



BOARD OF COUNTY COMMISSIONERS

Planning and Development Department

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321)633-2070 Phone / (321)633-2074 Fax
<https://www.brevardfl.gov/PlanningDev>

STAFF COMMENTS

20PZ00027

MI Plaza Group, LLC

- 1.) CUP (Conditional Use Permit) for Overnight Commercial Parking Lot;**
- 2.) CUP for Alcoholic Beverages (full-liquor) for On-Premises Consumption in Conjunction with a Restaurant in a PIP (Planned Industrial Park) Zoning Classification;**
- 3.) Removal of Existing BDP (Binding Development Plan)**

Tax Account Numbers: 2459306 and 2442552
Parcel I.D's.: 24-36-11-00-288.A-XA and 24-36-11-00-288
Location: 3345 North Courtenay Parkway, Merritt Island (District 2)
Acreage: 5.48 acres (Removal of Existing BDP and CUP for Overnight Commercial Parking Lot; 3,100 square feet (CUP for Alcoholic Beverages for On-Premises Consumption)

North Merritt Island Board: 04/09/20

Board of County Commissioners: 05/07/20

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	PIP, with BDP (Binding Development Plan)	Removal of Existing BDP and establish a CUP for Overnight Commercial Parking Lot and CUP for Alcoholic Beverages (full-liquor) for On-Premises Consumption in Conjunction with a Restaurant
Potential*	82,485 sq. ft.	82,485 sq. ft.
Can be Considered under the Future Land Use Map	YES PI (Planned Industrial)	YES PI (Planned Industrial)

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

Background and Purpose of Request

The applicant is seeking three requests: 1) A CUP for Overnight Commercial Parking Lot; 2) A CUP for Alcoholic Beverages (full-liquor) for Alcoholic Beverages for On-Premises Consumption in Conjunction with a Restaurant. 3) The removal of existing BDP (Binding Development Plan) that placed conditions on a CUP (Conditional Use Permit) for Alcoholic Beverages for On-Premises Consumption in Conjunction with a Restaurant.

The applicant is proposing to change the existing use of a shopping center to cruise parking and overnight parking with related services, including a restaurant with full liquor. The proposal is for a park-and-ride lot with patrons transported by busses to the cruise ships in Port Canaveral. This is the first overnight commercial parking lot to submit a request for a Conditional Use Permit (CUP) since the code (Section 62-1941.3) was created in 2018. The specific criteria will be discussed later in this report.

The parcel is 5.48 acres and is currently developed with a 21,344 sq. ft. one story business complex and a 6,039 sq. ft. one story warehouse. The applicant states there are 207 existing parking spaces and that they will increase the parking to 237 spaces. Phase II of the development plan called for an additional 10,000 sq.ft. business complex space that was not built.

On August 16, 2019, staff prepared a zoning verification letter outlining what the current entitlements were on the property and process to re-start previous approval(s) that have since expired.

January 25, 2010, the parcel was approved for a CUP (**Z-11532**) for Alcoholic Beverages for On-Premises Consumption in Conjunction with a Restaurant along with a BDP limiting the CUP. The BDP had nine restrictions that limited the use and time of the restaurant. This CUP expired after three years on February 4, 2013, since no alcoholic beverage license was obtained.

August 2008, the parcel was denied a CUP (**DNZ-11436**) for of Alcoholic Beverages for On-Premises Consumption. The application was denied due to incompatibility with the surrounding neighborhood and access.

February 2005, the parcel was denied a CUP (**DNZ-10949**) for of Alcoholic Beverages for On-Premises Consumption. The application was denied based on incompatibility with the surrounding neighborhood and the diminutive property values.

September 1993, the parcel was Administratively Rezoned (**Z-9209**) from Light Industrial (IU) to Planned Industrial Park (PIP). Policy 10.2 from the 1988 Brevard County Comprehensive Plan states that, *"the Planning and Development Services Department may initiate administrative rezonings for those properties that are found to be inconsistent with the Future Land Use Map at the time of a development permit application."* As a result of the North Merritt Island Study, the Board changed all IU to PIP and the FLUM from Industrial to PIP to reduce the blight from potential development on this corridor.

May 1976, the parcel was rezoned (**Z-4062**) from Agricultural Residential (AU) to Light Industrial (IU).

Land Use

The Future Land Use on the subject property is Planned Industrial (PI). The zoning classification is Planned Industrial Park (PIP) and can be considered in the PI (Planned Industrial) Future Land Use designation and is part of the North Merritt Island Special District.

Environmental Constraints

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Preliminary Concurrency

The closest concurrency management segment to the subject property is North Courtenay Parkway between North ramps of State Road 528 and Hall Road, which has a Maximum Acceptable Volume (MAV) of 41,790 trips per day, a Level of Service (LOS) of D, and currently operates at 49.87% of capacity daily. The maximum development potential from the proposed application does increase the percentage of MAV utilization by 0.60%. The corridor is anticipated to continue to operate at 50.47% 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 planned industrial development. It is anticipated that no students will be generated by this proposed development.

The subject property is served by City of Cocoa potable water and Brevard County sewer. At site plan review, the applicant will be required to submit a capacity letter.

Applicable Land Use Policies

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. The subject property is currently developed with commercial and warehouse buildings and lies within the PI Future Land Use designation. Abutting this parcel to the north is Duval Street; the parcel directly across Duval Street to the north is zoned PIP and is currently developed with commercial and warehouse buildings and lies within the PI Future Land Use designation. Abutting this parcel to the east is North Courtenay Parkway; the parcels directly across North Courtenay Parkway to the east are zoned PIP, BU-2 and IU are currently developed with commercial and warehouse buildings and they all lie within the PI Future Land Use designation. The parcel lies within the PI Future Land Use designation. The two parcels to the west are vacant utility and drainage Tracts "G" and "I" zoned Estate Use residential (EU-2) under a Binding Development Plan (BDP) recorded in ORB 3338 Pages

3748 thru 3754 dated November 8, 1993, for the Sunset Groves Unit 2 subdivision and they lie within the Residential 4 (RES 4) Future Land Use designation.

Proposed uses, the applicant states: Proposed property improvements will use the existing office/retail complex and the associated parking for services catered to bus tours and car travelers heading to and from Port Canaveral cruise ships. This business is not open to the public and will only be accessible to customers that make reservations ahead of time with the company. The number of patrons that have access to the business are further limited by the number of reservations available. The operating hours (6:00am-4:00pm) and time separation between departing and arriving guests have less of an impact on traffic in the area than the current building use does.

Proposed Improvements, the applicant states: The proposed development utilizes the buildings for retail, a restaurant, pool hall, and office space, within the existing allowable use with the exception of On-Premises Consumption of Alcohol. The CUP would allow for On-Premises Consumption of Alcohol during the business operating hours of 6:00am-4:00pm. The vacant land in the center of the property will be used as Commercial Overnight Parking for cruise terminal patrons. The area will add 30 parking spaces to the existing 207, for a total of 237 parking spaces on the property. Forty-seven parking spaces are required for the proposed new business (GoPort) per County code. Because the property will not be open to the public, the remaining parking spaces will be available to patrons with advance reservations for overnight parking as part of the service package offered by the business.

Analysis of Administrative Policy #4 - Character of a neighborhood or area. The developed character of the surrounding area along the west corridor of North Courtenay Parkway is PIP zoning and are developed with commercial and warehouse buildings and lies within the PI Future Land Use designation. The developed character of the property west of the subject property is residential, the Sunset Groves subdivision.

Policy 3.2 - Role of Zoning Regulations in the Designation of Industrial Lands

Zoning regulates the specific types and intensities of uses. Criteria which aid in assessing zoning compatibility shall consider the following standards:

Criteria:

- A. Permitted/prohibited uses;
- B. Existing industrial zoning trends in the area;
- C. Compatibility of proposed use with area;

Staff analysis:

The application can be considered under the current zoning classification. In 2018, the Code was changed to require a CUP for overnight parking of commercial vehicles in a PIP zoning classification due to the off-site impacts. The applicant must provide clear and convincing evidence that the application addresses any off-site impacts associated with the proposed use. Based on the existing development trends, the surrounding area is developing in accordance

with the established land use and zoning patterns. In two other previous applications on the property for alcoholic beverages, the Board denied both citing incompatibility with the surrounding area. The properties to the west of the subject property are residential while the properties to the north, south, and east are commercial and industrial. Duval St. which is directly north of the subject property provides the only access to the Sunset Groves subdivision to the west. The applicant intends on using this (two access points along Duval Street) for access together with the existing right-in right-out connection on N. Courtenay Parkway. (See page #9, applicant's response).

Surrounding Area

The area surrounding the subject property is a mix of residential to the west and commercial and industrial along North Courtenay Parkway. The properties along North Courtenay Parkway have PIP zoning and are developed with commercial and warehousing buildings with a Future Land Use (FLU) designation of PI.

There has been one zoning action within a half-mile of the subject property within the last three years. On November 22, 2017, application **17PZ00005** changed the zoning from SEU (Suburban Estate Use) to EU-2 (Estate Use 2) on two parcels totaling 26.11 acres located approximately 730 feet in an easterly direction from the subject parcel.

The parcel directly across Duval Street to the north is zoned PIP. The parcels directly across North Courtenay Parkway to the east are zoned PIP, BU-2 (Retail, warehousing and wholesale commercial) and IU (Light industrial).

There have been three other Overnight Cruise Parking developments in the general vicinity of the subject property along North Courtenay Parkway which promulgated the additional Code requirements as outlined in 62-1941.3 requiring a CUP. They are as follows:

The abutting parcel to the south is zoned PIP and is a vacant parcel with a proposed site plan (**16SP00032**) for cruise parking with 221 parking spaces. PIP is the second lightest industrial classification, allowing light manufacturing within enclosed buildings with strict buffering, storage and other requirements. The abutting parcels to the west are zoned EU-2.

Two parcels to the south is zoned PIP and is partially vacant (veterinarian office and pet boarding) parcel has a proposed site plan (**18AD00005**) for cruise parking with 244 parking spaces. The site plan has not been approved. The abutting parcels to the west are zoned EU-2 under a BDP.

The next closest cruise ship parking is approximately 1,385 feet south located on the southeast corner of North Courtenay Parkway and Smith Road. This site plan (**18SP00008**) was approved on February 28, 2019 with 598 spaces, and is currently under construction. Staff has received 26 calls citing concerns with traffic closures when the barge canal is open when construction began with 18SP00008.

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 6-9 of the administrative policies. 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, Section 1941.3 overnight commercial parking lot and Section 62-1906, on-premises consumption of alcohol.

Sec. 62-1941.3 Overnight commercial parking lot.

Overnight commercial parking lots are those commercial parking lots which offer 24-hour or longer extended parking for motorized vehicles. Overnight commercial parking lot use is a conditional use in the BU-1, BU-2, PBP and PIP zoning classifications; however, when an overnight commercial parking lot use is located within IU or IU-1 zoning, it shall be considered a permitted with conditions use. Both types of overnight commercial parking lots are subject to the provisions of this section. The following conditions are the minimum conditions necessary to mitigate adverse impacts upon surrounding properties.

- (1) Minimum lot size shall be not less than three acres for sites zoned: BU-1, BU-2, PBP or PIP. For sites zoned: IU or IU-1, the minimum lot size is two acres.

Staff's Observation: The property is 5.48 acres in size. North Courtenay Parkway is designated as an Urban Principal Arterial roadway.

- (2) An overnight commercial parking lot which is secondary or accessory to a developed site shall demonstrate the site has adequate surplus parking beyond the number of spaces required by the parking code to support the primary use or other uses occurring on the subject property.

Staff's Observation: The site plan demonstrates adequate parking. There are 153 surplus parking spaces on-site.

- (3) All drive aisles and parking spaces shall be paved unless an alternative stabilized surface is approved. Secondary or accessory parking facilities that have demonstrated compliance with condition (2) above shall only be performed from paved parking spaces.

Staff's Observation: The site plan shows that all drive aisles and parking spaces will be paved.

- (4) A routing map shall be provided which depicts the routes shuttle service vehicles used to transport passengers to and from the overnight commercial parking lot. Shuttle routes shall avoid residential areas.

Staff's Observation: A routing map has been provided. Of particular concern is that the route travels south across the Barge Canal bridge that opens when boats go through, thereby blocking traffic. The western entrance along Duval St. will be used as their primary entrance.

- (5) A traffic study, statement or report of traffic patterns (incoming/outgoing) shall be provided for the board to review to assist in determining if additional roadway improvements are warranted.

Staff's Observation: A traffic study has been prepared by the applicant. If the applicant from the adjacent cruise parking project wishes to submit a letter stating that they will not proceed with their project and acknowledging that any restart of development will require that they start a new application, then we will not be concerned with the combined project trips. In this case, you only need to look at whether the turn lane is adequate for the existing trips plus trips from your proposed project.

- a. The applicant shall be responsible for the design, permitting, and construction of all necessary roadway improvements.

Staff's Observation: with the publication of this report, the applicant will be made aware of this provision.

- b. The site plan shall be designed and the site constructed to facilitate all peak hour trips on site so there is no queuing in any public right-of-way.

Staff's Observation: The site plan does not demonstrate that the site can accommodate appropriate queuing on-site.

- (6) Applicant shall submit a site plan consistent with chapter 62, article VIII after board approval of the CUP.

This second CUP 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's Observation: 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.

Staff's Observation: 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 100 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 area 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 on Duval Street caused by the proposed conditional use.

Applicant's Response: The project is in compliance with all elements of the Comprehensive Plan. The On Premises Consumption of Alcohol proposed in the CUP application is in conjunction with a small restaurant and is consistent with the Commercial use of the property and the Future Land Use designation. (1) The number of persons using the facilities, to include Commercial Overnight Parking, on the property will be limited to patrons arriving and departing from the cruise terminal at Port Canaveral. (2) Though not expected to change with the CUPs requested in this application, noise, odor, particulates, smoke, fumes and other emissions, or other nuisance activities will not impact neighboring properties. The business operating hours are from 6:00am-4:00pm and in addition to the access control and fenced perimeter, there is a 130± sf. wetlands vegetation buffer between the businesses and the adjacent residential

property. (3) The site of the Conditional Use Permit is located with convenient and direct access at an arterial intersection.

Staff's Observation: The restaurant is proposed to contain 100 seats within 3,100 square feet, exclusive of any outdoor seating area, with full liquor use is proposed. A CUP for on premises consumption of alcoholic beverages (beer and wine only) in conjunction with a restaurant was approved via zoning action CUP (Z-11532) in Conjunction with a Restaurant along with a BDP limiting the CUP. This CUP expired after three years since an alcoholic beverage license was not obtained. The applicant states there are 207 existing parking spaces. A restaurant requires one parking space per 100 sq. ft. of restaurant area which would require 31 spaces.

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

Applicant's Response: The proposed use will be compatible with the character of adjacent and nearby properties with regard to use, function and operation. The hours of operation for the facilities will be limited, with patron access between 6:00am and 4:00pm only. The type and amount of traffic generated will be as modeled by the Traffic Engineer in the attached Traffic Study. The building size and setback will not be altered. Parking availability will be limited to cruise patrons utilizing the Commercial Overnight Parking. The existing site indicates three points of ingress and egress to the property, which will be common to all the uses of within the property.

Staff's Observation: Board may consider having a condition that the restaurant be limited to and only open to cruise patrons utilizing the Commercial Overnight Parking only and not open to the general public. The hours of operation will be 6am to 4pm. The calculated parking required as follows:

- *31 parking spaces for 3,100 square feet of restaurant/bar use (one space per 100 sq.ft.)*
- *11 parking spaces for 3,500 square feet of business complex use. (one space per 325 sq.ft.)*
- *42 parking spaces for 20,818 square feet of warehouse/storage use. (one space per 500 sq.ft. of use).*

84 required spaces based upon credited for 27,418.04 square foot buildings. Based on the proposed site plan, there is 153 surplus spaces available for overnight commercial parking.

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: The property will be owner operated and will be maintained with minimal to no impact to the neighborhood. It will be a specialty place that caters only to the cruise industry. The proposed improvements will not reduce property value.

Staff's Observation: Parcel is in a PIP zoned corridor along the west side of North Courtenay Parkway, however the west property line abuts two parcels that are vacant utility and drainage Tracts "G" and "I" for the Sunset Groves Unit 2 subdivision and have EU-2 (Estate Use) zoning under a BDP.

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: The existing site indicates three points of ingress and egress (SR 3 and Duval St.) to the property and they are be common to all the uses of within the property. This site has been approved as exists for Emergency ingress and egress from the property and there will not be any changes to the site that is built and approve by the County with the exception of adding security gates that will be addressed with the Fire Department for code requirement, location, and access.

Staff's Observation: The subject parcel has two driveways to the north to Duval Street and one driveway to the east to North Courtenay Parkway. Duval Street is the road to ingress and egress the Sunset Groves subdivision to the west of the parcel and was platted in Sunset Groves Unit One. All traffic heading north on Courtenay Parkway needing to access the subject parcel has to turn on to Duval Street or do a U-Turn on North Courtenay Parkway to access the driveway on the east of the parcel.

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 of the property as stated in the CUP is similar in intensity and hours of operation and is not likely to cause nuisances such as noise, odor, smoke, glare, electrical interference for the surrounding properties and/or the County as a whole. Please note that the hours of operation for this facility will be between 6 AM to 4 PM and the use is very much consistent with the allowable use today with the exception of On

Premises Consumption of Alcohol and Commercial Overnight Parking tailored to cruise patrons.

Staff's Observation: Parcel being used for proposed Cruise Parking will have buses to carry passenger to port. Buses may create additional noise and exhaust odor.

Section 62-1901(c)(2)(c): Noise levels for a conditional use are governed by section 62-2271 of the Code, which includes the following:

Maximum Permissible Time Averaged (Leq)
A-Weighted Sound Pressure Limits for Receiving Uses

Type of Use	Time Period	Maximum Allowable Sound Pressure Level
Residential	7:00 a.m. to 10:00 p.m.	60 dB(A)
	10:00 p.m. to 7:00 a.m.	55 dB(A)
Commercial	7:00 a.m. to 10:00 p.m.	65 dB(A)
	10:00 p.m. to 7:00 a.m.	55 dB(A)
Industrial	7:00 a.m. to 10:00 p.m.	75 dB(A)
	10:00 p.m. to 7:00 a.m.	65 dB(A)

Note: Additional requirements may apply. Refer to Section 62-2271 for full noise specifications.

Applicant's Response: Noise levels will not exceed limits listed above.

Staff's Observation: Parcel being used for proposed Cruise Parking will use buses to carry passenger to port. Buses may create additional noise (back-up indicator) and exhaust odor.

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: Solid waste disposal, potable water, or wastewater services are available to the site and shall not be exceeded. This property is located in the County Rural area service. Potable water is provided to the site by the City of Cocoa, Sanitary Sewer and Solid Waste services is provided by the County. The location of these facilities are existing and we do not anticipate any modifications. In addition, the property will be used by patrons frequenting the cruise lines that will limit the requirement for additional service outside what is provided for currently.

Staff's Observation: The subject property is served by City of Cocoa potable water and Brevard County sewer and solid waste. A capacity letter will be required at site plan.

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: Due to there being less traffic generated and the limited number of patrons, this property will not exceed potable water and wastewater limits.

Staff's Observation: According to the applicant's traffic study, the proposed use will have less impact than the existing allowed uses.

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: Screening and buffering with reference to type, dimensions and character are a part of the approved, existing system that will not be altered.

Staff's Observation: Parcel appears to have natural screening along the west and south however, additional landscaping or a block wall may provide buffering to existing residential uses of the adjacent property.

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: Signs and exterior lighting are existing and conform to county standards for with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the area. There are no anticipated changes to the existing development and the associated signage and there will be no changes to the existing structures without additional permitting. Changes can be accommodated within the parameters established in the Land Development Regulations and will not require waivers to accomplish. In addition, any changes in the lighting will be reviewed by the County Staff during the permit review processes and shall meet or exceed the County requirements.

Staff's Observation: Any new signs will need a building permit and meet section 62-3316 for on-premises signs. Lighting will need to meet Lighting Standards in section 62-2257.

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 of service for this new establishment will be from 6 AM to 4 PM, which is less than the majority of the properties in the vicinity of the site (commercial uses, with several operating 24 hours a day).

Staff's Observation: The noise ordinance has a higher standard from 6am to 7am which is 55 db(A). From 7am to 10pm it is 65db(A).

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: There will be no additional building construction.

Staff's Observation: There are existing commercial and warehouse building on parcel. A site plan will be required as for the overnight commercial parking lot. Any addition to the buildings will require site planning and building permit.

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: Off street parking and loading areas, where required, will remain the same with particular attention to ingress and egress. The existing site has a total of 207 parking spaces, all of which are within the parcel. There was a surplus of parking in the existing site condition and there is additional parking proposed with the establishment of the CUP for Commercial Overnight Parking. A traffic study was generated to determine the impact of the new versus the existing use. Attached is a copy of the report. The traffic study concluded that the proposed use of the site can be accommodated on the subject property with less impact than what is existing (retail/office) and the Conditional Use Permit will further assert this specific use.

Staff's Observation: All parking and loading should be located on parcel and not within the ROW.

For Board Consideration

The applicant is seeking three requests: A CUP for Overnight Commercial Parking Lot; CUP for Alcoholic Beverages (full-liquor) for Alcoholic Beverages for On-Premises Consumption in Conjunction with a Restaurant; and the removal of existing BDP (Binding Development Plan) that placed conditions on a CUP (Conditional Use Permit) for Alcoholic Beverages for On-Premises Consumption in Conjunction with a Restaurant

The Board should consider the compatibility with the surrounding area of the proposed CUP for Overnight Commercial Parking Lot and the impacts with the three other cruise parking lots along North Courtenay Parkway and the traffic concerns when the barge canal is open. The Board should also consider removal of the existing BDP and the conditions it imposed together with the proposal of the new CUP request for full liquor.

If approved, subject to the conditions of Section 62-1906 and section 62-1941.3, the Board may wish to retain some of the existing BDP conditions or impose additional conditions to mitigate the impact on the surrounding area and neighborhoods. Such conditions could include:

- a. Additional landscaping buffer or block wall along the westerly and southerly boundaries.
- b. Turn lane analysis will be required with the site development plan, to be reviewed by Brevard County Traffic Engineering, reviewed and permitted by FDOT, and the applicant shall be responsible for the design, permitting, and construction of all necessary roadway improvements prior to utilizing the site for cruise parking.
- c. Queuing of vehicles are prohibited along all public ROW's. A queuing plan shall be submitted with site plan demonstrating sufficient queuing distance, on-site.
- d. No parking signs shall be installed along the north and south sides of Duval St.
- e. Increased queueing distances on-site
- f. Limiting hours of restaurant and bar
- g. Limiting the seats of the restaurant
- h. Limiting to beer and wine only
- i. No outside entertainment activities
- j. Limit number of overnight commercial parking, based on available surplus parking

The Board may wish to consider the approval of a portion of the request and only one of the CUP's or deny the entire request.

NATURAL RESOURCES MANAGEMENT DEPARTMENT
CUP Review & Summary
Item # 20PZ00027

Applicant: Matthew Phillips

Request: Applicant wants to remove BDP, add a CUP for overnight commercial parking, & add CUP for consumption of alcohol – full liquor

NMI Hearing Date: 04/09/20; **BCC Hearing date:** 05/07/20

Tax ID No: 2459306

- This is a preliminary review based on best available data maps reviewed by the Natural Resources Management (NRM) Department and does not include a site inspection to verify the accuracy of the mapped information.
- In that the rezoning process is not the appropriate venue for site plan review, specific site designs submitted with the rezoning request will be deemed conceptual. Board comments relative to specific site design do not provide vested rights or waivers from Federal, State or County regulations.
- **This review does not guarantee whether or not the proposed use, specific site design, or development of the property can be permitted under current Federal, State, or County Regulations.**

Summary of Mapped Resources and Noteworthy Land Use Issues:

- Wetlands/Hydric Soils
- Aquifer Recharge Soils
- Indian River Septic Overlay
 - Protected Species
 - Landscape Requirements

No noteworthy land use issues were identified. NRM reserves the right to assess consistency with environmental ordinances at all applicable future stages of development.

Land Use Comments:

Wetlands/Hydric Soils

The subject parcel contains mapped NWI wetlands and hydric soils (Basinger sand) as shown on the NWI Wetlands and USDA Soil Conservation Service Soils Survey maps. A 0.776-acres wetland conservation easement exists on the western portion of the property as shown on plans and the survey submitted in the application under 20PZ00027. Impacts to wetlands in this conservation easement will not be permissible. Prior to any plan design or permit submittal, the applicant is encouraged to contact NRM at 321-633-2016.

Aquifer Recharge Soils

Basinger sand may also function as an aquifer recharge soil. The applicant is hereby notified of the development and impervious restrictions within Conservation Element Policy 10.2 and the Aquifer Protection Ordinance.

Indian River Lagoon Septic Overlay

The entire property is mapped within the Indian River Lagoon Septic Overlay. If sewer is not available, the property will require a septic system that provides at least 65% total nitrogen reduction through multi-stage treatment processes per Chapter 46, Article II, Division IV-Nitrogen Reduction Overlay.

Protected Species

Information available to NRM indicates that federally and/or state protected species may be present on the property. Prior to any plan, permit submittal, or development activity, including land clearing, the applicant should obtain any necessary permits or clearance letters from the Florida Fish and Wildlife Conservation Commission and/or U.S. Fish and Wildlife Service, as applicable.

Landscape Requirements

The applicant is advised to refer to Article XIII, Division 2, entitled Land Clearing, Landscaping, and Tree Protection, for specific requirements for preservation and canopy coverage requirements. Applicant should contact NRM at 321-633-2016 prior to performing any land clearing activities.