



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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H.12.

2/6/2020

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### Subject:

Barefoot Bay Recreation District requests a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant in a BU-1-A zoning classification. (19PZ00141) (Tax Account 3004299) (District 3)

### Fiscal Impact:

None

### Dept/Office:

Planning and Development

### Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant, in a BU-1-A (Restricted Neighborhood Commercial) zoning classification.

### Summary Explanation and Background:

The applicant is seeking a CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant in a 1,500 square-foot unit located at 937-C Barefoot Boulevard, Micco, in a BU-1-A zoning classification.

The BU-1-A zoning classification encompasses lands devoted to limited retail shopping and personal services to serve the needs of nearby low-density residential neighborhoods. The applicant currently operates an existing restaurant in the subject location within the shopping plaza in the Barefoot Bay community, and would like to add beer and wine to the menu. No outdoor seating is proposed. Site plan demonstrates adequate parking.

The subject property within a commercial plaza zoned BU-1-A; beyond the plaza, the vast majority of properties are zoned TRC-1 (Mobile Home Cooperative).

The Board may wish to consider the consistency and compatibility of the proposed use and the surrounding area. Because the request is for a CUP, the Board may wish to consider additional conditions beyond those cited in Sections 62-1901 and 62-1906 in order to mitigate potential impacts to the community.

On January 13, 2020, the Planning and Zoning Board heard the request and unanimously recommended approval.

### Clerk to the Board Instructions:

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Once the resolution is received, please execute and return to Planning and Development.

**Resolution 19PZ00141**

On motion by Commissioner Tobia, seconded by Commissioner Lober, the following resolution was adopted by a unanimous vote (Commissioner Smith absent):

**WHEREAS, Barefoot Bay Recreation District** has requested a CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant, in a BU-1-A (Restricted Neighborhood Commercial) zoning classification, on property described as Unit C of Block B, Barefoot Bay Unit 2, Part 11, as recorded in ORB 3633, Pages 923 – 924, of the Public Records of Brevard County, Florida. **Section 10, Township 30, Range 38.** (1,500 square feet) Located at the northwest terminus of Barefoot Bay Boulevard and Midway Street. (937 C Barefoot Boulevard, Micco); and

**WHEREAS,** a public hearing of the Brevard County Planning and Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning and Zoning Board recommended that the application be approved; and

**WHEREAS,** the Board, after considering said application and Brevard County Planning and Zoning Board's recommendation, and hearing all interested parties, and after due and proper consideration having been given to the matter, find that the application should be approved as recommended; now therefore,

**BE IT RESOLVED** by the Board of County Commissioners of Brevard County, Florida, that the requested CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant, in a BU-1-A zoning classification, be approved as recommended. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

**BE IT FURTHER RESOLVED** that this resolution shall become effective as of February 6, 2020.

BOARD OF COUNTY COMMISSIONERS  
Brevard County, Florida

*Bryan Andrew Lober*  
Bryan Lober, Chair

Brevard County Commission

As approved by the Board on February 6, 2020.

ATTEST:

*Scott Ellis*  
SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – January 13, 2020

Please note: A CUP (Conditional Use Permit) will generally expire on the three-year anniversary of its approval if the use is not established prior to that date. CUPs for Towers and Antennas shall expire if a site plan for the tower is not submitted within one year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time of development, said**

**development must be in accordance with the criteria of the Brevard County Comprehensive Plan and other applicable laws and ordinances.**

## **ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT**

Administrative Policies in the Future Land Use Element establish the expertise of staff with regard to zoning land use issues and set forth criteria when considering a rezoning action or request for Conditional Use Permit, as follows:

### **Administrative Policy 1**

The Brevard County zoning official, planners and the director of the Planning and Development staff, however designated, are recognized as expert witnesses for the purposes of Comprehensive Plan amendments as well as zoning, conditional use, special exception, and variance applications.

### **Administrative Policy 2**

Upon Board request, members of the Brevard County Planning and Development staff shall be required to present written analysis and a recommendation, which shall constitute an expert opinion, on all applications for development approval that come before the Board of County Commissioners for quasi-judicial review and action. The Board may table an item if additional time is required to obtain the analysis requested or to hire an expert witness if the Board deems such action appropriate. Staff input may include the following:

#### **Criteria:**

- A. Staff shall analyze an application for consistency or compliance with comprehensive plan policies, zoning approval criteria and other applicable written standards.
- B. Staff shall conduct site visits of property which are the subject of analysis and recommendation. As part of the site visit, the staff shall take a videotape or photographs where helpful to the analysis and conduct an inventory of surrounding existing uses. Aerial photographs shall also be used where they would aid in an understanding of the issues of the case.
- C. In cases where staff analysis is required, both the applicant and the staff shall present proposed findings of fact for consideration by the Board.
- D. For re-zoning applications where a specific use has not been proposed, the worst case adverse impacts of potential uses available under the applicable land use classification shall be evaluated by the staff.

### **Administrative Policy 3**

Compatibility with existing or proposed land uses shall be a factor in determining where a rezoning or any application involving a specific proposed use is being considered. Compatibility shall be evaluated by considering the following factors, at a minimum:

#### **Criteria:**

- A. Whether the proposed use(s) would have hours of operation, lighting, odor, noise levels, traffic, or site activity that would significantly diminish the enjoyment of, safety or quality of life in existing neighborhoods within the area which could foreseeably be affected by the proposed use.
- B. Whether the proposed use(s) would cause a material reduction (five percent or more) in the value of existing abutting lands or approved development.
- C. Whether the proposed use(s) is/are consistent with an emerging or existing pattern of surrounding development as determined through analysis of:

1. historical land use patterns;
2. actual development over the immediately preceding three years; and
3. development approved within the past three years but not yet constructed.

D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

#### **Administrative Policy 4**

Character of a neighborhood or area shall be a factor for consideration whenever a rezoning or any application involving a specific proposed use is reviewed. The character of the area must not be materially or adversely affected by the proposed rezoning or land use application. In evaluating the character of an area, the following factors shall be considered:

##### **Criteria:**

- A. The proposed use must not materially and adversely impact an established residential neighborhood by introducing types of intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, et cetera), parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.
- B. In determining whether an established residential neighborhood exists, the following factors must be present:
  1. The area must have clearly established boundaries, such as roads, open spaces, rivers, lakes, lagoons, or similar features.
  2. Sporadic or occasional neighborhood commercial uses shall not preclude the existence of an existing residential neighborhood, particularly if the commercial use is non-conforming or pre-dates the surrounding residential use.
  3. An area shall be presumed not to be primarily residential but shall be deemed transitional where multiple commercial, industrial or other non-residential uses have been applied for and approved during the previous five (5) years.

#### **Administrative Policy 5**

In addition to the factors specified in Administrative Policies 2, 3, and 4, in reviewing a rezoning, conditional use permit or other application for development approval, the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered. In evaluating whether substantial and adverse transportation impacts are likely to result if an application is approved, the staff shall consider the following criteria:

##### **Criteria:**

- A. Whether adopted levels of services will be compromised;
- B. Whether the physical quality of the existing road system that will serve the proposed use(s) is sufficient to support the use(s) without significant deterioration;

- C. Whether the surrounding existing road system is of sufficient width and construction quality to serve the proposed use(s) without the need for substantial public improvements;
- D. Whether the surrounding existing road system is of such width and construction quality that the proposed use(s) would realistically pose a potential for material danger to public safety in the surrounding area;
- E. Whether the proposed use(s) would be likely to result in such a material and adverse change in traffic capacity of a road or roads in the surrounding area such that either design capacities would be significantly exceeded or a de facto change in functional classification would result;
- F. Whether the proposed use(s) would cause such material and adverse changes in the types of traffic that would be generated on the surrounding road system, that physical deterioration of the surrounding road system would be likely;
- G. Whether projected traffic impacts of the proposed use(s) would materially and adversely impact the safety or welfare of residents in existing residential neighborhoods.

#### **Administrative Policy 6**

The use(s) proposed under the rezoning, conditional use or other application for development approval must be consistent with, (a), all written land development policies set forth in these administrative policies; and (b), the future land use element, coastal management element, conservation element, potable water element, sanitary sewer element, solid waste management element, capital improvements element, recreation and open space element, surface water element, and transportation elements of the comprehensive plan.

#### **Administrative Policy 7**

Proposed use(s) shall not cause or substantially aggravate any, (a), substantial drainage problem on surrounding properties; or (b), significant, adverse and unmitigatable impact on significant natural wetlands, water bodies or habitat for listed species.

#### **Administrative Policy 8**

These policies, the staff analysis based upon these policies, and the applicant's written analysis, if any, shall be incorporated into the record of every quasi-judicial review application for development approval presented to the Board including rezoning, conditional use permits, and vested rights determinations.

Section 62-1151(c) of the Code of Ordinances of Brevard County directs, "The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.

- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.
- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare.

The minutes of the planning and zoning board shall specify the reasons for the recommendation of approval or denial of each application."

#### **CONDITIONAL USE PERMITS (CUPs)**

In addition to the specific requirements for each Conditional Use Permit (CUP), Section 62-1901 provides that the following approval procedure and general standards of review are to be applied to all CUP requests, as applicable.

- (b) Approval procedure. An application for a specific conditional use within the applicable zoning classification shall be submitted and considered in the same manner and according to the same procedure as an amendment to the official zoning map as specified in Section 62-1151. The approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved. If the applicant meets its initial burden, then the Board has the burden to show, by substantial and competent evidence, that the applicant has failed to meet such standards and the request is adverse to the public interest. As part of the approval of the conditional use permit, the Board may prescribe appropriate and reasonable conditions and safeguards to reduce the impact of the proposed use on adjacent and nearby properties or the neighborhood. A nearby property, for the purpose of this section, is defined as any property which, because of the character of the proposed use, lies within the area which may be substantially and adversely impacted by such use. In stating grounds in support of an application for a conditional use permit, it is necessary to show how the request fulfills both the general and specific standards for review. The applicant must show the effect the granting of the conditional use permit will have on adjacent and nearby properties, including, but not limited to traffic and pedestrian flow and safety, curb-cuts, off-street loading and parking, off-street pickup of passengers, odors, glare and noise, particulates, smoke, fumes, and other emissions, refuse and service areas, drainage, screening and buffering for protection of adjacent and nearby properties, and open space and economic impact on nearby properties. The applicant, at his discretion, may choose to present expert testimony where necessary to show the effect of granting the conditional use permit.

- (c) General Standards of Review.

- (1) The planning and zoning board and the board of county commissioners shall base the denial or approval of each application for a conditional use based upon



a consideration of the factors specified in Section 62-1151(c) plus a determination whether an application meets the intent of this section.

- a. The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1), the number of persons anticipated to be using, residing or working under the conditional use; (2), noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3), the increase of traffic within the vicinity caused by the proposed conditional use.
  - b. The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.
  - c. The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebuttably presumed to have occurred if abutting property suffers a 15% reduction in value as a result of the proposed conditional use. A reduction of 10% of the value of abutting property shall create a rebuttable presumption that a substantial diminution has occurred. The Board of County Commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an M A I certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.
- (2) The following specific standards shall be considered, when applicable, in making a determination that the general standards specified in subsection (1) of this section are satisfied:
- a. Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1), adequate to serve the proposed use without burdening adjacent and nearby uses, and (2), built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20%, or 10% if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at Level of Service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable Brevard County standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.
  - b. The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.
  - c. Noise levels for a conditional use are governed by Section 62-2271.

- d. The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.
- e. The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.
- f. The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.
- g. Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.
- h. Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.
- i. The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.
- j. Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

#### **FACTORS TO CONSIDER FOR A REZONING REQUEST**

Section 62-1151(c) sets forth factors to consider in connection with a rezoning request, as follows:

"The planning and zoning board shall recommend to the board of county commissioners the denial or approval of each application for amendment to the official zoning maps based upon a consideration of the following factors:

- (1) The character of the land use of the property surrounding the property being considered.
- (2) The change in conditions of the land use of the property being considered and the surrounding property since the establishment of the current applicable zoning classification, special use or conditional use.
- (3) The impact of the proposed zoning classification or conditional use on available and projected traffic patterns, water and sewer systems, other public facilities and utilities and the established character of the surrounding property.

- (4) The compatibility of the proposed zoning classification or conditional use with existing land use plans for the affected area.
- (5) The appropriateness of the proposed zoning classification or conditional use based upon a consideration of the applicable provisions and conditions contained in this article and other applicable laws, ordinances and regulations relating to zoning and land use regulations and based upon a consideration of the public health, safety and welfare."

These staff comments contain references to zoning classifications found in the Brevard County Zoning Regulations, Chapter 62, Article VI, Code of Ordinances of Brevard County. These references include brief summaries of some of the characteristics of that zoning classification. Reference to each zoning classification shall be deemed to incorporate the full text of the section or sections defining and regulating that classification into the Zoning file and Public Record for that item.

These staff comments contain references to sections of the Code of Ordinances of Brevard County. Reference to each code section shall be deemed to incorporate this section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County Comprehensive Plan. Reference to each Policy shall be deemed to incorporate the entire Policy into the Zoning file and Public Record for that item.

These staff comments refer to previous zoning actions which are part of the Public Records of Brevard County, Florida. These records will be referred to by reference to the file number. Reference to zoning files are intended to make the entire contents of the cited file a part of the Zoning file and Public Record for that item.

## DEFINITIONS OF CONCURRENCY TERMS

**Maximum Acceptable Volume (MAV):** Maximum acceptable daily volume that a roadway can carry at the adopted Level of Service (LOS).

**Current Volume:** Building permit related trips added to the latest TPO (Transportation Planning Organization) traffic counts.

**Volume with Development (VOL W/DEV):** Equals Current Volume plus trip generation projected for the proposed development.

**Volume/Maximum Acceptable Volume (VOL/MAV):** Equals the ratio of current traffic volume to the maximum acceptable roadway volume.

**Volume/Maximum Acceptable Volume with Development (VOL/MAV W/DEV):** Ratio of volume with development to the Maximum Acceptable Volume.

**Acceptable Level of Service (CURRENT LOS):** The Level of Service at which a roadway is currently operating.

**Level of Service with Development (LOS W/DEV):** The Level of Service that a proposed development may generate on a roadway.



BOARD OF COUNTY COMMISSIONERS

**Planning and Development Department**

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**STAFF COMMENTS**

**19PZ00141**

**Barefoot Bay Recreation District**

**CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Restaurant**

Tax Account Number: 3004299  
 Parcel I.D.: 30-38-10-JT-B – Unit C  
 Location: 937-C Barefoot Boulevard, Micco (District 3)  
 Acreage: 1,500 square feet; a portion of NW building addressed as 937 Barefoot Boulevard

Planning and Zoning Board: 01/13/20

Board of County Commissioners: 02/06/20

**Consistency with Land Use Regulations**

- Current zoning can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal can be considered under the Future Land Use Designation, Section 62-1255.
- The proposal would maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	<b>CURRENT</b>	<b>PROPOSED</b>
<b>Zoning</b>	BU-1-A	BU-1-A with a CUP for on-premises consumption of alcohol (Beer and Wine only)
<b>Potential*</b>	1,500 square feet	1,500 square feet
<b>Can be Considered under the Future Land Use Map</b>	Yes Neighborhood Commercial	YES Neighborhood Commercial

\* Zoning potential for concurrency analysis purposes only, subject to applicable land development regulations.

**Background and Purpose of Request**

The applicant is seeking a CUP for on-premises consumption of alcoholic beverages (beer and wine only) in conjunction with an existing restaurant located within a Restricted Neighborhood Commercial (BU-1-A) zoning classification.

The applicant currently operates an existing 1,500 square-foot restaurant on the subject property located within the shopping plaza in the Barefoot Bay mobile home community. The property is owned by the Barefoot Bay Recreation District and the applicant's request is to add beer and wine to the menu.

The original zoning for Barefoot Bay was split between General Use (GU) and Agricultural (AU). In January, 1969, zoning action **Z-2390** Special Use Permit (SUP) was approved to allow individual ownership. On February 24, 1969, zoning action **Z-2402** was approved to change zoning from AU and GU with a Special Use Permit (SUP) allowing individual ownership to Single-Family Mobile Home Cooperative (TRC-1). On October 27, 1969, zoning action **Z-2528** was approved to change the zoning on the subject property from TRC-1 to BU-1-A, as part of an 8.96-acre parcel that is now five separate parcels, including the 3.76-acre parcel upon which a three-building commercial center was constructed in the 1970's, one of which contains the 1,500 square foot bay for which the subject CUP is requested.

## Land Use

This site retains the Neighborhood Commercial (NC) Future Land Use (FLU) designation. The BU-1-A zoning classification is consistent the NC FLU and with **Policy 2.5** of the Future Land Use Element.

*Neighborhood Commercial (NC) development activities are intended to be low-impact in nature and serve the needs of the immediate residential area. Intrusion of these land uses into surrounding residential areas shall be limited. Existing BU-1-A uses, which were established as of the adoption date of this provision shall be considered consistent with this policy. Development activities which may be considered within Neighborhood Commercial (NC) Future Land Use Designation, provided that listed criteria are met, include the following:*

- a) Professional offices (no drive through lanes permitted);
- b) Personal Services (no drive through lanes permitted);
- c) Convenience stores (no drive through lanes permitted);
- d) Residential uses;
- e) Institutional uses;
- f) Recreational uses;
- g) Public facilities; and
- h) Transitional uses pursuant to Policy 2.14.

The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 through 8 of the Future Land Use Element, outlined in the Administrative Policies.

## Environmental Constraints

No formal review by the Natural Resources Management Department is required for a CUP for on-premises consumption of alcoholic beverages. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development, including any land alteration permits or landscape restoration plan.

## **Preliminary Transportation Concurrency**

The closest concurrency management segment to the subject property is on U.S. 1, between Micco Road and First Street, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 39.21% of capacity daily. The maximum development potential from the proposed rezoning is not anticipated to change the percentage of available capacity. The corridor is anticipated to still operate at 39.21% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as this is a commercial development.

The property is served by central potable water and central sanitary sewer services provided by the Barefoot Bay Water and Sewer District.

## **Applicable Land Use Policies**

"Snack bar and restaurant" is listed as a permitted use with conditions in the BU-1-A zoning classification. The conditions for this use contained in Section 62-1842 read as follows: "Snack bars and restaurants must comply with the applicable parking requirements, and the establishment shall not have more than 49 seats." The seating diagram submitted with the CUP application depicts 46 seats within the existing restaurant. "Alcoholic beverages for on-premises consumption accessory to a snack bar or restaurant" is listed as a conditional use in the BU-1-A zoning classification. This conditional use can be applied for pursuant to Sections 62-1151 (c) and 62-1906.

The subject property is unit 937-C in one of three commercial buildings on Parcel B within the Barefoot Bay Unit 1, Part 2, Subdivision. The entire Parcel B retains the BU-1-A zoning classification. This parcel abuts three parcels to the northwest and one parcel to the south, all of which also retain BU-1-A zoning. To the northeast Parcel B abuts Barefoot Boulevard, and to the east the parcel abuts Midway Street. The properties on the other side of these roads retain TRC-1 zoning, as do the vast majority of the properties within the Barefoot Bay community, which the neighborhood commercial center on Parcel B serves.

The BU-1-A classification permits restricted neighborhood retail and personal service uses to serve the needs of nearby low-density residential neighborhoods. Minimum lot size of 7,500 square feet is required with minimum width and depth of 75 feet.

TRC-1 encompasses lands devoted to planned single-family mobile home development which permits mobile homes or residences on lots of minimum 6,500 square feet with a lot width of 65 feet and a lot depth of 80 feet.

There have been no zoning actions within a half-mile of the subject property within the last five years. The most recent zoning change/CUP in the vicinity of the property was approved on November 4, 2004. That application, **Z-10968**, changed the zoning from GU, AU, and TRC-1 to Government Managed Lands – High Intensity (GML(H)) with a Conditional Use Permit for a Water and Sewer Treatment Facility for Barefoot Bay Water and Sewer District, on multiple parcels totaling 373.79 acres and located approximately 3,940 feet west northwest from the subject property.

## Special Considerations for CUP (Conditional Use Permit)

The Board should consider the compatibility of the proposed CUP pursuant to Section 62-1151(c) and to Section 62-1901, as outlined on pages 6 – 8 of these comments. Section 62-1901 provides that the approval of a conditional use shall authorize an additional use for the affected parcel of real property in addition to those permitted in the applicable zoning classification. **The initial burden is on the applicant to demonstrate that all applicable standards and criteria are met. Applications which do not satisfy this burden cannot be approved.** The applicant's responses and staff observations, if any, are indicated below.

Section 62-1151(c) directs the Board to consider the character of the land use of the property and its surroundings; changes in the conditions of the land use being considered; impact upon infrastructure; compatibility with land use plans for the area; and appropriateness of the CUP based upon consideration of applicable regulations relating to zoning and land use within the context of public health, safety and welfare. The applicant has submitted documentation in order to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1906, on-premises consumption of alcohol.

This request should be evaluated in the context of **Section 62-1906** which governs alcoholic beverages for on-premises consumption which states in, specifically 62-1906 (3) and (5):

- 3) Except for restaurants with more than 50 seats, no alcoholic beverages shall be sold or served for consumption on the premises from any building that is within 300 feet from the lot line of a school or church if the use of the property as a school or church was established prior to the commencement of the sale of such alcoholic beverages. For the purposes of this subsection, a school shall include only grades kindergarten through 12. For the purpose of establishing the distance between the proposed alcoholic beverage use and churches and schools, a certified survey shall be furnished from a registered engineer or surveyor. Such survey shall indicate the distance between the front door of the proposed place of business and all property lines of any church or school within 400 feet. Each survey shall indicate all such distances and routes.

*A survey has been provided which states that there are no churches or schools within 400 feet of the area within this CUP request.*

- 5) Imposition of additional operational requirements. When deemed appropriate, as based upon circumstances revealed through the general and specific standards of review set forth in this division, the Board shall have the option of imposing operational requirements upon an establishment approved for a conditional use for alcoholic beverages for on-premises consumption. Requirements may include, but are not limited to, the following: maximum number of patrons; hours of operation; limitations upon outdoor seating and service of alcoholic beverages; limitations upon outside music and/or public address systems; additional buffering requirements; additional parking requirements; internal floor plan arrangement; or other specific restrictions based upon special neighborhood considerations. Additional requirements shall not exceed the limits of regulatory authority granted to local governments in the State Beverage Law, F.S. § 562.45.

*Serving and consumption of food and beverages, alcohol or otherwise, shall be strictly prohibited outside of the existing buildings unless such areas have been designated as outdoor seating areas pursuant to Section 62-1837.9 (Outdoor restaurant seating) of Brevard County Code. The applicant proposes to have 46-49 seats at this location and no outdoor seating. On-premise signage has identified Music as a potential/existing use. Alcohol use is to*

*support the existing bar and snack bar and restaurant. No outside expansion is proposed by the applicant. If an outdoor seating area is proposed in the future, the owner would be required to obtain site plan approval and file for an updated CUP for the alcohol expansion as required by Section 62-1906 (6) of Brevard County Code.*

### **General Standards of Review**

Section 62-1901(c)(1)(a): The proposed conditional use will not result in a substantial and adverse impact on adjacent and nearby properties due to: (1) the number of persons anticipated to be using, residing or working under the conditional use; (2) noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities generated by the conditional use; or (3) the increase of traffic within the vicinity caused by the proposed conditional use.

**Applicant's Response:** There is no outside seating. Part of strip mall considerable distance from homes. The proposed use is a restaurant with on-premises sales of beer and wine. The site is located on platted commercial property located in the BFB recreational district having been located here for 17 years. Passes all fire, and bldg. codes. Restaurant is in character of shopping center.

Staff's Observation: On-premises consumption of beer and wine are to be accessory within a snack bar/restaurant. The CUP is for an existing restaurant in a developed and occupied multi-tenant commercial building. Neither the existing site nor the requested CUP proposes out-door seating and no site plan changes are proposed by the request. The current and proposed use for the center requires 103 spaces. There are 120 spaces provided, including 11 handicap accessible spaces.

Section 62-1901(c)(1)(b): The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

**Applicant's Response:** See attached documentation (survey). Survey records acceptable setbacks from adjacent buildings and businesses with no changes to allowable parking.

Staff's Observation: The center in which the CUP is proposed is well-established and compatible with the Barefoot Bay residential community it serves.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. A substantial diminution shall be irrebutably presumed to have occurred if abutting property suffers a 15 percent reduction in value as a result of the proposed conditional use. A reduction of ten percent of the value of abutting property shall create a reputable presumption that a substantial diminution has occurred. The board of county commissioners carries the burden to show, as evidenced by either testimony from or an appraisal conducted by an MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

**Applicant's Response:** N/A there will be no reduction of value of abutting property [that] shall create a rebuttable [diminution in value of abutting properties.]

Section 62-1901(c)(2)(a): Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control,



and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at level of service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable county standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.

**Applicant's Response: N/A This restaurant was established over 17 years ago and remains same. Roads and parking were designed to support the shopping center.**

Staff's Observation: Staff has verified there is adequate on-site parking to support the proposed use. With no expansions proposed, CUP approval should not increase site impacts.

Section 62-1901(c)(2)(b): The noise, glare, odor, particulates, smoke, fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of the adjacent and nearby property.

**Applicant's Response: Noise/glare/odor – smoke/fumes or other emissions from the conditional use shall not substantially interfere with the use or enjoyment of adjacent and nearby property... bench outside with "no smoking" sign**

Staff's Observation: Since the proposed use is in an entirely enclosed building, and no outdoor seating is proposed, it would not appear there would be any glare, odor, smoke/fumes or other emissions that would impact adjacent or nearby property.

Section 62-1901(c)(2)(c): Noise levels for a conditional use are governed by section 62-2271.

**Applicant's Response: We will comply with this regulation.**

Staff's Observation: Regulation establishes maximum allowable sound pressure level for commercial properties as 65 dB(A) (A-weighted decibels) between 7:00 am and 10:00 pm and 55 dB(A) between 10:00 pm and 7:00 am.

Section 62-1901(c)(2)(d) The proposed conditional use shall not cause the adopted level of service for solid waste disposal for the property.

**Applicant's Response: The proposed conditional use shall not impact any service of solid waste the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded.**

Staff's Observation: The proposed conditional use shall not cause the adopted level of service for solid waste disposal applicable to the property or area covered by such level of service, to be exceeded. There are two dumpster enclosures and two loading zones on site to serve the commercial

center in which the subject property is located. The restaurant is an existing use. The request is not projected to significantly increase solid waste generation.

Section 62-1901(c)(2)(e): The proposed conditional use shall not cause the adopted level of service for potable water or wastewater applicable to the property or the area covered by such level of service, to be exceeded by the proposed use.

**Applicant's Response: The conditional use service will not affect service of potable water or waste water for the property or any other public level of service area.**

Staff's Observation: The site is served by central potable water and central sanitary sewer. The restaurant is an existing use and the proposed CUP would just add beer and wine to the menu. The request is not projected to significantly increase demands on potable water or sanitary sewer systems.

Section 62-1901(c)(2)(f): The proposed conditional use must have existing or proposed screening or buffering, with reference to type, dimensions and character to eliminate or reduce substantial, adverse nuisance, sight, or noise impacts on adjacent and nearby properties containing less intensive uses.

**Applicant's Response: There are several feet from other buildings as well as noise reduced walls to adjoining areas.**

Staff's Observation: The existing neighborhood commercial center and restaurant that is applying to use the CUP are well-established and buffered from the nearby residences and the residential community it serves. The applicant indicated in response to 62-1901(c)(2)(c) above that the proposed use will comply with noise requirements set forth in Section 62-2271, and the hours of operation committed to in the applicant's response to 62-1901(c)(2)(h) below, are conducive with Section 62-2271 compliance.

Section 62-1901(c)(2)(g): Proposed signs and exterior lighting shall not cause unreasonable glare or hazard to, traffic safety, or interference with the use or enjoyment of adjacent and nearby properties.

**Applicant's Response: Plan was permitted years ago. No changes proposed. There will be no unreasonable glare or hazard to traffic safety or interference with the [use] of [or] enjoyment of adjacent and nearby properties.**

Staff's Observation: The site has existing signage and no new signage is being proposed.

Section 62-1901(c)(2)(h): Hours of operation of the proposed use shall be consistent with the use and enjoyment of the properties in the surrounding residential community, if any. For commercial and industrial uses adjacent to or near residential uses, the hours of operation shall not adversely affect the use and enjoyment of the residential character of the area.

**Applicant's Response: The hours of operation are limited and will not affect adjacent to or near residential properties.**

Staff's Observation: In a phone conversation on December 4, 2019, with business owner for the restaurant on the subject property, owner Robert John indicated that the operating hours are Monday through Saturday from 8:00 am to 8:00 pm and Sunday from 8:00 am to 2:00 pm. Mr. John further

indicated that he has no intention of changing said hours of operation. The Clerk for the Barefoot Bay Recreation District that owns and manages the commercial center in which the property is located indicates that the District does not limit the hours of operation of businesses in the center, but leaves the hours of operation up to the discretion of their tenants (the business owners).

Section 62-1901(c)(2)(i): The height of the proposed use shall be compatible with the character of the area, and the maximum height of any habitable structure shall be not more than 35 feet higher than the highest residence within 1,000 feet of the property line.

**Applicant's Response: Survey shows height of adjacent buildings and properties within 1000 feet of property lines. Does not propose changes to structures. Structure is less than 35 feet high.**

Staff's Observation: The existing building is less than 35 feet high and no alterations to the building shell are proposed.

Section 62-1901(c)(2)(j): Off-street parking and loading areas, where required, shall not be created or maintained in a manner which adversely impacts or impairs the use and enjoyment of adjacent and nearby properties. For existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

Note: for existing structures, the applicant shall provide competent, substantial evidence to demonstrate that actual or anticipated parking shall not be greater than that which is approved as part of the site plan under applicable county standards.

**Applicant's Response: Per survey, parking shall not be greater than that approved as part of the site under applicable county standards.**

Staff's Observation: The required number of spaces for all uses in this three-building commercial center to comply with Section 62-3206 of Brevard County Site Plan Regulations is 103 spaces. This includes 15 required spaces for the 1,500 square foot restaurant that is the subject of this request. There are 120 spaces currently provided on the property, including 11 handicap accessible spaces. The subject request, therefore, meets code requirements for parking.

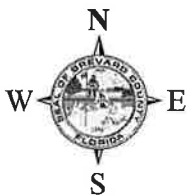
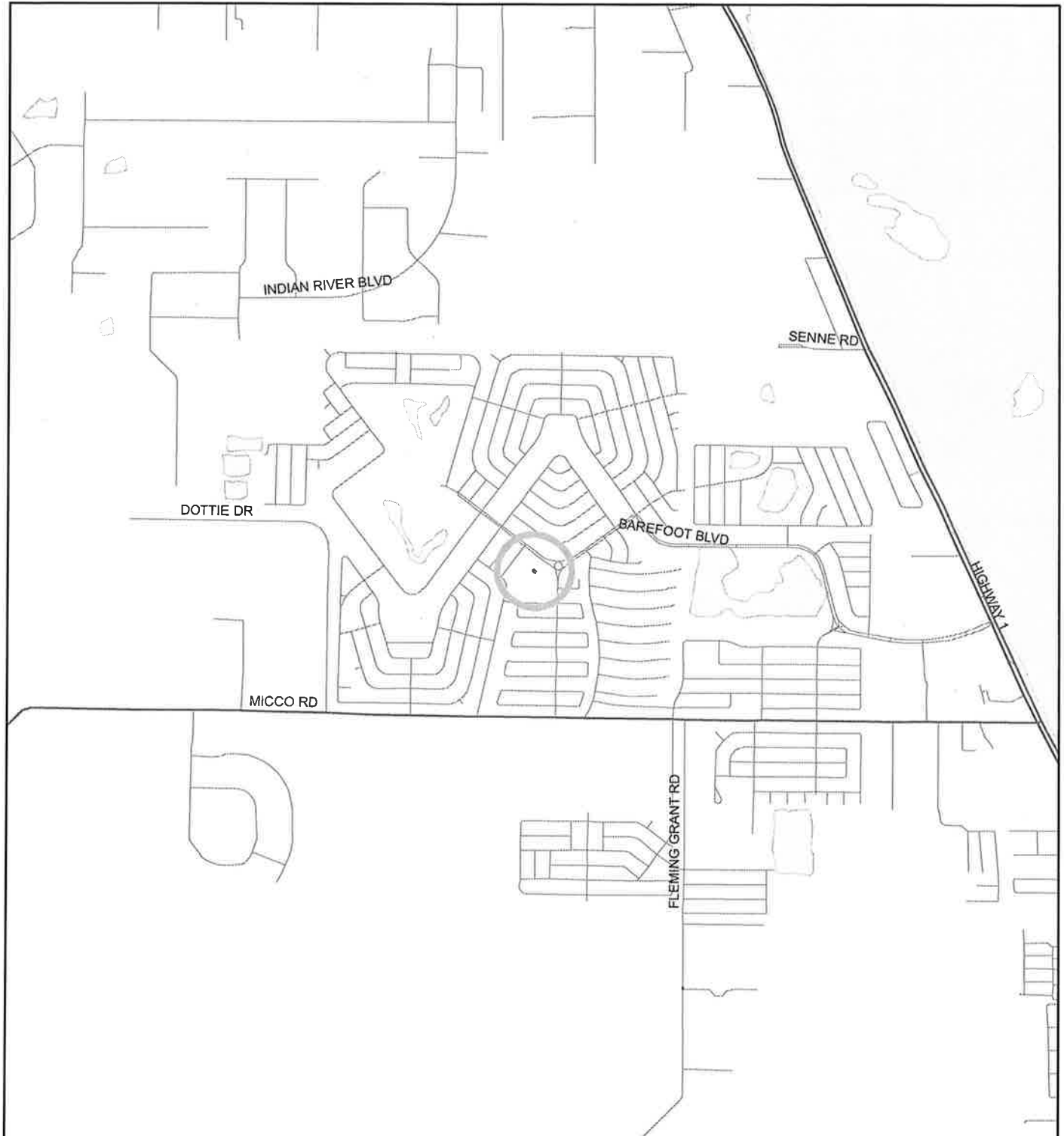
#### **For Board Consideration**

The applicant is seeking a CUP for on-premises consumption of alcoholic beverages (beer and wine only) in conjunction with an existing restaurant located within a Restricted Neighborhood Commercial (BU-1-A) zoning classification.

The existing building is located within a commercial node zoned BU-1A. Beyond this area, the vast majority of properties have the TRC-1 (Mobile Home Cooperative) zoning classification and developed with mobile homes.

The Board may wish to consider the consistency and compatibility of the proposed use and the surrounding area. The CUP should be: 1) approved subject to the conditions of Section 62-1901 and Section 62-1906; 2) approved subject to the conditions of 62-1901, 62-1906, and conditions imposed by the Board above and beyond the requirements of Sections 62-1901 and 62-1906; or 3) denied.

**LOCATION MAP**  
**BAREFOOT BAY RECREATION DISTRICT**  
**19PZ00141**



1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 500 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

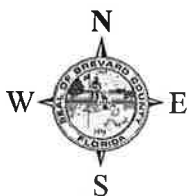
Produced by BoCC - GIS Date: 11/15/2019

— Buffer  
■ Subject Property

# ZONING MAP

BAREFOOT BAY RECREATION DISTRICT




19PZ00141



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/15/2019

-  Subject Property
-  Parcels
-  Zoning



# FUTURE LAND USE MAP

BAREFOOT BAY RECREATION DISTRICT

19PZ00141



1:4,800 or 1 inch = 400 feet

— Subject Property  
 □ Parcels

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AERIAL MAP  
BAREFOOT BAY RECREATION DISTRICT  
19PZ00141



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2019

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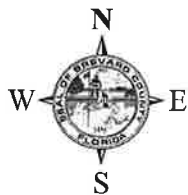
Produced by BoCC - GIS Date: 11/15/2019

— Subject Property  
□ Parcels

# NWI WETLANDS MAP

BAREFOOT BAY RECREATION DISTRICT

19PZ00141













1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

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## National Wetlands Inventory (NWI)

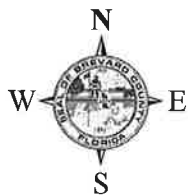
	Estuarine and Marine Deepwater		Freshwater Pond
	Estuarine and Marine Wetland		Lake
	Freshwater Emergent Wetland		Other
	Freshwater Forested/Shrub Wetland		Riverine
	Subject Property		
	Parcels		



# SJRWMD FLUCCS WETLANDS - 6000 Series MAP

BAREFOOT BAY RECREATION DISTRICT

19PZ00141



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/15/2019

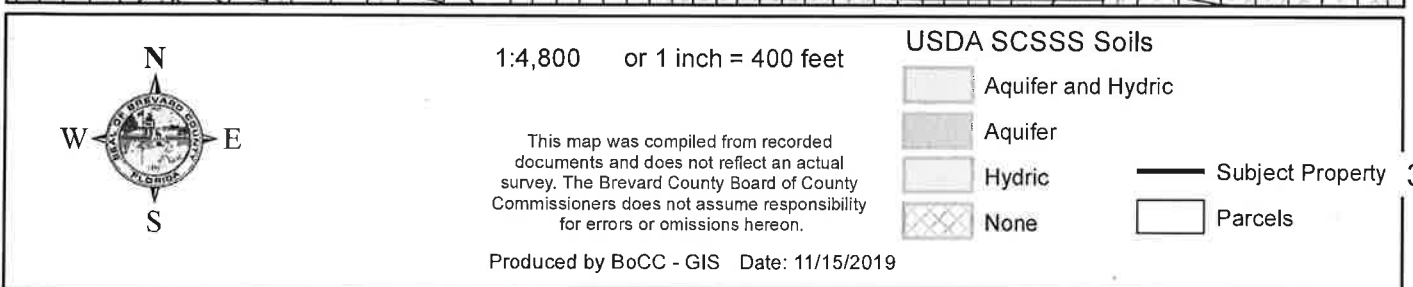
## SJRWMD FLUCCS WETLANDS

-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property

 Parcels

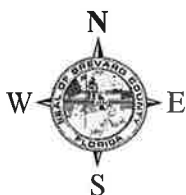
19PZ00141



# FEMA FLOOD ZONES MAP

BAREFOOT BAY RECREATION DISTRICT

19PZ00141



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/15/2019

## FEMA Flood Zones

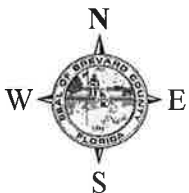
- |  |   |                      |
|--|---|----------------------|
| A                                      | AO  | X                    |
| AE                                     | Open Water  | X Protected By Levee |
| AH                                     | VE  |                      |
| 0.2 Percent Annual Chance Flood Hazard | 0.2 Percent Annual Chance Flood Hazard Contained in Channel |                      |
| Subject Property                       | Parcels   |                      |



# COASTAL HIGH HAZARD AREA MAP

BAREFOOT BAY RECREATION DISTRICT

19PZ00141



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/15/2019

— Subject Property

□ Parcels

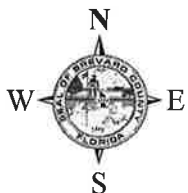
**Coastal High Hazard Area**

■ SurgeZoneCat1

# INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

BAREFOOT BAY RECREATION DISTRICT

19PZ00141



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/15/2019

— Subject Property

□ Parcels

## Septic Overlay

■ 40 Meters

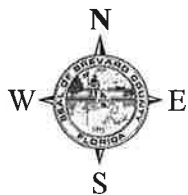
■ 60 Meters

■ All Distances

# EAGLE NESTS MAP

## BAREFOOT BAY RECREATION DISTRICT

19PZ00141



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/15/2019

— Subject Property

□ Parcels



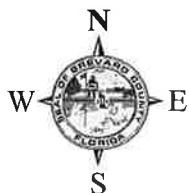
Eagle Nests  
FWS 2010



# SCRUB JAY OCCUPANCY MAP

BAREFOOT BAY RECREATION DISTRICT




19PZ00141



1:4,800 or 1 inch = 400 feet

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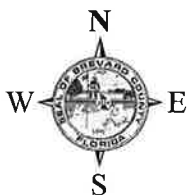
Produced by BoCC - GIS Date: 11/15/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

# SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

BAREFOOT BAY RECREATION DISTRICT

19PZ00141







1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/15/2019

## SJRWMD FLUCCS Upland Forests

-  Upland Coniferous Forest - 4100 Series
-  Upland Hardwood Forest - 4200 Series
-  Upland Mixed Forest - 4300 Series
-  Tree Plantations - 4400 Series

 Subject Property

 Parcels



# CUP Application 19PZ00141

This Site Plan is submitted for the purposes of obtaining a Conditional Use Permit (CUP) to serve alcoholic beverages (beer and wine only) for on-premises consumption in conjunction with a restaurant under CUP application number 19PZ00141. CUP application 19PZ00141 is submitted for the sole purpose of demonstrating compliance with Section 62-1901, CUP general requirements, and Section 62-1906, Alcoholic Beverages for On-Premises Consumption. Approval of CUP 19PZ00141 would not confer any vested rights to the property owners other than the Conditional Use right to serve beer and wine for on-premises consumption as an accessory use in conjunction with an existing restaurant. No new construction of any kind is proposed in conjunction with this CUP application. This CUP is not an application for a major or minor site plan or site plan amendment.

Site Data Table:

Actual Use:	Building 1 (937) Sarefoot	Building 2 (925) Sarefoot	Building 3 (931) Sarefoot	Total Sq. Ft. per Use:
General Retail:	6,730	4,182	0	10,912
Restaurant:	1,500	1,500	0	3,000
Office:	2,340	0	2,340	4,680
Building Square Footage:	10,570	5,682	2,340	18,592

Square Footage by Use:	Parking Ratio:	Required Parking % of Area:	Required Spaces:	Regular Spaces Provided:	Handicap Spaces Provided:
10,912	1/250	0.004	44		
3,000	1/250	0.004	12		
4,680	1/100	0.01	47		
18,592			103	109	11

Maximum Building Height: 35 feet

Actual Building Height: Approximately 10 to 20 feet

Property Boundary

389's 2002 Restaurant (Unit 937-C)

Stormwater Retention

0 50 100 200 Feet



Rev. Earl B. Medlen  
902 Midway St.  
Barefoot Bay, FL 32976  
(772) 202-4062



Objection  
19PZ00141  
Barefoot Bay Recreation  
District

Brevard County Board of County Commissioners  
Planning & Development Department  
2725 Judge Fran Jamieson Way, Building A  
Viera, FL 32940

Dec. 31, 2019

Reference: **ID# 19PZ00141**= BU-1-A

Request: CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant.

To Whom It May Concern:

I urge the County Commissioners to vote NO on this proposal for a number of reasons.

1. There is no need for allowing the restaurant to serve alcoholic beverage, since there are other areas, within a mile and a half, in which those who wish to consume alcoholic beverage may do so.
2. One of these is less than a quarter of a mile just West of the restaurant, on Barefoot Bay Blvd., at the Golf Courses' 19<sup>th</sup> hole.
3. We don't need the added **hazard** alcoholic beverage consumption at the restaurant would cause.

The parking lot entry and exit has numerous tight twists and turns which are already difficult enough, for the elderly clientele to navigate without having the added difficulty of doing so while under the influence of even the smallest amount alcohol in the system. This area is also very crowded and congested because of the following.

The parking lot also has many Pick-up-trucks with trailers, going in and out all day long, such as those used by contractors and lawn care workers.

Also, many large semitrailer-trucks, delivering goods to not only the restaurant but also to the convenient store just to the East of the restaurant. These trucks delivering everything from beers/wines/hard liquors, soft drinks, food stuffs and everything else that a convenient store carries.

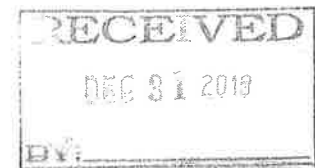
Thus, adding the extra difficulty to the mix, could, and I believe will, cause much more danger and accidents to all in the area. And as far as I know, there has as yet never been an accident there. And if you vote yes on this issue, you will share in the guilt for every accident and injury that happens thereafter.

The dangers involved here, out-weights the very small need, and should be rejected.

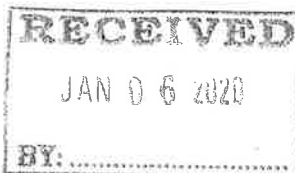
For Further Discussion  
Please Call

Rev. Dr. Earl B. Medlen

*Rev. 1/16*



Brevard County Board of County Commissioners  
Planning & Development Department  
2725 Judge Fran Jamieson Way, Building A  
Viera, FL 32940



*We object to this restaurant serving beer & wine.  
This is the only "Family" oriented restaurant in Barefoot Bay.  
There are 600 kids living in our community who can enjoy  
this restaurant.*

MOSKUS, JOHN  
MOSKUS, JOAN  
PO BOX 781513  
SEBASTIAN FL 32978-1513

*Just 3 blocks away is the "19th hole" if people want a  
drink with their meal.*

*This can only lead to problems!! (And more drunks)*

Dear Property Owner:

ID# 19PZ00141

This COURTESY NOTICE is being sent to inform you that your property is within 500 ft. of property owned by **Barefoot Bay Recreation District**, who are requesting a CUP (Conditional Use Permit) on 1,500 square feet. The property is located on the northwestern terminus of Barefoot Bay Blvd. and Midway St. (937-C Unit 105, Melbourne)

Current Zoning: BU-1-A (Planned Unit Development)

**Request: CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant**

A public hearing will be held by the Planning and Zoning Board at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, on **Monday, January 13, 2020**, beginning at **3:00 p.m.** The final public hearing will be held by the Board of County Commissioners on **Thursday, February 6, 2020**, beginning at **5:00 p.m.**, at the same location.

You are invited to attend these public hearings to voice any comments you may have, or you may also write to the address shown on the front of this card. For the complete agenda, you may visit our internet site at [www.brevardfl.gov](http://www.brevardfl.gov) -> Planning & Development -> Planning and Zoning -> Boards and Committees -> Planning and Zoning Board, approx. one week prior to the first meeting, or call the Planning & Development Department at 321-633-2069. Your correspondence or inquiry should refer to the ID# located in the upper right-hand corner of the card. The needs of hearing or visually impaired persons shall be met if the Planning and Development Department is contacted at least five (5) days prior to the public hearing.

Objection  
19PZ00141  
Barefoot Bay Recreation District

**From:** Calkins, Tad  
**To:** Jones, Jennifer  
**Subject:** FW: RJ'S restaurant Barefoot Bay  
**Date:** Friday, January 17, 2020 5:00:01 PM

---

FYI

-----Original Message-----

From: Pattie Fagioli <squeaky972003@yahoo.com>  
Sent: Thursday, January 16, 2020 1:31 PM  
To: Calkins, Tad <tad.calkins@brevardfl.gov>  
Subject: RJ'S restaurant Barefoot Bay

I was out of town and never received a notice of a hearing to allow alcohol at RJ's restaurant in Barefoot Bay. I live directly across the street and want to file a stop to allowing alcohol there.

Sincerely  
Patricia Fagioli  
942 Barefoot Blvd  
Sebastian Florida 32976

## **PLANNING AND ZONING BOARD MINUTES**

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 13, 2020**, at **3:00 p.m.**, in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

The meeting was called to order at 3:00 p.m.

Board members present were: Ron Bartcher; Brian Woltz; Brian Hodgers; Ben Glover; Mark Wadsworth; Joe Buchanan; Bruce Moia; Peter Filiberto; and Dane Theodore.

Staff members present were: Jeffrey Ball, Planning and Zoning Manager; Eden Bentley, County Attorney; George Ritchie, Planner III; Paul Body, Planner II; Jeanne Allen, Environmental Specialist I; and Jennifer Jones, Special Projects Coordinator.

Mark Wadsworth introduced new members Joe Buchanan, District 4; and Brian Woltz, District 1. Mr. Wadsworth also recognized the resignation Rochelle Lawandales and thanked her for her service to the Planning and Zoning Board. Bruce Moia stated Ms. Lawandales had a wealth of knowledge as a planner and she will be missed on the board.

### **Excerpt of Complete Agenda**

#### **12. Barefoot Bay Recreation District (Ninette Ierome)**

A CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant in a BU-1-A zoning classification. The property is 1,500 square feet, located at 937 C Barefoot Boulevard, Micco. (19PZ00141) (Tax Account 3004299) (District 3)

Ninette Ierome, 1013 Thrush Circle, Barefoot Bay, stated the request is for beer and wine only because customers have been asking for it, and it would increase the restaurant's revenue.

Motion by Bruce Moia, seconded by Brian Hodgers to approve the CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a restaurant. The vote passed unanimously.