



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison, Planning & Development Director

DEPARTMENT: Planning & Development

MEETING: Town Council April 9, 2024

SUBJECT: Text Amendment to Chapter 40 Art. III. Zoning District Regulations, Art. V. Off-street Parking and Loading Requirements; Parking, and Art. IX. Development Standards for Particular Uses to amend standards for Wine and Beer Shops.

Applicant: Neapolitan Enterprises, Inc.

BACKGROUND:

The applicant, Neapolitan Enterprise, Inc is proposing a text amendment to allow for Wine Shops and Beer Shops with on-premise alcohol sales as a use in the Marina Business (MB) District by right. The Wine and Beer shop on-premise use was adopted in April of 2023 after an amendment was submitted by a private business. Prior to that the ordinance only allowed for Wine and Beer Shops with retail and off-premise sales of alcohol only.

Proposal:

The applicant owns the Neapolitan located in the MB district (See map). The business currently has an off-premise wine and malt beverage permit. The applicant would like to apply for on-premise wine and malt beverage permit at that location. Neapolitan is currently permitted as a retail establishment. For allowances of on-premise wine and malt beverage the current ordinance categorizes the use as either a standard restaurant or bar in the Marina Business. Wine and Beer Shops are currently not allowed in the MB district.

Wine Shop:

The applicant proposes to add wine shop (on-premise) to the table of allowed uses. The current ordinance allows for wine shops (on-premise) in the CBD, HB and NB zoning districts. The ABC commission created a new allowance for a wine shop to have limited sales of on-premise consumption. Wine shops must comply with all ABC standards and obtain proper permits. Per NCGS 18B, wine shop permits authorize the retail sale of malt beverages, unfortified wine, and fortified wine in the manufacturer's original container and/or dispensed from a tap for consumption off the premises. The holder of the permit is allowed to sell unfortified wine for consumption on the premises, provided that the sale of wine for consumption on the premises does not exceed forty percent (40%) of the establishment's total sale for any 30 day period. The

limited consumption of on-premise wine would be subject to an audit by the ABC commission. Wine Shops (on-premise) are proposed to be permitted by right in the MB Districts.

Beer Shop:

The applicant would also like the ability to provide malt beverage on-premise in the MB district. Beer shops would need to obtain an On-Premises Malt Beverage Permit to allow for the retail sale of malt beverages for consumption on and off premise. The ABC regulations do not have the same limitations for a Beer Shop as they do for a Wine Shop and would be allowed to offer malt beverage on-premise without any limitation or percentages to off-premise sales. The proposal is for Beer Shops to be permitted by right in the MB District. To reduce the impacts from the use of adjoining properties, restrictions were adopted for any outdoor or indoor areas to be from an adjacent property line or residential use. The applicant proposes to amend the standard to state any indoor or outdoor areas shall be located three times the minimum setback yard from any residential district.

The text amendment adopted in April consisted of defining both uses. Beer Shops were defined as an establishment substantially engaged in retail sale of malt beverages on and off premises subject to the ABC Commission regulations. Wine Shops were defined as an establishment substantially engaged in retail sale of unfortified wine and fortified wine for consumption on and off premises subject to the NC ABC Commission regulations.

Parking

When the amendment was adopted in April Wine and Beer Shops were categorized under eating and drinking establishments. Under this category the Neapolitan would be a change of use from retail to an eating and drinking establishment. This is important because the change of use would trigger a different parking standard. Parking for retail is calculated 1 parking space per 200 sq. ft. of retail space. Parking for eating and drinking establishments are calculated by 1 space per 110 sq. ft.

The Neapolitan was issued a permit as a retail establishment in 2022. This is a grandfathered use as the previous use of the property, the Checkered Church operated as a retail establishment since the mid 90's. Because this would be considered a change of use the applicant is proposing to amend the parking calculation to specifically state that Wine and Beer Shops (Retail/Off-premise) is based off on the retail parking calculation while also amending the use table to be consistent.

Recommendation:

Staff have met with the applicant on what sections of the ordinance would need to be amended that would accomplish the goal of being able to have on premise wine and beer at their location. It was discussed with the applicant the concerns that are identified below for the Council review.

- Wine Shops are treated differently by the state that limit on premise consumption, but Beer Shops do not have any limitations from ABC regulations or audits. The proposal is for Wine and Beer shops with on premise consumption to be permitted by right. By expanding the allowance to other areas of town it may undermined Bar regulations as

they need a conditional zoning and have larger setback standards from residential districts (200 ft).

- Wine Shops by ABC regulations are treated as accessory to off-premise retail, but again Beer Shops do not have any ABC regulations for on premise consumptions and the impacts of parking could be similar to that of Bars.
- Currently if you are approved as a Bar you can be permitted to have mixed beverage, malt beverage and wine on-premises. The allowance would expand the way the town as treated alcohol permits with establishments being permitted by right for wine and beer. If an establishment would like to offer mixed beverage, then it would still need to be permitted as a bar.
- The Planning & Zoning Commission recommended denial of the text amendments as proposed.

Land Use Plan:

The Land Use Plan does not specifically address wine and beer shops, but the MB zoning district is classified as the Marina Commercial/Industrial Mixed Use. The desired uses are water-based commercial, service, and light industrial uses, and sometimes water-related businesses (such as restaurants). These businesses rely on water access, so structures are purpose-built and traditional maritime activities are common.

ACTION REQUESTED:

Consider recommending approval or denial of the text amendment.

MOTION:

Approval – to amend text amendment to Chapter 40 Art. III. Zoning District Regulations, Art. V. Off-street Parking and Loading Requirements; Parking, and Art. IX. Development Standards for Particular Uses to amend standards for Wine and Beer Shops.

Denial – to amend text amendment to Chapter 40 Art. III. Zoning District Regulations, Art. V. Off-street Parking and Loading Requirements; Parking, and Art. IX. Development Standards for Particular Uses to amend standards for Wine and Beer Shops.