



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.13.

2/6/2020

Subject:

Port St. John Station, LLC (Richard Chamberlain) requests a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a bar, in a BU-1 zoning classification. (19PZ00143) (Tax Account 2322430) (District 1)

Fiscal Impact:

None

Dept/Office:

Planning and Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing to consider a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a bar, in a BU-1 (General Retail Commercial) zoning classification.

Summary Explanation and Background:

The applicant is seeking a CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a 168-seat bar, in a BU-1 (General Retail Commercial) zoning classification, on .08 acres, located 6201 - 6209 U.S. Highway 1, Cocoa. No outdoor seating is proposed. Site plan demonstrates adequate parking.

The subject property is in a commercial plaza zoned BU-1; the vast majority of the area beyond the plaza, to the west, north, and south, is developed as single-family and zoned TR-1 (Single-Family Mobile Home), RU-1-9 (Single-Family Residential), and RU-1-11 (Single-Family Residential); also to the south is a GML-U (Government Managed Lands - Utilities) zoned parcel.

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

On January 8, 2020, the Port St. John Dependent Special District Board heard the request and unanimously recommended approval.

Clerk to the Board Instructions:

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

Resolution 19PZ00143

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

WHEREAS, Port St. John Station, LLC has requested a CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a bar, in a BU-1 (General Retail Commercial) zoning classification, on property described as Units 6201 – 6209 of Lot 6.13, Port St. John Plaza, as recorded in ORB 7486, Pages 1521 – 1524, of the Public Records of Brevard County, Florida. **Section 19, Township 23, Range 36.** (0.08 acres) Located on the west side of U.S. Highway 1, approximately 700 feet south of Delivery Avenue. (6201 – 6209 U.S. Highway 1, Cocoa).

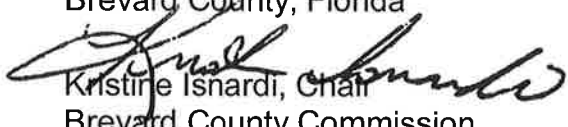
WHEREAS, a public hearing of the Port Saint John Dependent Special District Board was advertised and held, as required by law, and after hearing all interested parties and considering the adjacent areas, the Port Saint John Dependent Special District Board recommended that the application be approved; and

WHEREAS, the Board, after considering said application and Port Saint John Dependent Special District 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 for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a bar, in a BU-1 zoning classification, be approved. The Planning and Development Director, or designee, is hereby directed to make this change on the official zoning maps of Brevard County, Florida.

BE IT FURTHER RESOLVED that this resolution shall become effective as of May 2, 2019.

BOARD OF COUNTY COMMISSIONERS
Brevard County, Florida


Kristine Ishardi, Chair
Brevard County Commission

As approved by the Board on May 2, 2019.

ATTEST:


SCOTT ELLIS, CLERK

(SEAL)

Planning and Zoning Board Hearing – April 10, 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 year of approval or if construction does not commence within two years of approval. A Planned Unit Development Preliminary Development Plan expires if a final development plan is not filed within three years. **The granting of this zoning does not guarantee physical development of the property. At the time**

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

19PZ00012 (continued)

Part of Lot 1, Block 370, Port St. John, Unit 8, according to the plat thereof, as recorded in Plat Book 23, Pages 70 – 83, of the Public Records of Brevard County, Florida, being more particularly described as follows: Commence at a concrete monument found at the point of intersection of westerly right-of-way line of Hartford Road and the northerly right-of-way line of Fresno St., thence run N00deg48'51"E, a distance of 24.68 ft. to a point of tangent on said westerly right-of-way line and the point of beginning. Thence run N00deg48'51"E, 117.64 ft. along the west right-of-way line of Hartford Rd.; thence run N89deg55'08"W, a distance of 86.95 ft.; thence run S00deg48'51"W, a distance of 58.32 ft.; thence run N89deg55'08"W, 365.57 ft. to a point on the southerly right-of-way line of Curtis Blvd.; thence run southwesterly on a 950-ft. radius curve to the left for an arc distance of 54.08 ft.; thence run southeasterly on a 25-ft. radius curve to the left for an arc distance of 46.33 ft.; thence run southeasterly on a 50-ft. radius curve to the left for an arc distance of 17.18 ft.; thence run S89deg55'08"E, a distance of 431 ft.; thence run northeasterly on a 25-ft. radius curve to the left for an arc distance of 38.95 ft. and the point of beginning. **Section 14, Township 23, Range 35.** (1.03 acres) Located on the north side of Fresno St., lying between Curtis Blvd. and Hartford Rd. (4797 Curtis Blvd., Cocoa)

ADMINISTRATIVE POLICIES OF THE FUTURE LAND USE ELEMENT

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

Administrative Policy 1

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

Administrative Policy 2

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

Criteria:

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

Administrative Policy 3

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

Criteria:

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

1. historical land use patterns;
 2. actual development over the immediately preceding three years; and
 3. development approved within the past three years but not yet constructed.
- D. Whether the proposed use(s) would result in a material violation of relevant policies in any elements of the Comprehensive Plan.

Administrative Policy 4

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

Criteria:

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

Administrative Policy 5

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

Criteria:

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

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

Administrative Policy 6

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

Administrative Policy 7

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

Administrative Policy 8

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

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

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

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

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

CONDITIONAL USE PERMITS (CUPs)

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

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

- (c) General Standards of Review.

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

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

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

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

FACTORS TO CONSIDER FOR A REZONING REQUEST

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

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

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

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

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

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

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

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

DEFINITIONS OF CONCURRENCY TERMS

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

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

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

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

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

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

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



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

19PZ00143

Port St. John Station, LLC

CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in Conjunction with a Bar

Tax Account Number: 2322430
Parcel I.D.: 23-36-19-02-*6.13 Units 6201 - 6209
Location: 6201, 6203, 6205, 6207, & 6209 U.S. Highway 1, Cocoa (District 1)
Acreage: .08 acres

Planning and Zoning Board: 01/13/20

Board of County Commissioners: 02/06/20

Consistency with Land Use Regulations

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

	CURRENT	PROPOSED
Zoning	BU-1	BU-1 with CUP for Alcoholic Beverages for on-premises consumption (full liquor) in conjunction with a sports bar
Potential*	3,750 square feet	3,750 square feet
Can be Considered under the Future Land Use Map	YES Community Commercial	YES Community Commercial

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

Background and Purpose of Request

The applicant is seeking to add a Conditional Use Permit (CUP) for alcoholic beverages (full-liquor) for on-premises consumption in conjunction with a sports bar. The sports bar space encompasses the southeast portion of the building, 75 feet in width by 50 feet in depth, within an existing shopping center. The applicant is proposing a 168-seat bar with no outside seating within units addressed as: 6201, 6203, 6205, 6207 and 6209 U.S. Highway 1, a 3,750 square-foot retail space.

This property was originally zoned General Use in 1958. An attempt to rezone to Single-family Mobile Home (TR-1) under zoning action **Z-2058** was denied on March 30, 1967. This parcel

was successfully rezoned to General Retail Commercial (BU-1) under zoning action **Z-5803**, adopted on October 8, 1981.

Land Use Compatibility

This site retains the Community Commercial (CC) Future Land Use Designation. The BU-1 zoning classification is consistent with **Policy 2.7** of the Future Land Use Element.

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

Environmental Constraints

This CUP application for Alcoholic Beverages (full liquor) for On-Premises Consumption has been exempted from review. Natural Resources Management reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Preliminary Transportation Concurrency

The closest concurrency management segment to the subject property is US-1, between Broadway Boulevard and Fay Boulevard, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 68.13% of capacity daily. The maximum development potential from the proposed rezoning does not increase the proposed trip generation. The corridor is anticipated to continue to operate at 68.13% of capacity daily (LOS C). The proposal is not anticipated to create a deficiency in LOS.

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

The subject property is served by City of Cocoa potable water well and Brevard County sewer.

Applicable Land Use Policies

The applicant is seeking to add a Conditional Use Permit (CUP) for alcoholic beverages (full-liquor) for on-premises consumption in conjunction with a sports bar. The sports bar space encompasses the southeast portion of the building, 75 feet in width by 50 feet in depth, within an existing shopping center. The applicant is proposing a 168-seat bar with no outside seating within units addressed as: 6201, 6203, 6205, 6207 and 6209 a 3,750 square foot retail space.

The parcel's east property line abuts two developed commercial BU-1 zoned outparcels and frontage along U.S. Highway 1. The zoning to the north is developed Single-Family Residential (RU-1-9). The RU-1-9 classification permits single family residential development on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet. The zoning to the west is vacant BU-1 zoned property. The zoning to the south is a combination of Single-Family Mobile Home (TR-1) and Government Managed Lands (GML-U).

TR-1 is a single family residential mobile home zoning classification which permits mobile homes or residences of standard construction on lots of 7,500 square feet (minimum) with lot width of 65 feet and lot depth of 100 feet.

The purpose of the GML government managed lands zoning classification is to recognize the presence of lands and facilities which are managed by federal, state, and local government, special districts, nongovernmental organizations (NGOs) providing economic, environmental and/or quality of life benefits to the county, electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission, and related entities. The GML(U) zoning classification allows electric, natural gas, water and wastewater utilities that are either publicly owned or regulated by the Public Service Commission. The adjacent property is part of the main switchyard for the Florida Power and Light Company's Cape Canaveral Energy Center (CCEC) power plant.

There has been one zoning action within a half-mile radius around this site within the last 3 years. Zoning item **15PZ00067** adopted February 4, 2016 approved a CUP for alcoholic beverages for the Kelsey's restaurant located at 6811 N Highway 1.

Special Considerations for CUP (Conditional Use Permit)

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

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

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

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

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

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

Serving and consumption of food and beverages, alcohol or otherwise, shall be strictly prohibited outside of the existing buildings unless such areas have been designated as outdoor seating areas pursuant to Section 62-1837.9 (Outdoor restaurant seating) of Brevard County Code. The applicant proposes to have 168 seats at this location. No outside expansion is proposed by the applicant. If an outdoor seating area is proposed in the future, the owner would be required to file for an updated CUP for the alcohol expansion as required by Section 62-1906 (6) of Brevard County Code.

General Standards of Review

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

Applicant's Response: Our use will not cause any adverse effects to the shopping center or adjacent businesses.

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

Applicant's Response: Yes. Building size is 3,750 square feet consists of 5 units in the shopping center. We will maintain operating hours of 11AM – midnight during the week and 2AM on the weekends.

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

Applicant's Response: No diminution will occur within the shopping center or adjacent property.

Section 62-1901(c)(2)(a): Ingress and egress to the property and proposed structures thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire and catastrophe, shall be: (1) adequate to serve the proposed use without burdening adjacent and nearby uses, and (2) built to applicable county standards, if any. Burdening adjacent and nearby uses means increasing existing traffic on the closest collector or arterial road by more than 20 percent, or ten percent if the new traffic is primarily comprised of heavy vehicles, except where the affected road is at level of service A or B. New traffic generated by the proposed use shall not cause the adopted level of service for transportation on applicable roadways, as determined by applicable county standards, to be exceeded. Where the design of a public road to be used by the proposed use is physically inadequate to handle the numbers, types or weights of vehicles expected to be generated by the proposed use without damage to the road, the conditional use permit cannot be approved without a commitment to improve the road to a standard adequate to handle the proposed traffic, or to maintain the road through a maintenance bond or other means as required by the Board of County Commissioners.

Applicant's Response: Located with large shopping center with adequate parking.

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

Applicant's Response: Sports bar and grill should not create any additional noise, glare, or odor/fumes. Non-smoking and next to KFC.

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

Applicant's Response: We are in commercial and do not expect any additional noise.

Staff's Observation: If a billiard room or electronic game arcades are proposed, the unit will need to be soundproofed.

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.

Applicant's Response: We use standard weekly waste service from Waste Management.

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

Applicant's Response: Serviced by City of Cocoa Utilities.

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

Applicant's Response: Located within shopping center. No additional light or noise pollution.

Staff's Observation: Applicant states all uses will be performed from within the existing building.

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

Applicant's Response: One external sign installed professionally by Kendal Sings Inc. Permitted installation over 100 feet from US Hwy 1.

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

Applicant's Response: Use is consistent with shopping center rules and adjacent businesses 11AM – 2AM.

Staff's Observation: Applicant states they will limit the operating hours from 11AM – midnight during the week and 2AM on the weekends.

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

Applicant's Response: N/A

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

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

Applicant's Response: Plenty of parking and loading areas within shopping center.

Staff's Observation: *Parking – Brevard County land development regulations require that for restaurants, cocktail lounges and other eating and drinking establishments, 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). Although the plan does not identify the specific amount of parking that the site would provide, based upon a building mass of 3,750 square feet, required parking would be 38 parking spaces.*

For Board Consideration

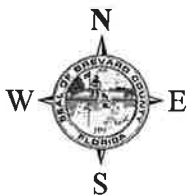
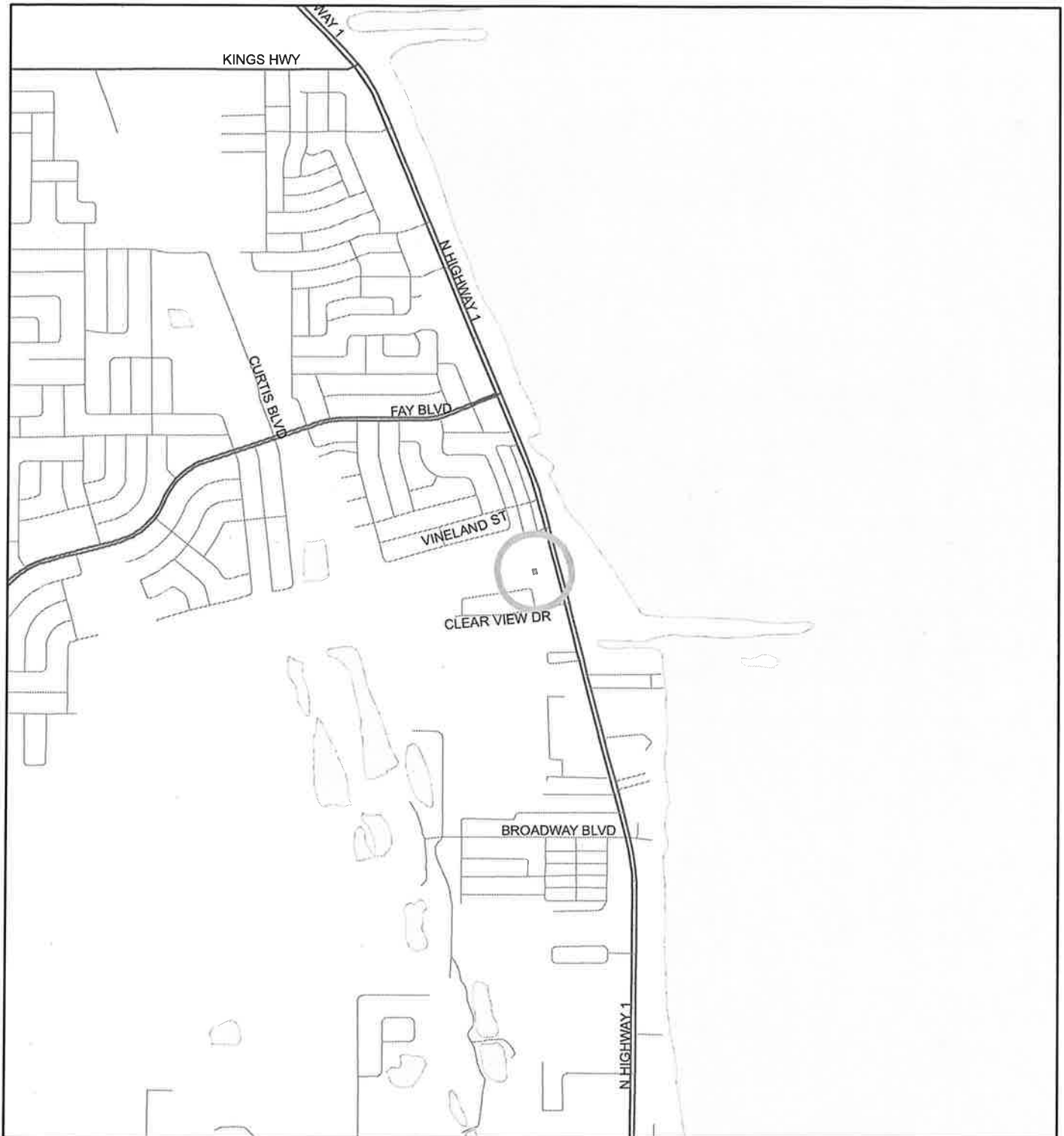
The applicant is seeking to add a Conditional Use Permit (CUP) for alcoholic beverages (full-liquor) for on-premises consumption in conjunction with a sports bar. The sports bar space encompasses the southeast portion of the building, 75 feet in width by 50-foot in depth, within an existing shopping center. The applicant is proposing a 168-seat bar with no outside seating within units addressed as: 6201, 6203, 6205, 6207 and 6209 U.S. Highway 1, a 3,750 square-foot retail space.

The Board should consider the compatibility of the proposed CUP with surrounding development.

Such CUP 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.

LOCATION MAP

PORT ST. JOHN STATION, LLC
19PZ00143



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.

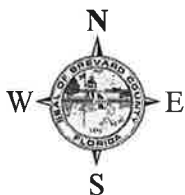
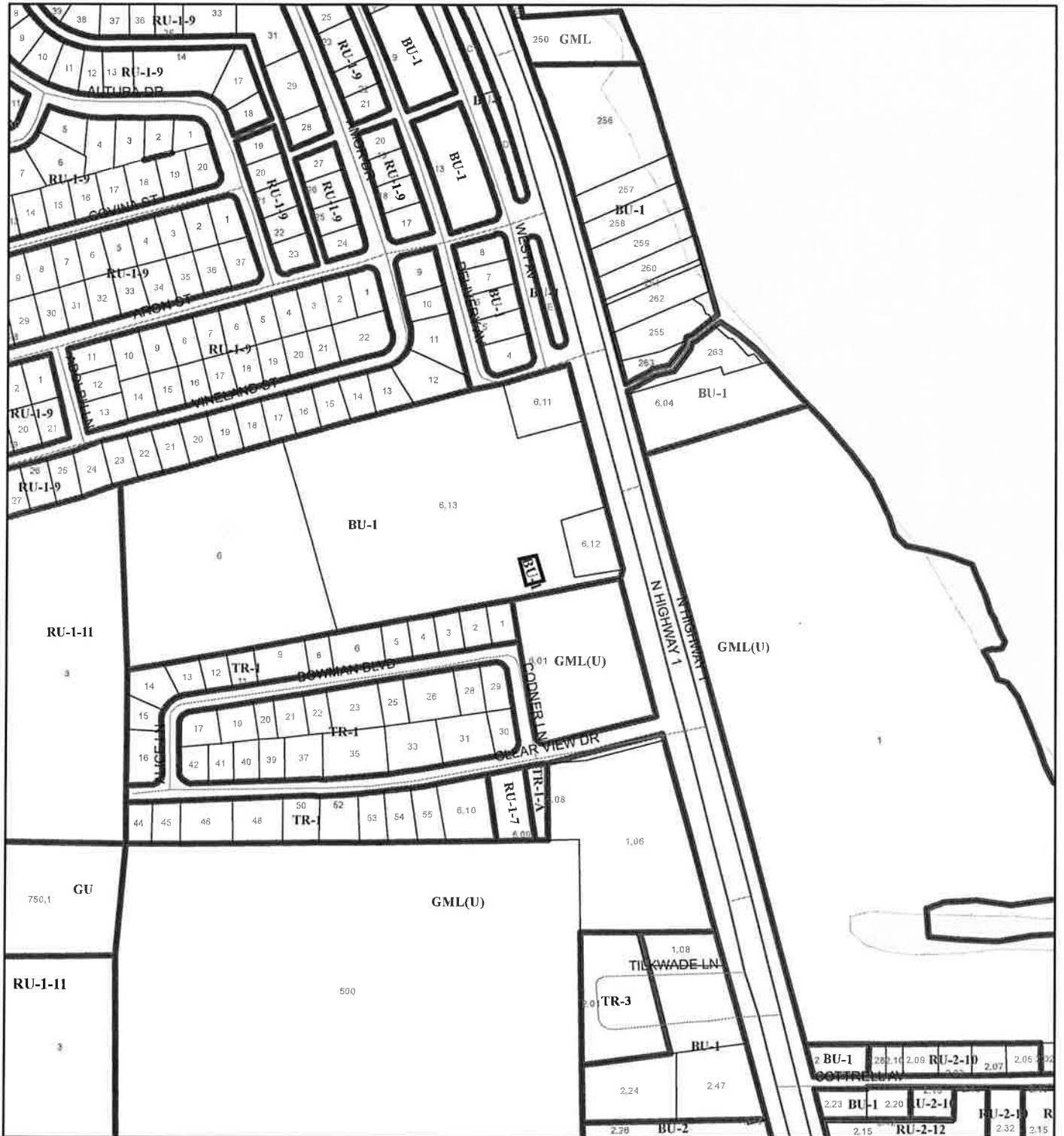
Produced by BoCC - GIS Date: 11/6/2019

Buffer

Subject Property

ZONING MAP

PORT ST. JOHN STATION, LLC
19PZ00143



1:4,800 or 1 inch = 400 feet

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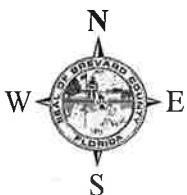
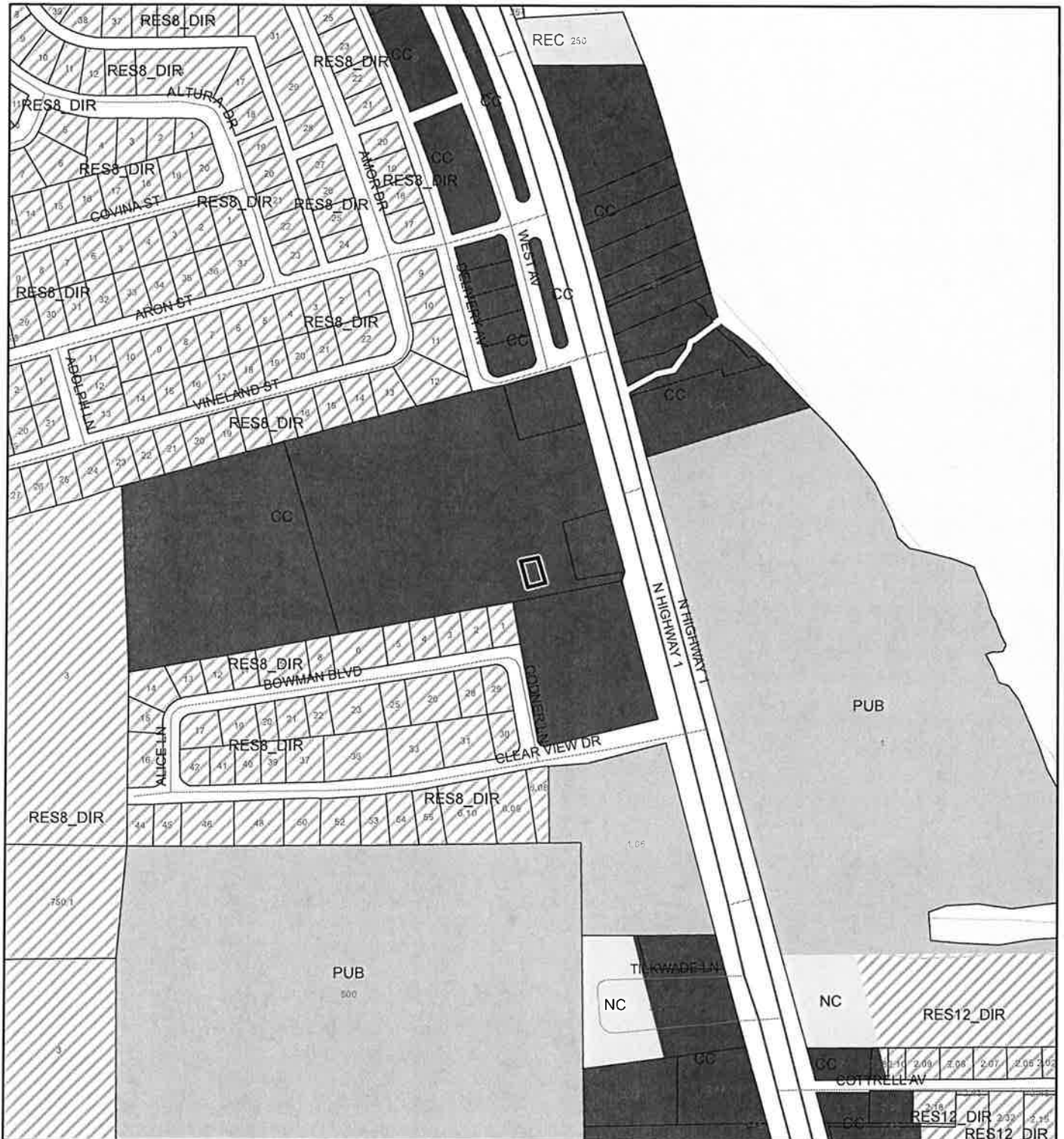
Produced by BoCC - GIS Date: 11/6/2019

- Subject Property
- Parcels
- Zoning

FUTURE LAND USE MAP

PORT ST. JOHN STATION, LLC

19PZ00143



1:4,800 or 1 inch = 400 feet

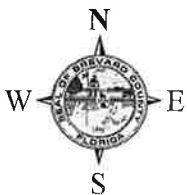
— Subject Property
 □ Parcels

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AERIAL MAP

PORT ST. JOHN STATION, LLC
19PZ00143



1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2019

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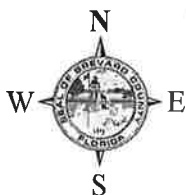
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— Subject Property
□ Parcels

NWI WETLANDS MAP

PORT ST. JOHN STATION, LLC

19PZ00143



1:4,800 or 1 inch = 400 feet

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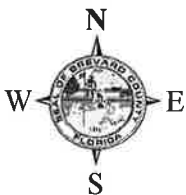
National Wetlands Inventory (NWI)

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

SJRWMD FLUCCS WETLANDS - 6000 Series MAP

PORT ST. JOHN STATION, LLC

19PZ00143



1:4,800 or 1 inch = 400 feet

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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

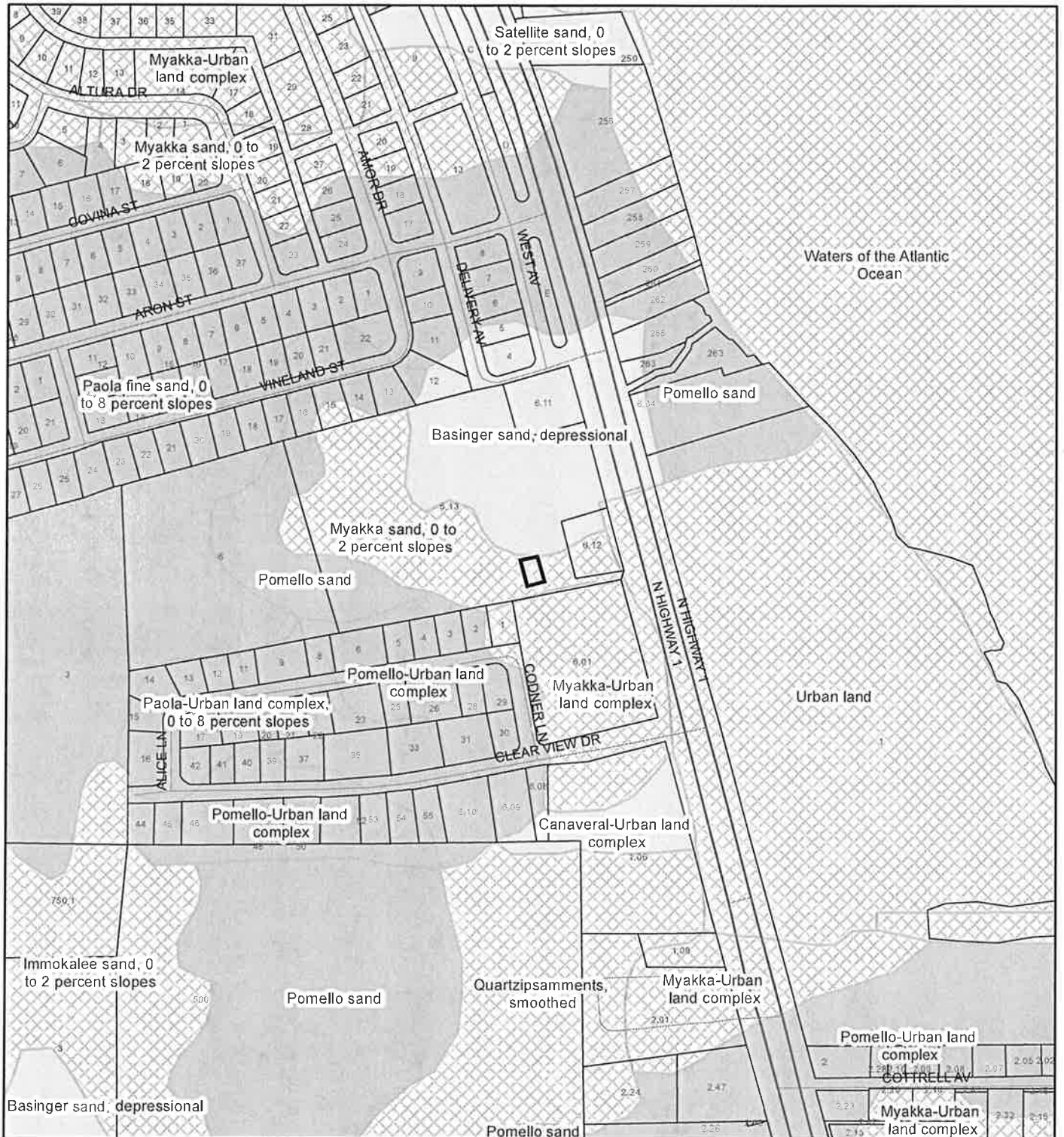
Subject Property

Parcels

USDA SCSSS SOILS MAP

PORT ST. JOHN STATION, LLC

19PZ00143

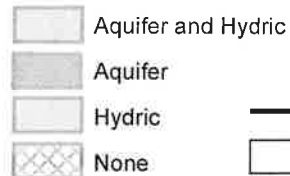


1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/6/2019

USDA SCSSS Soils



Subject Property 415
 Parcels

FEMA FLOOD ZONES MAP

PORT ST. JOHN STATION, LLC

19PZ00143



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/6/2019

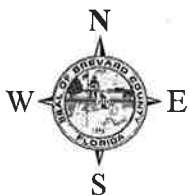
FEMA Flood Zones

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

COASTAL HIGH HAZARD AREA MAP

PORT ST. JOHN STATION, LLC

19PZ00143



1:4,800 or 1 inch = 400 feet

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— Subject Property

□ Parcels

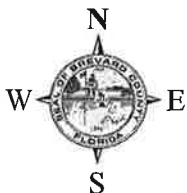
Coastal High Hazard Area

■ SurgeZoneCat1

INDIAN RIVER LAGOON SEPTIC OVERLAY MAP

PORT ST. JOHN STATION, LLC

19PZ00143



1:4,800 or 1 inch = 400 feet

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— Subject Property

□ Parcels

Septic Overlay

■ 40 Meters

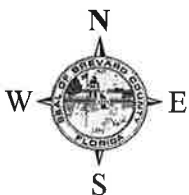
■ 60 Meters

■ All Distances

EAGLE NESTS MAP

PORT ST. JOHN STATION, LLC

19PZ00143



1:4,800 or 1 inch = 400 feet

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— Subject Property

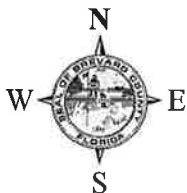
□ Parcels



Eagle Nests
FWS 2010

SCRUB JAY OCCUPANCY MAP




PORT ST. JOHN STATION, LLC
19PZ00143



1:4,800 or 1 inch = 400 feet

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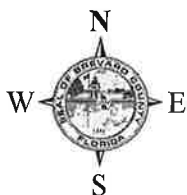
Produced by BoCC - GIS Date: 11/6/2019

-  Subject Property
-  Parcels
-  Scrub Jay Occupancy

SJRWMD FLUCCS UPLAND FORESTS - 4000 Series MAP

PORT ST. JOHN STATION, LLC

19PZ00143



1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/6/2019

SJRWMD FLUCCS Upland Forests

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

Subject Property Parcels

PORT SAINT JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The Port Saint John Dependent Special District Board met in regular session on Wednesday, January 8, 2020, at 6:00 p.m., at the Port St. John Library, 6500 Carole Ave., Port St. John, Florida.

Board members present were: Vaughan Kimberling, Chair, Randy Rodriguez, Vice Chair; Carmella Chinaris; Wendy Porter-Hyde; Steven Darling; and Maureen Rupe.

Staff members present were: George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator.

The meeting was called to order at 6:00 p.m.

CHAIR AND VICE CHAIR NOMINATIONS

Motion by Carmella Chinaris, seconded by Maureen Rupe, to nominate Vaughan Kimberling as Chair. Hearing no other nominations, Mr. Kimberling accepted the nomination.

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

Motion by Maureen Rupe, seconded by Carmela Chinaris, to nominate Randy Rodriguez as Vice Chair. Hearing no other motions, Mr. Rodriguez accepted the nomination.

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

APPROVAL April 10, 2019, MINUTES

Motion by Wendy Porter-Hyde, seconded by Randy Rodriguez, to approve the April 10, 2019, minutes as amended. The vote passed unanimously.

Port St. John Station, LLC (Richard Chamberlain)

A CUP for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a bar, in a BU-1 zoning classification. The property is 0.08 acres, located at 6201 – 6209 U.S. 1, Cocoa. (19PZ00143) (Tax Account 2322430) (District 1)

Carmella Chinaris clarified for the record that the request is only for one unit, not the entire plaza.

Richard Chamberlain, 3576 Rose Drive, Rockledge, stated he owns Chalkies in Merritt Island and Titusville, and most people have concerns about other types of businesses that could go into a location, his lease expressly forbids any other type of business in the unit, and the owner of the plaza is not going to let a night club or liquor store go in there. He reiterated that the use is strictly for a bar and grill type of restaurant.

Vaughan Kimberling asked if there will be any restrictions on operating hours. Mr. Chamberlain replied 2:00 a.m. is the latest he can stay open legally, but his current operating hours are midnight during the week, and 1:00 a.m. on Friday and Saturday.

Mr. Kimberling asked if there are plans for a billiards table. Mr. Chamberlain replied yes, he has a billiards table. Mr. Kimberling stated one of the recommendations is that the room would have to be soundproofed if there is going to be electronic games or arcades, or a billiard room. Mr. Chamberlain stated he is not sure he would qualify as a billiard room.

George Ritchie stated soundproofing would be required by code if he was trying to get a business license for a billiard use, but as a restaurant it's not being advertised as a billiard place. Mr.

Chamberlain noted there is an adjoining two-hour fire wall. Ms. Chinaris pointed out there is nothing on the other side, and the fire wall has to take care of any noise.

Ms. Rupe asked about parking. Mr. Chamberlain replied there is enough parking, especially since the operating hours will be after the other businesses in the plaza close for the day. Mr. Kimberling stated according to the staff comments 38 spaces are required, but with the size of the parking lot of the plaza, it shouldn't be a problem.

Steven Darling asked if Mr. Chamberlain's personnel would increase. Mr. Chamberlain replied no, the staff will increase if the business increases, but there will only be a handful of employees there at any one time.

Anne Shaffer stated she owns property on the other side of the proposed restaurant, and asked if parking would be allowed behind the unit. Mr. Chamberlain stated it is a delivery and loading area, so there will not be any parking behind the restaurant, except for four parking spots for employees.

Mr. Kimberling stated the staff comments reference three options for the board, and asked what Section 62-1106 includes. Mr. Ritchie replied it is the specific on-premises consumption of alcoholic beverages section. He stated if the board was concerned about how late the business is open, it could restrict the hours, or if he was asking for outside seating, the board could control how much outside seating he could have. The applicant is aware that if he wants outside seating he would have to come back before the board to request it.

Mr. Kimberling asked if the CUP could be tied to this tenant only. Mr. Ritchie replied the CUP runs with the property, but depending on how it was approved, if it is limited to a bar and restaurant, then it would not be allowed to be run as a liquor store.

Ms. Chinaris asked if Mr. Chamberlain is planning on entertainment. Mr. Chamberlain replied he does not currently plan on having live music, but would like to have karaoke, a dueling pianos night, or an acoustic guitar.

Ms. Chinaris asked the board if there is any reason to put any other conditions on the CUP to soundproof in the future, since the CUP runs with the property. Mr. Darling stated if it were to be changed to a billiards place specifically, then a condition of the permit would be that the walls would have to be soundproofed.

Mr. Chamberlain stated he has an eight-year lease that says when he leaves he has to remove the CUP.

Motion by Carmella Chinaris, seconded by Wendy Porter-Hyde, to approve the CUP (Conditional Use Permit) for Alcoholic Beverages (full liquor) for On-Premises Consumption in conjunction with a bar, in a BU-1 zoning classification. The vote passed unanimously.

Upon motion and second, the meeting was adjourned at 6:30 p.m.