



AGENDA REPORT
February 7, 2019

Gregory D. Taylor and Rachael J. Fitzpatrick request an expansion of an existing CUP for Alcoholic Beverages (beer and wine only) for On-Premises Consumption in conjunction with a bar, in a BU-1 zoning classification, and an amendment to certain previously approved conditions of existing CUP. (18PZ00138) (District 2)

SUBJECT:

Public Hearing, Re: Gregory D. Taylor and Rachael J. Fitzpatrick request an expansion of an existing CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a bar, in a BU-1 (General Retail Commercial) zoning classification, and an amendment to previously approved conditions of existing CUP. The property is 0.31 acres, located on the northeast corner of McLeod Street and Myrtice Avenue. (110 & 120 McLeod Street, Merritt Island. (18PZ00138) (District 2)

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 the request for expanding the area of an existing CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a bar, in a BU-1 zoning classification, and amending 5 of the 6 previously approved conditions of existing CUP.

SUMMARY EXPLANATION and BACKGROUND:

The applicants are seeking an expansion of their existing Conditional Use Permit (CUP) for alcoholic beverage (beer and wine only) for on-premises consumption onto the adjacent lot located to the north (120 McLeod Street) for the purpose of expanding their existing successful business, Balibar at 110 McLeod Street. Additionally, the applicants are seeking an amendment to the terms of the existing Board approved CUP, as they wish to expand the area to include both buildings on the southern parcel – 110 McLeod Street and 30 Myrtice Avenue. This parcel is located in the Historic Merritt Park Place area of Merritt Island which is within the Merritt Island Redevelopment Area (MIRA).

CUP approval under **16PZ00088** allowed beer and wine use in conjunction with a snack bar and was approved on 12/1/2016. The six (6) conditions that are currently limiting usage of the property (110 McLeod Street) on the existing CUP are noted as follows and the changes proposed within the expanded CUP are clarified in **bold**:

1. The indoor/outdoor seating for snack bar is limited to 30 seats; **Expand to 72 seats.**
2. The CUP is tied only to the larger of the two buildings on the property; **Allow use from both buildings and to the property to the north.**
3. That signage prohibiting parking on Tax Acct # 2427037 be posted; **Remain unchanged.**
4. The hours of operation from 11:00 a.m. to 11:00 p.m. Wednesday – Sunday; **Amend hours of operation to 7AM to 2 AM, Monday - Sunday.**
5. Lemon bamboo landscape buffer along the east and north property lines; **Upgrading landscaping plan.**
6. The CUP shall be in conjunction with a retail store. **Expand use to include both businesses/both buildings.**

The Board should consider whether the changes to the six existing CUP's conditions should be approved as proposed.

The on-street parking adjacent to this property is insufficient, with 28 parking spaces required for the 2,812 sq. ft. for alcoholic beverages for on-premises consumption being proposed. The applicant has not adequately demonstrated how they will satisfy the parking requirements for the proposed expansion of use. The Board may wish to condition this CUP's approval on parking improvements being made.

While sidewalk exists along the west side, pedestrian infrastructure appears to be missing on the south side of the parcel. Additionally, none of the parking spaces on the boundary survey located within the right of way along the south side of the subject property appear to be improved to meet County code standards or marked for ADA accessibility. The Board may wish to condition this CUP's approval on sidewalks & ADA improvements being made.

The Board may want to consider whether sale of alcoholic beverages should be limited in any way, including, but not limited to, hours of operation.

This request for a Conditional Use Permit (CUP) to allow for on-premises consumption of alcohol (beer and wine) in conjunction with a 72 seat restaurant may be: 1) approved subject to the conditions of Section 62-1906; 2) approved subject to the conditions of 62-1906 and conditions imposed by the Board above and beyond the requirements of Section 62-1906; or 3) denied.

On January 7, 2019, the Planning and Zoning Board unanimously approved the amended conditions as follows: 1.) the indoor/outdoor seating for snack bar is expanded to 72 seats; 2.) the CUP is expanded for use of both buildings, and to the property to the north; 3.) the hours of operation are expanded to 7: a.m. to 2:00 a.m. Monday – Sunday; 4.) the landscaping plan is to be upgraded; and 5.) the CUP is expanded to include both businesses in both buildings.

On January 31, 2019, The Merritt Island Redevelopment Agency (MIRA) recommended approval.

ATTACHMENTS:

Description

- ▢ **Administrative Policies**
- ▢ **Staff Comments**
- ▢ **GIS Maps**
- ▢ **Survey and Drawing**
- ▢ **Public Comment**
- ▢ **P&Z Minutes - January**

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 and 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 zoning, conditional uses, comprehensive plan appeals, vested rights or other 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 per cent 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 an 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 or intensity of traffic (including but not limited to volume, time of day of traffic activity, type of vehicles, etc.), 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 service 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, odor, 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 that the following general standards are satisfied. The Board shall make the 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 MAI 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 thirty-five (35) feet higher than the highest residence within 1000 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 the section into the Zoning file and Public Record for that item.

These staff comments contain references to Policies of the Brevard County 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 MPO 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 (ALOS): Acceptable Level of Service currently adopted by the County.

Current 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 LOS that a proposed development may generate on a roadway.

Deborah Thomas

From: Jones, Jennifer <jennifer.jones@brevardfl.gov>
Sent: Wednesday, February 6, 2019 4:28 PM
To: Abbate, Frank B; Adams, Joanne L; Bentley, Eden; Brewer, Jad; Calkins, Tad; Craddock, Amy; Cummings, Cathleen; Daughtry, Sandy; Denninghoff, John P; Foll, Nadia; Furru, Christine; Grivas-Pereno, Bessie; Hemenway, Logan; Isnardi, Kristine; Jim Barfield; Lane, Karen; Lewis, Sally A; Liz Alward; Lober, Bryan; Luebker, Vic; Mascellino, Carol; McCullough-Wham, Lee Ann; Newell, Marcia; Prasad, Billy; Commissioner Rita Pritchett; Ragain, Rebecca; Ritchie, George C; Roth, Joy; Skambraks, Anda C; Commissioner Curt Smith; Sterk, Erin; Stern, Danielle; Tice, Molly; Commissioner John Tobia; Toro, Deanna; Valliere, Christine V; Valliere, Jennifer; Van, Fritz; Walker, Don; Woodard, Patrick; Christine Mulligan-Willey; Deborah Thomas; Donna Scott; Kimberly Powell; Tammy Rowe
Subject: H.13. MIRA Memo
Attachments: H.13. MIRA Memo - Fitzpatrick.pdf; H.13. Public Comment.pdf

I was informed the MIRA Memo and Public Comment for H.13. didn't make it. They are attached now.

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

RESOLUTION NO. 18PZ00138

On motion by Commissioner Smith, seconded by Commissioner Isnardi, the following resolution was adopted by a 3:2 vote: Commissioners Pritchett and Lober voted nay.

WHEREAS, GREGORY D. TAYLOR AND RACHAEL J. FITZPATRICK, have applied for an expansion of an existing CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a bar, and an amendment to the previously approved conditions, in a BU-1 (General Retail Commercial) zoning classification, on property described as Lot 13, Block 3, Merritt Park Place, according to the plat thereof, recorded in Plat Book 5, Page 48, of the Public Records of Brevard County, Florida; and Lot 14, Block E, Merritt Park Place, according to the Plat thereof, as recorded in Plat Book 5, Page(s) 48, of the Public Records of Brevard County, Florida. (0.31 acres) Located on the northeast corner of McLeod St. and Myrtice Ave. (110 & 120 McLeod St., Merritt Island); and

Section 35,

Township 24S,

Range 36E, and,

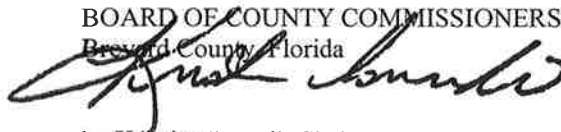
WHEREAS, a public hearing of the Brevard County Planning & Zoning Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Brevard County Planning & Zoning Board recommended that the application be approved with the following conditions: 1.) the indoor/outdoor seating for snack bar is expanded to 72 seats; 2.) the CUP is expanded for use of both buildings, and to the property to the north; 3.) the hours of operation are expanded to 7:00 a.m. to 2:00 a.m., Monday – Sunday; 4.) the landscaping plan is to be upgraded; and 5.) the CUP is expanded to include both businesses in both buildings; and,

WHEREAS, the Board, after considering said application and the Brevard County Planning & 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; now therefore,

BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that the requested CUP expansion of an existing CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a bar, and an amendment to the previously approved conditions, in a BU-1 zoning classification, be APPROVED as follows: 1.) the indoor/outdoor seating for snack bar is expanded to 72 seats; 2.) the CUP is expanded for use of both buildings, and to the property to the north; 3.) the hours of operation are expanded to 7:00 a.m. to 2:00 a.m., Monday – Sunday; 4.) the landscaping plan is to be upgraded; and 5.) the CUP is expanded to include both businesses in both buildings, and that the Planning & 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 7, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida



by Kristine Isnardi, Chair
Brevard County Commission

As approved by Brevard County Commission on February 7, 2019.

ATTEST:



SCOTT ELLIS, CLERK
(SEAL)

(P&Z Hearing – January 7, 2019)

Please note: A Conditional Use Permit will generally expire on the three year anniversary of its approval if the use is not established prior to that date. Conditional Use Permits for Towers and Antennas shall expire if a site plan for the tower is not submitted within one (1) year of approval or if construction does not commence within two years of approval. A PUD 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.



MERRITT ISLAND REDEVELOPMENT AGENCY

DATE: February 4, 2019

TO: Tad Calkins, Planning & Development Director
Erin Sterk, Planning & Zoning Manager
Jennifer Jones, Special Projects Coordinator

FROM: Cindy Thurman, MIRA Land Development Manager on behalf of the
Merritt Island Redevelopment Agency Board of Directors

RE: **January 31, 2019 MIRA Meeting; Balibar; Gregory Taylor & Rachael Fitzpatrick;
110 & 120 McLeod St.; P & D Application # 18PZ000138.**

Pursuant to Section 62-2114 of Brevard County Code, "When an application is made to the P&Z Board for a change in zoning or approval of a conditional use permit, or to the Board of Adjustment for a variance, for property located in the MIRA area, the application shall be forwarded to the MIRA agency prior to the applicable public hearing before the P&Z board or the Board of Adjustment."

On January 31, 2019 at their regular meeting, the Merritt Island Redevelopment Agency Board of Directors heard the CUP request for the expansion of the on-premises consumption of alcohol located at 110 & 120 McLeod Street and voted to recommend approval of the CUP Expansion with a 5:1 vote, with Board Member Herman voting nay.

Please note, there are several ongoing and simultaneous development related issues in this area, specifically within the area known as "Merritt Park Place". These issues have been highlighted by the Planning & Development Staff in preparation of this item and other adjacent properties. The Planning & Zoning Board on January 7, 2019 as part of their motion for approval of the same request, recommended that a request be made to the Board of County Commissioners to have the Merritt Island Redevelopment Agency conduct a Parking Study within the Merritt Park Place area.

Therefore, in light of the recommendation made by the Planning & Zoning Board, the Merritt Island Redevelopment Agency Board of Directors made a second motion and unanimously approved the staff to move forward with a parking study and to explore code changes for the area.

Wegerif Partnership
P. O. Box 54-1725
Merritt Island, Fl 32954-1725
January 30, 2019

Brevard County Board of County Commissioners
Viera, Florida

Dear Board Members:

Re: ID# 18PZ00138 Request: Expansion of an existing CUP, and an amendment to previously approved conditions of current CUP/located on the NE corner of McLeod St. and Myrtice Ave (110 and 120 McLeod St., Merritt island.

The purpose of this letter is to object the following:

- 1) expansion from 30 seats to 72 seats.
- 2) the signage prohibiting parking on Tax Acct # 2427037 to be removed, and
- 3) the extension of hours 7AM-2:00 AM Monday – Sunday.

Since 1976 Wegerif Partnership has owned the strip shopping center which is adjacent to the east of the property requesting amendments. The building is occupied by five small businesses, with parking in front and side for customers and the rear parking (which is one way traffic) is used for our shop owners and workers. The location is 105-129 No. Courtenay Parkway, with the south of the property facing Myrtice Avenue and the Tax ID#24-36-3532 E and Acct #2427037.

Parking was discussed at the zoning meeting in November 2016 two years ago and little has changed since then. Established surrounding businesses should be considered and not adversely impacted. For our tenants and customers, it is important to protect our property for their use only. At that meeting, the County Board agreed to install signs on our property with a warning of TOW AWAY, "**Private Property – No Parking Any Time**". These signs were never installed. It is my understanding from comments made by the Zoning Board last month that MIRA is creating activity without adequate parking which is not compliant to zoning requirements.

Please note item 2. That signage prohibiting parking on Tax Acct #2427037 to be removed. We oppose the request to remove signage requirement. This Tax Acct. reference is the property owned by Wegerif Partnership. As stated clearly the parking around the building is for our use only.

All of our objections stem from Bali Bar not having adequate parking for expanding their current seating capacity from 30 to 72 and expanded hours of operation. We believe any additional parking requirements by their business will result in their customers using any available parking – including ours. The bar owners do not have permission for them, or their customers to use our parking areas at any time. Please consider these request and the importance of our concerns.

Sincerely Yours,

Ed and Carolyn Wegerif, Managing Partners, Wegerif Partnership

Ed + Carolyn Wegerif

Wegerif Partnership
February 4, 2019

County Commissioner Bryan Lober
District 2, Merritt Island

Dear Mr. Lober,

On January 31, 2019 I attended a MIRA meeting with specific interest on the discussion regarding the Bali Bar expansion, grants and the impact of parking issues in the Merritt Park Place area.

Brevard County Planning and Zoning and MIRA members expressed concerns regarding storm water and especially code and zoning provisions that do not meet parking requirements. Some comments made were: "off parking spaces do not count, work on solutions, follow direction of zoning Board, Capitol improvements for future, parking code changes, study land development code changes and etc." Where do you stand now and what actions are being taken to address these problems?

The Bali BAR submitted a plan for future improvements with "massive landscape and pavillion". To date an accessory building 24' x 12' is to the rear and a second accessory building is to the north side and a modular R.V. home in the middle of lot 13, 120 mc land.

I hopefully there can be a satisfactory resolve for the future of Merritt Park Place.

Thank you for your attention.

Sincerely yours,
Carolyn Wegerif

REZONING REVIEW WORKSHEET

18PZ00138

Commission District # 2

Hearing Dates: P&Z 01/07/19

BCC 02/07/19

Owner Name: GREGORY D. TAYLOR AND RACHAEL J. FITZPATRICK

Request: Expansion of Existing CUP for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in Conjunction with a Bar; and an amendment to previously approved conditions of current CUP

Subject Property:

Parcel ID# 24-36-35-32-E- 13 & 14

Tax Acct.# 2427044 & 2427045

Location: Northeast corner of McLeod Street and Myrtice Avenue

Address: 110 & 120 McLeod Street, Merritt Island

Acreage: 0.31

Consistency with Land Use Regulations

<u>YES</u>	Current zoning can be considered under the Future Land Use Designation. Sec. 62-1255
<u>YES</u>	Proposal can be considered under the Future Land Use Designation. Sec. 62-1255
<u>YES</u>	Would proposal maintain acceptable Levels of Service (LOS) (XIII 1.6.C)

	CURRENT	PROPOSED
Zoning	BU-1 (2427044) BU-1 with CUP (2427045)	Expand CUP to both lots and revise prior conditions
Potential*	1,444 square feet	2,812 square feet
Can be Considered under FLU MAP	YES Community Commercial	YES Community Commercial

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

	ADT	PM PEAK		
Trips from Existing Zoning	130	11	Segment Number	060A
Trips from Proposed Zoning	253	21	Segment Name	N. Courtenay SR520 - Merritt Ave.
Maximum Acceptable Volume (MAV)	41,790	3,761	Acceptable LOS	D
Current Volume	28,274	2,545	Directional Split	0.53
Volume With Proposed Development	28,397	2,555	ITE CODE	
Current Volume / MAV	67.66%	67.66%	931	
Volume / MAV with Proposal	67.95%	67.92%		
Current LOS	C	C		
OS With Proposal	C	C		
Findings	<input checked="" type="checkbox"/> Non-Deficiency		<input type="checkbox"/> Deficiency	

Background & Purpose of Request

The applicants are seeking an expansion of their existing Conditional Use Permit (CUP) for alcoholic beverage (beer and wine only) for on-premises consumption onto the adjacent lot located to the north (120 McLeod Street) for the purpose of expanding their existing successful business, Balibar at 110 McLeod Street. Additionally, the applicants are seeking an amendment to the terms of the existing Board approved CUP, as they wish to expand the area to include both buildings on 110 McLeod Street. This parcel is located in the Historic Merritt Park Place area of Merritt Island which is within the Merritt Island Redevelopment Area.

CUP approval under **16PZ00088** allowed beer and wine use in conjunction with a snack bar and was approved on 12/1/2016. The six (6) conditions that are currently limiting usage of the property (110 McLeod Street) on the existing CUP are noted as follows and the changes proposed within the expanded CUP are clarified in red:

1. The indoor/outdoor seating for snack bar is limited to 30 seats; Expand to 72 seats.
2. The CUP is tied only to the larger of the two buildings on the property; Allow use from both buildings and to the property to the north.
3. That signage prohibiting parking on Tax Acct # 2427037 be posted; Remove signage requirement.
4. The hours of operation from 11:00 a.m. to 11:00 p.m. Wednesday – Sunday; Amend hours of operation from 7AM to 2AM, Monday – Sunday.
5. Lemon bamboo landscape buffer along the east and north property lines; Upgrading landscaping plan.
6. The CUP shall be in conjunction with a retail store. Expand use to include both businesses / both buildings.

Land Use Compatibility

The subject property retains the Community Commercial (CC) Future Land Use designation.

FLUE Policy 2.2 – Role of Zoning Regulations in the Designation of Commercial Lands

The zoning process regulates the types and intensities of uses for a parcel of land. Criteria which aid in assessing zoning compatibility shall include consideration of the following standards:

Criteria:

- A. Permitted/prohibited uses;
- B. Existing commercial zoning trends in the area;
- C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;
- D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;
- E. Impact upon natural resources, including wetlands, floodplains, and endangered species; and
- F. Other issues which may emerge specific to a particular property which may be addressed through performance based zoning criteria.

FLUE Policy 2.3 – Role of Land Development Regulations in the Designation of Commercial Lands

Land development regulations provide performance standards for evaluating the acceptability of proposed commercial development activities. Criteria include:

Criteria:

- A. Integration of vehicular and non-vehicular access into the site and access management features of site in terms of driveway cuts and cross access between adjacent sites, including use of frontage roads and/or shared access, where feasible, as determined by Brevard County;
- B. Buffering from adjacent existing/potential uses;
- C. Open space provisions and balance of proportion between gross floor area and site size;
- D. Adequacy of pervious surface area in terms of drainage requirements;

- E. Placement of signage;
- F. Adequacy of site lighting and intrusiveness of lighting upon the surrounding area;
- G. Safety of on-site circulation patterns (patron, employee and delivery vehicles), including parking layout and drive aisles, and points of conflict;
- H. Landscaping, as it relates to the requirements of the Comprehensive Plan and Land Development Regulations;
- I. Unique features and resources which may constrain site development, such as soils, existing vegetation and historic significance; and
- J. Performance based zoning requirements which may serve as a substitute for or accompany land development regulations in attaining acceptable site design.

The current BU-1 zoning classification is consistent with the Community Commercial Future Land Use designation, whether a conditional use permit for alcohol is associated with the parcel or not. The Board should evaluate the compatibility of this application within the context of the Board's Administrative Policies 1 - 8 of the Future Land Use Element, as outlined on pages 2 through 5 of the Administrative Policies.

Environmental Constraints

N/A

Applicable Land Use Policies

The two lots which comprise this application are surrounded by BU-1 zoning. The lot to the north of this site is approved for a lawn care business. The lot to the east is used for a multi-tenant commercial center. The property to the south is developed; however, it does not have a current business tax receipt (business license). The lot to the west across the street is used as a real-estate office.

The existing zoning trends in the area over the past three (3) years have been conducive for commercial development. The following zoning actions have occurred:

18PZ00032 adopted on 8/16/2018, was a zoning change from RA-2-10 to BU-1 with BDP limiting use to a self-storage mini-warehouse with 40% building coverage and a 25 foot wide landscape buffer and public sidewalk easement along the west property line adjacent to the S. Tropical Trail right-of-way recorded in ORB 8239, Pages 1698-1701 dated August 16, 2018. This site is located almost due south at 1,820 feet and lies on the west side of S. Courtenay Parkway.

15PZ00012 adopted on April 2, 2015, was a zoning change from PUD to GML(H). The parcel lies almost 2,000 feet west of this site on the north side of Hwy 520 and west of Myrtice Ave.

17PZ00107 adopted on 11/2/2017, was a full liquor CUP in conjunction with a 50 seat Irish Pub restaurant.

16PZ00084 adopted on 2/2/2017, was a truck and trailer rental CUP with the following limitations: To park all rental equipment with the rental trucks in the area designated on the approved site plan that is to be clearly marked with signage or striping; No more than ten (10) rental trucks at any given time on the property; After hours drop-off of vehicles must be in the designated area and any outside of the area will be moved to the approved location at the start of the Home Depot business; additional condition of no trailers on the property.

Special Considerations for 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 6-9 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 are indicated in **bold** and staff observations, if any, are provided in *italics*.

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 certified survey provided by the Applicant demonstrates that there are no schools, churches or daycares within 400' of the establishment.

- 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, has been identified on the site plan as occurring both inside and outside of the existing building. The Board may wish to consider whether any additional operational requirements should be imposed as a part of this request.

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.

Presently there is a small shed (on lot #13) that will be removed in the next two weeks. A pavilion structure will be put onto the property to expand the space for the Balibar. The pavilion will benefit from this vacant parcel being improved. Landscaping is currently being reviewed by MIRA. I'm also asking that the 30 Myrtice property be included in the CUP as we also want that to be a place for an extension of Balibar (lot #14).

Any noise generated in conjunction with the operation of the business would need to comply with the performance standards of Section 62-2251 through 62-2272, including the noise regulations of Section 62-2271. The expansion of the CUP on the current property would allow for on-premise consumption be

expanded into the 768 square foot building identified as 30 Myrtice Avenue (eastern building on lot #14). This additional use within the expanded square footage has the potential to increase trip generation.

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.

Yes it will be an addition to current adjacent property. There is a request to have 7AM – 2AM hours Monday - Sunday.

The Board may wish to evaluate whether the change in hours of operation would be compatible with the existing business located to the north of this site, which is a lawn-care business and to other surrounding properties.

The on-street parking adjacent to this property is insufficient. The applicant has not adequately demonstrated how they will satisfy the parking requirements for the proposed expansion of use.

The Land Development Regulations require one parking space for every 100 square feet of the establishment including any outside seating areas. Therefore, the existing building (1,444 sq. ft.) plus the area where the consumption is proposed for expansion (600 sq. ft. pavilion on the northern lot and 768 sq. ft. expansion to 30 Myrtice Avenue) totals 2,812 sq. ft., requiring 28 parking spaces. The existing site, per the survey included with this application, shows the site has approximately 10 spaces on the southern lot, all of which are on-street parking spaces which are improved with gravel, but not constructed to County code standards, and 2 spaces on the northern lot on an existing driveway.

The property also benefits from sharing public on-street parking in the Merritt Park Place area. Parking spaces along North Grove Street are within the County Right-of-Way and were improved in 1999 by the County's Road & Bridge Department and the MIRA District. The Board may wish to consider whether improvement of existing un-improved parking spaces should be a condition of approval of this requested CUP.

Pursuant to Section 62-3206(14) within the Merritt Island Redevelopment Area, new developments located within the Merritt Park Place subdivision will be required to locate on-site parking to the side or rear of the principal structure. Since the site is not a new development, the parking is considered non-conforming.

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 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 MAI certified appraiser, that a substantial diminution in value would occur. The applicant may rebut the findings with his own expert witnesses.

Presently a 55 year old mobile home was demolished since its clearing a massive landscaping & pavilion will be injected the building value & surrounding properties will benefit from this vacant parcel being improved.

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.

Since the property is within the redevelopment area it has been engineered for safety, traffic flow and emergency response.

The Board may wish to consider the CUP expansion be conditioned upon the improvement of parking, sidewalks and ADA accessibility. The southern lot (lot #14) under the current CUP fails to provide sidewalks for pedestrian use and the existing 10 space parking area constructed within the road right-of-way consists of a gravel surface which is not an approved stabilized parking media and fails to meet current code criteria. Additionally, no handicapped parking spaces on or adjacent to the property exists or is planned under the current CUP submittal.

While sidewalk exists along the west side, pedestrian infrastructure appears to be missing on the south side of the parcel. None of the spaces on the boundary survey appear to be marked for ADA accessibility. The Board may wish to consider necessitating that sidewalks & ADA improvements be made a condition of approval of this CUP.

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.

The use of a lounge will not generate any noise, glare, odor, particularly smoke and fumes.

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

The commercial use of this neighborhood will generate less than 65dB(A) maximum allowed.

The Board may wish to consider whether the proposed expanded operational hours would produce noise levels incompatible with the surrounding uses.

Section 62-1901(c)(2)(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.

By combining; waste will still go to lot #14. This use will not increase the need for additional solid waste service.

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.

The applicants failed to address potable water and wastewater levels of service. The Board may wish to consider whether the level of service for potable water and wastewater would be adversely impacted.

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.

The existing site is compatible in character and adequate. Meets all current standards.

The Board may wish to consider whether the proposed updated landscaping plan and buffering will be sufficient to act as appropriate screening.

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.

Lot is not deep enough to have two signs.

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.

Change in hours 7AM – 2AM M-F.

Applicant response to Section 62-1901 (c)(1)(b) lists the same requested hours of operation except instead of impacts being Monday – Friday listed in the earlier response the range was Monday – Sunday. This is a proposed change to the current CUP condition limiting hours of operation from 11AM-11PM Wednesday-Sunday. The Board may wish to consider whether the proposed expansion of hours would adversely affect surrounding property 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.

The existing building is less than 20 feet in height.

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.

Please see attached.

Parking – Brevard County land development regulations require that, for the use proposed, a minimum of 28 onsite parking spaces (one space for every 100 square feet of gross floor area of the building) be provided to meet the minimum spaces required by Section 62-3206(d)(29). The applicant's survey identifies that 16 spaces are adjacent to the site and makes note of an agreement from the property owner located south of the street to provide 10 parking spaces after hours and a note allowing community parking allowing up to 20 spaces to indicate the amount of usable parking spaces. The applicant has not provided a copy of the parking agreement and the land development code does not have a mechanism to count off-site parking without an agreement.

Staff recognizes the 10 parking spaces on the south side of the property along Myrtice Avenue are permissible to be counted under current parking code provisions. There is the potential of two (2) additional parking spaces which could be utilized when converting the driveway of 120 McLeod Street into additional parking. The Board may wish to condition this CUP's approval upon the improvement of existing parking and the construction of additional parking.

For Board Consideration

The applicants are seeking an expansion of their existing Conditional Use Permit (CUP) for alcoholic beverage (beer and wine only) for on-premises consumption onto the adjacent lot located to the north (120 McLeod Street) for the purpose of expanding their existing successful business, Balibar at 110 McLeod Street. Additionally, the

applicants are seeking an amendment to the terms of the existing Board approved CUP, as they wish to expand the area to include both buildings on the southern parcel – 110 McLeod Street and 30 Myrtice Avenue. This parcel is located in the Historic Merritt Park Place area of Merritt Island which is within the Merritt Island Redevelopment Area (MIRA).

CUP approval under **16PZ00088** allowed beer and wine use in conjunction with a snack bar and was approved on 12/1/2016. The six (6) conditions that are currently limiting usage of the property (110 McLeod Street) on the existing CUP are noted as follows and the changes proposed within the expanded CUP are clarified in red:

1. The indoor/outdoor seating for snack bar is limited to 30 seats; Expand to 72 seats.
2. The CUP is tied only to the larger of the two buildings on the property; Allow use from both buildings and to the property to the north.
3. That signage prohibiting parking on Tax Acct # 2427037 be posted; Remove signage requirement.
4. The hours of operation from 11:00 a.m. to 11:00 p.m. Wednesday – Sunday; Amend hours of operation from 7AM to 2AM, Monday – Sunday.
5. Lemon bamboo landscape buffer along the east and north property lines; Upgrading landscaping plan.
6. The CUP shall be in conjunction with a retail store. Expand use to include both businesses / both buildings.

The Board should consider whether the changes to the six existing CUP's conditions should be approved, as proposed.

The on-street parking adjacent to this property is insufficient, with 28 parking spaces required for the 2,812 sq. ft. for alcoholic beverages for on-premises consumption being proposed. The applicant has not adequately demonstrated how they will satisfy the parking requirements for the proposed expansion of use. The Board may wish to condition this CUP's approval on parking improvements being made.

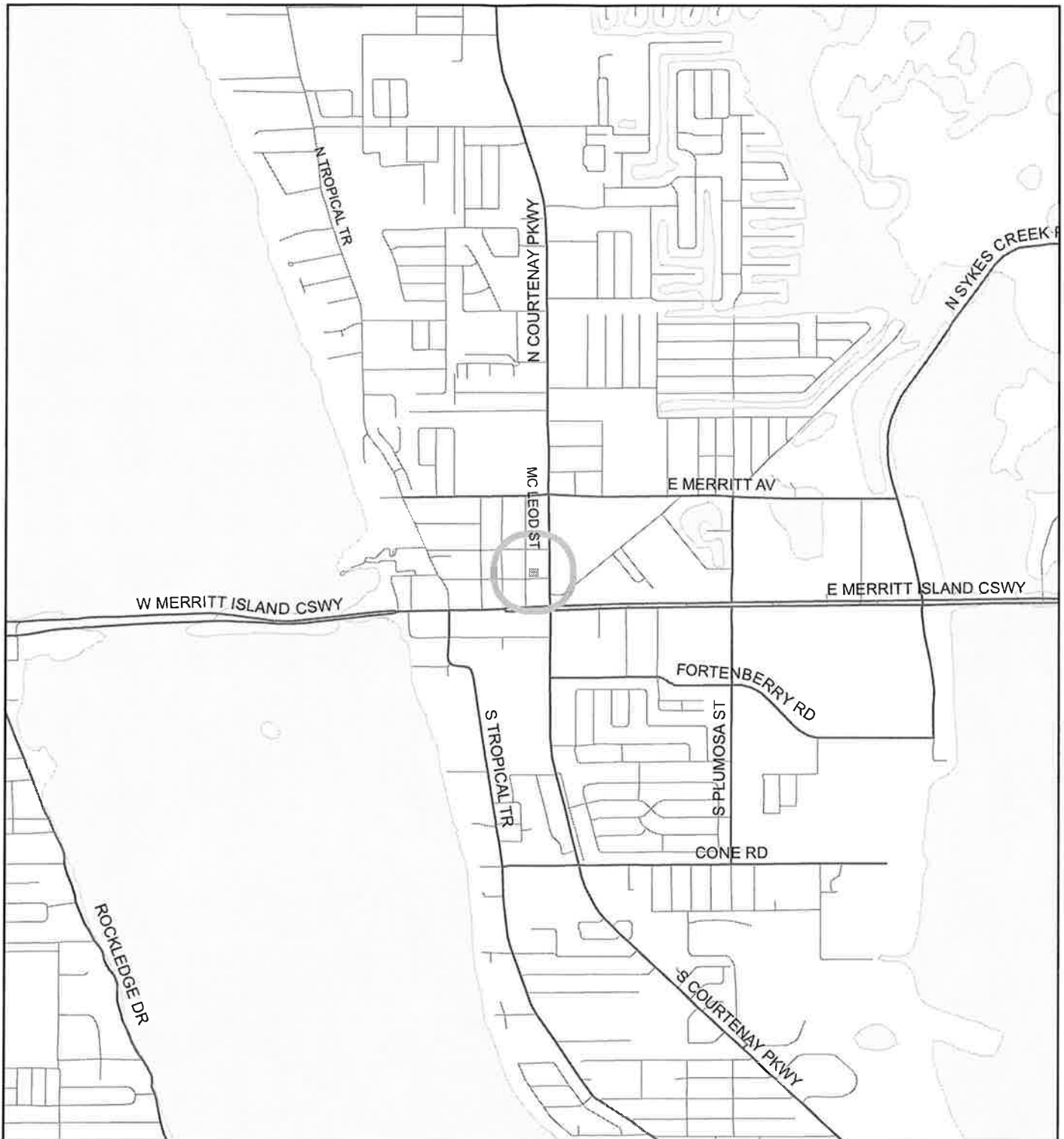
While sidewalk exists along the west side, pedestrian infrastructure appears to be missing on the south side of the parcel. Additionally, none of the parking spaces on the boundary survey located within the right of way along the south side of the subject property appear to be improved to meet County code standards or marked for ADA accessibility. The Board may wish to condition this CUP's approval on sidewalks & ADA improvements being made.

The Board may want to consider whether sale of alcoholic beverages should be limited in any way, including, but not limited to, hours of operation.

This request for a Conditional Use Permit (CUP) to allow for on-premises consumption of alcohol (beer and wine) in conjunction with a 72 seat restaurant may be: 1) approved subject to the conditions of Section 62-1906; 2) denied, or; 3) approved subject to the conditions of 62-1906 and conditions imposed by the Board above and beyond the requirements of Section 62-1906.

LOCATION MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK
18PZ00138



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

Buffer Distance: 500 feet

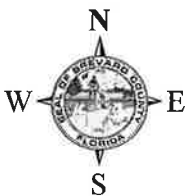
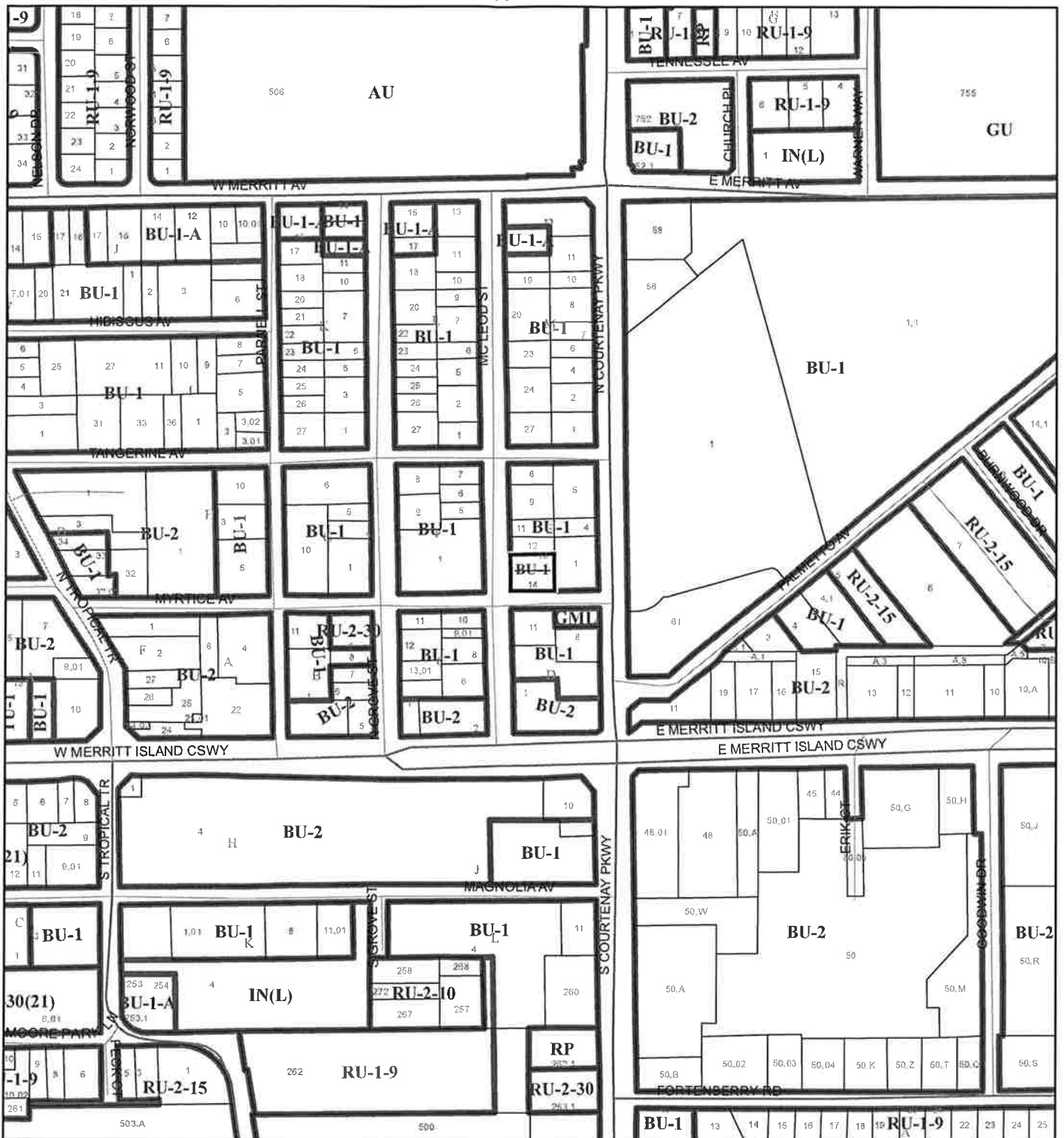
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/14/2018

— Buffer
■ Subject Property

ZONING MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK
18PZ00138



1:4,800 or 1 inch = 400 feet

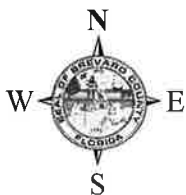
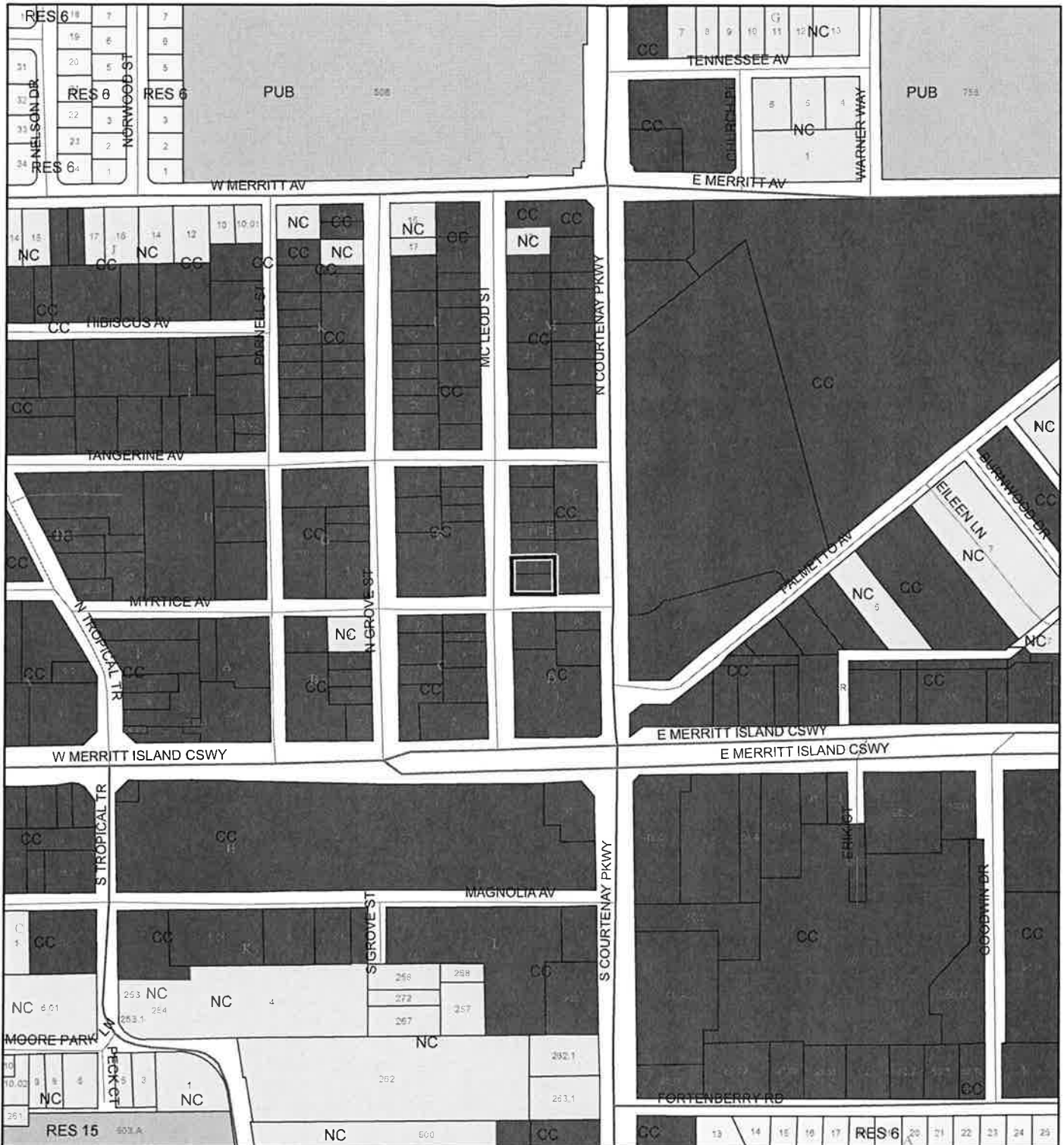
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/15/2018

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK
18PZ00138



1:4,800 or 1 inch = 400 feet

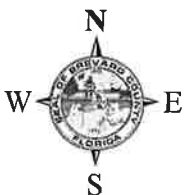
— Subject Property
□ Parcels

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Produced by BoCC - GIS Date: 11/14/2018

AERIAL MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK
18PZ00138



1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2018

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.

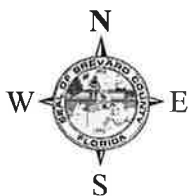
Produced by BoCC - GIS Date: 11/14/2018

— Subject Property

□ Parcels

NWI WETLANDS MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK
18PZ00138



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: 11/14/2018

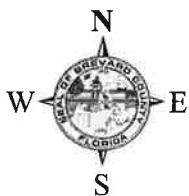
National Wetlands Inventory (NWI)

	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

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK

18PZ00138



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/14/2018

SJRWMD FLUCCS WETLANDS

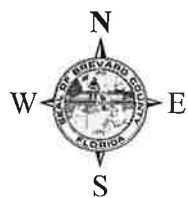
-  Wetland Hardwood Forests - Series 6100
-  Wetland Coniferous Forest - Series 6200
-  Wetland Forested Mixed - Series 6300
-  Vegetated Non-Forested Wetlands - Series 6400
-  Non-Vegetated Wetland - Series 6500

 Subject Property

 Parcels

USDA SCSSS SOILS MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK
18PZ00138



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/14/2018

USDA SCSSS Soils

- Aquifer and Hydric
- Aquifer
- Hydric
- None

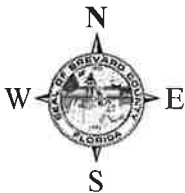
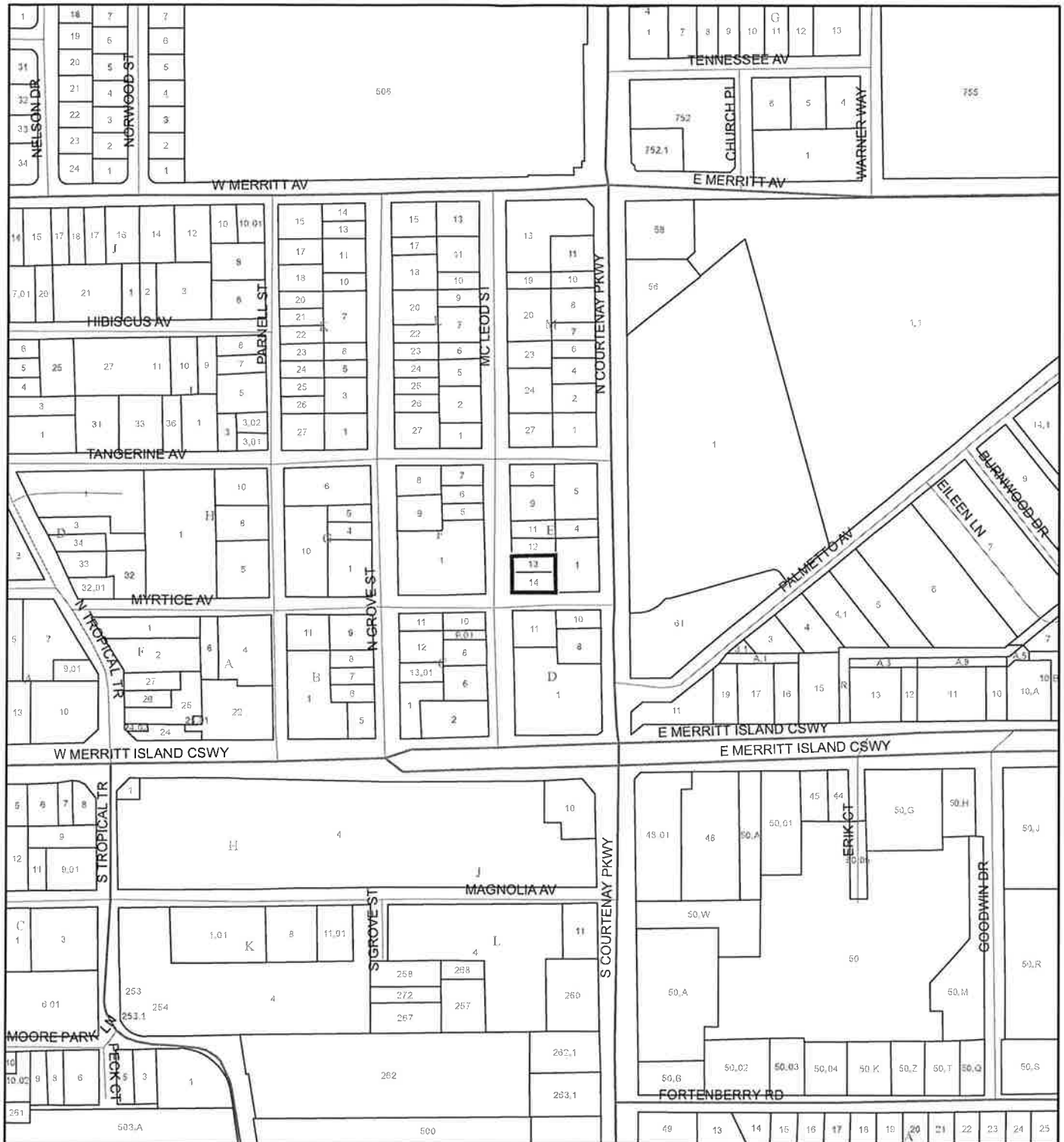
Subject Property

Parcels

FEMA FLOOD ZONES MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK

18PZ00138



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.

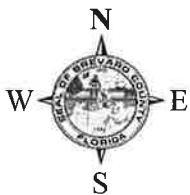
Produced by BoCC - GIS Date: 11/14/2018

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 | |

EAGLE NESTS MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK
18PZ00138



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/14/2018

 Subject Property

 Parcels

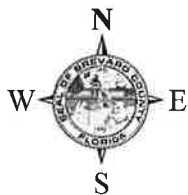


Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK




18PZ00138



1:4,800 or 1 inch = 400 feet

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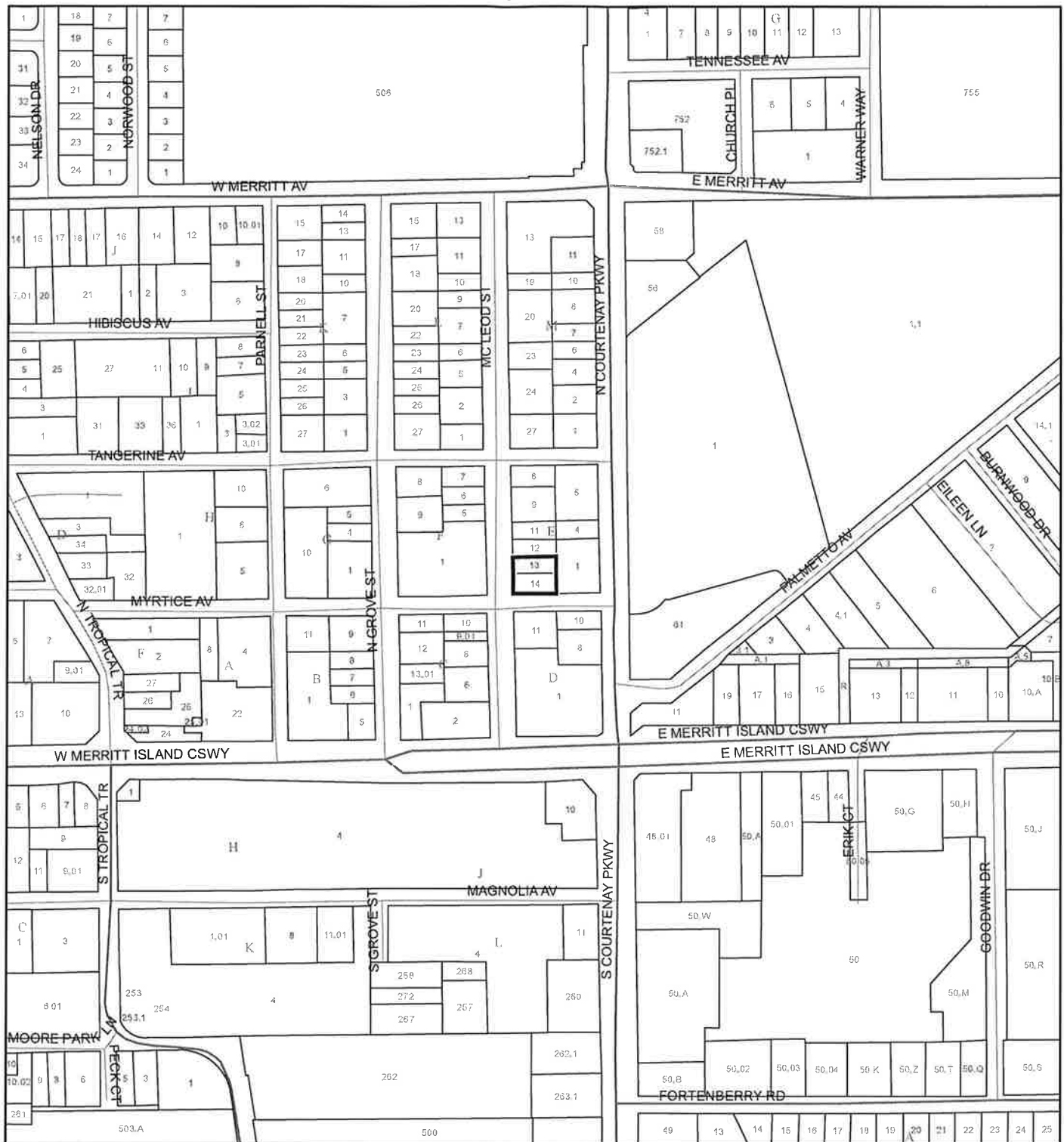
Produced by BoCC - GIS Date: 11/14/2018

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

GREGORY D. TAYLOR AND RACHAEL FITZPATRICK

18PZ00138






1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/14/2018

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

MAP OF SURVEY

Survey and Drawing

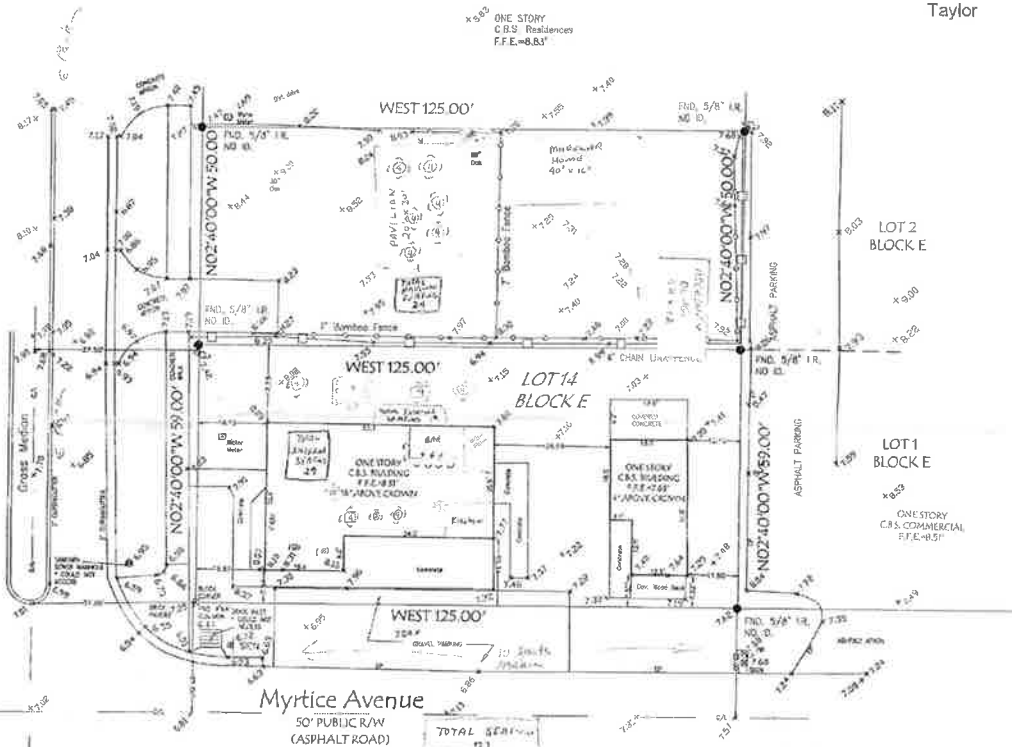
18PZ00138

Fitzpatrick/
Taylor

Legal Description as Furnished:

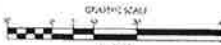
Lot 14 & 15, Block E, MERRITT PARK PLACE,
according to the plat thereof, recorded in Plat
Book 5, Page(s) 449, of the Public Records of
Brevard County, Florida.

McLeod Street
75' PUBLIC R/W
(ASPHALT ROAD)



Myrtice Avenue
50' PUBLIC R/W
(ASPHALT ROAD)

MINA PLANT
100' WIDE PLANT
The map is made to the best of the Surveyor's knowledge and belief.
The map is made to the best of the Surveyor's knowledge and belief.
The map is made to the best of the Surveyor's knowledge and belief.



Myrtice Ave. is 10' wide
signed with 10' wide

Big corner
Parking lot 20' wide

I hereby certify that the map is true and correct as to the facts and circumstances stated therein.
I, the Surveyor, am a duly licensed Surveyor in the State of Florida.
I, the Surveyor, am a duly licensed Surveyor in the State of Florida.

Block	Area
1	1.00
2	1.00
3	1.00
4	1.00
5	1.00
6	1.00
7	1.00
8	1.00
9	1.00
10	1.00
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18	1.00
19	1.00
20	1.00

Boundary / Topographic Survey

Certified to:

Greg Taylor

18PZ00138

11/11/2017

11/11/2017

LEGEND	SYMBOLS OF
1. Found site line	1. Center line
2. Found site line	2. Center line
3. Found site line	3. Center line
4. Found site line	4. Center line
5. Found site line	5. Center line
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1. The map is made to the best of the Surveyor's knowledge and belief.
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Objection
18PZ00138
Taylor/Fitzpatrick

Wegerif Partnership
P. O. Box 54-1725
Merritt Island, FL 32954-1725
January 4, 2019

Brevard County Planning and Zoning Board
Viera, Florida

Dear Board Members:

Re: ID# 18PZ00138 Request: Expansion of an existing CUP, and an amendment to previously approved conditions of current CUP/located on the NE corner of McLeod St. and Mytrice Ave (110 and 120 McLeod St., Merritt island.

The purpose of this letter is to object the following:

- 1) expansion from 30 seats to 72 seats.
- 2) the signage prohibiting parking on Tax Acct # 2427037 to be removed, and
- 3) the extension of hours 7AM-2:00 AM Monday – Sunday.

Since 1976 Wegerif Partnership has owned the strip shopping center which is adjacent to the east of the property requesting amendments. The building is occupied by five small businesses, with parking in front and side for customers and the rear parking (which is one way traffic) is used for our shop owners and workers. Our location is 105-129 No. Courtenay Parkway, with the south of the property facing Myrtice Avenue and the Tax ID#24-36-3532 E and Acct #2427037.

My husband Ed Wegerif and I attended the zoning meeting, November 7, 2016. As discussed two years ago, parking is still a major concern. Parking issues need to be addressed and established businesses should be considered and not adversely impacted. For our tenants and customers, it is important to protect our property for their use only. At that meeting, the County Board agreed to install signs on our property with a warning of "**Private Property -- No Parking Any Time**". These signs were never installed. Expanding the seating from 30 to 72 seats will require more parking, exacerbating the existing parking issues.

Please note item 2. That signage prohibiting parking on Tax Acct #2427037 to be removed. We oppose the request to remove signage requirement. This Tax Acct. reference is the property owned by Wegerif Partnership. As stated clearly the parking around our building is for our use only.

All of our objections stem from Bali Bar not having adequate parking for their current seating capacity and hours of operation. We believe any additional parking requirements by their business will result in their customers using any available parking – including ours. The bar owners do not have our permission for them, or their customers, to use our parking areas at any time. Please consider our request and the importance of our concerns.

Sincerely Yours,

Ed and Carolyn Wegerif, Managing Partners, Wegerif Partnership



PLANNING AND ZONING BOARD MINUTES

The Brevard County Planning & Zoning Board met in regular session on **Monday, January 7, 2019**, 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 by the Chair, Henry Minneboo, at 3:00 p.m.

Board members present were: Henry Minneboo, Chair; Ron Bartcher, Rochelle Lawandales, Brian Hodgers, Ben Glover; Ron McLellan; Scott Langston; Mark Wadsworth; and Dane Theodore.

Staff members present were: Erin Sterk, Planning and Zoning Manager; Jad Brewer, Assistant County Attorney; George Ritchie, Planner II; Darcie McGee, Assistant Director, Natural Resources Management; and Jennifer Jones, Special Projects Coordinator II.

Henry Minneboo, Chair, announced that the Board of County Commissioners will have the final vote on the recommendations made by the Planning and Zoning Board on Thursday, February 7, 2019, at 5:00 p.m.

Excerpt from complete agenda.

13. Gregory D. Taylor and Rachael J. Fitzpatrick:

Request an expansion of an existing CUP (Conditional Use Permit) for Alcoholic Beverages (beer & wine only) for On-Premises Consumption in conjunction with a bar, in a BU-1 (General Retail Commercial) zoning classification, and an amendment to previously approved conditions of existing CUP. The property is 0.31 acres, located on the northeast corner of McLeod Street and Myrtice Avenue. (110 & 120 McLeod Street, Merritt Island) (18PZ00138) (District 2)

Gregory Taylor – I'm Gregory Taylor, and this is my wife, Rachael Fitzpatrick, and our business address is 110 McLeod Street. I want to thank you. Last year, you approved us for our Conditional Use Permit to build what we call the Balibar, which was based on an Indonesian theme, based on Rachael's dream, and traveling, and things we've gathered. We built and have been running a successful indoor and outdoor wine bar, craft beer, and retail store. It's been well received, it's been unique, it's been upscale, and it's been called beautiful. We have entertainment two to three nights a week. We've been asked by customers to expand because from time to time we have book clubs, which could be as many as 20 people, and different parties and weddings, and things like that, and they've asked us if we could expand. In response to that, we went to the Merritt Island Redevelopment Agency and discussed it with them and they were positive about it. We've taken some actions; we've bought the adjoining lot that is just to the north; we removed a 50-year old mobile home that had been there and was very unsightly; we purchased a 20-foot by 30-foot teak Polynesian open-air pavilion that is arriving in Jacksonville in the next 30 days; and we've have a landscape development plan that would continue the theme we have around the Balibar, with Palm trees and Bamboo trees and less vegetation so it doesn't feel like you're in Merritt Island, it feels like you're in another land. We're excited about the proposal to expand our Conditional Use Permit to the second lot; we're excited also to listen and know about the potential fine dining establishment that's going into the same area that we're going into because we think that was eventually what was intended for this area, is to have different kinds of businesses in there. We know that some of the same issues probably are always existing when you try to expand, with parking. With that issue, right now we have 10 spots that we had with our current bar, and then we've had overflow parking that goes across the street into the business to the south of us, with their approval. There's a community lot owned by the Merritt Island Redevelopment Agency that is used during the day but is vacant at night, so we also have people who park there. So, there's 10 spaces that are ours, 10 spaces

generally across the street, 20 spaces available in the community, and in the community parking along McLeod Street there's probably another 20 spaces. We're asking for your approval to expand something that's been well received, that has been successful, makes the area more beautiful, and add some more features that we think will be valuable to the community.

Henry Minneboo – I'm going to start because I don't know how many people on the board have knowledge of the Merritt Island area. Parking is probably a premium part of this, in my opinion. I've been by your business numerous times and it's been congested when you have cars on both sides of the road, so I don't know what's causing that, and I might have been there when there was something occurring, but I know that area fairly well. A lot of people tell us they have parking, and then later we find out that something that may have been contiguous, those owners say they don't want parking at their property or business. Do you have any verification that you guys are going to be able to park at these other places that you've mentioned. Do you have something in writing?

Rachael Fitzpatrick – Today, I got the shared parking agreement, and we talked to all three of the people that are around us and they all agreed that they would sign it.

Henry Minneboo – That is going to become official?

Rachael Fitzpatrick – We came before you today to find out. We have the Merritt Island Redevelopment District lot, which is the Discount Pharmacy that is open-use and that's right across the street from us.

Henry Minneboo – When you brought this in front of the Merritt Island Redevelopment Agency, were there any thoughts about their parking.

Rachael Fitzpatrick – They are all about us making this happen and letting us use that lot that Discount Pharmacy uses, along with ours as well.

Henry Minneboo – Are they all about parking?

Rachael Fitzpatrick – All about parking, and they are 100% behind us. We've been to probably four of their meetings and they're very much wanting us to make this happen.

Henry Minneboo – I'm just saying that parking is an issue there.

Gregory Taylor – It's owned by the Merritt Island Redevelopment Agency, it's not designated parking, but it's used by all the businesses that are in the area, including us.

Henry Minneboo – So, it's joint-use parking?

Gregory Taylor – Yes.

Brian Rodgers – We had another item tonight, Item 4, one block away, and parking was the same issue there, so I'm not against it, I just want to know from staff if they're seeking the same exact thing, and parking was an issue there, these people are requesting the same thing, who determines what's adequate parking, considering they're both going after the same parking area?

Erin Sterk – With both this, and the previous request, not every conditional use permit needs a site plan. If it was an existing structure and if proposed within the existing footprint like their original request – they didn't do a site plan when they got that original allowance, so when they expand the commercial nature onto the lot to the north they will have to come through the site plan process for that. The challenge that staff has regarding parking in the Site Plan Code, is that hours of operation are not something that we have codified to consider. When there's 10 parking spaces and business "A" uses them during the day and business "B" uses them at night, staff does not have codified language that allows us to count those 10 spaces twice. With shared parking agreements, when we can recognize those agreements, is if a business that's in operation on an existing developed property has extra parking spaces, not just extra part of the day, but extra in total. Those extra parking spaces, they can agree to have counted for a different use on a different property. So, it's not just that the business wouldn't be in operation and would agree to allow them to use their parking lot, it would have to be, by Code, extra parking spaces. Our Code doesn't really give us the allowance to count that Merritt Island Redevelopment Area parking lot as meeting the criteria for this additional expansion. We have some challenges, and these are the kinds of things that are worked out during the site plan process where we can get more specific about how to meet the criteria, but we don't have allowances that allow us the flexibility to count those on-street parking spaces three blocks away. Although he didn't specifically identify how he was going to meet them at that restaurant request when he comes through the site plan process he will have to identify how those parking spaces are going to be accommodated. If they're needed for another business, because their use determines how many spaces they need, and there's not extra, you can't just park there and have that meet the criteria. That's the challenge that we will face when we go through that site plan process, but every applicant with zoning goes through site plan challenges, so we face them at that time.

Rochelle Lawandales – From a process standpoint, Erin, you need us to address each of these six points within the Conditional Use Permit Worksheet?

Erin Sterk – Yes. The expansion of the Conditional Use Permit is to the lot to the north, so they are seeking the additional area, but they're also seeking a change to the conditions on the existing Conditional Use Permit, which would be replicated to apply to the area to the north if they were just expanding the area, so I would say we need to go point by point, unless you want to blanket approve the request as proposed.

Rochelle Lawandales – How many onsite parking spaces should they have?

Gregory Taylor – 28 spaces is what we were told based on the increase in the size.

Rochelle Lawandales – And how many do you have?

Rachael Fitzpatrick – 10 spaces.

Rochelle Lawandales – You can fit 10 spaces?

Gregory Taylor – Yes.

Rochelle Lawandales – With the other application today we stipulated that they get shared parking agreements, or cross access parking agreements before going to the County Commission. Would you be able and willing to do that?

Rachael Fitzpatrick – One of the issues I think you may not be aware of is that for liability reasons I'm not 100% sure everybody would sign those because it's a liability of their own lot. Whether or not they'll sign something like that is another legal entity, as you can imagine.

Gregory Taylor – For example, we talked to the people that our south of us, where our customers have been parking with their approval for the past year, and they're fully supportive, but their question to us was it was fine when they said we could do it, but if they sign something does it create a liability and can we tell them the issues that go with that. We couldn't answer that question, so they've supported us, and they want to support us, but they don't know the answer to that and neither do we.

Henry Minneboo – I don't blame them.

Rachael Fitzpatrick – I agree.

Henry Minneboo – Does that include Rhonda to the north of you?

Rachael Fitzpatrick – She's two doors down from us, we didn't talk to her.

Rochelle Lawandales – From the legal standpoint, don't those agreements actually stipulate that if it's parking for you, you're liable; and if it's parking for them, they're liable?

Gregory Taylor – What I've been confused with is that we have 10 spots and we need 28 spaces. We have 10 spaces on our lot. There is a Merritt Island Redevelopment Area community parking lot that has spots for 20 spaces, so now we're at 30 spaces. There's parking on McLeod Street, and there's a lot of parking there. So, just off the top of my head without talking to the business to the south and without talking to the veterinarian hospital that was mentioned before, we've got more than 28 spaces.

Rochelle Lawandales – But they're not dedicated to you.

Gregory Taylor – And we haven't had an issue or complaint with anybody on parking in a year. Just like last year, people asked how we were going to solve the parking problem. There's not a parking problem.

Rachael Fitzpatrick – I agree. I don't understand why there's a concern because there has not been one complaint from anybody to us about that.

Gregory Taylor – And we're talking about walking 50 feet, 100 feet from spaces we haven't even talked about, and when I think of other restaurants in the area and how far you have to walk, it's not like parking has to be 10 feet away from you if you have a popular place.

Rachael Fitzpatrick – Coconuts doesn't even have parking.

Henry Minneboo – The City of Cocoa, for 20 years, has told me they don't have a parking problem, and you can't find a parking place. I just don't understand, I guess I'm not tuned in enough to realize that. I just refuse to go to Cocoa, and I've been here a long time.

Rochelle Lawandales – In going down these six items that we need to review, there's allowing use from both buildings, they want to remove the signage requirement. What does that mean, Erin? What's the signage that they want to remove?

Gregory Taylor – We did not request that, so we saw it on there, but we didn't request that.

Henry Minneboo – Did the Merritt Island Redevelopment Agency approve all of these?

Rachael Fitzpatrick – I think what you're talking about is that we couldn't do signage because our lot is not big enough in the front to have signage, so it wasn't applicable. We're not clear on that.

Gregory Taylor – It wasn't big enough to have two signs.

Rochelle Lawandales – The conditional use permit says that there shall be signage prohibiting parking on a certain Tax Account, and you want to remove that?

Gregory Taylor – That's the strip mall to the east, and we didn't request that the signage be removed. If it is, great, if it's not, fine.

Rachael Fitzpatrick – The last time we were here there was somebody that asked for that to be part of it, so we had a sign created for that, and that might be what you're talking about.

Rochelle Lawandales – Did you ask for that requirement to be removed?

Rachael Fitzpatrick – We're not sure where that came from.

Erin Sterk – I'm trying to find the information on that, so if that's not a proposal by the applicant then that's our mistake.

Rochelle Lawandales – The next thing that I have is the hours of operation. Right now, you're allowed to operate from 11:00 a.m. to 11:00 p.m., Wednesday through Sunday, and you want to now operate from 7:00 a.m. to 2:00 a.m. every day of the week?

Rachael Fitzpatrick – I want to have the option, and I figured I would ask for that. We're potentially looking to do a couple of different things, so they told me this was my one opportunity so I thought I would ask for it.

Gregory Taylor – The issue we have is, if it is New Year's Eve, do we have to kick everybody out at 11:00 p.m.? We don't really see that our business really goes past 11:00 p.m., some people hang around a little bit, but thought we might as well ask for it because occasionally there are special events and people want to stay a little longer.

Rochelle Lawandales – I'm just going through these for the record so we all know what we're voting on.

Dane Theodore – Can you give us a quick history of where you got the hours of Wednesday through Sunday, 11:00 a.m. to 11:00 p.m., and now want to go all day. How did that occur the last time? Was that your request?

Rachael Fitzpatrick – It was our request. We didn't realize that once you put that in writing that it's solid.

Gregory Taylor – Our reality right now is we're open 5:00 p.m. to 11:00 p.m., Wednesday through Saturday, and then on Sunday we're open from 11:30 a.m. to 3:00 p.m. We're not open on Monday or Tuesday, and we're not open earlier in the day. When we were here originally we asked for earlier hours because we had a retail store and we thought people would drift in for the retail, but that didn't turn out to be the case, but if you start having something where somebody can come in, or have a group come in, they might want to come in in the afternoon. The veterinarian hospital across the street has staff that may want to come over.

Dane Theodore – So, the 7:00 a.m. is just to cover everything?

Gregory Taylor – Yes.

Dane Theodore – Would you have any objection to 11:00 a.m. to 2:00 a.m.?

Rachael Fitzpatrick – My only thought was down the road, because as a small business owner you don't know what's going to work. I've been approached about having a breakfast area because a lot of women there have small kids and they'd like to have a place to go for breakfast in that area. I don't know if you've been to my wine bar.

Dane Theodore – It's a bar?

Rachael Fitzpatrick – No, we have a full restaurant license as well. I'm just trying to keep my options open.

Henry Minneboo – Erin, did the Merritt Island Redevelopment Agency approve everything as we see it here?

Erin Sterk – They have postponed this item because they have a separate façade grant application, which is what I believe they've gone before the Merritt Island Redevelopment Agency to have heard, so that's a whole separate item. Some of those details may be dictated by this Conditional Use Permit, so they're kind of waiting to rule on that item.

Henry Minneboo – They're waiting on us before they rule?

Erin Sterk – On the façade grant application because they don't want to reimburse funds for improvements that may or may not be necessary. I think they are hearing this item on the 31st of January.

Gregory Taylor – They didn't want to approve us starting to spend lots of money with the hopes that we would get a façade grant, if at the end of the day, we were not able to expand our Conditional Use Permit, so they've been supportive.

Henry Minneboo – My only concern is that I can't see the Conditional Use Permit holding back the Merritt Island Redevelopment Agency.

Erin Sterk – You mean holding the board back from taking action? I'm not really sure of the methodology there, but we will be in attendance at the January 31st meeting.

Henry Minneboo – I stay up at night worrying about this board getting shots from people. We get shots from people and we didn't cause the problem.

Erin Sterk – We looked back through our records on Condition 3 in the request to change that signage requirement, and I think we had a request to amend the conditions and no specific language requesting that, so our apologies. That request to change Condition 3 is not from the applicant.

Carolyn Weigref – I'm Carolyn Weigref and we own the property to the east of the property being discussed and I have a letter for each of you. The expansion of the number of seats is from 30 to 72 seats that they are requiring for the expansion of the bar, and both buildings will be used. I don't know what the small building is being used for now. For Condition 3, the signage, we're the Tax Account number referred to, and we had discussions before regarding the parking. The County said they would put a sign by our properties saying that there be no parking on the premises except for the people who occupy the building, so that's what the signage is. Under 'hours of operation', it just seems like the time would cause more traffic for parking and we just want to make it very clear that we would not allow parking on our property, and we would appreciate it if the County would follow through with what they had promised before, and also, I would like to say that they have improved the property, but the property they're improving now, there's a recreational vehicle that has been parked there. I'm wondering why more parking couldn't be used in the lot they are developing to the north, as it's all landscaping and so forth. We would appreciate your consideration.

Troy Hines – I'm Troy Hines, and I own the properties at 150 and 160 McLeod Street. Earlier you were discussing a Conditional Use Permit for a 120-seat restaurant and the questions were about the parking issues. How big is that building, 850 square feet?

Gregory Taylor – 1,440 feet for the bar right now.

Troy Hines – And we're talking about parking for a 160-seat restaurant? I don't have a problem with what they're doing, the place is very nice and it's amazing. I can say that if they're open in the daytime, there will be an issue of parking. In the evenings, people do park in our spots in front of our building, and there are 10 spots on McLeod Street, both sides total, so there's not a lot of parking. If you guys put hours on it then I have no issues at all, but if they're operating in the daytime, that's not going to work with us.

Henry Minneboo – At Rhonda's place, at night when everybody is gone, do they take up some of that parking there? Do they park in the right-of-way?

Troy Hines – I think those are County-owned lots, and I don't have a problem with that, but in the daytime I would have a problem with that. That's all I have to say, but I'm for it, it's nice. You guys don't serve food, do you?

Gregory Taylor – We serve meat and cheese plates. We certainly agree with not parking in her lot, and when people ask us we tell them not to park there, so we support that. The recreational vehicle is there because we had it at Kars Park and with the government shutdown it had to be moved, and we figured a mobile home was on there before so we can certainly park our recreational vehicle while we wait on the Conditional Use Permit.

Henry Minneboo – Parking is such a premium, and the Merritt Island Redevelopment Agency is going to have to do something about it. They never worried about the parking, even in the beginning. I know the creation of MIRA and all they ever talked about was getting businesses in there and they've done a marvelous job, but now they need to start thinking about where to park the cars. That's been my only concern.

Gregory Taylor – We're just trying to expand our business and we've been encouraged to.

Brian Hodgers – If we approve this it still goes through site plan review, and if they don't have the parking and they shoot it down, it becomes their problem and not our problem, right?

Ron McLellan – Exactly.

Henry Minneboo – Erin, are you onboard with that?

Erin Sterk – The evaluation that will take place at site plan is limited to the newly proposed development, so their Conditional Use Permit on the existing lot is in the 1,400 square-foot building. There's another building on that property that she has a different business in that's part of this request, so on the existing property, that other building, they're requesting to expand the Conditional Use Permit to. Because that building is already there, that won't come through the site plan approval process, so there won't be a moment where we capture the necessary parking for that building that may currently be deficient. The newly proposed additional square footage with this open-air pavilion will be evaluated by our staff for stormwater and everything, including parking, but that other request at the 30 Myrtice Avenue, would not go through that.

Rachael Fitzpatrick – Can I explain the 30 Myrtice Avenue that's part of that property? I have a Beauty Box business there and that is typically run during the day, so that doesn't have any effect on the Bali Bar at night.

Gregory Taylor – It's a Botox filler kind of business, and at the last Conditional Use Permit request you said we couldn't serve wine there, and we have not, but from time to time, if people are there, we'd like to be able to sell wine to those customers if they request. It's not a requirement, but it would be a nice thing to add. We can take that out if that's a problem.

Henry Minneboo – Erin, what about the 'no parking anytime'?

Erin Sterk – Typically, a binding development plan binds the applicant to make the conditions come through to fruition.

Rachael Fitzpatrick – We did have the sign made, Sign Lords made it.

Erin Sterk – There was suggestion that the County was supposed to make that.

Gregory Taylor – We made it, and if it's not there we will do it again.

Rochelle Lawandales – I have a problem with the hours of operation, 7:00 a.m. seems a little early. What about 9:00 a.m.? Maybe it doesn't really matter. I'm going to move that we recommend approval of the Conditional Use Permit with the changes as noted, with the exception that the sign remain, and if it's not there that it be put in, that this meets the requirements for a Conditional Use

Permit, and that you obtain letters from adjacent property owners who you have referred to that will allow you to park in their spots.

Rachael Fitzpatrick – In the Merritt Island area there are no breakfast places down the road.

Rochelle Lawandales – That's fine, I left it at 7:00 a.m., I didn't change it, I'm just saying I have a problem with it.

Ben Glover – It's all contingent on them getting the shared parking agreement executed, is that correct?

Rochelle Lawandales – No, it's not contingent upon them getting it, that's just one of the things I would like for them to have as part of this.

Rachael Fitzpatrick – If for some reason it's a liability issue, we would be out of luck.

Gregory Taylor – You're asking us to try to get that.

Rochelle Lawandales – I am, and then I'm going to talk about what I think the Merritt Island Redevelopment Agency needs to do.

Ben Glover – So, you want them to give it a 100% shot, but if they cannot obtain that, do they have to come back and see us?

Rochelle Lawandales – No, that was not my intention.

Ben Glover – I'll second that motion.

Henry Minneboo called for a vote on the motion as stated, and it passed unanimously.

Recommendation to BCC, Re: Merritt Park Place

Rochelle Lawandales – Mr. Chairman, I'd also like to suggest that this board, as the Planning and Zoning Board for the County, dealing with these kinds of issues, make a recommendation to the County Commission to ask the Merritt Island Redevelopment Agency to do a parking study and to try to figure out some solutions to the parking in Merritt Park Place.

Henry Minneboo – I'd almost like to see the Merritt Island Redevelopment Agency do it first, and then the County Commission do it second.

Rochelle Lawandales – The County Commission can direct the Merritt Island Redevelopment Agency.

Henry Minneboo – We have a motion on the floor regarding the parking, to recommend to the Board of County Commissioners that they notify the Merritt Island Redevelopment Agency that they need to do a parking study now.

Ron McLellan – I second.

The vote passed unanimously.