

City of Lake Alfred
120 E. Pomelo Street
Lake Alfred, FL 33850



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Community Development

Building | Code Enforcement | Planning | Zoning

AGENDA

**BOARD OF ADJUSTMENT MEETING
CITY HALL**

**APRIL 24, 2018
REGULAR MEETING 5:00 P.M.**

CALL TO ORDER: CHAIRMAN IKE FOUNTAIN

INVOCATION AND PLEDGE OF ALLEGIANCE

ROLL CALL: MAMIE DRANE, ADMINISTRATIVE ASSISTANT

APPROVAL OF MINUTES: FEBRUARY 27, 2018 AND MARCH 06, 2018.

BUSINESS ITEMS

1) PUBLIC HEARING: CONSIDER A SPECIAL EXCEPTION TO ALLOW THE SALE OF ALCOHOL AT A RESTAURANT LOCATED AT 1504 LAKE ALFRED RD.

PUBLIC COMMENTS

BOARD MEMBER COMMENTS

ADJOURN

Any person who decides to appeal any decision of the Board of Adjustment with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose, 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. Persons with disabilities needing special accommodations to participate in this proceeding should contact the City Clerk no later than five days prior to the proceeding at (863) 291-5748.

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Business Item No. 1 CONSIDER A SPECIAL EXCEPTION TO ALLOW THE SALE OF ALCOHOL AT A RESTAURANT LOCATED AT 1504 LAKE ALFRED RD.

REQUEST:

The applicant is requesting the ability to serve alcohol at a restaurant located at 1504 Lake Alfred Rd. Section 2.03.01 (2) of the ULDC states that the sale of alcohol in a restaurant shall be permitted by Special Exception in C-2, C-3, M-1, I-1, and I-2 districts subject to the following standards:

- (a) More than 50% of the establishment's revenues are derived from the sale of food.
- (b) All public entrances of the establishment are located at least 600 feet from a church, day care center or public school.
- (c) All public entrances of the establishment are located at least 150 feet from any residentially zoned property. This measurement shall be taken from the main entrance of the business to the main entrance of the residence on such property, measured by the path of travel. This distance shall not apply to a vacant residential property.
- (d) Points of ingress/egress to the property connect to a road having a functional classification of "Collector" or higher.

PROPERTY INFORMATION:

Legal Description:	S1/2 OF N1/2 OF U S LOT 3 E OF ST RD 17 & W OF ACL RR LESS S 401PT79 FT AND THAT PART DESC AS BEG INT OF S R/W OF US 17-92 & W R/W OF RR RUN NELY ALONG RD R/W 70 FT SWLY AND PARALLEL TO W R/W OF RR 655 FT W 50 FT TO W R/W OF RR NELY ALONG R/W 610 FT TO POB LESS THAT PART LYING IN N1/4 OF SE1/4
Parcel ID:	26-28-05-000000-023040
Size (acres)	1.4 ac
Existing Land Use/Zoning:	Commercial/Commercial (C3) District
Current Use:	Previous use Restaurant
Last Sale:	August 2017 to L A TREASURES LLC

ANALYSIS:

Florida Statutes permits local governments to regulate the hours of business and location of place of business relating to alcohol sales. The Statutes include a requirement limiting alcoholic beverage hours to sell, serve, consume, deliver, or permit to be sold, served, consumed or delivered unless the local government provides hours. The Statutes also require locations of on-site alcohol consumption to be located a distance of 500 feet from a public or private elementary school, middle school, or secondary school property unless the municipality approves the location as promoting the public health, safety, and general welfare of the community. This requirement does not include locations that are licensed as restaurants, which derive at least 51 percent of their gross revenues from the sale of food and nonalcoholic beverages, pursuant to chapter 509. Florida Statutes does not have distance requirements for sales of alcohol for off-site consumption and there are no requirements for churches.

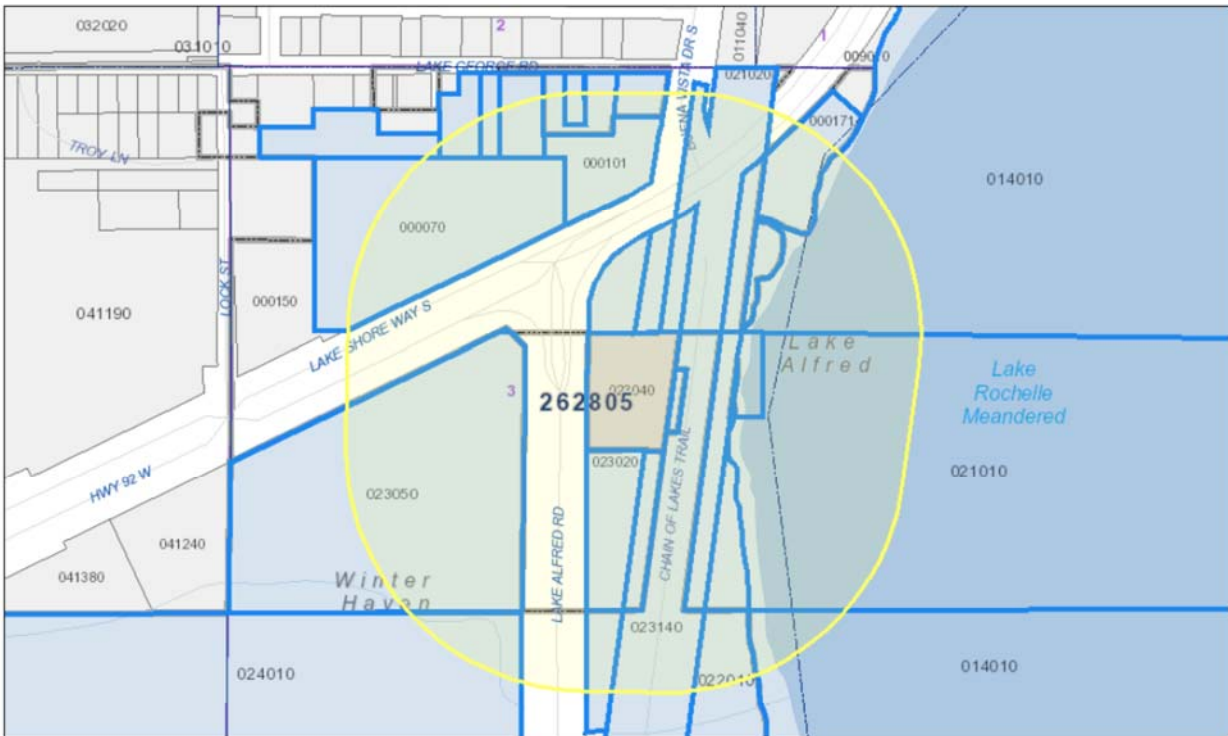
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Lake Alfred's Code of Ordinances includes requirements for the hours of sale, etc. These requirements are less restrictive than the state's requirements. The Land Development Regulations include a distance separation of a minimum of 600 feet for alcohol sales including on-site and off-site consumption from any established school or church. Grocery stores are excluded. The distance is measured by path of travel from the main entrance of each facility. Florida Statutes requires 500 feet from the main entrance of the business to the real property that comprises a public or private elementary school, middle school, or secondary school.

The applicant has stated that Seymore's Crab Shack will serve primarily as a restaurant serving food with the sale of alcohol as a secondary use. The layout of the restaurant shows that the majority of the seating (34 seats) are dedicated to the restaurant and 15 seats are allocated to the bar section of the restaurant. This seating allocation supports the assumption that the establishment can meet this City and State requirement. In addition the State license requires reporting to maintain the revenue distribution in order to maintain the alcohol license.

Secondly, the establishment must meet distance requirements from the entrance of a church, day care center, public school, or residential property. There are no day care centers, or public schools within 600' of the site, however there are now two churches located on the same property. In addition there are no residentially zoned properties within 150' of the site.

1504 Lake Alfred Rd. - 600' Buffer



Lastly, the Lake Alfred Rd also known as US 17/92 is classified as a collector.

Staff Recommendation: Staff recommends denial. However, if approved the following conditions are recommended.

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1. Approval of this special exception shall only apply to the Seymor's Crab Shack and shall not be transferable.
2. Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with ULDC.
3. The applicant shall apply for the necessary State licenses and all requires Business Tax Receipts by April 24, 2019 or this approval shall be void.

ATTACHMENTS:

- A.) Site Photos
- B.) Aerial Photo
- C.) Hearing Notice List
- D.) Site layout

BOARD MOTION OPTIONS:

Approval – “I move to grant the special exception request as presented, with the staff conditions of approval, after hearing competent substantial evidence that meets all the variance criteria set forth; and hereby authorize the Chairman to sign a Development Order to be recorded in Polk County Public Records”

Denial – “I move to deny the special exception request presented as the applicant provided insufficient evidence and the request does not meet all the variance criteria set forth and hereby authorize the Chairman to sign a Denial Order to be recorded in Polk County Public Records.”

Table - “I make a motion to table the special exception request presented to allow the applicant an opportunity to provide additional evidence or to modify the request.”

All decisions of the Board of Adjustment are final. Variance requests, once acted upon, may not be reheard unless the applicant can demonstrate that the decision resulted from an error in substantive or procedural law, or provides new evidence or information not discoverable prior to the initial hearing. A different or more effective presentation of the same evidence or information shall not be considered grounds for a rehearing.

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ATTACHMENT A – SITE PHOTO:



1504 Lake Alfred Rd – looking east at the site.

ATTACHMENT B – AERIAL PHOTO:



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ATTACHMENT C – HEARING NOTICE LIST:

In addition to the property owners listed below the notice was sent to the two church organizations (God's House Worship Center and Casa de Restauracion y Transformacion).

26-28-05-000000-021010	BELL JAMES E AND AUDREY E BELL TRUST	1024 BILTMORE DR NW		WINTER HAVEN FL 33881-1104
26-28-05-000000-023060	JAMES E BELL & AUDREY E BELL TRUST	1024 BILTMORE DR NW		WINTER HAVEN FL 33881-1104
26-28-05-000000-023090	JAMES E BELL & AUDREY E BELL TRUST	1024 BILTMORE DR NW		WINTER HAVEN FL 33881-1104
26-28-05-000000-023160	JAMES E BELL & AUDREY E BELL TRUST	1024 BILTMORE DR NW		WINTER HAVEN FL 33881-1104
26-28-05-000000-023030	LA TREASURES LLC	1024 BILTMORE DR NW		WINTER HAVEN FL 33881-1104
26-28-05-000000-023040	LA TREASURES LLC	1024 BILTMORE DR NW		WINTER HAVEN FL 33881-1104
26-28-05-526000-000173	LA TREASURES LLC	1024 BILTMORE DR NW		WINTER HAVEN FL 33881-1104
26-28-05-000000-023020	FYOCK SAMUEL R JR	290 E ECHO ST		LAKE ALFRED FL 33850-2816
26-28-05-000000-023150	FYOCK SAMUEL R JR	290 E ECHO ST		LAKE ALFRED FL 33850-2816
26-28-05-526000-000102	WALDMAN EDWARD K	3254 ARCHER AVE		ORLANDO FL 32833-4236
26-28-05-000000-021020	TIITF/DEP - GREENWAYS	3900 COMMONWEALTH BLVD		TALLAHASSEE FL 32399-6575
26-28-05-000000-023140	TIITF/GREENWAYS	3900 COMMONWEALTH BLVD		TALLAHASSEE FL 32399-6575
26-28-04-000000-014010	TIITF/STATE OF FLORIDA SOVEREIGN LANDS	3900 COMMONWEALTH BLVD		TALLAHASSEE FL 32399-6575
26-28-05-000000-023010	MAURICE DAVID J	4108 W WALLACE AVE		TAMPA FL 33611-3546
26-28-05-000000-023100	MAURICE DAVID J	4108 W WALLACE AVE		TAMPA FL 33611-3546
26-28-05-000000-023130	CSX CORPORATION	500 WATER ST		JACKSONVILLE FL 32202-4445
26-28-05-526000-000171	RUBINAS JOSEPHINE	6205 OX BOTTOM MANOR DR		TALLAHASSEE FL 32312-9059
26-28-05-526000-000122	MARKETING ADVANTAGE CONCEPTS INC	707 N FRANKLIN ST	FL 3	TAMPA FL 33602-4430
26-28-05-000000-023050	MARKETING ADVANTAGE CONCEPTS INC	707 N FRANKLIN ST FL 3		TAMPA FL 33602-4430
26-28-05-526000-000070	TAYLOR FAMILY TRUST	PO BOX 1687		BELLFLOWER CA 90707-1687
26-28-05-526000-000101	WILSON FAMILY TRUST	PO BOX 1687		BELLFLOWER CA 90707-1687

ATTACHMENT D – SITE LAYOUT:

