



**DATE:** April 24, 2023

**TO:** Honorable Mayor and City Councilmembers  
Dave Perrault, City Administrator

**FROM:** Jessica Jagoe, Community Development Director

**SUBJECT:** **Planning Case #23-007 – Public Hearing Required**  
**Applicant:** Flaherty’s  
**Property Address:** 1273 West County Road E  
**Request:** Site Plan Review and Zoning Code Amendment

<b>Budgeted Amount:</b>	<b>Actual Amount:</b>	<b>Funding Source:</b>
N/A	N/A	N/A

**Council Should Consider**

Motion to approve, table, or deny the following

- Adoption of Resolution 2023-020 and Ordinance 2023-004 approving Planning Case 23-007 for a Site Plan Review at 1273 West County Road E and Zoning Code Amendments in Sections 1305.04, 1320.05, and 1325.02 – Subd. 5 of the Arden Hills City Code to define and allow for commercial recreational outdoor activity as an accessory use within the B-2, General Business.
- Authorization to publish a Summary Ordinance of 2023-004 for Planning Case 23-007.

*Approval for authorization to publish summary ordinance requires an affirmative vote of four councilmembers.*

**Background**

**1. Overview of Request**

The Applicant is applying for Site Plan Review for evaluation of the site layout and parking modifications that are being proposed to expand the existing outdoor patio area. The patio expansion will include additional dining tables, pergolas, a lounge area with fireplace, and a commercial recreation area for cornhole leagues. In order to construct the patio expansion, the Applicant would need to remove five parking spaces in front of the building. Two of those

spaces are accessible parking spaces that will be relocated near the patio within the existing parking lot. A Site Plan Review is required in any Business, Industrial, or Multiple Family Zoning District when there is the reorganization of parking, drives, and entrances.

As part of the application, the Applicant is also requesting a zoning code amendment to allow for commercial recreational use to be conducted outdoors in the B-2 Zoning District. Currently, the city code limits any commercial recreational activity to be conducted within an enclosed building (i.e. indoors). The Applicant is proposing that the allowance for a commercial recreation – outdoor would be limited to being an accessory use only when conducted in conjunction with a commercial recreation – indoor land use. Additionally, their narrative notes that restrictions could be included in the amended ordinance language such as capping the evening hours for which the outdoor recreational activity would be allowed (i.e. 10 PM) or no high voltage lighting (i.e. flood lights).

### **Findings of Fact**

The Planning Commission reviewed this application at their April 5, 2023 meeting and have offered the following findings of fact for your consideration.

#### *General Findings:*

1. The Applicant has submitted an application for Site Plan Review at 1273 West County Road E to expand the existing outdoor patio that will include an accessory outdoor commercial recreation area.
2. The Subject Property is located within the B2 General Business District and is guided as Community Mixed Use on the 2040 Land Use Plan.
3. Through the Site Plan Review, the Applicant is seeking approval to remove five off-street parking spaces and reconfigure the location of accessible parking spaces in order to expand the outdoor patio space.
4. The Applicant is proposing to add approximately 1,350 square feet of new impervious surface for the expanded outdoor patio area and is converting approximately the same square footage of existing impervious surface to a permeable surface with the addition of artificial turf on the Subject Property.
5. The proposed plan does not conflict with the general purpose and intent of the Zoning Code or the Comprehensive Development Plan for the City.
6. The application is not anticipated to create a negative impact on the immediate area or the community as a whole.
7. The proposed plan will not produce any permanent noise, odors, vibration, smoke, dust, air pollution, heat, liquid, or solid waste, and other nuisance characteristics.
8. The proposed plan is not anticipated to have any impact on traffic or parking conditions.
9. The outdoor patio and accessory commercial recreation – outdoor area would be in compliance with all provisions of the Zoning Code.
10. A public hearing is not required for Site Plan Review.

*Text Amendment Findings:*

1. Flaherty's, The Applicant, is proposing amendments to the language of Chapter 13 – Zoning Code of the City Code.
2. Currently, Section 1305.04 does not include a definition for Commercial Recreation – Outdoor.
3. The Applicant is proposing the City amend the zoning code to add a definition for Commercial Recreation - Outdoor to Section 1305.04 of the Zoning Code.
4. The Applicant is proposing an amendment to alter the Land Use Chart in Section 1320.05 of the Zoning Code to allow a Commercial Recreation – Outdoor as an Accessory Use in the B2 General Business District.
5. The proposed amendment advances the economic development goals in the City's Comprehensive Plan because it provides for land use regulations in commercial zones that provide flexibility for economic development while requiring high aesthetic standards.
6. Amendments to the Zoning Code regulations require a public hearing prior to action by the City Council.
7. If the zoning amendments were approved, an Applicant would be required to apply for an Administrative Permit for the accessory use to allow Commercial Recreation – Outdoor within the B2 Zoning District.
8. The Planning Commission conducted a public hearing for the Text Amendment on April 5, 2023.

**Options and Motion Language**

The Planning Commission reviewed this application at their April 5, 2023 meeting. At that time, they recommended approval with conditions of the application from Flaherty's for a Site Plan Review and Zoning Code Amendments by a 7-0 vote. The following are motion language options for the City Council to consider.

Adoption of Resolution 2023-020 and Ordinance 2023-004

- Approval with Conditions: Motion to *adopt* Resolution 2023-020 and Ordinance 2023-004 for Planning Case 23-007 for Site Plan Review at 1273 West County Road E and Zoning Code Amendments to Section 1305.04 - Definitions, Section 1320.05 – Land Use Chart and Section 1325.02 – Accessory Uses based on the findings of fact and the submitted plans, as amended by the conditions below:
  - 1) That the project shall be completed in accordance with the plans submitted as amended by the conditions of approval. Any significant changes to these plans, as determined by the Community Development Director, shall require review and approval by the Planning Commission and City Council.
  - 2) An administrative permit shall be obtained for the commercial recreation outdoor area.
  - 3) Prior to commencement of patio expansion, the Applicant shall provide the City with the final erosion control plans for review and approval by the Public Works Director/City Engineer.
  - 4) The Applicant shall be responsible for obtaining any permits necessary from other agencies, including but not limited to, Rice Creek Watershed District and Ramsey County prior to the start of any site activities. Verification whether a permit is required or not shall be provided to the City.

- Approval as Submitted: Motion to *adopt* Resolution 2023-020 and Ordinance 2023-004 for Planning Case 23-007 for Site Plan Review at 1273 West County Road E and Zoning Code Amendments to Section 1305.04 - Definitions, Section 1320.05 – Land Use Chart and Section 1325.02 – Accessory Uses based on the findings of fact and the submitted plans.
- Denial: Motion to *deny* approving Resolution 2023-020 and Ordinance 2023-004 for Planning Case 23-007 for Site Plan Review at 1273 West County Road E and Zoning Code Amendments to Section 1305.04 - Definitions, Section 1320.05 – Land Use Chart and Section 1325.02 – Accessory Uses based on the following findings of fact: *findings to deny should specifically reference the reasons for denial and why those reasons cannot be mitigated.*
- Table: Motion to *table* approving Resolution 2023-020 and Ordinance 2023-004 Planning Case 23-007 for Site Plan Review at 1273 West County Road E and Zoning Code Amendments to Section 1305.04 - Definitions, Section 1320.05 – Land Use Chart and Section 1325.02 – Accessory Uses: *a specific reason and information request should be included with a motion to table.*

#### Authorization to Publish Summary Ordinance

- Approval as Presented: Motion to *approve* authorization to publish a Summary Ordinance 2023-004 for Planning Case 23-007, Zoning Code Amendments to Section 1305.04 - Definitions, Section 1320.05 – Land Use Chart and Section 1325.02 – Accessory Uses.
- Denial: Motion to *deny* authorization to publish a Summary Ordinance 2023-004 for Planning Case 23-007, Zoning Code Amendments to Section 1305.04 - Definitions, Section 1320.05 – Land Use Chart and Section 1325.02 – Accessory Uses.
- Table: Motion to *table* authorization to publish a Summary Ordinance 2023-004 for Planning Case 23-007, Zoning Code Amendments to Section 1305.04 - Definitions, Section 1320.05 – Land Use Chart and Section 1325.02 – Accessory Uses.

#### Deadline for Agency Actions

The City of Arden Hills received the completed application for this request on March 2, 2023. Pursuant to Minnesota State Statute, the City must act on this request by April 30, 2023 (60 days), unless the City provides the petitioner with written reasons for an additional 60-day review period. With consent of the applicant, the City may extend the review period beyond the initial 120 days.

#### Attachments

- A) Resolution 2023-020
- B) Ordinance 2023-004
- C) Summary Ordinance 2023-004
- D) Presentation