



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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STAFF COMMENTS

25Z00014

Emerald Plaza Development Inc.

**A Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption
accessory to a cigar bar in Units 1-5**

Tax Account Number: 2419246
Parcel I.D.s: 24-36-26-BX-*-44.03 (Units 1-5)
Location: 925 N. Courtenay Pkwy. West side of N. Courtenay Pkwy. across Catalina
Isle Dr. (District 2)
Acreage: 3.17 acres

MIRA Board: 05/22/2025
Planning & Zoning Board: 06/16/2025
Board of County Commissioners: 07/17/2025

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 with CUP for 2COP for On-Premises Consumption	BU-1 with CUP for 4 COP for On-Premises Consumption in Units 1-5
Potential*	FAR 1.0	FAR 1.0
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's first request is to expand a Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption from a 2COP (beer and wine) license to a 4COP (full liquor, beer and wine) license on Units 1-5 containing an area of (4,800 square feet) of the Emerald Plaza shopping center. This location is the eastern 5 units within the building complex. The current approval for Units 1-5 was approved by the Board of County Commissioners on June 26, 1997, under zoning action **Z-9904**. The applicant has been operating his business (Smoke Rings 72 Cigar and Pipe) at this location since 2020.

Staff analysis finds that the alcoholic beverage use is near an existing worship center within the complex. Within Unit 19 (NW interior corner of the shopping center – 214 feet west of Unit 5) is The Well Ministry. Services are held on Saturday and Sunday. This close proximity lies within the 300-foot spacing distance noted in Section 62-1906 (3).

The subject property has been previously utilized as a billiard facility (Chalky's) and a bar (Hubb's Pub). The proposed use is for a cigar bar expanding sales of alcoholic beverages from a 2COP to a 4COP license to serve full liquor, beer, and wine. The applicant states they have been in operation for four (4) years as Smoke Rings 72 Cigar and Pipe and anticipate increased business sales with the approval of an upgraded alcohol license. The suite has 36 seats with a maximum occupancy of 135 people.

Section 62-1906 (3) expressly states: "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." As the subject property and church lie on the same property, the Board may consider whether this Section applies and if the request is consistent with this section.

At its regular meeting on May 22, 2025, the MIRA Board of Directors reviewed the proposed Conditional Use Permit (CUP) application, 25Z00014. The MIRA Board is supportive of this CUP application, with an added recommendation that the CUP will no longer be in effect should the space be leased to another tenant, or if the use of the property is modified. Upon review of the application and supporting documentation, the Board voted unanimously (7-0) to recommend approval, with the additional stipulation referenced above.

ZONING HISTORY:

On November 4, 1999, the Board denied a CUP for Alcoholic Beverages for On-Premises Consumption (**DNZ-10318**) (for units 6 - 10).

On August 4, 2005, the Board approved a 2COP license for beer and wine accessory to a restaurant under zoning action **Z-11096** for Units 8 & 9.

On April 3, 2008, the Board approved a 4COP (full liquor, beer and wine) limited to the current billiard operation under zoning action **Z-11415** for Units 6-8. Incidentally, the billiard use is no longer in operation.

The parcel is currently zoned BU-1 with Community Commercial (CC) FLU designation.

The site has access to N. Courtenay Pkwy, a State Maintained Right-of-Way.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Unimproved	BU-1	CC
South	Onsite retention, Testing lab and office complex	BU-1	CC
East	N. Courtenay Pkwy.	N/A	N/A
West	Single-family lots	RU-1-9	NC

North of the subject property is a 0.93-acre parcel, undeveloped/unimproved, zoned BU-1 with CC FLU.

South of the subject property are two parcels and a retention pond, 0.33 & 0.4 acres, commercial property developed with commercial services, zoned BU-1 with CC FLU.

East of the subject property is N. Courtenay Pkwy., a state-maintained right-of-way.

West of the subject property are four (4) parcels ranging from 0.17 to 0.23 acres, each developed as a single-family residential homesite, zoned RU-1-9 with Neighborhood Commercial FLU.

RU-1-9 classification encompasses lands devoted to single-family residential development of spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on lots of 6,600 square feet (minimum). The minimum house size is 900 square feet.

BU-1 classification allows retail commercial land uses on minimum 7,500 square foot lots. The BU-1 classification does not permit warehousing or wholesaling.

Land Use

The subject property is currently designated CC (Community Commercial). The BU-1 zoning classification can be considered consistent with the CC FLU designation.

Applicable Land Use Policies

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;

Staff analysis: The owner proposes to expand his license from a 2COP to a 4COP license for Alcoholic Beverages for On-Premises Consumption accessory to a cigar bar.

The Board should consider the compatibility of the proposed CUP with the surrounding area. There appears to be a place of worship (The Well Ministry) within the shopping center that holds services. That location is noted within Unit 19 (NW interior corner of the complex). Services are held on Saturday and Sunday.

B. Existing commercial zoning trends in the area;

Staff analysis: The subject property was developed as a shopping center in 1997. Located North of the subject property is an unimproved BU-1 zoned commercial property. Abutting south of the subject property are two commercial properties, developed with a lab facility and a small commercial business complex. East of the subject property is N. Courtenay Pkwy. and to the west, there are multiple single-family zoned/developed lots.

C. Compatibility of the proposed use with the area, pursuant to Administrative Policy 3;

Staff analysis: The subject property needs to comply with the Brevard County Performance Standard defined by Sections 62-2251 through 62-2272 for hours of operations, lighting, noise levels, traffic, and site activity to not cause any violations with the residential areas.

This CUP request, if approved, can be considered compatible based on the subject property being in a commercial area of character and not in a residential neighborhood. Based on staff analysis, the expansion of a 2COP to a 4 COP (Full Liquor) conditional use could be considered compatible with the character of the adjacent properties. The Board will need to determine whether Section 62-1906 (3) applies and if the request is consistent with this section.

D. Impact upon Level of Service (LOS) standards for roads, potable water service, sanitary sewer service and solid waste disposal;

Staff analysis: Based on a preliminary review, there is no anticipated increase in LOS for road capacity, potable water service, sanitary sewer service, and solid waste disposal.

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.

Analysis of Administrative Policy #3 - Compatibility between this site and the existing or proposed land uses in the area.

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;

Staff analysis: Regarding the hours of operation, lighting, odor, noise levels, traffic, or site activity, the proposed CUP must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. The Board may require additional conditions and/or limitations.

Brevard County Code of Ordinances states within Chapter 6, Section 6-3 Hours of sale: Unless otherwise prohibited, in the unincorporated area of the county, alcoholic beverages may be sold, consumed, served, or permitted to be served or consumed in any place holding a license under the division of alcoholic beverages and tobacco 24 hours a day, seven days a week.

- 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.

Staff analysis: Only a certified MAI appraisal can determine if material reduction has or will occur due to the proposed request.

- 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;

There are six (6) FLU designations within a half-mile radius of the subject property. They include RES 6, RES 15, Recreation (REC), Public facilities (PUB), Community Commercial (CC), and Neighborhood Commercial (NC). Res 4 is the predominant FLU designation in the area.

2. actual development over the immediately preceding three years; and

There has been no new development within a half-mile radius of the subject property within the last three (3) years.

3. development approved within the past three years but not yet constructed.

Staff Analysis: There have been three zoning approvals in the past three (3) years.

- **22Z00058 changed zoning from AU to RU-1-9 on a 0.24-acre parcel located on the west side of Koch St., approx. 225 ft. south of Lucas Rd. on February 2, 2023. Lot is located in a NW direction, lying west a distance of 1,250 feet. That lot remains unimproved.**
- **24Z00009 changed zoning from AU to RU-1-9 on a 0.31-acre parcel located on the south side of Bevis Rd. approx. 370 ft. south of Lucas Rd. and 730 ft. east of N. Tropical Tr. on December 12, 2024. Lot is located in a NW direction, lying west a distance of 2,390 feet. That lot has been converted into the access road for a 22-unit single-family residential subdivision reviewed under 25SD00003 for the Tropical Palms Subdivision. Plan under review.**

- **24Z00027 changed zoning from AU to RU-1-11 on a 0.31-acre parcel located on the SE corner of Lucas and Bevis Roads on September 5, 2024. Lot is located in a NW direction lying west a distance of 2,420 feet. That lot remains unimproved.**

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

Staff analysis: No material violation of relevant policies has been identified.

Analysis of Administrative Policy #4 - Character of a neighborhood or area.

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, parking, trip generation, commercial activity or industrial activity that is not already present within the identified boundaries of the neighborhood.

The property was site-planned under the name Emerald Plaza Commercial Center. The site plan number was SP# 94-12-009. This property was developed in 1997, according to the Brevard County Property Appraiser's website. On June 26, 1997, under zoning action Z-9904, the Board of County Commissioners approved the first alcoholic beverage use on this parcel for Hubb's Pub.

The applicant has been operating his business (Smoke Rings 72 Cigar and Pipe) at this location since 2020. Based on staff analysis, the requested CUPs are not anticipated to materially or adversely affect the surrounding developments.

- 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.

The area has well-established boundaries, roads, and open spaces. The subject property is not located in a residential neighborhood or subdivision but is located between N. Courtenay Pkwy., which is a commercial corridor, and the Rose Hill Estates Unit 1 residential subdivision to the west.

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.

Staff analysis indicates that the area is not residential in character. The westside of N. Courtenay Pkwy. surrounding the subject property has a commercial nature as there is an Ace Hardware and commercial Arts and Supply store to the north, and to the south, a Quest lab facility with commercial offices to the west. On April 16th, 2025, the applicant stated that Quest has moved into the complex west of his leased spaces.

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.

Staff analysis has determined the subject parcel is located directly on N. Courtenay Pkwy. which primarily has commercial uses abutting the roadway.

Administrative Policy #5 - the impact of the proposed use or uses on transportation facilities either serving the site or impacted by the use(s) shall be considered.

The proposed CUP will access N. Courtenay Pkwy. (S.R.3) segment between Needle Blvd. to Lucas Rd. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 0.0%. The N. Courtenay Pkwy. (S.R.3) corridor is anticipated to operate at 74.68% of capacity daily. The request is not anticipated to create a deficiency in LOS.

Preliminary Concurrency

The closest concurrency management segment to the subject property is N. Courtenay Pkwy. (S.R.3) between Needle Blvd. and Lucas Rd., which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 74.68% of capacity daily. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 0.0%. The N. Courtenay Pkwy. (S.R.3) corridor is anticipated to operate at 74.68% of capacity daily. The request is not anticipated to create a deficiency in LOS.

No school concurrency information has been provided as the development proposal is for commercial use and not residential use.

The parcel is serviced by the City of Cocoa Utilities for public water. The property is serviced by Brevard County utilities for sewer.

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 62-1936, Land Alteration.

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.

Staff analysis: The owner/applicant has provided a survey which states that there are no churches or schools within 300 feet from the bar to the lot line of a school or church and 400 feet between the front door of the proposed place of business and all property lines of any church or school within the area of 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.

Staff analysis: The applicant has been operating a beer and wine 2COP license over the last four (4) years and now seeks a CUP for a full liquor, beer, and wine (4COP) license for Alcoholic Beverages for On-Premises Consumption to potentially expand the number of visiting customers.

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: He has been in business for the last four (4) years. He anticipates better sales with alcohol and hopes for more customers. Notes the site will not be a nuisance.

Staff analysis: The proposed CUP must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. The request is not anticipated to create a deficiency in N. Courtenay Pkwy. traffic Level of Service (LOS).

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: No difference in area since prior billiard parlor with alcohol license and live entertainment was the tenant.

Staff analysis: The parcel is located in a commercial area and is not adjacent to any residential development. Section 62-1906 (6) requires that the expansion of a beer and/or wine use to include intoxicating liquor requires a new application.

Section 62-1901(c)(1)(c): The proposed use will not cause a substantial diminution in value of abutting residential property. Note: A substantial diminution shall be irrebuttably 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 a 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: The abutting property is probably maintaining or escalating in value. The taxes have risen in the property I rent, 2 of the past 3 years.

Staff analysis: Competent and substantial evidence by a MAI certified appraiser has not been provided by the applicant.

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.

Note: 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: Nothing significant has changed; Ingress/egress in the last 5 years I've been a tenant even as the plaza has filled with new tenants over the past 3 years.

Staff analysis: This property has ingress and egress directly on N. Courtenay Pkwy.

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: I've been in the existing space since 2021. The plaza was half empty. Now its full yet nothing has changed regarding this paragraph.

Staff analysis: The proposed must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Any proposed outdoor lighting and noise standards should remain within code requirements, or a violation will be created.

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

Applicant's Response: Everything we do is inside. We rarely have entertainment. When we do its usually 1 or 2 persons. Low key music.

Staff analysis: The proposed CUP does not include outdoor areas. The site must comply with the noise ordinance.

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: Nothing much should change. We sell beer/wine. Typically, these sales will fall off or be replaced by alcohol sales.

Staff analysis: The adopted level of service for solid waste disposal is not anticipated to be affected.

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: We hope for an increase in customer traffic, but our capacity is 135. We've never approached that level.

Staff analysis: The CUP should not exceed the adopted level of service for potable water or wastewater. The establishment is connected to public sewer system.

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: Nothing will change. On premise consumption now and in the future. No outside seating now or in the future.

Staff analysis: The property was developed in 1997, according to the Brevard County Property Appraiser's website. On June 26, 1997, under zoning action Z-9904, the Board of County Commissioners approved the first alcoholic beverage use on this parcel. The property has to ensure it meets the Brevard County Performance Standards.

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: No additional lighting or signage is anticipated.

Staff analysis: Any new signage would need to meet the current Brevard County Code.

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: Hours will remain the same 10AM – 11PM.

Staff analysis: The hours of operation appear to be in line with the historical use of the property. The Board may determine that additional measures may be necessary, and the Board may require additional stipulations as part of the request.

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: No additional building modifications will be performed.

Staff analysis: The establishment is a single-story building and meets the height requirements.

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: No change to plaza parking.

Staff analysis: The establishment was developed in 1997. The applicant states it will operate in the same historical manner. Any new additions and alterations to increase patronage will have to meet the current Brevard County Code.

Environmental Constraints

No formal review by the Natural Resources Management Department is required for a CUP for on-premises consumption of alcoholic beverages. Natural Resources Management (NRM) reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

For Board Consideration

The Board should consider (1) the compatibility of the proposed to expand a Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption from a 2COP (beer and wine) license to a 4COP (full liquor, beer and wine) license and (2) as the subject property and the church lie on the same property, the Board may consider whether the request is consistent with Section 62-1906(3).