



OFFICIAL NOTICE

CITY OF CASSELBERRY PLANNING AND ZONING COMMISSION LOCAL PLANNING AGENCY

Wednesday, November 8, 2023
6:30 PM

City Commission Chambers
1st Floor, Casselberry City Hall
95 Triplet Lake Drive, Casselberry, Florida

TO THE PUBLIC: Persons are advised that if they decide to appeal any decisions made at these meetings/hearings they will need a record of the proceedings and for such purpose, they may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based per Section 286.0105, Florida Statutes.

Persons with disabilities needing assistance to participate in any of these proceedings should contact the City of Casselberry A.D.A. Coordinator, 48 hours in advance of the meeting at (407) 262-7700, ext. 1150.

This is a public meeting, and the public is invited to attend. This agenda is subject to change. Please be advised that one (1) or more members of the City Commission and/or one (1) or more members of any of the City's Advisory Boards may be in attendance and may participate in the discussion at the meeting.

Persons can obtain an electronic copy of the agenda packet for this meeting by making a public records request to the City Clerk's Office by calling (407) 262-7700, Ext. 1133 or emailing cityclerk@casselberry.org.

AGENDA

1. **Meeting Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Approval of Minutes - None**
5. **Disclosure of Ex Parte Communications**
6. **Conditional Use Applications**
 - A. **CU 23-15: Conditional Use Request for 1455 S.R. 436, Suite #117**
Conditional Use Request (CU 23-15) for Beer and Wine Sales (2COP) for On-Site Consumption at 1455 S.R. 436, Suite #117
7. **Site Plan Applications - None**
8. **Future Land Use and Rezoning Amendments - None**
9. **Public Hearings**
 - A. **BA 23-02: Variance Request for at Wheel Park Phase I**
Variance Request (BA 23-02) to Allow Specialty Lighting to Exceed the 20 ft. Maximum Height for Wheel Park Phase I, Located East of N. Winter Park Drive
 - B. **BA 23-03: Variance Request for Wheel Park Phase II**
Variance Request (BA 23-03) to Allow Specialty Lighting to Exceed the 20 ft. Maximum Height for Wheel Park Phase II, Located West of N. Winter Park Drive
10. **Other Business**

11. Citizens' Comments

12. Adjournment

Date

Donna G. Gardner, CMC
City Clerk



City of Casselberry

Community Development Department

95 Triplet Lake Drive, Casselberry, Florida 32707 • Telephone (407) 262-7751

To: Planning and Zoning Commission
From: Community Development Staff
Date: November 8, 2023
Subject: CU 23-15: Conditional Use Request for 1455 S.R. 436, Suite #117

REQUEST: Conditional Use Request (CU 23-15) for Beer and Wine Sales (2COP) for On-Site Consumption at 1455 S.R. 436, Suite #117

INTRODUCTION: The Community Development Department, Planning Division, requests that the Planning and Zoning Commission/Local Planning Agency (P&Z) consider a conditional use request from the applicant to sell beer and wine for on-site consumption (2COP) at a new restaurant located at the subject property, 1455 S.R. 436, Suite #117.

Article II, Section 1-2.6 of the City's *Unified Land Development Regulations* (ULDR) authorizes P&Z to review conditional use requests. ULDR Article VI sets forth specific criteria for approving the conditional use request. Furthermore, Chapter 10 of the City's *Code of Ordinances* (City Code) regulates the sale and consumption of alcoholic beverages.

GENERAL INFORMATION: The applicant, Mr. Gerald Prescott, intends to serve beer and wine at a new restaurant in an existing retail plaza, known as Casselberry Commons. Big Taco, a quick-service Tex-Mex establishment, will serve a range of Mexican food items, such as burritos, nachos, tacos, and churros, as well as beer and wine – for both on-site and off-site consumption (Attachment 1 - Menu).

The subject property has a Future Land Use Map (FLUM) designation of Major Thoroughfare Mixed-Use (MTMU) and is in the CG (Commercial General) zoning district (Attachment 2 - Maps). ULDR Table 2-5.3, "Land Use by District," states that the sale of alcohol requires conditional use approval in the CG zoning district.

The serving of alcohol will be incidental to the site's primary use as a restaurant, which the applicant proposes to operate from 11 a.m. to 9 p.m. from Sunday to Thursday and 11 a.m. to 10 p.m. on Fridays and Saturdays (Attachment 3 – Letter of Intent). City Code Section 10-2 limits the sale and on-site consumption of alcoholic beverages to the hours between 7:00 a.m. and 2:00 a.m., seven days a week. The applicant's proposed schedule is consistent with the City's hours of sale and consumption regulations. Additionally, the applicant has not presented any outdoor seating.

ANALYSIS: ULDR Article VI, Section 2-6.2 provides criteria for reviewing conditional use requests, which staff has evaluated, summarized, and outlined below.

1. Land use compatibility.

The subject property is located on the northwest corner of the intersection of S.R. 436 and Howell Branch Road. The property is in the CG (Commercial General) zoning district with a FLUM of Major Thoroughfare Mixed-Use (MTMU). Adjacent properties to the north and east consist of various commercial uses, such as a bank, an apartment complex, and quick-service restaurants. The properties to the south and west are Seminole County and City of Casselberry

properties, respectively, and consist of multifamily housing. The proposed use is compatible with surrounding land uses and will not adversely impact land uses in the immediate vicinity.

2. Sufficient site size and adequate site specifications to accommodate the proposed use.

Big Taco will be located in Suite #117, which is situated among the other tenant suites in the northern part of the subject property (Attachment 4 - Site Plan). Casselberry Commons is a retail plaza that was redeveloped in the late 1990s. The applicant is not proposing any changes that would alter the original development approval, including additional square footage or impervious areas (Attachment 5 - Proposed Interior Plan).

3. Proper use of mitigative techniques.

According to Section 10-7(1)(c) of the City Code, a restaurant holding a 2COP alcoholic beverage license that derives at least 51 percent of gross revenue from selling food and nonalcoholic beverages is exempt from meeting distance separation requirements. The applicant has provided a menu and confirmed food and nonalcoholic beverage sales shall account for more than 51 percent of gross revenue. The site is, therefore, exempt from distance separation requirements.

4. Hazardous waste.

Any hazardous waste produced by the business shall be disposed of according to local, state, and federal laws.

5. Compliance with applicable laws and ordinances.

Possession of both City and County Business Tax Receipts, as well as any applicable permits, licenses, and inspections from other agencies, must be provided to the City prior to the sale of beer and wine.

STAFF RECOMMENDATION: Staff recommends that case number CU 23-15 be approved with staff's conditions, based upon the staff report and the testimony and evidence presented, that the request meets the applicable provisions of the ULDR as per the written findings contained within the staff report. The conditions of approval are as follows:

1. The conditional use shall be limited to the subject parcel, 1455 S.R. 436.
2. Before any outdoor seating can be used, an approved site plan modification must be obtained. Additionally, any sales or consumption of alcoholic beverages (except for authorized package sales) must take place inside the establishment until an outdoor seating area has been approved as part of a site plan modification.
3. The sale of alcoholic beverages is prohibited when food service is not available.
4. At least 51 percent of gross revenue shall be derived from the sale of food and nonalcoholic beverages.
5. The hours of on-site alcohol consumption and sales shall comply with the hours outlined in City Code Section 10-2.
6. The conditional use shall commence within 120 days of the approval.
7. The conditional use shall expire if the use is discontinued for more than 90 days.
8. All of the above conditions shall be fully and faithfully executed, or the conditional use shall become null and void.

ATTACHMENTS:

1. Menu
2. Maps
3. Letter of Intent
4. Site Plan

5. Proposed Interior Plan



City of Casselberry

Community Development Department

95 Triplet Lake Drive, Casselberry, Florida 32707 • Telephone (407) 262-7751

To: Planning and Zoning Commission
From: Community Development Staff
Date: November 8, 2023
Subject: BA 23-02: Variance Request for at Wheel Park Phase I

REQUEST: Variance Request (BA 23-02) to Allow Specialty Lighting to Exceed the 20 ft. Maximum Height for Wheel Park Phase I, Located East of N. Winter Park Drive

INTRODUCTION: The Community Development Department, Planning Division, requests that the Planning and Zoning Commission/Local Planning Agency (P&Z) hold a public hearing to consider a variance request from the applicant, the City's Public Works and Utilities Department, to permit the installation of specialty lighting, with lighting fixture heights to exceed the 20 ft. maximum allowable height limit per Section 3-10.2, Table 2, "Fixture Height," of the City's *Unified Land Development Regulations* (ULDR).

ULDR Section 1-2.7 outlines the associated variance request procedures and indicates that the Planning and Zoning Commission shall have the quasi-judicial power necessary to grant such variances. Accordingly, this public hearing was advertised in the *Orlando Sentinel* on October 24, 2023, and a notification letter was sent that same day to all property owners within 300 ft. of the subject property. The next day, October 25, 2023, a notice of the variance request was posted on the subject property.

GENERAL INFORMATION: Wheel Park Phase I encompasses five parcels totaling ±6.19 acres and sits south of Belle Avenue to the east of N. Winter Park Drive. The subject properties have a Recreation and Open Space (ROS) Future Land Use Map (FLUM) designation and are zoned ROS (Recreation and Open Space) (Attachment 1 - Maps). Wheel Park Phase I, which focuses on bicycles, received site plan approval from the City Commission in September 2023 (Attachment 2 - Site Plan).

The applicant proposes a variance to ULDR Section 3-10.2.6, Table 2, to allow eight light poles to be installed with mounted light fixtures at 40 ft., which exceeds the maximum height permitted of 20 ft. (Attachment 3 - Specialty Lighting Layout). However, ULDR Section 3-10.2.6, Table 2, Footnote (3) indicates that fixture mounting heights may exceed the maximum 20-ft. height upon variance approval by the Planning and Zoning Commission. The specialty lighting will adequately illuminate the bicycle tracks to ensure adequate visibility and overall safety during operating hours.

ANALYSIS: The "test of variance" and relief from the performance standards in the ULDR is afforded through ULDR Section 1-2.7 and ULDR Section 3-10.2.6, Table 2, "Fixture Height," Footnote (3). Relief from the requirements of the applicable regulations may be granted by the P&Z when the proposed variance is not contrary to the public interest and where enforcement of these provisions results in an unnecessary hardship. When appropriate, the P&Z may also prescribe conditions when granting a variance that meets all of the following criteria of ULDR Section 1-2.7, which staff has outlined, summarized, and evaluated below.

Criteria #1: Existence of special conditions or circumstances. *That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.*

Analysis: The section of code from which the applicant requests a variance intends to regulate nonresidential properties, as noted in the definition of "Lighting Subject to this Ordinance" in ULDR Section 3-10.2.6.B. The code section from which the applicant requests a variance is meant to regulate nonresidential properties, as noted in the definition of "Lighting Subject to this Ordinance" in ULDR Section 3-10.2.6.B. As such, the related definition specifically calls out properties zoned OR (Office/Residential), CL (Limited Commercial), CG (Commercial General), CS (Commercial Service), I (Industrial), and PS (Public Service). Multi-family developments, mobile home park districts, and all nonresidential uses within PRD (Planned Residential Development) and PMX (Planned Mixed-Use) zoning districts. The special condition of the subject property's zoning warrants circumstances beyond that of other land, structures, and buildings controlled by ULDR Section 3-10.2.

Criteria #2: Conditions not created by applicant. *That the special conditions and circumstances do not result from the action or negligence of the applicant.*

Analysis: The height of the requested lighting is a typical design standard for recreational activities that are suitable for properties zoned ROS. The applicant does not create these conditions; rather, the proposed specialty lighting is dictated by photometric and other related industry standards to ensure the safe use of the proposed bicycle tracks and other elements included in the approved site design.

Criteria #3: Special privileges not conferred. *That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings, or structures in the same zoning district.*

Analysis: Granting the variance requested will not confer any special privileges to other ROS-zoned properties as the requested lighting height is specific to the site's proposed use of bicycles and unique layout. The lighting height is required for the safety of participants.

Criteria #4: Hardship conditions exist. *That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

Analysis: The literal interpretation of the provisions of the land development regulations includes all nonresidential properties, which includes ROS; however, ROS is a park, recreation, and open space zoning district. Provisions of Section 3-10.2 are intended for commercial properties, as noted by the included list of zoning districts which excludes ROS. A hardship exists at no fault of the applicant due to the lighting height requirements for the safety of participants common for some park amenities.

Criteria #5: Only minimum variance granted. *That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.*

Analysis: The requested variance is the minimum required for reasonable use of the land. The fixture height requested is the minimum necessary for the proposed bicycle tracks and other elements included in the approved site design.

Criteria #6: Not injurious to the public welfare. *That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.*

Analysis: Granting the variance would be in harmony with the general intent and purpose of the ULDR. The variance would not be injurious to the neighborhood or detrimental to the public welfare.

Staff finds that the proposed variance adequately conforms to the criteria outlined in ULDR Section 1-2.7.

STAFF RECOMMENDATION: Staff recommends that case number BA 23-02 be approved with staff's conditions and finds that based upon the staff report and the testimony and evidence presented, the request meets the applicable provisions of the *Unified Land Development Regulations* and is consistent with the *Comprehensive Plan* as per the written findings contained in the staff report. The conditions of approval are as follows:

1. A building permit is required for the installation of the specialty lighting.
2. Any site lighting changes or additions shall not be installed without prior review and approval of the City's Planning Division.
3. All of the above conditions shall be fully and faithfully executed, or the variance shall become null and void.

ATTACHMENTS:

1. Maps
2. Approved Site Plan
3. Specialty Lighting Layout



City of Casselberry

Community Development Department

95 Triplet Lake Drive, Casselberry, Florida 32707 • Telephone (407) 262-7751

To: Planning and Zoning Commission
From: Community Development Staff
Date: November 8, 2023
Subject: BA 23-03: Variance Request for Wheel Park Phase II

REQUEST: Variance Request (BA 23-03) to Allow Specialty Lighting to Exceed the 20 ft. Maximum Height for Wheel Park Phase II, Located West of N. Winter Park Drive

INTRODUCTION: The Community Development Department, Planning Division, requests that the Planning and Zoning Commission/Local Planning Agency (P&Z) hold a public hearing to consider a variance request from the applicant, the City's Public Works and Utilities Department, to permit the installation of specialty lighting, with lighting fixture heights to exceed the 20 ft. maximum allowable height limit per Section 3-10.2, Table 2, "Fixture Height," of the City's *Unified Land Development Regulations* (ULDR).

ULDR Section 1-2.7 outlines the associated variance request procedures and indicates that the Planning and Zoning Commission shall have the quasi-judicial power necessary to grant such variances. Accordingly, this public hearing was advertised in the *Orlando Sentinel* on October 24, 2023, and a notification letter was sent that same day to all property owners within 300 ft. of the subject property. The next day, October 25, 2023, a notice of the variance request was posted on the subject property.

GENERAL INFORMATION: Wheel Park Phase II spans five parcels totaling ±5.34 acres on the west side along N. Winter Park Drive. The subject properties have a Recreation and Open Space (ROS) Future Land Use Map (FLUM) designation and are zoned ROS (Recreation and Open Space) (Attachment 1 - Maps). Wheel Park Phase II, which focuses on roller skates and blades and skateboards, received site plan approval from the City Commission in September 2023 (Attachment 2 - Site Plan).

The applicant proposes a variance to ULDR Section 3-10.2.6, Table 2, to allow six light poles to be installed with mounted light fixtures at 60 ft., which exceeds the maximum height permitted of 20 ft. (Attachment 3 - Specialty Lighting Layout). However, ULDR Section 3-10.2.6, Table 2, Footnote (3) indicates that fixture mounting heights may exceed the maximum 20-ft. height upon variance approval by the Planning and Zoning Commission. The specialty lighting will adequately illuminate the skate bowls to ensure adequate visibility and overall safety during operating hours.

ANALYSIS: The "test of variance" and relief from the performance standards in the ULDR is afforded through ULDR Section 1-2.7 and ULDR Section 3-10.2.6, Table 2, "Fixture Height," Footnote (3). Relief from the requirements of the applicable regulations may be granted by the P&Z when the proposed variance is not contrary to the public interest and where enforcement of these provisions results in an unnecessary hardship. When appropriate, the P&Z may also prescribe conditions when granting a variance that meets all of the following criteria of ULDR Section 1-2.7, which staff has outlined, summarized, and evaluated below.

Criteria #1: Existence of special conditions or circumstances. *That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.*

Analysis: The section of code from which the applicant requests a variance intends to regulate nonresidential properties, as noted in the definition of "Lighting Subject to this Ordinance" in ULDR Section 3-10.2.6.B. The code section from which the applicant requests a variance is meant to regulate nonresidential properties, as noted in the definition of "Lighting Subject to this Ordinance" in ULDR Section 3-10.2.6.B. As such, the related definition specifically calls out properties zoned OR (Office/Residential), CL (Limited Commercial), CG (Commercial General), CS (Commercial Service), I (Industrial), and PS (Public Service). Multi-family developments, mobile home park districts, and all nonresidential uses within PRD (Planned Residential Development) and PMX (Planned Mixed-Use) zoning districts. The special condition of the subject property's zoning warrants circumstances beyond that of other land, structures, and buildings controlled by ULDR Section 3-10.2.

Criteria #2: Conditions not created by applicant. *That the special conditions and circumstances do not result from the action or negligence of the applicant.*

Analysis: The height of the requested lighting is a typical design standard for recreational activities that are suitable for properties zoned ROS. The applicant does not create these conditions; rather, the proposed specialty lighting is dictated by photometric and other related industry standards to ensure the safe use of the proposed skate bowls and other elements included in the approved site design.

Criteria #3: Special privileges not conferred. *That granting the variance requested will not confer upon the applicant any special privileges denied by the land development regulations to other lands, buildings, or structures in the same zoning district.*

Analysis: Granting the variance requested will not confer any special privileges to other ROS-zoned properties as the requested lighting height is specific to the site's proposed use of bicycles and unique layout. The lighting height is required for the safety of participants.

Criteria #4: Hardship conditions exist. *That literal interpretation of the provisions of the land development regulations would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this ordinance and would work unnecessary and undue hardship on the applicant.*

Analysis: The literal interpretation of the provisions of the land development regulations includes all nonresidential properties which includes ROS; however, ROS is a park, recreation, and open space zoning district. Provisions of Section 3-10.2 are intended for commercial properties as noted by the included list of zoning districts which excludes ROS. A hardship exists at no fault of the applicant due to the lighting height requirements for the safety of participants common for some park amenities.

Criteria #5: Only minimum variance granted. *That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.*

Analysis: The requested variance is the minimum required for reasonable use of the land. The fixture height requested is the minimum necessary for the proposed skate bowls and other elements included in the approved site design.

Criteria #6: Not injurious to the public welfare. *That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public interest or welfare.*

Analysis: Granting the variance would be in harmony with the general intent and purpose of the ULDR. The variance would not be injurious to the neighborhood or detrimental to the public welfare.

Staff finds that the proposed variance adequately conforms to the criteria outlined in ULDR Section 1-2.7.

STAFF RECOMMENDATION: Staff recommends that case number BA 23-03 be approved with staff's conditions and finds that based upon the staff report and the testimony and evidence presented, the request meets the applicable provisions of the *Unified Land Development Regulations* and is consistent with the *Comprehensive Plan* as per the written findings contained in the staff report. The conditions of approval are as follows:

1. A building permit is required for the installation of the specialty lighting.
2. Any site lighting changes or additions shall not be installed without prior review and approval of the City's Planning Division.
3. All of the above conditions shall be fully and faithfully executed, or the variance shall become null and void.

ATTACHMENTS:

1. Maps
2. Approved Site Plan
3. Specialty Lighting Layout