



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

To: Monroe County Planning Commission

Through: Emily Schemper, AICP, CFM, Senior Director of Planning & Environmental Resources

From: Kestride Estil, Planner

Date: January 20, 2021

Subject: *SHELL OF SUMMERLAND, INC, 24838 OVERSEAS HIGHWAY, SUMMERLAND KEY, MILE MARKER 24: A PUBLIC HEARING CONCERNING THE REQUEST BY SHELL OF SUMMERLAND INC, FOR A 2APS ALCOHOLIC BEVERAGE USE PERMIT, WHICH WOULD ALLOW BEER AND WINE FOR SALE IN SEALED CONTAINERS FOR CONSUMPTION OFF THE PREMISES WHERE SOLD, ON PROPERTY LOCATED AT 24838 OVERSEAS HWY, SUMMERLAND KEY, AND DESCRIBED AS LOTS 8,9,10 AND THE EASTERLY ONE-HALF (1/2) OF LOT 11, IN BLOCK 1, AMENDED PLAT, SUMMERLAND KEY COVE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 4, PAGE 35, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, HAVING PARCEL ID NUMBER 00188980-000000 (File 2020-173).*

Meeting: February 24, 2021

1 **I REQUEST:**

2 The applicant, Daniel Karborani, agent for Shell of Summerland, Inc., requests approval of a
3 2APS Alcoholic Beverage Use Permit, which would allow for beer and wine package sales for
4 off premises consumption at the Shell Gas Station located at 24838 Overseas Highway,
5 Summerland (the "Property").



6
7 *Subject property outlined in blue, with Land Use Districts Overlaid (Aerial dated 2018)*

1 **II BACKGROUND INFORMATION:**

2 **Location / Address:** 24838 Overseas Highway, Summerland Key, Mile Marker 24, oceanside

3 **Legal Description:** Lots 8,9,10 and the Easterly One-Half (1/2) of Lot 11, in Block 1, Amended
4 Plat, Summerland Key Cove, according to the Plat thereof, as recorded in Plat Book 4, Page 35,
5 of the Public Records of Monroe County, Florida

6 **Parcel Identification Number:** 00188980-000000

7 **Applicant/Agent:** Daniel Karborani - agent for Shell of Summerland, Inc.

8 **Property Owner:** Shell of Summerland, Inc.

9 **Size of Site:** 21,000 ft²

10 **Land Use District:** Suburban Commercial (SC)

11 **Future Land Use Map (FLUM) Designation:** Mixed Use/Commercial (MC)

12 **Tier Designation:** III (infill area)

13 **Existing Use:** Commercial retail

14 **Existing Vegetation / Habitat:** Impervious Surface

15 **Community Character of Immediate Vicinity:** Commercial, Institutional Residential, Single
16 Family Residences, Conservation Land

17 **Flood Zone:** AE8

18
19 **III RELEVANT PRIOR COUNTY ACTIONS:**

20 The gas station was lawfully established on 06/03/63, with building permit #5637, approving a
21 440 square foot service station with two (2) gasoline pumps. Permit #6445, dated 11/26/63
22 approved an 840 square foot Garage Bldg. supplement to permit #5637. Permit #34392 dated
23 02/03/75 approved the installation of one new pump, which appears to never have been built.
24 Permit A310 dated 04/29/75 approved an 850 square foot CBS garage addition to the service
25 station. Building permit #95100782 issued on 6/19/95 approved a 2750 square foot Reroof to
26 existing gas station, not to exceed existing roofline or height. Building permit #12103067 dated
27 02/20/13, approved a new 99.66 square foot Bathroom and Closet, site plans submitted for this
28 permit show 2 existing one story ground levels buildings, 2 existing gas pumps and 18 parking
29 spots.
30

31 On February 16, 2016, a Zoning Verification for the property confirmed the Land Use District
32 and Future Land Use Map as SC and MC.
33
34

35 **IV REVIEW OF APPLICATION:**

36 Pursuant to Section 3-6(e) of the Monroe County, Florida, Code of Ordinances (the “Code”), the
37 Planning Commission shall give due consideration to the following factors as they may apply to
38 the particular application prior to rendering its decision to grant or deny the requested permit:
39

40 *(1) The effect of such use upon surrounding properties and the immediate neighborhood as*
41 *represented by property owners within 500 feet of the premises.*
42

43 The 21,000 square foot parcel of property is currently developed with a gas station.
44 Surrounding properties within 500 feet of the property include a residential condominium

1 known as Summerland Palms to the north, a restaurant to the east with a 2COP Beer and Wine
2 license, a residential subdivision to the south, a strip mall that includes a liquor store to the
3 west, which has a 3APS Beer, Wine and Liquor license, and an undeveloped conservation
4 land to the northwest. There are 28 liquor licenses on Summerland Key.

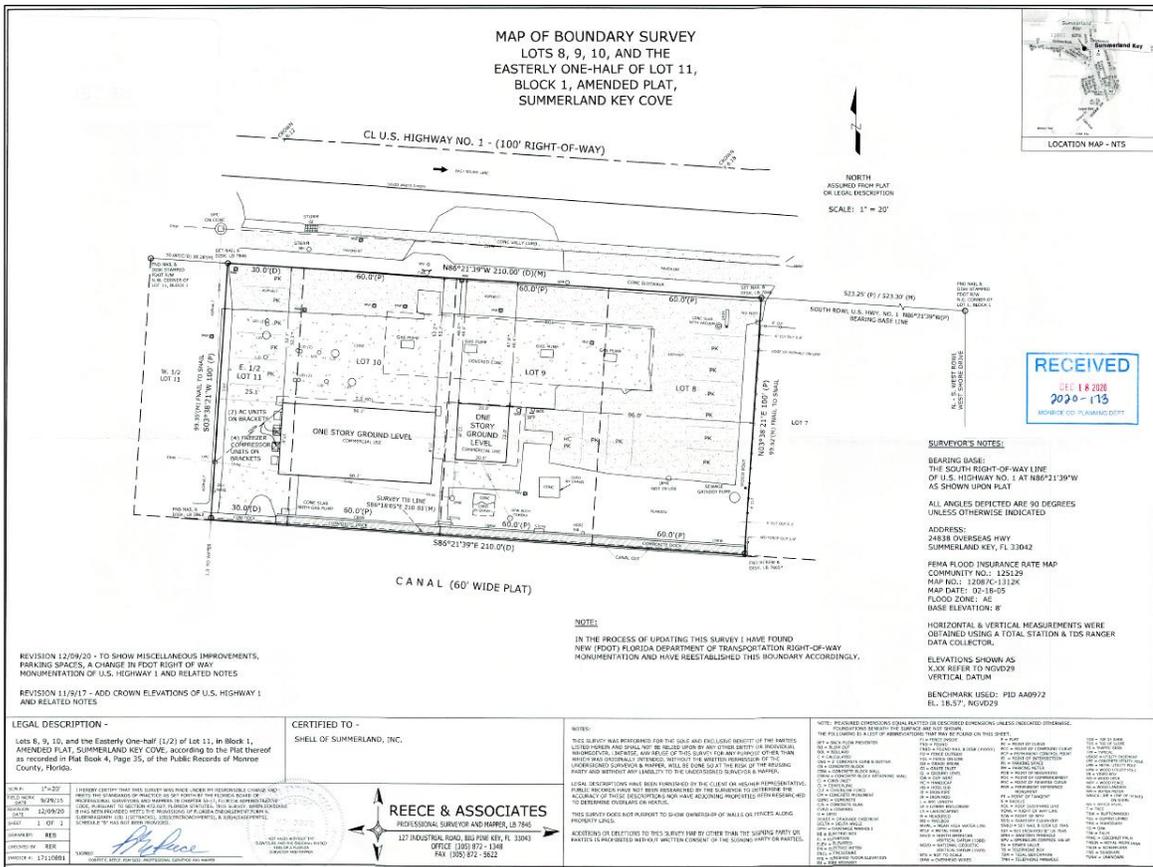
5
6 Staff does not anticipate that approval of the requested 2APS Alcoholic Beverage Use Permit
7 would have an adverse effect on surrounding properties or the immediate neighborhood.

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9 Please note that no members of the community, either in support or opposition to the
10 application, contacted the Planning and Environmental Resources Department as of the date
11 of this report.

12 **IN COMPLIANCE**

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14
15 (2) *The suitability of the premises in regard to its location, site characteristics and intended*
16 *purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding*
17 *properties, and construction of such permitted properties shall be soundproofed. In the event*
18 *music and entertainment are permitted, the premises shall be air conditioned:*

19
20 Given the property's location within the Suburban Commercial (SC) Land Use District, which
21 permits commercial retail uses, the subject premises would be suitable. The Boundary Survey
22 revised 12/09/20 and submitted with this application, depict a gas station with 2110.78 square
23 feet of commercial retail floor area.



24
25

Signed and Sealed Boundary Survey from 12/09/2020

1
2 No music or entertainment is proposed by the applicant.
3

4 IN COMPLIANCE
5

6 (3) *Access, traffic generation, road capacities, and parking requirements:*
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8 The property is along the Overseas Highway with two existing vehicular access points to U.S.
9 1. No changes to access are proposed by the applicant as part of the subject application, and
10 none would be required by the Land Development Code at this time. Even though the existing
11 access drives are non-conforming, adding an additional product to the existing commercial
12 retail use does not trigger a requirement that access be brought into compliance.
13

14 The proposed use is not anticipated to have an impact on traffic generation or road capacities
15 due to the use being the same use as currently approved and allowed on the property. The
16 2017 Level of Service and Reserve Capacity for this property's location is B.
17

18 The application included a survey that indicates the location of existing parking spaces. It
19 indicates twenty-two (22) number of parking spaces. Sixteen (16) spaces are required and
20 sixteen (16) comply with setback requirements. Six (6) parking spaces are within the front
21 yard and side yard setbacks, this complies with current parking requirements per LDC Sec.
22 114-67. - Required Off-Street Parking. The granting of a 2APS Alcohol Beverage Special Use
23 Permit would not increase the parking requirements for the site.
24

25 IN COMPLIANCE
26

27 (4) *Demands upon utilities, community facilities and public services:*
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29 It is not anticipated that the approval of the requested 2APS alcohol beverage use permit would
30 increase demands upon any utilities, community facilities or public services.
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32 (5) *Compliance with the county's restrictions or requirements and any valid regulations:*
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34 As of the date of this report, there are not any open code compliance cases related to the
35 Property.
36

37 **V RECOMMENDATION:**
38

39 Staff recommends **APPROVAL** to the Planning Commission of the requested 2APS Alcoholic
40 Beverage Use Permit, which would allow for beer and wine package sales for off premises
41 consumption, with the following conditions (however, valid objections from surrounding property
42 owners at the public hearing may lead the Planning and Environmental Resources Department to
43 reevaluate the recommendation or suggested conditions):
44

- 45 1. Alcoholic Beverage Use Permits issued by virtue of Code Section 3-6 shall be deemed to be
46 a privilege running with the land. The sale of the real property that has been granted an
47 Alcoholic Beverage Use Permit shall automatically vest the purchaser thereof with all rights

1 and obligations originally granted or imposed to or on the applicant. Such privilege may not
2 be separated from the fee simple interest in the realty.

- 3
- 4 2. In the event that the holder's license by the Florida Department of Business and Professional
5 Regulation (DBPR) expires and lapses, this Alcoholic Beverage Use Permit approval shall be
6 null and void as of the date of the DBPR license expiration. Additional approval by the
7 Planning Commission shall be required to renew the Alcoholic Beverage Use Permit.
8
- 9 3. Certificate stating that the place of business meets all sanitary requirements must be obtained
10 prior to planning staff's signature on the required Florida DBPR application form.
11
- 12 4. Any future development or change of use requires additional approval by the Monroe
13 County Planning & Environmental Resources Department.
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16 **VI ATTACHMENTS:**

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18 Attachment 1: Monroe County Code Section 3-6, Regulation and control over sale.

Sec. 3-6. - Regulation and control over sale.

- (a) *Establishment of use permit procedure.* This section is designed and intended to provide for reasonable regulation and control over the sale of alcoholic beverages within the unincorporated areas of the county by establishing an alcoholic beverage use permit procedure and providing criteria to be used to ensure that all future proliferation of alcoholic beverage use enterprises within the unincorporated areas of the county be compatible with adjoining and surrounding land uses and the county's comprehensive plan, and that alcoholic beverage use permits not be granted where such uses will have an adverse impact upon the health, safety and welfare of the citizens and residents of the county. All persons, firms, partnerships or corporations who have received approval from the zoning board or board of county commissioners under the former provisions of section 19-218 of the Monroe County Code, as same heretofore existed, shall retain all rights and privileges heretofore granted under such section.
- (b) *New applicants for permit.* All persons desiring to sell alcoholic beverages upon any premises located within the unincorporated areas of the county and who desire to do so upon a premises not heretofore approved by the zoning board or board of county commissioners under the former section 19-218, shall obtain an alcoholic beverage use permit using the procedure outlined in subsection (d) of this section.
- (c) *Classifications.* Corresponding to those alcoholic beverage license classifications as heretofore and hereafter adopted by the state, alcoholic beverage use permits hereafter issued pursuant to this chapter shall be classified as follows:
 - (1) 1APS: Beer, package only;
 - (2) 1COP: Beer, on-premises and package;
 - (3) 2APS: Beer and wine, package only;
 - (4) 2COP: Beer and wine, on-premises and package;
 - (5) 6COP: Beer, wine and liquor, on-premises and package;
 - (6) 6COP SRX: Restaurant, no package sales;
 - (7) 6COP SR: Restaurant, package sale;
 - (8) 6COP S: Motel, package sales;
 - (9) 6COP SBX: Bowling, no package sales;
 - (10) 6COP SPX: Boat, no package sales;
 - (11) 3BPS: Beer, wine and liquor, package sales only;
 - (12) 3M: Additional license for 6COP, over three bars; and
 - (13) 12RT: Racetrack, liquor, no package sales.
- (d) *Procedure.* The following procedure shall be followed on any application for an alcoholic beverage use permit hereafter made:
 - (1) Applications for alcoholic beverage use permits shall be submitted to the director of planning in writing on forms provided by the director. Such applications must be signed by the owner of the real property for which the permit is requested. Lessees of the premises may apply for such permits, provided that proper authorization from the owner of the premises is given and the application for permit is cosigned by such owner.

- (2) Upon receipt of a properly completed and executed application for an alcoholic beverage use permit stating the exact classification requested along with the necessary fee, the director of planning shall schedule a public hearing before the planning commission and shall advise the applicant of the date and place of the public hearing.
 - (3) Notice of the application and of the public hearing thereon shall be mailed by the director of planning to all owners of real property within a radius of 500 feet of the affected premises. In the case of a shopping center, the 500 feet shall be measured from the perimeter of the entire shopping center itself rather than from the individual unit for which approval is sought. Notice shall also be provided in a newspaper of general circulation in the manner prescribed in section 110-5. For the purposes of this section, the term "shopping center" means a contiguous group of individual units, in any combination, devoted to commercial retail low-intensity uses, commercial retail medium-intensity uses, commercial retail high-intensity uses, and office uses, as those phrases are defined in section 101-1, with immediate off-street parking facilities, and originally planned and developed as a single project. The shopping center's single project status shall not be affected by the nature of the ownership of any of the individual office or commercial retail units, within the shopping center.
 - (4) At the hearing before the planning commission, all persons wishing to speak for or against the application shall be heard. Recommendations or other input from the director of planning may also be heard prior to any decision by the planning commission.
- (e) *Criteria.* The planning commission shall give due consideration to the following factors as they may apply to the particular application prior to rendering its decision to grant or deny the requested permit:
- (1) The effect of such use upon surrounding properties and the immediate neighborhood as represented by property owners within 500 feet of the premises. For the purposes of this section, the term "premises" means the entire project site of a shopping center;
 - (2) The suitability of the premises in regard to its location, site characteristics and intended purpose. Lighting on the permitted premises shall be shuttered and shielded from surrounding properties, and construction of such permitted properties shall be soundproofed. In the event music and entertainment are permitted, the premises shall be air conditioned;
 - (3) Access, traffic generation, road capacities, and parking requirements;
 - (4) Demands upon utilities, community facilities and public services; and
 - (5) Compliance with the county's restrictions or requirements and any valid regulations.
- (f) *Approval by planning commission.* The planning commission may grant approval based on reasonable conditions considering the criteria outlined herein.
- (g) *Where permitted.* Alcoholic beverage use permits may be granted in the following land use districts: urban commercial; suburban commercial; suburban residential where the site abuts U.S. 1; destination resort; mixed use; industrial and maritime industries. Notwithstanding the foregoing, alcoholic beverage sales may be permitted at restaurants, hotels, marinas and campgrounds regardless of the land use district in which they are located. Nothing contained herein shall exempt an applicant from obtaining a major or minor conditional use approval when such is otherwise required by the county development regulations in part II of this Code.
- (h) *Transferability.* Alcoholic beverage use permits issued by virtue of this section shall be deemed to be a privilege running with the land. The sale of the real property that has been granted an alcoholic beverage use permit shall automatically vest the purchaser thereof with all rights and obligations originally granted or imposed to or on the applicant. Such privilege may not be separated from the fee simple interest in the realty.
- (i) *Appeals.* All persons aggrieved by the actions of the planning commission in granting or denying requested alcoholic beverage permits may request an appeal hearing before a hearing officer under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days after the date of the written decision of the planning commission.

- (j) *Successive applications.* Whenever any application for alcoholic beverage approval is denied for failure to meet the substantive requirements of these regulations, an application for alcoholic beverage approval for all or a portion of the same property shall not be considered for a period of two years unless a super-majority of the planning commission decides that the original decision was based on a material mistake of fact or that there exists changed conditions and new facts, not existing at the time of the original decision, that would justify entertaining a new application before the expiration of the two-year period. However, in the case of a shopping center, as defined in subsection (d)(3) of this section, this subsection shall only apply to the commercial retail unit within the shopping center for which approval was sought and not the entire shopping center site itself.

(Code 1979, § 19-218; Ord. No. 1-1973, § 1(art. XI, § 5); Ord. No. 5-1974, § 27; Ord. No. 20-1975, § 67; Ord. No. 29-1978, § 1; Ord. No. 5-1979, § 1; Ord. No. 17-1980, § 12; Ord. No. 4-1985, §§ 1, 2; Ord. No. 39-1986, § 2; Ord. No. 55-1987, §§ 1—3; Ord. No. 19-1993, § 14)