

ICVB Board of Directors Destination Development Committee Special Meeting September 9, 2021

Committee Goal:
Create Destination-Defining Development

1

1

Agenda

1. Citizen Comments on Items Listed on the Agenda
2. R-AB Discussion and Recommendations
3. Next Meeting – November 9, 2021

2

2

R-AB Ordinance Discussion & Recommendations

- Recap of Process & Requirements
- Recommendations

3

3

What exactly is R-AB?

- Requires approval through the zoning process, unique to Irving
 - Restaurant with attendant accessory use of the sale of alcoholic beverages for on-premises consumption
 - Is MUCH more than a ratio for food:alcohol sales
 - Most restaurant operators/owners don't understand the Irving process up front and only realize after they've signed a lease what it will take AND that it is not predictable nor consistent.
 - Requires very detailed site and floor plans that can only be modified through the same process.
- Originally passed in 1981
 - Required food sales of at least 60% (60:40), reported on a quarterly basis
- Amended in 2013 to 50:50 citywide, except 30:70/F:B in Urban Business Overlay District (Water Street and Music Factory)
- A process that - at its easiest – takes about 3 months, and several thousand dollars.

4

4

What is the R-AB Zoning Process?

- To open a restaurant with alcohol sales, or to add alcohol sales to an existing restaurant, or to expand or renovate your space if you have alcohol sales, you must FIRST:
 - Submit a zoning change application and its non-refundable minimum \$750 application fee (varies depending on restaurant site acreage)
 - Provide a detailed site plan of the entire property (\$)
 - Provide a detailed floor plan (\$)
 - Provide exterior elevations (\$)
 - Provide a professional survey (metes and bounds)/legal description (\$)
 - Provide menus for food and beverage offerings
 - Provide a description of the restaurant and its activities/offerings, and an estimation of your food:beverage ratio
- A “ghost kitchen” with alcohol sales is not required to have R-AB zoning because nothing is consumed on property.

5

5

What is the R-AB Zoning Process?, continued

- After those INITIAL submittals:
 - City staff site plan review to determine if any revisions will be required
 - City staff conducts an assessment to assure not less than 300' from a school, church or public hospital
 - Applicant provides necessary revisions until plan can be approved
 - Applicant then gets a zoning sign from the City, and puts the sign in front of property
 - City places the required by state law advertising and sends out public notices to all required to.
 - By state law, the ad must be published at least 15 days prior to the City Council meeting where the case will be heard.
 - By state law, the public notice must go out 10 days prior to the Planning & Zoning hearing.
 - Two public hearings must be held
 - 1 – Planning & Zoning
 - 2 – City Council
- Once/if Zoning is approved, then the applicant begins the TABC process, including city distance verification.
- Once Zoning is approved and TABC has verified distance, then permits can be issued.

6

6

Irving R-AB Reporting Requirements

- Once a restaurant zoned for the sale of alcoholic beverages is operating, the City Secretary's Office sends out an official notice and copies of the form required for semi-annual reporting of gross food and beverage sales.
- Semi-annually, City Finance department sends out reminders that reports are due.
 - These reports are shared with the Council semi-annually via the Read File.
 - If any restaurant is out of compliance, the City typically asks that the restaurateur submit a "viable business plan" for becoming compliant by the next reporting date. This plan is reviewed by the City Finance department.
 - If by the end of the next reporting period, the restaurant remains out of compliance, the staff is **REQUIRED** to place an item on the Council's agenda recommending revocation of the Certificate of Occupancy. A companion item is also carried on a Planning & Zoning Commission agenda prior to the Council meeting.
 - The purpose is to ensure they don't re-open in the same location with a new CO.
- The Council may provide additional time to gain compliance or revoke the CO or amend the ordinance.

7

7

Irving R-AB Reporting Requirements, continued

- The required ratios citywide in Irving currently are 50-50
EXCEPT:
 - Special Regulation Area – gross sales of alcohol may be 70% or less
 - Public Entertainment Facility (PEF)*:
 - Located in the urban business overlay district
 - Comprise a single, undivided tract of at least 15 acres
 - Contain a PEF as defined by TABC
 - Zoned for R-AB
 - May report its receipts in aggregate
- The distance requirements don't apply when the property is subject to an "urban business overlay district," a "transit mall overlay district," or property zoned "transit-oriented development district."

**PEF: "means an arena, stadium, ...track, amphitheater, auditorium, theater, civic center, convention center or similar facility that is primarily designed and used for live artistic, theatrical, cultural, educational, charitable, musical, sporting...or entertainment events...also includes a facility that is part of an approved venue project..."*

8

8

Irving R-AB Restrictions

- If a non-R-AB/non-restaurant tenant comes into a previously R-AB zoned space, can't operate until there is a zoning change...which requires the entire zoning process to start all over...
- If a non-R-AB restaurant and doesn't change its zoning, the restaurant STILL has to submit the semi-monthly food:alcohol sales reports even if the alcohol sales amount is \$0.
- If hotels with R-AB have a floor plan change, they have to re-submit an Administrative Amendment to their zoning – 2-4 week process.
- If outdoor seating was not part of any original plan/footprint, EVERYTHING STARTS OVER.
- When the serving footprint changes, EVERYTHING STARTS OVER.
- When capacity increases, EVERYTHING STARTS OVER.

9

9

What do we want to accomplish by recommending changes to the R-AB?

- Protect neighborhood and community integrity throughout the city
 - Continue to control land uses through Zoning tools
 - Continue to manage complaints through Code Enforcement, Inspections and Police as the situation requires
- Enhance and grow our restaurant community and its offerings to our visitors, residents and companies, especially in targeted redevelopment areas such as the Heritage District
 - Clean up the zoning process to make it consistent for all restaurants
 - Make the process efficient and affordable for restaurants to get a Certificate of Occupancy like any other business does and to operate
 - Level the playing fields
 - For all restaurants serving alcoholic beverages throughout the city
 - For Irving to compete with neighboring cities to accommodate more contemporary concepts
 - Eliminate barriers to opening a restaurant that sells alcohol
 - Allow flexibility for restaurants to adapt as market changes require it
 - Make it easy/free to "undo" existing R-AB zoning requirements
- Eliminate barriers for non-restaurant venues to accommodate special event revenue opportunities
 - Clean up the process so that venues like the Irving Archives & Museum can easily welcome a wide range of special events
- Involve the local restaurant industry as the process evolves
- Leave compliance reporting and enforcement in the hands of TABC

11

11

Discussion & Recommendations

12

12

Next Steps

- 1
Bring committee's recommendation as a resolution to full board for action at its Sept. 27 meeting
- 2
Forward resolution to City Council & City Staff for their discussion and action

13

13