



Board of Adjustment

**AGENDA**

July 25, 2019

7:00 P.M.

City Council Chambers

---

All persons who desire to speak on any public hearing item must fill out an oath card, sign the card, and submit the card to one of the City Planners. Speakers will be heard in the order received by the Chairman. The applicant may make a brief rebuttal, if necessary. Anyone who speaks is considered a witness. If you have photographs, sketches, or other documents, you must provide 9 copies for distribution to the Board Members. These items will be retained by the Board Members, City Attorney and City Staff.

---

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **PAST BOARD MEMBER ACKNOWLEDGEMENTS**
4. **OATH OF OFFICE**
5. **ROLL CALL**
6. **SELECTION OF CHAIR AND VICE-CHAIR**
7. **MINUTES**

Board of Adjustment Meeting Minutes of April 26, 2018

8. **PUBLIC HEARING(S) –**

- a. **Mangrove Rum Distillery – Conditional Use Permit and Site Plan Approval Request (CUP-2018-02)**

A request for conditional use and site plan approval for an existing 2,293 square foot building to be converted to an artisan distillery located at NW 38 Carolina Street.

*Applicant:* Stayton Shaw  
*Applicant's Representative:* Erin Trauger, PE (civil engineer)  
*Location:* 2842 Watkins Drive

9. **REPORTS**

- a. Planning Director
- b. Board Members

10. **PUBLIC COMMENTS**

## **11. ADJOURN**

---

All persons wishing to be heard should appear in person at these hearings or send written comments to the City Clerk. All persons and parties are hereby advised that if they should decide to appeal any decision made by the City with respect to any matter considered at the public meeting or hearing described in this notice, they will need a record of the proceedings, and for such purpose, said person or party may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Chapter 286, Florida Statutes). In compliance with American with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the City's ADA coordinator at (321) 837-7774 at least 48 hours in advance of this meeting.



Board of Adjustment

**MINUTES**

April 26, 2018

7:00 P.M.

City Council Chambers

**1. CALL TO ORDER**

Vice Chair Rachel McCreary called the meeting to order at 7:00 p.m. followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present were, Vice Chair Rachel McCreary, Board Members, Steve Hinson, Dave Menzel, and Claudia Sprague.

Absent was Chairman Daniel Schroeder, Board Member Rob Beckner and Catherine Ziebell

Motion to excuse Daniel Schroeder's, Rob Beckner's and Catherine Ziebell's absence was made by Member Menzel, seconded by Member Hinson – motion carried 5-0.

Also present was City Attorney Morris Richardson, Planning Director Christy Fischer and Planner Denise Curry.

Planning Director Christy Fischer introduced the new planner, Sheryl Denan.

**3. MINUTES**

Board of Adjustment Meeting Minutes of October 26, 2017

Motion to approve the minutes was made by Member Sprague, seconded by Board Member Menzel – motion carried 4-0.

**4. PUBLIC HEARING(S) –**

City Attorney Richardson advised the board regarding quasi-judicial procedures.

**a. Audi Dealership at Coastal Commerce Center – Conditional Use Permit and Site Plan Approval Request (CUP-2018-01)**

A request for conditional use and site plan approval for a proposed 48,146 square feet Audi Dealership located at 2260 Coastal Lane.

*Applicant: Construction Engineering Group, Jake Wise, PE*  
*Location: 2260 Coastal Lane.*

Planning Director Fischer presented the staff report along with a recommendation for the requested dealership that is over 3 acres in size and therefore qualifies for requiring a conditional use permit. She stated that the applicant was in the audience and they also had a PowerPoint presentation. Planning Director provided an overview of the items that are required to be adhered to during the conditional use permit process and afterwards the applicant would be able to continue with the full administrative site plan process. She discussed staff's analysis of the compatibility and consistency of the project with its surroundings, which are the other businesses in the Coastal Commerce Center (platted subdivision). She presented staff analysis regarding the conditional use and planned commercial development criteria and how both were met. She talked about the Interchange Commercial Overlay District requirements and how this project meets them. She concluded with staff recommended conditions of approval and explained each. She recommended the Board make the following motion: Approve the request by Audi dealership for a Planned Commercial conditional use permit with the following conditions:

1. The final site plan must still be submitted and must be consistent with the initial site plan.
2. The shrubs proposed around the relocated dumpster be 6 feet in height upon planting instead of 2 feet in height.
3. Plant hardwood trees (as shown on the initial site plan) that are four (4) inch calipers to make up for not having trees in the interior green islands next to the vehicle inventory areas.
4. Install ornate ground cover in the triangular corner of the property approaching the first dealership driveway.
5. A legal document must be submitted to demonstrate that the parking and driveway that Chuck E. Cheese has on the auto dealership lot will not be removed by the auto dealership.
6. The existing asphalt be removed from the existing stub-out closest to the dealership's proposed bike rack as well as removal of the illegal wheel stops which must be replaced with curb.
7. A cross walk be installed across the Chuck E. Cheese driveway leading from its handicap space that exists along its south building line to the new Audi dealership sidewalk.
8. Provide site furniture or art-work/utilitarian pieces on site consistent with the City's Interchange Commercial Overlay code.
9. Plant low lying ground cover bushes on the west side of the building in the large expanse of grass northeast of the rear employee gate.

Vice Chair McCreary opened the public hearing.

Discussion Included:

- Jake Wise, P.E. talked about the back and forth with staff on the details of the overall site and how the driveways were shifted and landscaping was enhanced to meet the conditions of the conditional use.
- Nicholas Bernt talked about franchise requirements and West Melbourne requirements and it has been a challenge to meet both.
- Exterior material on the building is a metal aluminum thick corrugated rain screen which is specific to Audi and complies with all of the architectural requirements of the franchise.
- The name has to be "Audi of Melbourne" because it is mandated by the parameters of their franchise agreement.
- The proposed lighting is dark sky compliant.
- Add another sentence to condition #4 "all other vegetation to meet code" and add condition #10 – provide clusters of palm trees on either side of the entrance.

Vice Chair McCreary asked for any additional comments. Seeing none, she closed the public hearing.

Moved by Board Member Menzel, seconded by Board Member Hinson to approve the request by Audi dealership for a Planned Commercial conditional use permit with the following conditions:

1. The final site plan must still be submitted and must be consistent with the initial site plan.

2. The shrubs proposed around the relocated dumpster be 6 feet in height upon planting instead of 2 feet in height.
3. Plant hardwood trees (as shown on the initial site plan) that are four (4) inch calipers to make up for not having trees in the interior green islands next to the vehicle inventory areas.
4. Install ornate ground cover in the triangular corner of the property approaching the first dealership driveway. All other vegetation to meet code.
5. A legal document must be submitted to demonstrate that the parking and driveway that Chuck E. Cheese has on the auto dealership lot will not be removed by the auto dealership.
6. The existing asphalt be removed from the existing stub-out closest to the dealership's proposed bike rack as well as removal of the illegal wheel stops which must be replaced with curb.
7. A cross walk be installed across the Chuck E. Cheese driveway leading from its handicap space that exists along its south building line to the new Audi dealership sidewalk.
8. Provide site furniture or art-work/utilitarian pieces on site consistent with the City's Interchange Commercial Overlay code.
9. Plant low lying ground cover bushes on the west side of the building in the large expanse of grass northeast of the rear employee gate.
10. Provide clusters of palm trees on either side of entrance.

Motion passed, 4-0.

## **5. REPORTS**

1. Planning Director

Planning Director Fischer talked about current projects in the city and advised of the roadway intersection improvement schedule for Minton Road and U.S. 192. There was much discussion about the Ellis Road project.

2. Board Members

No reports.

## **6. PUBLIC COMMENTS**

No public comment.

## **7. ADJOURN**

There being no further business, the meeting was adjourned at 8:32 p.m.

\_\_\_\_\_  
Rachel McCreary, Vice Chair

\_\_\_\_\_  
Denise Curry, Planner



## BOARD OF ADJUSTMENT AGENDA ITEM

**PREPARED BY:** Christy Fischer, Planning Director  
**MEETING DATE:** July 25, 2019  
**SUBJECT:** **Mangrove Distillery 38 NW Carolina Street Conditional Use (CUP-2018-02)**

---

Mr. Stayton Shaw is proposing an artisan distillery at 38 NW Carolina Street (see aerial on next page). The existing building would be renovated for the distillery (see attached site plan).

A conditional use permit is required for an artisan distillery in the C-NH (Commercial New Haven District). Each zoning district has two types of uses:

- uses allowed by right, and
- Uses allowed by conditional use approval (this case).

The purpose of a conditional use permit is to ensure that the proposed use is consistent with the City's Land Development Regulations (LDR). Conditional use approval does not grant special privileges but rather is a mechanism to ensure compatibility with surrounding uses. The following information has been compiled to assist the Board in making a determination concerning this request.

### Background Information—

**Applicant:** Stayton Shaw, Mangrove Distillery, LLC  
(Applicant's Rep—Erin Trauger Consulting Engineer)

**Location:** 38 NW Carolina Street

**Acreage:** 0.23 acres

**Zoning:** C-NH (Commercial New Haven District)  
The City encourages redevelopment of existing sites.

**Proposed Development:** Artisan Distillery

**Adjacent Properties:**

Direction	Existing Use	Zoning	Future Land Use
North	Small office	C-NH (Commercial New Haven)	COM
South	Cumberland Farms	C-NH (Commercial New Haven)	COM
East	Office complex	C-NH (Commercial New Haven)	COM
West	Office and retail	C-NH (Commercial New Haven)	COM

**Aerial**



**Staff Analysis—**

Artisan beverage establishment is a conditional use in C-NH zoning (LDR Section 98-832). When reviewing this conditional use request, staff follows criteria and regulations from the following:

1. Conditional use approval criteria as listed in LDR Section 66-351
2. Artisan beverage establishment approval criteria as listed in LDR Section 98-832(1)

*As long as the applicant has met the conditional use requirements the request cannot be denied.*

### **Operation of the artisan distillery:**

In 2012, “Popular Mechanics” in their web site article by William Gurstelle, described distilling by craft distilleries as still operating on the same chemical and physics as has always been part of the distillation process but with more modern equipment.

There are 7 pieces of equipment that produced distilled spirits according to “Popular Mechanics” that ferment, process, rectify and blend and produce distilled spirits:

- 1) Fermenter
- 2) Pot (boiler)
- 3) Distillation column (copper column)
- 4) Lyne arm (concentrated alcohol vapor in a horizontal pipe)
- 5) Condenser (another vessel that has the Lyne arm and other pipes)
- 6) Distillate (the collection vessel that mixes the liquids)
- 7) Aging barrels

The distinction between a large industrial type of spirits producer and the craft distilleries is the volume of their production. In allowing craft distilleries, the City adopted the same quantity measurements as the State of Florida. That is, in Code Section 63-8, the City has a definition of Artisan beverage establishments with distinctions of craft distilleries, nano breweries and winery/meaderies. City Code defines the category of craft distillery as producing and selling or distributing not more than 75,000 gallons per year. The City’s zoning district of C-NH is the code (Section 98-832) that specifies that craft distilleries are allowed. Once a distillery exceeds this limit, then they will be required to find an industrial location and the customer retail portion would have to diminish with the main business being spirits production. If this conditional use request is granted for the craft distillery, then the distiller must comply with State of Florida licensing requirements and City Codes.

### **General Set of Review Criteria - Conditional Use:**

The submitted conditional use application was sufficient to move forward with the Board of Adjustment public hearing process. The Board of Adjustment, after holding a public hearing, votes to approve, deny, or conditionally approve the conditional use request in accordance with a review of the criteria for conditional use requests.

The following lists the ten (10) provisions that must be adequately addressed to receive approval as well as staff’s comments on each:

1. *Ingress and egress* – The only vehicular access is from Carolina Street.

Proposal (see initial plan) – Since this is an older property, there is not a defined driveway from Carolina, but rather the entire frontage is used as a driveway/parking lot currently. This property was first developed in 1973 and the development style of installing a building with no paved parking lot or perhaps a gravel lot such as appeared to be the case here, was typical. However, with any property that converts from few customers to a reasonable expectation of more customers during the week, there will have to be a defined driveway and defined parking spaces.

New driveway – The project engineer has designed a 20-foot-wide driveway which will allow a vehicle to be in each of the lanes. The code requires a 24-foot-wide driveway typically, however, Section 74-26 allows the City to implement good engineering practices to individual projects. Since this project in the Community Redevelopment Area



and its zoning district, C-NH (Commercial New Haven) has an intent statement promoting redevelopment, and this property only has 75 feet of width with a building occupying part of that width, then a smaller 20' wide driveway instead of 24' meets a safe operational width while allowing the applicant to also install a few parking spaces both in front and behind the building.

2. *Parking* – The City requires 6 parking spaces for a building of this size with the combined manufacturing and customer areas. The artisan beverage establishment exceeds this requirement by providing 6 regular spaces and 1 handicap space. The proposed development indicates parking that meets the parking stall dimensional criteria.
3. *Solid Waste and Service Areas* – The applicant has indicated to staff that they will have curbside pick-up instead of a dumpster. There is not much space on the site to have a dedicated dumpster. The applicant indicates on their plan under the section labeled, “Site Data” that they will not discharge the solids and other non-water materials into the City’s sewer system.

City staff is recommending that this business set up an annual inspection by the City sewer provider (“Jacobs” company) to determine if alterations to their production method should be made over a period of five years.

The applicant has indicated to staff that the by-product will be kept in an enclosed building, whether it is the main building or the shed. This will also be a condition of approval.

The service area for this business may be in the driveway or behind the building according to the applicant. There is sufficient area behind the building (east side of building) to accommodate a van or small utility vehicle to load and off-load products and materials.

4. *Screening and Buffering* – Screening to an adjacent property is not required because all adjacent properties are commercial.
5. *Signs and Lighting* – The applicant will be required to follow Code during permitting. Lighting plans are not required at this stage, but the applicant will be required to follow the Code which requires that lighting be downcast and the footcandles not exceed 1.0 at the property lines.
6. *Required Yards* – Since no additions are proposed to the existing building, there are no additional building setbacks to be applied to this site.
7. *Building Height* – The existing building is one-story, but if the applicant wanted to add a story to this building, the maximum height in the C-NH district is 50'. However, in order for the property owner and/or distiller to propose any height increase to their existing building, they would have to modify the conditional use permit.
8. *Landscaping* – A landscape plan has been provided to show a perimeter landscape buffer, especially along the west property line (front) and the north property line (side facing 52 Carolina Street). The City has minimum code requirements and additional requirements for tree removal, however, some of the oak trees that exist next to

Cumberland Farms are on their property and will remain. The applicant has the choice of either planting larger trees or planting additional trees to make up for any removed trees over a certain size (10 inches in diameter at breast height). This specific review occurs during the site plan stage when additional information is provided for the development site.

9. *Renewal/Termination Dates* – The applicant would like to start business as soon as possible, but after the conditional use permit must obtain the following approvals: final site plan. The applicant must also receive building permits prior to construction of the pavement and concrete and for the interior renovations.
10. *Compatibility* – The proposed development will be compatible with surrounding uses commercial uses. This property has been zoned commercial for several decades and has had different businesses over the years. Staff does not foresee any compatibility issues with a distillery on this property since the size and production quantities will be limited. The City promotes redevelopment in the community redevelopment area and this building from 1973 will be enhanced with a new use. However, staff is requesting two additional items as conditions of approval to ensure the gas station/convenience store is more harmonious with its surroundings:
  - a. *Schedule of Customer Tastings and Production* – The applicant has indicated to staff that the customer tastings will not occur on a nightly basis, nor that production will occur every day. City staff believes that the applicant should provide a schedule which would be updated as conditions change, to the City so that we can monitor the traffic of customers and traffic by distributors.
  - b. *Building frontage enhancement* – The front of the existing building at 38 Carolina Street is very plain, and besides the signage that the applicant will install, City staff believes that the applicant should enhance the building with paint, and other adornments attached to the building that provide some visual relief to the metal corrugated walls.

Based on the analysis above and with a few additional changes, the proposed use meets the conditional use criteria listed in LDR Section 66-351. Staff will ensure that the final approved site plan continues to meet these criteria.

#### **Artisan Beverage Establishment Criteria:**

In addition to the conditional use criteria stated above, the applicant must also follow the artisan beverage conditional use criteria that is listed in LDR Section 98-832(1). The following is an analysis of how the project meets the requirements:

- (1) *Artisan beverage establishment:*
  - a. *Noise.* Any music or entertainment shall be for indoor background purposes and not paid entertainment (defined as nightclub in the definitions code) and not as a feature of a special event. **Staff comment** – *the applicant understands that only indoor music is allowed and that nightclubs which charge admission prices are not allowed in our city limits.*
  - b. *Odors.* No offensive odors or odors evidencing the presence of a brewery, distillery, or winery/meadery shall be emitted beyond the walls of the building occupied by said use. *the applicant to allow inspections by the sewer provider* **Staff comment** – *requiring will assist in reducing odors beyond the building.*

- c. *Outdoor seating.* No outside seating for establishments with less than one acre of area if within 125 feet to residential units. Outdoor seating shall be limited to 50 percent of the allowed seating in the tasting room, brewpub, or restaurant, and shall be limited to 11:00 p.m. at night. **Staff comment** – *The applicant's property does not meet the 125 foot separation distance and is therefore unable to have outdoor seating.*
- d. *Outdoor storage.* No open exterior storage of materials used in the manufacturing process. All storage shall be in enclosed structures. **Staff comment** – *The applicant has indicated removal of the two sheds on site and understands that any storage outside the building must be in another building.*
- e. *Parking.* Quantity of parking needed shall be required based on the occupancy limit of the tasting rooms and brewpubs using the city's requirements for restaurants, and for the production area per the city's requirements for manufacturing uses. **Staff comment** – *The attached site plan indicates provision of the minimum required parking.*
- f. *Production area size and height.* The alcohol production area cannot exceed 5,000 square feet of gross floor area, and if the use is within 125 feet of existing residential uses, the production building cannot exceed 25 feet in height, although the refrigerators and other unoccupied structures can be up to 40 feet in height. **Staff comment** – *The existing building is only 2,293 square feet in size and is less than the maximum allowed space of 5000 square feet. Since the building is within 125 feet to the nearest residence north of 52 Carolina Street, the building height limit will always be 25 feet except for refrigerators or other unoccupied structures.*
- g. *Production process.* All aspects of processing the artisan beverage is allowed if conducted inside an occupiable building (including storage of grain and the milling of grain). **Staff comment** – *The applicant has stated that all aspects of their distillation will occur in the existing building. If the business grows and needs more building and storage area, it will have to look for an industrial property in the City of West Melbourne.*
- h. *Residential separation.* The use shall be a minimum of 75 linear feet from any residential structure to the closest wall of the commercial building. **Staff comment** – *The craft distillery building is more than 75 feet in distance to the residence addressed as 76 Carolina Street*
- i. *Separation to other uses.* The use shall comply with the city's separation distances from churches, schools and parks as stated in the alcohol code. **Staff comment** – *There are no churches, schools or parks in close proximity to this proposed use.*
- j. *Service.* Service and delivery trucks for the purposes of loading and unloading materials shall be restricted to between the hours of 8:00 a.m. to 8:00 p.m. Monday through Saturday and between 11:00 a.m. to 7:00 p.m. on Sundays and national holidays. **Staff comment** – *The applicant understands the service delivery limits. This is in the code because as distillation and beverage businesses increase distribution from increased production, there is a significant increase in commercial truck traffic. Craft distilleries with limited distribution deliver/pick up hours are more harmonious with nearby residential uses.*
- k. *Service access.* Service and access doors must either face the street or a non-residential use. **Staff comment** – *The applicant has stated that the back door of*

*the building will be their service door, and both the front door and back door will allow customers to enter/exit the building*

- I. *Utility connection.* The use must be connected to both public water and sewer. Currently the use is connected to sewer but not to City water. **Staff comment –** *The applicant will have to install an underground lateral pipe to connect to the City's water line that serves the other commercial businesses in the area.*

The proposed use and initial site plan meet the artisan beverage establishment criteria listed in LDR Section 98-832(1).

#### **Public Notice:**

The conditional use was advertised in the legal section of the Florida Today on June 20, 2019.

#### **Conclusion—**

Staff recommends approval of the conditional use permit and the initial site plan based on the analysis in the staff report with the following conditions:

1. Set up an annual inspection by the City sewer provider to determine if alterations to their production method should be made over a period of five years.
2. Contain by-products in an enclosed building, whether it is the main building or the shed.
3. Provide a schedule which would be updated as conditions change, to the City so that we can monitor the traffic of customers and traffic by distributors.
4. Enhance the building with paint, and other adornments attached to the building that provide some visual relief to the metal corrugated walls.

#### **Attachments—**

1. Brevard County Property Appraiser photograph
2. Initial Site Plan

Attachment 1 – 2008 Brevard County Property Appraiser photograph

