

## Legislation Text

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File #: 2023-244, Version: 1

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**Title:**

**Food Fare Fern Park Special Exception - *Continued from the 2/14/2023 BCC Meeting*** - Consider a Special Exception for an alcoholic beverage establishment in the C-2 zoning district on 0.81 acre, located on the east side of US Highway 17-92, south of South Street; (BS2022-10) (Cory Sitler, Applicant) District4 - Lockhart (**Hilary Padin, Project Manager**).

**Agenda Category:**

Public Hearing Items

**Department/Division:**

Development Services - Planning and Development

**Authorized By:**

Rebecca Hammock

**Contact/Phone Number:**

Hilary Padin - (407) 665-7331

**Motion/Recommendation:**

1. Approve the Special Exception and associated Development Order for an alcoholic beverage establishment in the C-2 zoning district on 0.81 acre, located on the east side of US Highway 17-92, south of South Street; or
2. Deny the Special Exception and associated Development Order for an alcoholic beverage establishment in the C-2 zoning district on 0.81 acre, located on the east side of US Highway 17-92, south of South Street; or
3. Continue the request to a time and date certain.

**Background:**

The Applicant requests to operate a permanent alcoholic beverage establishment at a food truck venue, where there will be beer and wine for sale for on-site consumption. A 1,250 square foot permanent bar and restroom structure with sixty-five (65) seats on the 0.81-acre site with six (6) food truck pads and an additional outdoor seating area for a total of 104 seats are proposed.

The food truck venue and bar plan to operate between the hours of 11:00 am and 10:00 pm daily.

The Seminole County Land Development Code Sections 30.1353(b)(2) and (4) state that any establishment selling alcoholic beverages, either for on-premise or off-premise consumption, where the sale of alcoholic beverages is not incidental to other products offered for sale, must apply for and be granted a Special Exception if it maintains separation from churches, schools and residential properties. The proposed development meets all separation requirements.

Although the varying food trucks will provide food for its customers, there is no way to demonstrate that the alcohol sales will be incidental to the variable food truck revenues. With the only permanent structure on the property being the bar, a Special Exception has been deemed necessary.

In compliance with Seminole County Land Development Code Section 30.49 - Community Meeting Procedures, the Applicant conducted a community meeting on December 1, 2022.

### **Staff Findings:**

As provided for in Section 30.41(e)(1) of the Land Development Code of Seminole County, the Board of County Commissioners, based on a recommendation from the Planning and Zoning Commission, has the power to hear and decide Special Exceptions if it is specifically authorized to approve under the terms of the Land Development Code upon determination that the use requested:

#### **IS NOT DETRIMENTAL TO THE CHARACTER OF THE AREA OR NEIGHBORHOOD OR INCONSISTENT WITH TRENDS OF DEVELOPMENT IN THE AREA:**

The alcoholic beverage establishment will be on the US Highway 17-92 corridor, where there are many restaurants and bars along with other intense commercial uses. Therefore, the proposed alcoholic beverage establishment would be in character with the existing uses and compatible with the trend of development of the area.

#### **DOES NOT HAVE AN UNDULY ADVERSE EFFECT ON EXISTING TRAFFIC PATTERNS, MOVEMENTS AND VOLUMES:**

The site fronts on a main thoroughfare and will contain its parking on site, as such, the alcoholic beverage establishment is not expected to have an unduly adverse effect on existing traffic patterns, movements, and volumes.

**IS CONSISTENT WITH THE SEMINOLE COUNTY COMPREHENSIVE PLAN:**

The subject property has a future land use designation of Mixed (MXD). Pursuant to the Seminole County Comprehensive Plan, the purpose and intent of this designation is to provide a mix of uses within a development site or within a multiple parcel area to encourage flexible and creative design, protect established residential neighborhoods from adverse impacts of nonresidential development and reduce the cost of public infrastructure. This property is located on US Highway 17-92, a principal arterial roadway, within the urban area of Seminole County, and does not infringe upon residential neighborhoods; and therefore, is consistent with the Seminole County Comprehensive Plan.

**MEETS ANY ADDITIONAL REQUIREMENTS SPECIFIED IN THE CODE SECTION AUTHORIZING THE USE IN A PARTICULAR ZONING DISTRICT OR CLASSIFICATION:**

Based on the submitted Site Plan, the proposed use meets the minimum area and dimensional requirements of the C-2 (Retail Commercial) district.

**WILL NOT ADVERSELY AFFECT THE PUBLIC INTEREST:**

Within the C-2 (Retail Commercial) district, alcoholic beverage establishments are allowed with the granting of a Special Exception. Along the US Highway 17-92 corridor, there exists numerous commercial uses that serve the surrounding community and the establishment of an alcoholic beverage establishment within the corridor is not out of character. Therefore, the granting of the subject special exception will not adversely affect the public interest.

**Planning and Zoning Commission:**

The Planning & Zoning Commission met on January 4, 2023, and voted four (4) to one (1) to recommend the Board of County Commissioners approve the Special Exception and associated Development Order for an alcoholic beverage establishment in the C-2 zoning district on 0.81 acre, located on the east side of US Highway 17-92, south of South Street.

**BCC Continuation:**

On February 14, 2023, this item came before the Board for consideration and was continued without final action. Following the continuance, the applicant met with staff and revised the Development Order to add the following additional conditions to help address the concerns identified by the Board at the first hearing:

- Two (2) food trucks must be in operation for the bar to open and operate.
- The operating hours for the bar will be limited to 11 a.m. to 10 p.m., seven days a week.

- The doors to the bar on the east side of the building will be closed at sunset or no later than 7 p.m. each evening for sound attenuation and the bar must comply with all noise regulations under the Land Development Code.

**Staff Recommendation:**

Recommend the Board of County Commissioners approve the Special Exception and associated Development Order for an alcoholic beverage establishment in the C-2 zoning district on 0.81 acre, located on the east side of US Highway 17-92, south of South Street.