



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

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**STAFF COMMENTS
 25Z00060**

SFT IV, LLC, Castle Hill Realty III Florida, LLC & MOS 18, LLC

A Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption, Accessory to a Bar

Tax Account Number: 2862142
 Parcel I.D.s: 28-38-28-04-* -A.XA
 Location: 3455 Highway A1A, Melbourne Beach, FL 32951 (District 3)
 Acreage: 0.88 acres

Planning & Zoning Board: 03/16/2026
 Board of County Commissioners: 04/02/2026

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	SR with Pre Existing Use (PEU) 25 for Resort Hotel	SR with PEU 25 for Resort Hotel with CUP for 4COP On-Premises Consumption
Potential*	16 units	16 units
Can be Considered under the Future Land Use Map	Yes Residential 2	Yes Residential 2

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

Background and Purpose of Request

The applicant’s request is to receive approval for a Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption for 4COP (full liquor, beer, and wine) as they would like to be authorized to provide alcoholic beverages for their resort hotel guests only at the on-site tiki bar deck located on the east side of the property adjacent to the ocean. The subject property, located on the east side of Highway A1A, has been operating as a hotel since it was developed in 1958. The parcel is currently zoned SR with a RES 2 FLU designation.

The site has access to Highway A1A, a State-Maintained Right-of-Way.

The current configuration of the subject property was established with the recordation of the Plat of Resubdivision of Lot A of Clayton's Subdivision No. 1 in PB10, PG 23 of the Brevard County Official Records on April 6, 1950. The Declaration of Condominium of Sandy Shoes of Melbourne Beach is dated August 12, 2004, and recorded in ORB 5347, PG 6184.

The previous owners of the subject property applied for and were granted administrative approval for a Pre-Existing Use of a Resort Hotel on May 2, 1995, under **P-0025**, as the hotel use is non-conforming to the SR single-family residential zoning. SR zoning does not permit resort hotel uses.

A letter signed by the Planning and Zoning Director on November 3, 2003, stipulates that the conversion of the Sandy Shoes of Melbourne Beach, Inc. to a Resort Hotel Condominium is not consistent with the Zoning Code provisions, which identify this use as a motel that is zoned TU-1 (Tourist Use). However, the letter goes on to explain that the following conditions will result in the aforementioned ownership conversion remaining consistent with the Zoning Code; namely, the resort hotel shall remain licensed by the State as a hotel. Additionally, the sixteen (16) owners (one per unit) shall recognize that their unit (share in the condominium) shall not become a primary residence nor be occupied by one family or individual for more than three (3) months. Also, the motel's existing office shall be maintained as part of the function of the motel. Lastly, these terms should be established in the condominium documents and bylaws.

Pursuant to the "Brevard Barrier Island Area Protection Act," Chapter 2023-272, Section 383.0553, Florida Statutes, this parcel is located in the "Area of Critical State Concern". While the Legislation creating the Area of Critical State Concern does not affect existing zoning or use of land, the County is obligated to provide a copy of the application development approvals and/or Building Permits to Florida Commerce (formally known as the Florida Department of Economic Opportunity) to review for consistency with the adopted legislation. Any applications will be forwarded to the State for their 45-day review period.

As of February 6, 2026, there are no open code enforcement actions on the property.

Zoning History:

General Use (GU) was the original zoning classification on the property when the zoning code was established in May 1958.

On April 3, 1969, the property had an approved rezoning under **Z-2412**, from GU to RU-3.

On August 02, 1973, the property had an administrative reclassification under **Ord. 73-13** from RU-3 to RU-2-10 zoning classification.

On February 7, 1974, the property had an approved rezoning under **Z-3551**, from RU-2-10 to TU-1 w/ cap of 20 units.

On February 27, 1995, under **Z-9470C**, the property was administratively rezoned from TU-1 (20) to SR.

Surrounding Area

	Existing Use	Zoning	Future Land Use
North	Duplex	SR	RES 2
South	Undeveloped Federal property	SR	PUB-CONS
East	Atlantic Ocean	N/A	N/A
West	Highway A1A, single-family residence, Sandy Shoes West HOA common area	SR, ROW	RES 2, ROW

North of the subject property is a 0.56-acre parcel, developed with a duplex, zoned SR with RES 2 FLU.

South of the subject property is one parcel, 1.01 acres, undeveloped Federal property, zoned SR with PUB-CONS FLU.

East of the subject property is the Atlantic Ocean.

West of the subject property is Highway A1A, a state-maintained right-of-way. Two (2) SR zoned properties are located across Highway A1A within a platted subdivision with a RES 2 FLU on 0.22 acre and 0.25 acres in size and developed with single-family residences. There is a 0.04-acre parcel designated as Sandy Shoes West HOA common area that is also zoned SR with RES 2 FLU.

The SR zoning classification encompasses lands devoted to single-family residential development of relatively spacious character, together with such accessory uses as may be necessary or are normally compatible with residential surroundings on minimum half acre lots, with a minimum width of 100 feet and a depth of 150 feet. The minimum house size in SR is 1,300 square feet.

Land Use

The subject property currently has a RES 2 (Residential 2) Future Land Use designation as provided on the FLUM series contained within Chapter XI – Future Land Use Element of Brevard County’s Comprehensive Plan. The SR zoning classification can be considered consistent with the RES 2 FLU designation.

Applicable Land Use 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;

Traffic from the proposed development will not have an impact on the surrounding area, and the corridor is anticipated to operate within the Maximum Acceptable Volume (MAV). The corridor is anticipated to operate at 62% of capacity daily. The maximum development potential from the proposed CUP does not increase the percentage of MAV utilization since the proposed use is intended for the use of the hotel guests only.

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 three (3) FLU designations within a half-mile radius of the subject property. They include Residential 2 (RES 2), Public Conservation (PUB-CONS), and Recreation (REC). Res 2 is the predominant FLU designation in the area.

The existing pattern is a mixture of single-family residential, multi-family, and public conservation properties. Properties on the east side of Highway A1A are adjacent to the ocean. The hotel use on the subject property was developed in 1958, and the adjacent duplex residential property to the north was developed in 1950. A single-family residential subdivision is located on the west side of Highway A1A directly across from the subject property that was platted in 1949, developed with 22 properties ranging in size from approximately 0.14 acres to 0.25 acres. There are two (2) large parcels on the west side of Highway A1A south of the aforementioned residential subdivision, each approximately 1.75 acres in size and zoned for single-family residential uses. There is a large public-conservation property to the south of the subject property on both sides of Highway A1A, totaling approximately 50 acres.

There are five (5) zoning classifications: SR, GML, EU-2, RU-1-9, and PUD within the 0.5-mile radius of the subject property, with the predominant zoning classification being GML.

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.

There has been no 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.

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 Sandy Shoes Resort hotel condominium has been operating at this location since 1958 according to the BCPAO. The requested CUP is for guests of the property only and is not anticipated to create a deficiency in LOS.

- 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 directly on Highway A1A between Marlen Dr. and Fifth St.

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.

The use of the property is non-conforming and predates surrounding development, but it will not preclude the existence of adjacent properties multi-family and single-family residential uses in the area.

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.

The subject parcel is located directly on Highway A1A, which has a mixture of public conservation, single-family residential, and multi-family residential uses abutting the roadway. There have been no commercial, industrial or non-residential uses approved in the area in the previous five (5) years.

Preliminary Concurrency

The closest concurrency management segment to the subject property is Highway A1A (S.R. A1A) between Marlen Rd. and Fifth St., which has a Maximum Acceptable Volume (MAV) of 14,000 trips per day, a Level of Service (LOS) of D, and currently operates at 62.0% of capacity daily. The maximum development potential from the proposed CUP increases the percentage of MAV utilization by 0.0%. The Highway A1A (S.R. A1A) corridor is anticipated to operate at 62.0% 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 Brevard County Utilities for centralized sewer and the City of Melbourne for potable water.

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) of the Brevard County Code of Ordinances 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 to demonstrate consistency with the standards set forth in Section 62-1901 and Section 62-1906.

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 400 feet of the front door of the resort hotel to the lot line of a school or church.

- 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 Sandy Shoes Resort Hotel Condominium has operated since approximately 1958, based on data from the BCPAO, and now seeks a CUP for a full liquor, beer, and wine (4COP) license for Alcoholic Beverages for On-Premises Consumption to provide beverages for registered short term rental guests and only operate between 2 pm and sunset.

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: The proposed conditional use will not result in a substantial or adverse impact on adjacent or nearby properties. The use is limited exclusively to registered short term rental guests. All activities take place on existing deck between 2pm-sunset.

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 Highway A1A 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 regarding use, function, operation, hours of operation, type and amount of traffic generated, building size and setback, and parking availability.

Applicant's Response: The proposed use will be compatible with the character of the surrounding residential properties because it is limited exclusively to guests already staying on property and does not introduce additional outside traffic, noise, or activity. The use is restricted to existing deck during 2pm to sunset minimal impact on neighbors. No changes to building size, setback, or parking proposed.

Staff analysis: North of the subject property is a parcel developed with a duplex and single-family residential properties across Highway A1A to the west. The proposed use is not anticipated to generate additional traffic. The proposed CUP must comply with Brevard County's Performance Standards defined by Sections 62-2251 through 62-2272. Brevard County Code of Ordinances within Chapter 6, Section 6-3, allows for the sale of alcohol to potentially be 24 hours a day, 7 days a week.

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 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 proposed use will not cause a substantial diminution in the value of abutting residential property. Activity is limited to registered guests only during 2pm to sunset.

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: Ingress and egress to the property are fully adequate to serve the proposed use without burdening adjacent or nearby properties because the use is limited to guests already staying at the short-term rental. No new or additional traffic will be generated.

Staff analysis: This property has ingress and egress directly on Highway A1A. The property already has the tiki bar and is only serving guests of the property. There is no anticipated increase in traffic or deficiency in LOS.

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: The proposed use will not generate noise, glare, odors, smoke, fumes, or other emissions that would interfere with the use or enjoyment of adjacent or nearby properties. The activity is limited to normal residential behavior by registered guests only.

Staff analysis: The proposed use 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. Brevard County Code of Ordinances within Chapter 6, Section 6-3, allows for the sale of alcohol to potentially be 24 hours a day, 7 days a week.

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

Applicant's Response: The proposed use will comply with all applicable noise regulations described in Section 62-2271.

Staff analysis: The proposed CUP does include an outdoor deck abutting the ocean. The applicant has stated that they will comply with all noise levels within Section 62-2271 of Brevard County Code.

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: The proposed conditional use will not cause the adopted level of service for solid waste disposal to be exceeded.

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: The proposed conditional use will not cause the adopted level of service for potable water or wastewater to be exceeded. All activity is limited to registered guests.

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

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: The proposed use is fully compatible with residential surroundings and will not create substantial adverse impacts requiring additional buffering. The activity is confined to the existing deck and property layout.

Staff analysis: The property must continue to meet the Brevard County Performance Standards. The adjacent north property has vegetation already in place along the property boundary that can be perceived as a vegetative buffer. The property is bordered by the Atlantic Ocean to the east and vacant land owned by the Federal Government to the south.

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 exterior signage is proposed, and no new lighting will be installed as part of the conditional use. Existing residential lighting on property will be sufficient and remain shielded downward.

Staff analysis: Any new signage or lighting 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: The hours of operation will be fully consistent with the residential character of the surrounding neighborhood. Use of the deck area between 2pm-sunset.

Staff analysis: The hours of operation appear to be in line with the Brevard County Code requirements. However, Brevard County Code of Ordinances within Chapter 6, Section 6-3, allows for the sale of alcohol to potentially be 24 hours a day, 7 days a week.

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: The proposed use does not include any new structures or modifications to building height.

Staff analysis: The establishment is a two-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.

Applicants' Response: No additional parking or loading areas are required or proposed.

Staff analysis: It is not anticipated to have any new additions or alterations to increase patronage. At the time of establishment in 1958, the subject property met the parking requirements of 1 space per room based on the 1958 zoning code. Any changes to the property in the future requiring a site plan would require the site to meet the requirements of today's standards.

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 proposal to for a Conditional Use Permit (CUP) for Alcoholic Beverages for On-Premises Consumption for a 4COP (full liquor, beer, and wine) license, and (2) the Board may consider whether any additional operational requirements should be placed upon the subject property are appropriate, as outlined in Section 62-1906(5).