempt Liquor Stores from separation requirements.



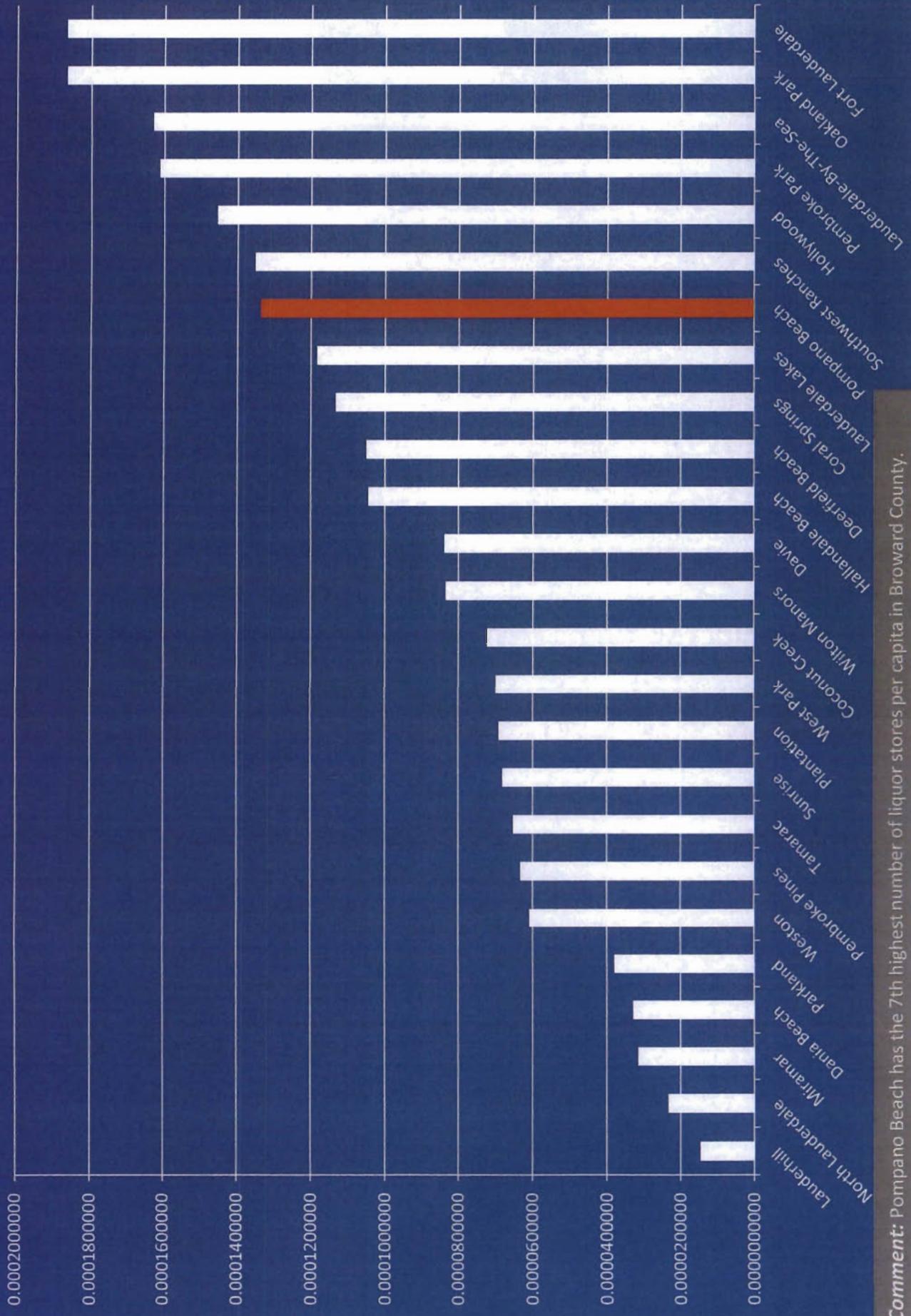
Analysis: Number of Liquor Stores in
Pompano Beach vs. other Broward
County Municipalities

Number of 3APS Establishments for Broward County Municipalities – March 2015



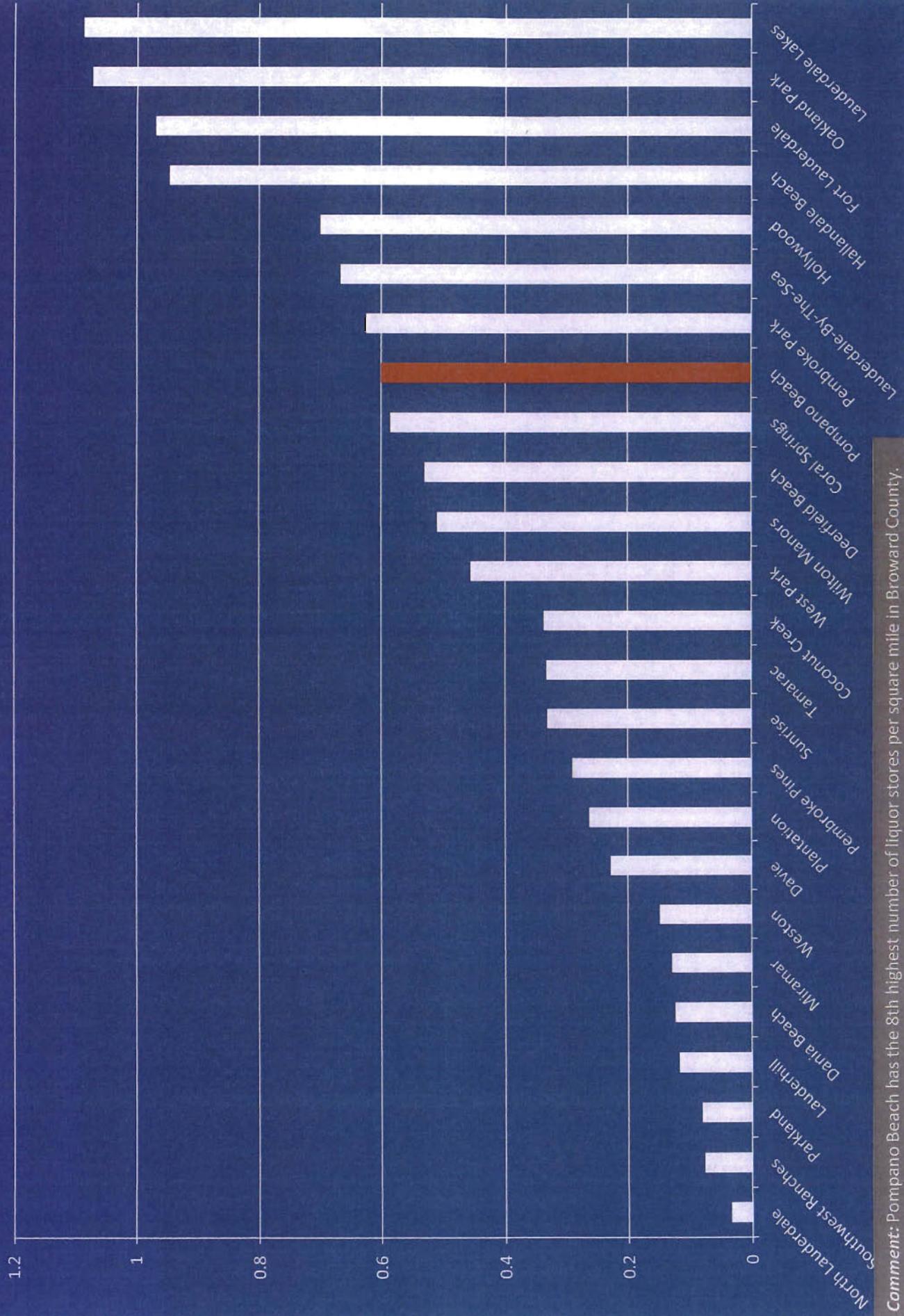
Comment: Pompano Beach has the 3rd highest number of liquor stores in Broward County.

Number of 3APS Establishments per Capita



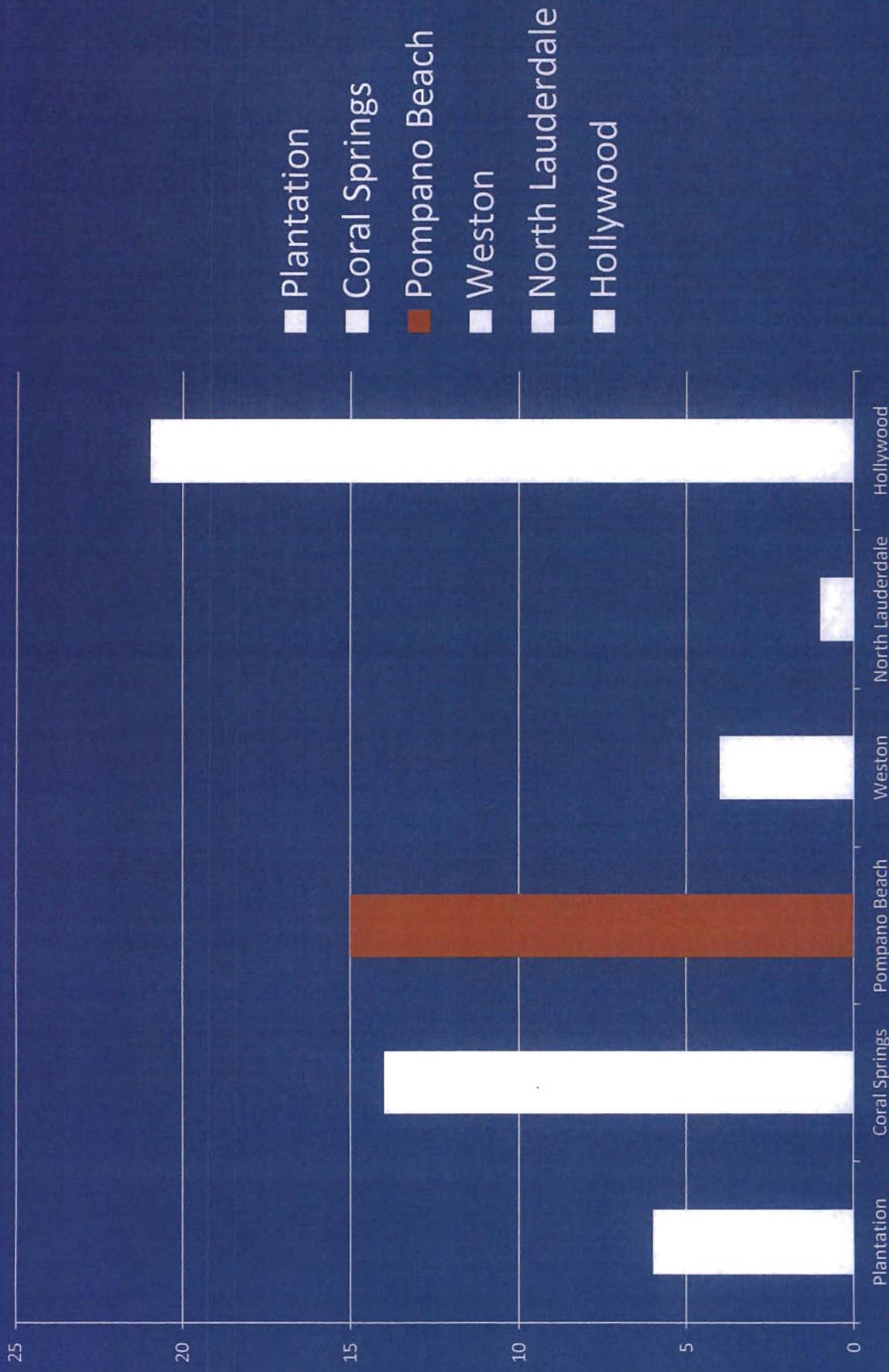
Comment: Pompano Beach has the 7th highest number of liquor stores per capita in Broward County.

Number of 3APS Establishments per Square Mile



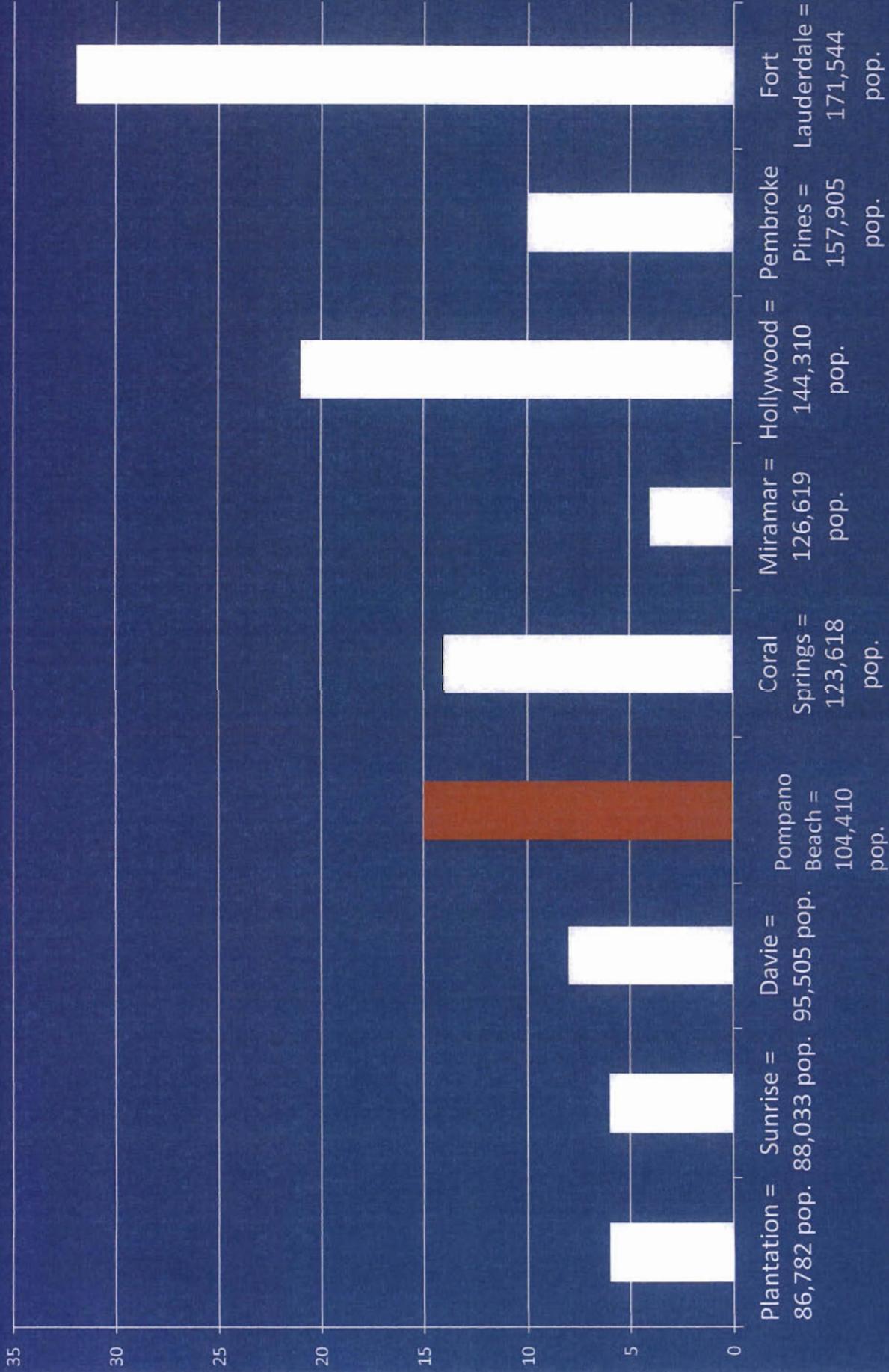
Comment: Pompano Beach has the 8th highest number of liquor stores per square mile in Broward County.

Pompano Beach compared to Cities of Similar Size: Square Miles



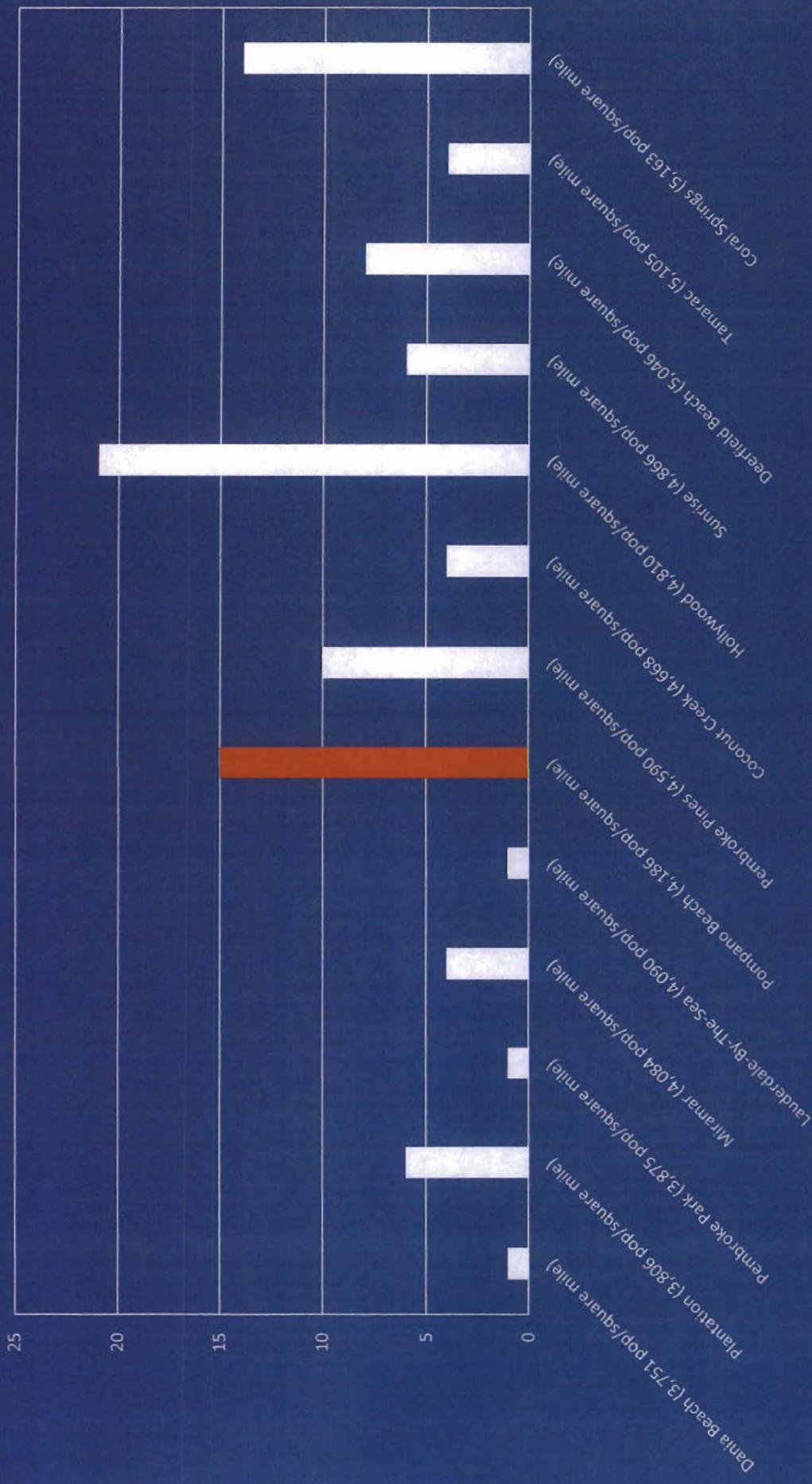
Comment: When compared to cities of similar size (square miles) Pompano Beach has the 2nd highest number of liquor stores.

Pompano Beach Compared to Similar Size Cities: Population



Comment: When compared to cities of similar population size, Pompano Beach has the 3rd highest number of liquor stores.

Pompano Beach Compared to Cities of Similar Size: Density



Comment: When compared to cities of similar population density, Pompano Beach has the 2nd highest number of liquor stores.



**Outcome, Considerations, &
Recommendations**

Outcome

- ✓ City's *current* number of 3APS licenses is in-line with state quota for county:
 - State = 1 per 7,500 residents (per county)
 - City = 1 per 6,942 residents
- ✓ City's *current* number of 3APS licenses is "average" as compared to all 31 Broward Municipalities:
 - Total # of Licenses: 3rd highest amount of 3APS licenses
 - # of Licenses per capita: 7th highest
 - # of Licenses per square mile: 8th highest
 - # of Licenses as compared to city's of similar size: 2nd highest
 - # of Licenses as compared to city's of similar population size: 3rd highest
 - # of Licenses as compared to city's of similar density: 2nd highest
- ✓ City's definitions / uses are not consistent with state terminology which can be confusing (i.e. 4COP allows a bar with package sales = Should this use be treated as a liquor store?)

Considerations

#1

Maintain Pompano Beach's "average" status (as compared to other Broward municipalities)

#2

Limit concentration of liquor stores in blighted areas

#3

Create Use for sales of Beer or Wine

#4

Encourage new establishments, particularly those whose focus is products from small, specialized or local breweries, wineries, or distilleries

#5

Revise definitions / uses to be in-line with state terminology

#6

Transfer all regulations regarding sales of alcoholic beverages to CH. 110, Alcoholic Beverages

Comment: The six consideration items should not be viewed as final recommendations, but as the components to be considered in determining recommendations. Therefore the final recommendations may not reflect some of the considerations.

Additional Information: Consideration #3

Beer Sales in Convenience Stores

How does city ensure that "Grocery or Convenience Store" is primarily for sales of foodstuffs and nonalcoholic beverages.



VS.



Additional Information: Consideration #3

Beer Sales in Convenience Stores

“The Association for Convenience & Fuel Retailing: Fact Sheets / Instore Merchandise / Beer Sales (2015)”

- Convenience Store sales of beer in 2013:
 - \$14.7 / 59% of beer sold in retail channels, including food, mass and drugstores
 - Most beer subcategories posted increases in sales dollar growth in 2013, including flavored malts (24%), imports (8.9%) and micro or craft brews (31%).
- Unlike grocery and drugstores, convenience stores have an advantage with beer sales: *open longer hours*, stock top sellers and product is often kept cold in beer caves.
- Beer caves, which are temperature-controlled walk-in coolers, have been gaining traction within convenience stores, allowing retailers to sell more product in larger packaging sizes that is already cold, such as 12-packs and cases. Walk-in beer caves also allow c-stores to store more product and eliminate out-of-stock situations. Many retailers also use their beer caves to enhance the shopper experience with attractive merchandising, lighting and design elements that convey to customers that their store has the coldest beer in town.

Additional Considerations:

- Convenience stores in New Jersey, Pennsylvania and Rhode Island cannot sell beer
- Convenience stores in Indiana cannot sell beer cold.
- In San Francisco, Grocery Stores and Convenience Stores are treated as alcoholic beverage establishments if they devote more than 15% of the gross square footage of the establishment to the display and sale of alcoholic beverages; and they sell single servings of beer in container sizes 24 oz. or smaller.

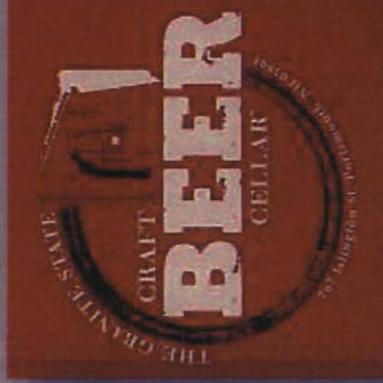
Additional Information: Consideration #4

Specialty Beer, Wine, and Liquor Stores

- In conjunction with the growth of craft breweries, craft wineries, and craft distilleries is the growth of retail stores whose inventory consists solely of craft beverages.
- There are stores whose inventory whose inventory consists solely of locally produced beverages, such as Florida Wines.
- There are stores whose inventory consists solely of a particular region, such as French wines and other French products.
- "While it may have once been a destination to purchase beer or wine from one or two lower-end options, many grocery stores today now offer a cornucopia of beer and wine varieties. As consumers have ramped up their desires for distinctive and varied options, grocery retailers have ratcheted up their efforts with three primary goals in mind: offer convenience of a one-stop shop, participate in a big and growing category, and ring up bigger basket sales". (neilson.com - Grapes of Worth: How Supermarkets are Becoming Local Wine Shops Consumer | 02-19-2015)

Tampa Bay Times
MEMBER OF THE HENNING PUBLISHERS

Pinellas County relaxes zoning rules to welcome craft beer sales



Additional Information: Consideration #4

Defining Specialty Beer, Wine, and Liquor Stores

Atlanta, GA / Wine specialty shop means a retail establishment:

- (1) Which shall deal in the sale of table wine, fortified wines, port, sherry for consumption off the premises and/or wine accessories; and at which on-premises consumption of alcoholic beverages is specifically prohibited, except that if a wine specialty shop is the holder of a license under section 10-60(a)(1)c. of this Code, that licensed retail establishment shall be authorized to hold wine tastings in conjunction with educational programs on the subjects of enology or viticulture;
- (2) Which shall not maintain on the premises or offer for sale malt beverages or distilled spirits;
- (3) Which shall maintain on the premises and offer for sale at all times a variety of wines from not less than 100 nor more than 200 manufacturers or importers of wine or any combination thereof the total of which shall not fall below 100 nor exceed 200;
- (4) Which shall maintain and replenish an inventory of at least 36 bottles of wine from each manufacturer or importer of wine referred to in subsection (3) above; provided however, that any inventory which is depleted to less than 36 bottles of wine must be replenished to at least 36 bottles of wine within 15 days of the date that the inventory falls below 36 bottles;
- (5) Which shall submit an inventory list of all wines maintained on the premises and offered for sale to the licenses and permits unit of the police department. Such inventory list shall be submitted to the licenses and permits unit on a quarterly basis by the first day of each of the following months: January, April, July and October; and
- (6) Whose total interior floor area, inclusive of storage area, shall not exceed 2,000 square feet.

Fairfield, CA / Market, Specialty Beverage.

An establishment emphasizing a single unique type of specialty beverage product in a distinct category of merchandise such as a specialty wine merchant. This use is distinct from other beverage stores in that the market focuses on a single type or range of products not readily available at a convenience market or grocery.

Oneonta, AL / Specialty beverage store.

An establishment principally operated for the sale of a diversified selection of both domestic and imported beer and/or wine, but not liquor, in unopened containers for off-site consumption. Such establishments may also apply for a retail table wine for off-premises consumption, and retail beer license for off-premises consumption.

Recommended Uses: Liquor Stores

Local Liquor or Package Store.

- Less than 7,500 sq ft
- SE in all B Districts (*Consideration #1 and #2*)
- Required to comply with Separation Standards (see separation slide)
(*Consideration #1 and #2*)
- ❖ Specifically prohibited in DPOD (*AOD per underlying Zoning*)

Regional Liquor or Package Store.

- 7,500 sq ft or greater (*Consideration #4*)
 - Of the stand-alone liquor stores currently existing, ABC liquors is the largest at 7,575 sq ft.
- SE in B-1 and B-2 Districts (*Consideration #1 and #2*)
- Exempt from Separation Standards (see separation slide) (*Consideration #4*)
 - This use will replace the exemption for “Anchor Store larger than 10,000 sq ft”.
 - The change is both a reduction in sq ft but also now can be a stand-alone bldg.
- ❖ SE in DPOD (*AOD per underlying Zoning*)

K. LOCAL LIQUOR OR PACKAGE STORE

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P
												S	S	S	S

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RP UD	PC D	PD-TO	LA C	PD-I
						P							P	P	P	P

2. Definition

A local liquor or package store is an alcoholic beverage establishment with a gross floor area of less than 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

3. Standards

Drive-through service is strictly prohibited.

L. REGIONAL LIQUOR OR PACKAGE STORE

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												S	S	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RP UD	PC D	PD-TO	LA C	PD-I
						P							P	P	P	P

2. Definition

A regional liquor or package store is an alcoholic beverage establishment with a gross floor area of at least 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

3. Standards

Drive-through service is strictly prohibited.

Recommended Uses: Beer/Wine Stores

Grocery or Convenience Store.

- New use specific standard clarifies when sales of beer and/or wine are considered accessory to this use. (*Consideration #3*)
- No ABE separation required only if sales of beer or wine are 20% or less of total display area AND no exterior signage (*Consideration #3 and #4*)
 - 20% is the percentage used for adult book/novelty stores; Restaurants and Bars at Hotels; retail sales in industrial districts; and sale of used merchandise and/or goods is limited to 20% of the floor space in the General Business (B-3)
- Grocery or Convenience Stores that exceed 20% limit are also considered Beer or Wine Store.

Beer or Wine Store.

- SE in B-1, B-2, and B-3 (*Consideration #2 and #3*)
- Drive-through is prohibits
- Required to comply with separation standards. (*Consideration #2*)
- In order to encourage “specialty stores”, specialty stores are exempt from separation (see separation slide) . (*Consideration #4*)
- ❖ *SE in DPOD / (AOD per underlying Zoning)*

F. GROCERY OR CONVENIENCE STORE

...

3. Standards

- a. Sales of beer or wine may only be considered an accessory use to a Grocery or Convenience Store provided the display area for the sales of beer or wine does not exceed 20% of the total display area used for all other merchandise and no exterior signage for the sale of beer or wine is provided.
- b. Grocery or Convenience Stores with sales of beer or wine which exceed the standards listed in subsection a above and/or provide exterior signage for the sale of beer or wine shall also be considered a Beer or Wine Store and subject to all of the standards for such use.

M. BEER OR WINE STORE

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>
												<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>

<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-IX</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>I</u>	<u>BP</u>	<u>RP-UD</u>	<u>PC-D</u>	<u>PD-TO</u>	<u>LA-C</u>	<u>PD-I</u>
						<u>P</u>							<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

2. Definition

A beer or wine store is an alcoholic beverage establishment licensed by the state exclusively for the retail sale of beer and/or wine in sealed containers for consumption off the premises where sold. A beer or wine store maybe considered a specialty store if the establishment emphasizes a single unique type of specialty beer or wine not readily available at a grocery or convenience store, such as beer or wine made from craft or microbreweries or wineries, or beer or wine from a specific geographic region.

3. Standards

Drive-through service is strictly prohibited.

Recommended Uses: Accessory Uses

Accessory Beer or Wine Sales at a Brewery or Winery.

- Exempts the sales of beer, wine, or liquor at a brewery, winery, or distillery from separation standards (see separation slide) . (*Consideration #4*)
- No additional parking required if the sales area (aka tap room) is less than 20% of the GFA of the brewery or winery; otherwise the standard parking for beer or wine bar would apply. (*Consideration #4*)

Accessory Package Sales at Bar or Lounge.

- SE approval in B-1, B-2, and B-3 (*Consideration #2 and #3*)
- Required to comply with Separation Standards (see separation slide) . (*Consideration #1 and #2*)

SS. ALCOHOLIC BEVERAGE SALES AS AN ACCESSORY USE TO A BREWERY, WINERY OR DISTILLERY

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4	
																A

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	I	BP	RP UD	PC D	PD-TO	LA C	PD-I
		A	A	A									A			

2. Definition

Alcoholic beverage sales as an accessory use to a brewery, winery, or distillery is the accessory retail sales of beer, wine, or liquor at the same location where the beverage is manufactured, including for consumption on the premises and for consumption off the premises.

TT. PACKAGE SALES AS AN ACCESSORY USE TO A BAR OR LOUNGE

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												S	S	S	A

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	I	BP	RP UD	PC D	PD-TO	LA C	PD-I
		A	A	A		A						A	A	A	A	A

2. Definition

Package sales as an accessory use to a bar or lounge is the accessory retail sales of beer, wine, or liquor for consumption off the premises at a bar or lounge.

Recommended Revisions to Separation Exemptions

No longer exempt from separation:

- Sales of beer or wine for consumption off the premises, *unless* accessory sales at a Grocery or Convenience Store (20% sales and no signage) or if a Specialty Store
- Bars with Package Sales in AOD

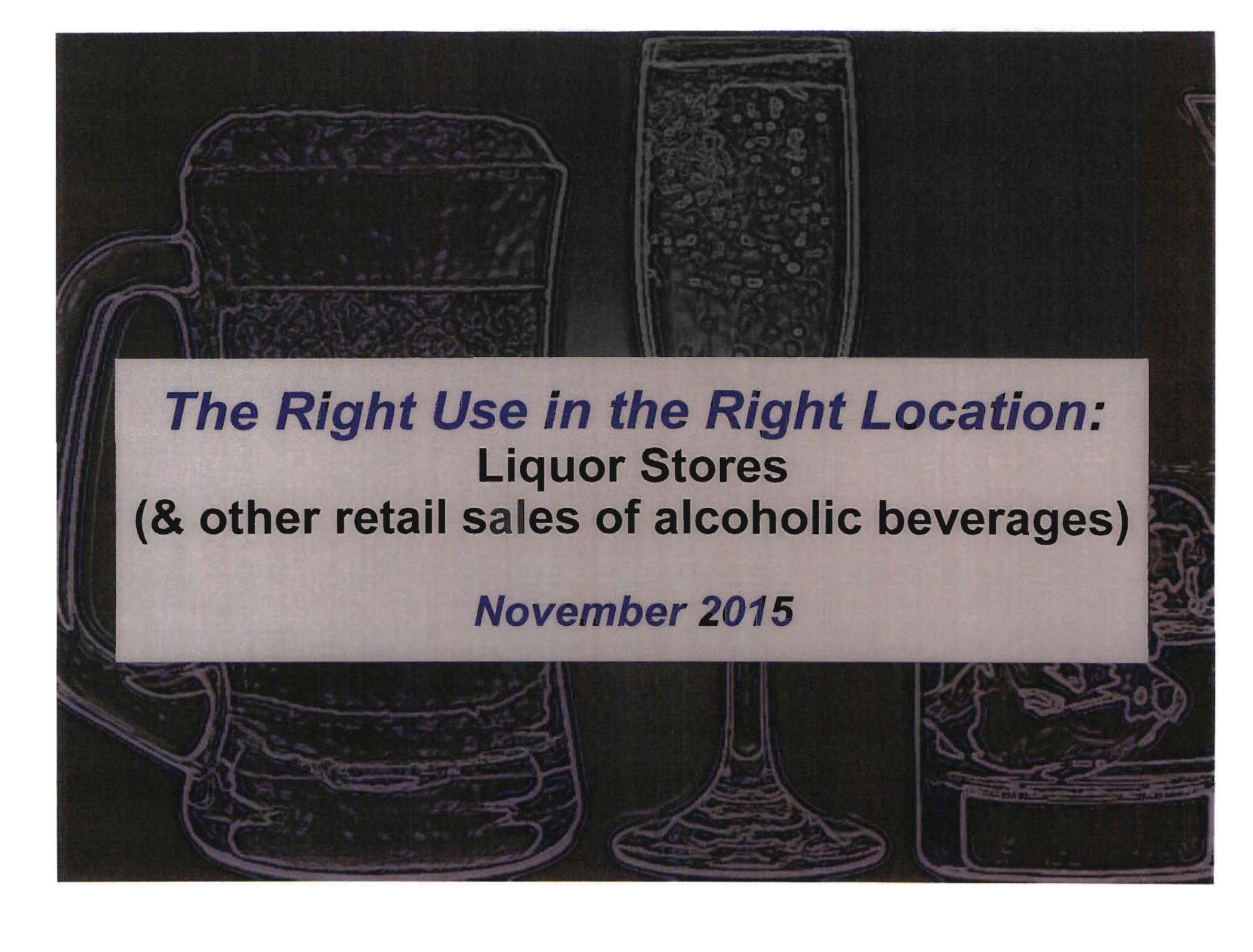
New exemptions from separation:

- Sales of beer, wine, or liquor as accessory to brewery, winery, or distillery
- Liquor Stores which are 7,500 sq ft or larger (aka Regional Liquor Stores)

- Clarifies that distributors and manufacturers are also exempt

TABLE 155.4501.B: EXCEPTIONS TO THE MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES

Use and Criteria	Required Separation	
	Any other use involving the sales of alcoholic beverages; and Sexually oriented business	Child Care facility; School; and Place of Worship
An establishment limited by its state beverage license to the sale of beer or wine for consumption off the premises for the distribution of alcoholic beverages to vendors and other distributors.	Exempt	Exempt
<u>Grocery or Convenience Store with accessory sales of beer or wine. Sales of beer or wine may only be considered an accessory use to a Grocery or Convenience Store provided the display area for the sales of beer or wine does not exceed 20% of the total display area used for all other merchandise and no exterior signage for the sale of beer or wine is provided.</u>	<u>Exempt</u>	<u>Exempt</u>
<u>Beer or Wine Store.</u>	<u>Exempt if a Specialty Store.</u>	<u>Exempt if a Specialty Store.</u>
<u>A food and/or beverage manufacturer limited by its state beverage license for manufacturing of wines and cordials, brewing malt beverages, or distiller of spirituous liquor.</u>	Exempt	Exempt
<u>Alcoholic beverage sales as an accessory use to a brewery, winery or distillery.</u>	<u>Exempt</u>	<u>Exempt</u>
A retail sales establishment that is an anchor store containing more than 10,000 square feet of gross floor area. Regional Liquor or Package Store	Exempt	Exempt
<u>Within the Atlantic Boulevard Overlay District (AOD) only, a bar or lounge, brewpub, restaurant, or specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory outdoor seating).</u>	<u>Exempt if no package sales are offered at bar or lounge.</u>	<u>Exempt if no package sales are offered at bar or lounge.</u>



The Right Use in the Right Location:
Liquor Stores
(& other retail sales of alcoholic beverages)

November 2015

§ 155.4222. COMMERCIAL: RETAIL SALES AND SERVICE USES - RETAIL SALES

...

F. GROCERY OR CONVENIENCE STORE

...

3. Standards

a. Sales of beer or wine may only be considered an accessory use to a Grocery or Convenience Store provided the display area for the sales of beer or wine does not exceed 20% of the total display area used for all other merchandise and no exterior signage for the sale of beer or wine is provided.

b. Grocery or Convenience Stores with sales of beer or wine which exceed the standards listed in subsection a above and/or provide exterior signage for the sale of beer or wine also be considered a Beer or Wine Store and subject to all of the standards for such use.

...

K. LOCAL LIQUOR OR PACKAGE STORE

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												P	P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A local liquor or package store is an alcoholic beverage establishment with a gross floor area of less than 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

3. Standards

Drive-through service is strictly prohibited.

L. REGIONAL LIQUOR OR PACKAGE STORE

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												S	S	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A regional liquor or package store is an alcoholic beverage establishment with a gross floor area of at least 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

3. Standards

Drive-through service is strictly prohibited.

M. BEER OR WINE STORE

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
												S	S	S	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-I
						P							P	P	P	P

2. Definition

A beer or wine store is an alcoholic beverage establishment licensed by the state exclusively for the retail sale of beer and/or wine in sealed containers for consumption off the premises where sold. A beer or wine store maybe considered a specialty store if the establishment emphasizes a single unique type of specialty beer or wine not readily available at a grocery or convenience store, such as beer or wine made from craft or microbreweries or wineries, or beer or wine from a specific geographic region.

3. Standards

Drive-through service is strictly prohibited.

LN. Pawn Shop

...

MO. Thrift Shop

...

NP. Retail Sales Establishment, Large

...

OQ. Indoor Mall or Marketplace

...

PR. Other Retail Sales Establishment

...

§155.4227. INDUSTRIAL: MANUFACTURING AND PRODUCTION USES

...

E. Food and/or Beverage Products Manufacturing (without slaughtering)

...

2. Definition

A food and/or beverage products manufacturing use is an establishment primarily engaged in manufacturing of food and/or beverage products including, but not limited to, products made from livestock or agricultural products; fresh and frozen bread and other bakery products (e.g., cookies, crackers); frozen food products such as ice or ice cream; ~~alcoholic beverages such as ale, beer, malt liquors, wine~~ **brewery, winery, or distillery**; and nonalcoholic beverages. This use also includes vegetable or fruit packing, fish hatcheries and hydroponic garden facilities.

§155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

...

SS. ALCOHOLIC BEVERAGE SALES AS AN ACCESSORY USE TO A BREWERY, WINERY OR DISTILLERY

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>	
															<u>A</u>	
<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-X</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>T</u>	<u>BP</u>	<u>RP-UD</u>	<u>PC-D</u>	<u>PD-TO</u>	<u>LA-C</u>	<u>PD-I</u>
		<u>A</u>	<u>A</u>	<u>A</u>									<u>A</u>			

2. Definition

Alcoholic beverage sales as an accessory use to a brewery, winery, or distillery is the accessory retail sales of beer, wine, or liquor at the same location where the beverage is manufactured, including for consumption on the premises and for consumption off the premises.

TT. PACKAGE SALES AS AN ACCESSORY USE TO A BAR OR LOUNGE

1. Districts Where Permitted

<u>RS-1</u>	<u>RS-2</u>	<u>RS-3</u>	<u>RS-4</u>	<u>RS-L</u>	<u>RD-1</u>	<u>RM-7</u>	<u>RM-12</u>	<u>RM-20</u>	<u>RM-30</u>	<u>RM-45</u>	<u>MH-12</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>
												<u>S</u>	<u>S</u>	<u>S</u>	<u>A</u>

<u>M-1</u>	<u>CR</u>	<u>I-1</u>	<u>I-IX</u>	<u>OIP</u>	<u>M-2</u>	<u>TO</u>	<u>PR</u>	<u>CF</u>	<u>PU</u>	<u>T</u>	<u>BP</u>	<u>RP-UD</u>	<u>PC-D</u>	<u>PD-TO</u>	<u>LA-C</u>	<u>PD-I</u>
		<u>A</u>	<u>A</u>	<u>A</u>		<u>A</u>						<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>

2. Definition

Package sales as an accessory use to a bar or lounge is the accessory retail sales of beer, wine, or liquor for consumption off the premises at a bar or lounge.

§155.4501. SEPARATION REQUIREMENTS FOR ALCOHOLIC BEVERAGE ESTABLISHMENTS

TABLE 155.4501.B: EXCEPTIONS TO THE MINIMUM SEPARATION OF USES INVOLVING THE SALE OF ALCOHOLIC BEVERAGES FROM CERTAIN EXISTING USES		
Use and Criteria	Required Separation	
	Any other use involving the sales of alcoholic beverages; and Sexually oriented business	Child Care facility; School; and Place of Worship
An establishment limited by its state beverage license to the sale of beer or wine for consumption off the premises for the distribution of alcoholic beverages to vendors and other distributors.	Exempt	Exempt
Grocery or Convenience Store with accessory sales of beer or wine. Sales of beer or wine may only be considered an accessory use to a Grocery or Convenience Store provided the display area for the sales of beer or wine does not exceed 20% of the total display area used for all other merchandise and no exterior signage for the sale of beer or wine is provided.	Exempt	Exempt
Beer or Wine Store.	Exempt if a Specialty Store.	Exempt if a Specialty Store.
An enclosed restaurant which sells only beer and/or wine for consumption on the premises.	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
A food and/or beverage manufacturer limited by its state beverage license for manufacturing of wines and cordials, brewing malt beverages, or distiller of spirituous liquor.	Exempt	Exempt
Alcoholic beverage sales as an accessory use to a brewery, winery or distillery.	Exempt	Exempt
A bowling alley that contains more than nine bowling lanes.	Exempt	Exempt
A motion picture theater that contains more than 100 seats.	Exempt	Exempt
A retail sales establishment that is an anchor store containing more than 10,000 square feet of gross floor area. Regional Liquor or Package Store	Exempt	Exempt
A bar or lounge which is operated as an accessory use to a restaurant and therefore meets the following standards: it is operated by the same management, and the restaurant has dining accommodations for service of 150 or more patrons at tables occupying more than 2,500 square feet, and deriving at least 51% of the gross revenue from the sale of food and non-alcoholic beverages.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence

A bar or lounge which is operated as an accessory use to a hotel or apartment hotel that has more than 25 sleeping rooms and/or dwelling units and that is operated by the same management as the hotel or apartment hotel.	Exempt	Exempt if there is no display window, sign, or other externally visible indication of the bar's or lounge's existence
An enclosed restaurant which sells only beer and/or wine.	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
A lodge or club which limits on-premise consumption of alcoholic beverages to only lodge or club members.	Exempt	Exempt if no externally visible display window or sign indicating the sale of alcoholic beverages
A use located on property owned by the city.	Not Exempt	Exempt
Within the Atlantic Boulevard Overlay District (AOD) only, a bar or lounge, brewpub, restaurant, or specialty eating establishment (whether a principal use or an accessory use to a hotel, and including any accessory outdoor seating).	Exempt if no package sales are offered at bar or lounge.	Exempt if no package sales are offered at bar or lounge.

§ 155.5102 OFF-STREET PARKING AND LOADING

D. OFF-STREET PARKING SPACE REQUIREMENTS

1. Minimum Number of Off-Street Parking Spaces

...

TABLE 155.5102.D.1: MINIMUM NUMBER OF OFF-STREET PARKING SPACES		
Use Category	Use Type	Minimum Number of Parking
...		
Retail Sales and Service Uses - Retail Sales	...	1 per 300 sq ft
	<u>Local</u> Liquor or Package Store	
	<u>Regional Liquor or Package Store</u>	
	<u>Beer or Wine Store</u>	
	Pawn Shop	
...		

Accessory Uses	...	See Section 155.5102.D.2
	Dormitory (as accessory to educational use)	
	<u>Alcoholic Beverage Sales as an Accessory Use to a Brewery, Winery or Distillery</u>	<u>1 per 300 sq ft. Except no parking is required if gross floor area used for accessory sales is less than 20% of total gross floor area of the principal use.</u>
...		

ARTICLE 9: DEFINITIONS AND INTERPRETATION

...

PART 5 TERMS AND USES DEFINED

The following words, terms, and phrases, when used in this Code, shall have the meaning ascribed to them in this section.

ACCESSORY DWELLING UNIT

...

ALCOHOLIC BEVERAGE ESTABLISHMENT

...

ALCOHOLIC BEVERAGE SALES AS AN ACCESSORY USE TO A BREWERY, WINERY, OR DISTILLERY

The accessory retail sales of beer, wine, or liquor at the same location where the beverage is manufactured, including for consumption on the premises and for consumption off the premises.

ALL WHOLESALE USES

...

BED AND BREAKFAST INN

...

BEER OR WINE STORE

An alcoholic beverage establishment licensed by the state exclusively for the retail sale of beer and/or wine in sealed containers for consumption off the premises where sold. A beer or wine store maybe considered a specialty store if the establishment emphasizes a single unique type of specialty beer or wine not readily available at a grocery or convenience store, such as beer or wine made from craft or microbreweries or wineries, or beer or wine from a specific geographic region.

BERM

...

Food Processing and/or Beverage Products Manufacturing (without slaughtering)

An establishment primarily engaged in processing livestock or agricultural products into food products for immediate or final consumption. Such products are typically sold to wholesalers or retailers for distribution to consumers. Food processing does not include slaughtering animals. manufacturing of food and/or beverage products including, but not limited to, products made from livestock or agricultural products; fresh and frozen bread and other bakery products (e.g., cookies, crackers); frozen food products such as ice or ice cream; brewery, winery, or distillery; and nonalcoholic beverages. This use also includes vegetable or fruit packing, fish hatcheries and hydroponic garden facilities.

LOCAL LIQUOR OR PACKAGE STORE

An alcoholic beverage establishment with a gross floor area of less than 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

...

OWNER OF RECORD

...

PACKAGE SALES AS AN ACCESSORY USE TO A BAR OR LOUNGE

The accessory retail sales of beer, wine, or liquor for consumption off the premises at a bar or lounge.

PARAPET

...

REDEVELOPMENT

...

REGIONAL LIQUOR OR PACKAGE STORE

An alcoholic beverage establishment with a gross floor area of at least 7,500 square feet and licensed by the state exclusively for the retail sale of liquor or spirits in sealed containers for consumption off the premises where sold.

REGULATING PLAN

...

Copy of
Ord. 2015-67

011.2+

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY OF POMPANO BEACH, FLORIDA, PROVIDING FOR IMPOSITION OF A MORATORIUM ON ISSUANCE OF DEVELOPMENT ORDERS AND PERMITS AND ON THE PROCESSING OF APPLICATIONS RELATING TO HEALTH CARE USES, CHECK CASHING STORES, CONVENIENCE STORES, LIQUOR OR PACKAGE STORES, PAWN SHOPS, THRIFT SHOPS AND DORMITORIES WITHIN THE CITY; PROVIDING FOR VESTED RIGHTS; APPEALS; AND EXHAUSTION OF ADMINISTRATIVE REMEDIES; PROVIDING FOR A SIX (6) MONTH TERM TO BE EXTENDED IF NECESSARY BY THE CITY COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission and the City’s Planning and Zoning Board, the Local Planning Agency, have previously undertaken the necessary studies and adopted a Comprehensive Plan to guide and control growth in the City; and,

WHEREAS, the goals, objectives and policies contained within the City’s adopted Comprehensive Plan require that the City:

- i. Annually review and periodically update adopted land development regulations and established procedures that encourage the elimination or reduction of uses inconsistent with the City's character and Future Land Use Plan. (Future Land Use Element - Objective Inconsistent Land Uses - 01.03.00)
- ii. Support and promote hotels, motels and other tourist accommodations in designated residential, commercial and commercial recreation land use designations. (Future Land Use Element – Policy - 01.03.10)
- iii. Encourage the adoption of innovative land development regulations. Adopt new land use designations for Residential, Mixed Use, Transportation Oriented Districts, Transportation

Oriented Corridors and amend the land development regulations, including the creation of new zoning districts for these land use designations. (Future Land Use Element - Objective New Land Use Regulations - 01.07.00)

- iv. Continually review and amend new land use designations for Residential, Mixed Use and Transportation Oriented Districts. (Future Land Use Element - Policy - 01.07.02)
- v. Through ongoing updates to the land development regulations revise prohibited and permitted uses in the commercial, industrial and non-residential zoning districts. (Future Land Use Element - Policy - 01.07.07)
- vi. Follow the recommendation of the Community Redevelopment Plans in all Land Use Plan amendments and rezonings. (Future Land Use Element – Community Redevelopment - 01.08.01)
- vii. Redevelopment activities in the Community Redevelopment Areas shall be guided by their respective Community Redevelopment Plans, adopted pursuant to Chapter 163, Part III, Florida Statutes. (Future Land Use Element - Policy - 01.11.03)
- viii. Establish criteria which encourage development of urban infill and community redevelopment areas to promote economic development, increase housing opportunities and maximize the use of existing public facilities and services. (Future Land Use Element - Objective Urban Infill Criteria - 01.12.00);

and,

WHEREAS, the City of Pompano Beach contains two (2) Community Redevelopment Areas: the West Pompano Beach District CRA, also known as the NW CRA, a 3,000 acre area established in 1989, and the East Pompano Beach District CRA, a 158 acre area, that was established in 2001; and

WHEREAS, the NW CRA and the EAST CRA areas were established for the purpose of removing existing slum and blight conditions and provide economic benefits to the City's residents; and

WHEREAS, the East CRA area encompasses the majority of lands contained within the Atlantic Boulevard Overlay District (AOD) and the NW CRA area encompasses the Transit Oriented Corridor District (TOC); and

WHEREAS, the City adopted land development regulations for the AOD and the TOC; and

WHEREAS, the projects and programs of the City's Community Redevelopment Agency in the East CRA and in the NW CRA are designed to solve underlying problems that have a blighting influence on the redevelopment areas as further expressed in East CRA Redevelopment Plan and in the NW CRA Redevelopment Plan; and

WHEREAS, the AOD encompasses the Atlantic Boulevard Corridor which was included in a 2008 Urban Land Institute Technical Advisory Panel wherein the ULI recommended medium density, mixed-use development on Atlantic Boulevard; lower-scale development between the medium density and single family; creating great public spaces that exemplify and promote pedestrian activity; maintaining a small town feel and encouraging smaller scale (not big box) uses; and

WHEREAS, the AOD was also the subject of the City's Beach Master Plan which was approved in September 2008, which included measures for the restoration of the dune system along the public beach; streetscape improvements and realignment for Pompano Beach Boulevard; streetscape improvements for the east end of Atlantic Boulevard; a mixed use project and parking garage with 500 parking spaces; a new Fire Station, Library and upgrades to North Riverside Drive Park; and

WHEREAS, the City's Community Redevelopment Agency adopted an East Financing and Implementation Plan, which sets forth financial resources required and necessary for the

CRA to attain its redevelopment goals in the East CRA, which includes the majority of the AOD area; and

WHEREAS, the City's Community Redevelopment Agency adopted a Northwest Financing and Implementation Plan, which sets forth financial resources required and necessary for the CRA to attain its redevelopment goals in the NW CRA; and

WHEREAS, in its adopted Comprehensive Plan, the City identified "Major Issue No. 5: City Sense of Place" wherein the City expressed that there is a unique opportunity for the City to capitalize on its key transportation corridors, its major attractions and the Northwest and East Redevelopment CRA's to improve on its sense of place; and

WHEREAS, the City also adopted a Strategic Plan for the City of Pompano, wherein the City adopted the following strategies in support of the CRA redevelopment plans:

- i. 2.0 Tourism: Make the City more attractive to residents, visitors and tourists and expand visitor and tourism markets.
- ii. 5.0 Corridor Redevelopment: Enhance Corridor Redevelopment
 - 5.1 Begin implementation of corridor studies and plans for Federal Highway, Atlantic Boulevard and Dixie Highway
 - 5.2 Promote Class A office space development on Atlantic Boulevard near I-95 and along the Dixie corridor
 - 5.3 Support and facilitate development of an education corridor along MLK
 - 5.4 Improve overall aesthetic appearances
- iii. 6.0 CRA Redevelopment: Enhance CRA area redevelopment
 - 6.1 Expand CRA incentive programs

WHEREAS, the City has contracted with The Renaissance Planning Group to prepare corridor studies for Atlantic Boulevard, Dixie Highway and Federal Highway to identify

elements crucial to economic development and redevelopment along these major city transportation corridors; and

WHEREAS, the Zoning Code of the City of Pompano Beach, is designed to promote health, and general welfare, and to promote adequate light and air, and to prevent the overcrowding of land, and to avoid the undue concentration of population, and to facilitate adequate transportation, water, sewage treatment, schools, parks and other public requirements; and

WHEREAS, the process of growth and change within the City requires the continuing analysis of living and working conditions; and

WHEREAS, the health, safety and welfare of the citizens of Pompano Beach are proper and necessary for the consideration of the City Commission; and

WHEREAS, the continual flux of patterns in the urban community requires intensive restudy of areas of the community; and

WHEREAS, the changing patterns often cause existing zoning districts to become outdated, inequitable, unbalanced and inappropriate as applied; and

WHEREAS, it is in the public interest to make a determination as to whether existing zoning uses are appropriate where it appears that changing patterns have cast doubt on their propriety; and

WHEREAS, it is in the public interest to review the Zoning Code so as to ensure that the City's economic redevelopment efforts are not frustrated due to a proliferation of incompatible uses; and

WHEREAS, it is in the public interest to protect the substantial financial investment the City has made in recent years to promote economic redevelopment; and

WHEREAS, the moratorium is intended to allow sufficient time to study the provision of these uses for the citizens of Pompano Beach and to create a long term strategy to ensure adequate access to such services is provided; and

WHEREAS, the moratorium is intended to allow sufficient time to study the provision and location of these uses in a manner that does not result in an over-concentration of these uses that will further result in the blighting or downgrading of the surrounding neighborhood; and

WHEREAS, the moratorium is intended to allow sufficient time to study the provision of these uses to ensure that there is a balance between the existing residential uses and the projected demand for and location of these uses; and

WHEREAS, the moratorium is also intended to allow sufficient time to study the provision of these uses within the AOD and the DPOD, TOC, East CRA, NW CRA, corridors connecting the CRA areas and the corridors being studied by The Renaissance Planning Group and to determine the impact of these uses on the economic redevelopment efforts included in the City's Comprehensive Plan, the City's Community Redevelopment Plans, the CRA East Financing and Implementation Plan, the CRA NW Financing and Implementation Plan, the City's Beach Master Plan, and the City's Strategic Plan; and

WHEREAS, while the study conducted by The Renaissance Planning Group will address the City's major transportation corridors, additional studies are needed to address the impact of permitted and prohibited uses in the City; and

WHEREAS, the City desires to ensure, while necessary studies are presently underway for the formulation and implementation of remedial measures referenced herein, that additional Applications, Orders and Permits, as specified in the City's Code of Ordinances ("CODE") listed

below not be processed or issued in the City within the scope of the moratorium which is described herein:

Health Care Uses (Code Sec. 155.4209), Check Cashing Store (Code Sec. 155.4221.C), Convenience Store (Code Sec. 155.4222.F), Liquor or Package Store (Code Sec. 155.4222.K), Pawn Shop (Code Sec. 155.4222.L), Thrift Shop (Code Sec. 155.4222.M) and Dormitory (Code Sec. 155.4303.II);

and

WHEREAS, in accordance with Florida Statutes, Section 166.041 (3)(c)2, advertisement in accordance with said statute have been published in a newspaper of general paid circulation in the City of Pompano beach and of general interest and readership in the community, notifying the public of two public hearings on this proposed Ordinance; and

WHEREAS, two public hearings have been held pursuant to said published hearings and all persons so desiring had the opportunity to be and were, in fact, heard; now therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. Moratorium Imposed; Applicability.

A. During the time that this Ordinance is in effect as specified herein, there shall be a moratorium upon the acceptance of applications and the issuance of Development Orders and Permits, as defined in Section 163.3164, Florida Statutes, (collectively “Development Orders”) approving Health Care Uses (Code Sec. 155.4209), Check Cashing Store (Code Sec. 155.4221.C), Convenience Store (Code Sec. 155.4222.F), Liquor or Package Store (Code Sec. 155.4222.K), Pawn Shop (Code Sec. 155.4222.L), Thrift Shop (Code Sec. 155.4222.M) and Dormitory (Code Sec. 155.4303.II).

SECTION 2. Vested Rights.

A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:

1. A governmental act of development approval obtained prior to the effective date of this Ordinance; and
2. Upon which the owner has detrimentally relied, in good faith, by making such a substantial change in position or incurring such extensive obligations and expenses; and
3. That it would be highly inequitable to deny the property owner the right to complete development.

B. Except as provided by paragraph (C) below, any property owner claiming to have vested rights under this Section must file an application with the City Manager for a vested rights determination within thirty (30) days after the effective date of this Ordinance. The application shall be accompanied by a fee of \$600.00 and contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentation required by the City Manager and other documentary evidence supporting the claim. The City Manager shall review the application and, based upon the evidence submitted, shall make a determination as to whether the property owner has established vested rights. The City Manager's decision shall be subject to appeal by the applicant for vested rights determination or by a third party claiming to be adversely affected by the City Manager's decision, provided that the third party can demonstrate a legally recognizable interest which is or will be affected by the decision and that such interest, which while it may be shared in common generally with other members of the community, is definite and exceeds in degree the general interest in the community good shared by all persons. Such appeals may be made to the City Commission by notice of appeal filed with the City

Manager within ten (10) days after the City Manager's written decision. In the event of a timely appeal, the City Commission shall hold a public hearing on appeal and, based upon the evidence submitted, shall make a determination as to whether or not the property owner has established vested rights. To the extent that a property owner demonstrates vested rights, the moratorium shall not be applied to that owner.

C. Any property owner establishing vested rights under this Section shall not be subject to this moratorium and shall be authorized to apply for Orders, and Permits in accordance with a Vested Rights Determination Agreement to be executed by the City and the property owner. A copy of the Vested Rights Determination Agreement shall be filed with the City Clerk, accompanied by a letter which references this paragraph (C) within Forty-five (45) days after the effective date of the City Commission's determination under this Section.

SECTION 3. Appeals. Appeals from final decision by the City Commission under Section 2 of this Ordinance shall be by the filing of a Petition for Certiorari in the Circuit Court of the Seventeenth Judicial Circuit in and for Broward County in accordance with the Florida Rules of Appellate Procedure for the review of the quasi-judicial rulings of municipalities.

SECTION 4. Exhaustion of Administrative Remedies. No property owner claiming that this Ordinance as applied constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim unless he or she has first exhausted all administrative remedies provided for in Section 2.

SECTION 5. Term. The moratorium imposed by this Ordinance is temporary and, unless dissolved earlier by the City, shall automatically dissolve in six (6) months from the effective date of this Ordinance unless otherwise extended in accordance with applicable law.

The moratorium may be reasonably extended, if, necessary, by Ordinance of the City Commission.

SECTION 6. Conflicts. All Sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of Ordinances, and all Resolutions, or parts of Resolutions, in conflict with this Ordinance are repealed to the extent of such conflict.

SECTION 7. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 8. Effective Date. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 23rd day of June, 2015.

PASSED SECOND READING this 14th day of July, 2015.

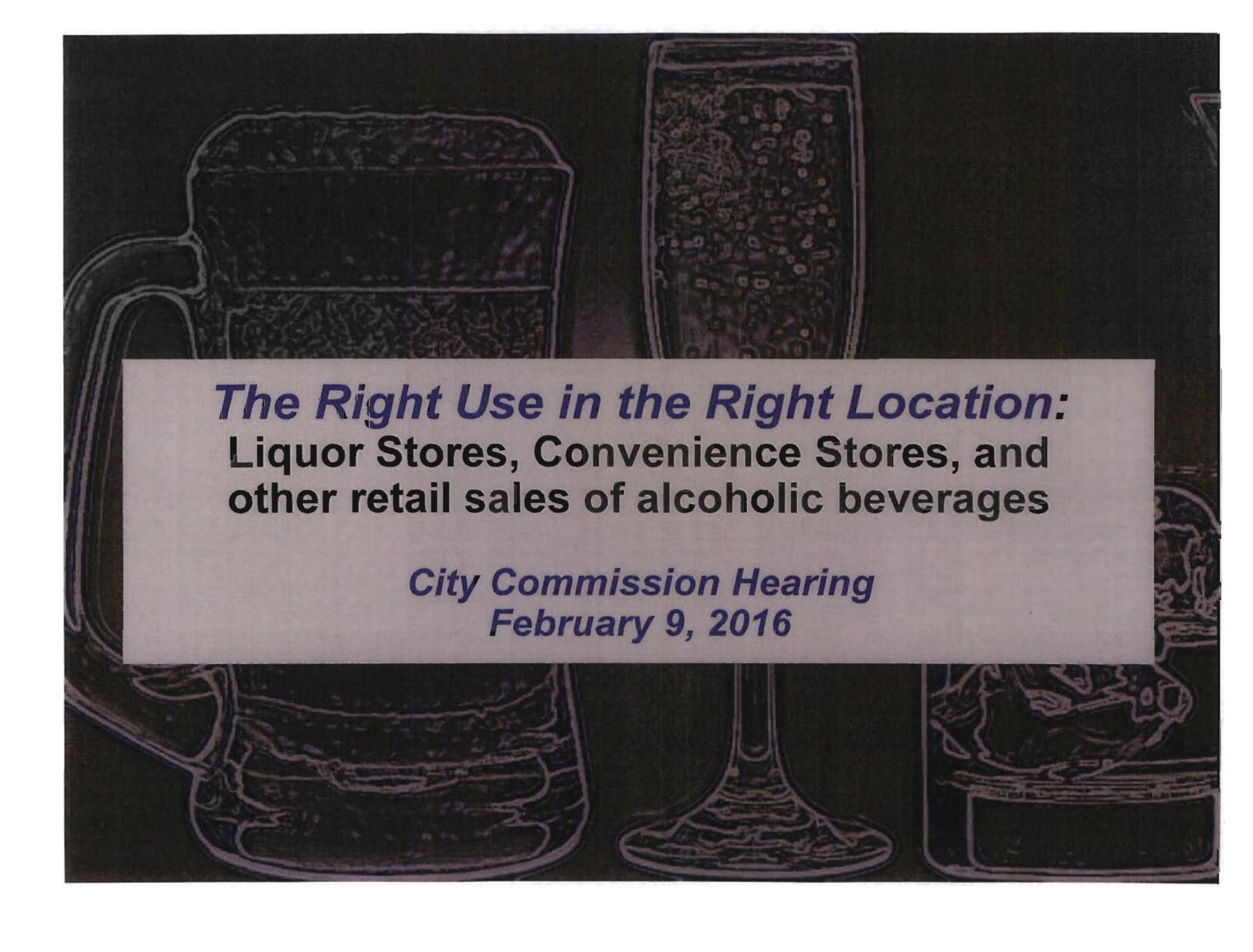

LAMAR FISHER, MAYOR

ATTEST:


ASCELETA HAMMOND, CITY CLERK

GBL/tal/ds:jrm
7/15/2015
l:ord/2015-367a

PowerPoint
Presentation for
the City
Commission
Hearing



The Right Use in the Right Location:
**Liquor Stores, Convenience Stores, and
other retail sales of alcoholic beverages**

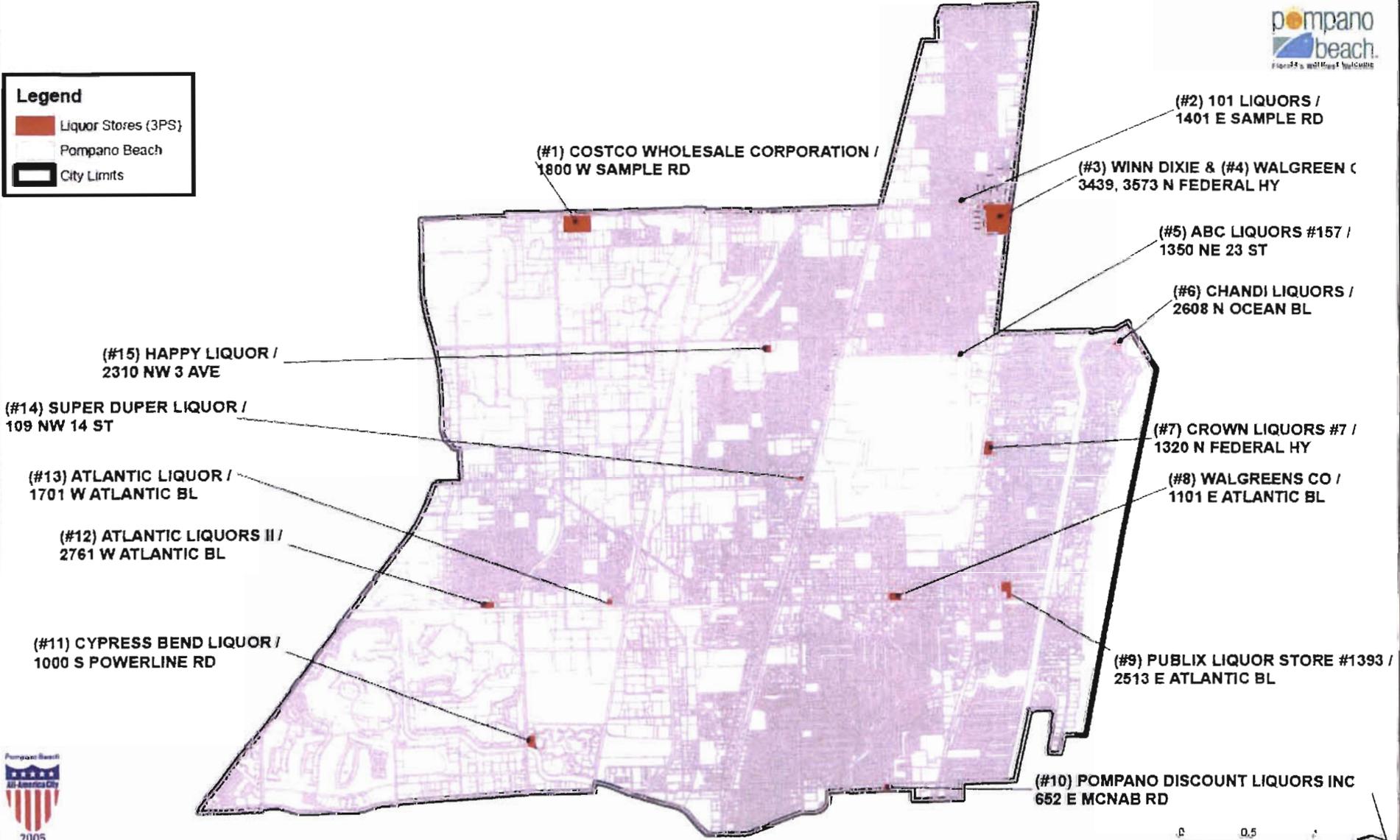
***City Commission Hearing
February 9, 2016***

Locations of 15 Existing Liquor Stores



Legend

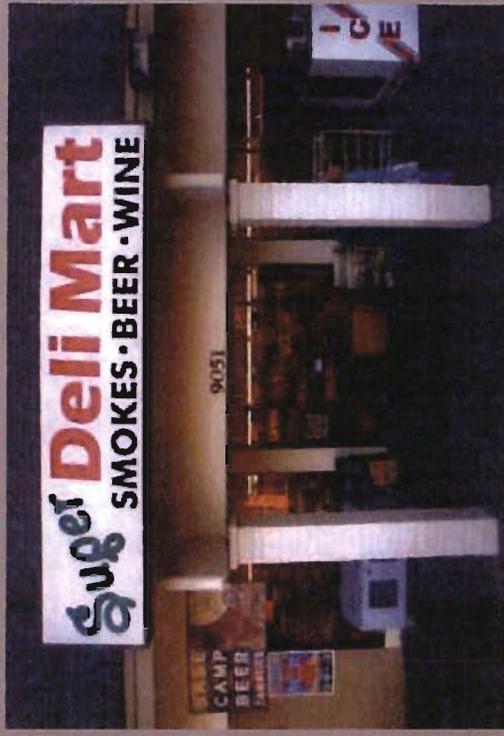
- Liquor Stores (3PS)
- Pompano Beach
- City Limits



Map: 20050805_Visualization of Technical Services Planning Key Data Analysis Map (All-ABL) - AutoCAD Map 3D

Beer Sales in Convenience Stores

How does city ensure that "Grocery or Convenience Store" is primarily for sales of foodstuffs and nonalcoholic beverages.



VS.



Recommendations

- **Create two liquor store uses (local and regional)**
 - Prohibit Drive-Through
 - Require Special Exception approval for Local Liquor Stores in all B Districts
 - Require Special Exception approval for Regional Liquor Stores in B-1 and B-2 Districts
 - Exempt Regional Liquor Stores from separation from other alcoholic beverage uses.

- **Create use for sales of beer or wine**
 - Prohibit Drive-Through
 - Require Special Exception approval in B-1, B-2, and B-3 Districts
 - Require separation from other alcoholic beverage uses
 - Create sub-category use “Specialty Store” which focuses on craft beverages or beverages from specific region and exempt from separation from other alcoholic beverage uses.

- **Allow grocery stores or convenience stores to have up to 20% of merchandise display area devoted to beer or wine.**
 - Any greater % is considered beer or wine store.

- **Create accessory use for package sales at bar and lounges**
 - Require Special Exception approval in B-1, B-2, and B-3 Districts
 - Require separation from other alcoholic beverage uses

- **Create accessory use for sales of beer, wine, or liquor at breweries, wineries, or distilleries**
 - Permit as accessory use
 - Exempt from separation from other alcoholic beverage uses

