CITY OF COCOA
BOARD OF ADJUSTMENT
MEETING MINUTES
April 17, 2019

A special meeting of the Board of Adjustment of the City of Cocoa was held on Wednesday, April 17, 2019 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

I. OPENING MATTERS:

Chairman Frey called the meeting to order at 6:00 P.M. The Board Secretary called the roll.

MEMBERS PRESENT:

Robert Frey	Chairman
Nancy Elliott	Vice Chairwoman
Bruce Gilmore	Board Member
Rip Dyal	Board Member
Brenda Warner	Board Liaison

MEMBERS ABSENT:

Matthew Ford	Board Member
Connie Harvey	Board Member

OTHERS PRESENT:

Dodie Selig	Planning and Zoning Manager
Angela Essing	City Planner
Kristin Eick	Assistant City Attorney
Monica Arsenault	Board Secretary

II. APPROVAL OF AGENDA & MINUTES:

Approval of Agenda: April 17, 2019

Motion by Chairman Frey; seconded by Board member Dyal, to approve the agenda with an amendment to move the election of Chairperson and Vice Chairperson to Other Business. Vote on the motion carried unanimously.

Approval of Meeting Minutes: November 5, 2018

Motion by Vice Chairwoman Elliott; Seconded by Board member Dyal to make an amendment to the verbiage on Page 3, Item 5 of the minutes. Vote on the motion carried unanimously.

Motion by Vice Chairwoman Elliott; Seconded by Board member Dyal to approve the minutes as amended. Vote on the motion carried unanimously.

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

A. PZ-19-00000006 – Special Exception for a Craft Brewery Use (225 King St. Unit B)

A request for a Special Exception from Appendix A, Zoning, Article XI, Section 13 (C)(26) of the City of Cocoa Code to allow for a craft brewery in the CBD-CVO (Central Business District - Cocoa Village Overlay) Zoning District. The property is identified as 225 King Street, Cocoa, Florida. (Parcel ID: 24-36-33-35-*-11)

Ms. Selig provided a presentation[1] and explained that the applicants own and operate the "Bugnutty Brewing Company" on Merritt Island and would like to relocate their business to Cocoa Village. They will need to do some minor work on the interior of the space and add a handicapped entry on the east side in order to meet building code requirements. The parent parcel has one building with several tenant spaces, each with a separate entrance. The applicant's space, Unit B, is located in the center of the building with the main entry from the parking lot on the east side of the building and a back door on the west side of the building.

Ms. Selig shared a location map and several photos of the subject property. She stated that staff is recommending approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 13(C)(26) and Article XI, Section 13(C)(6) to allow a "Craft Brewery" and "Bar" use in the CBD-CVO (Central Business District – Cocoa Village Overlay) Zoning District with the following conditions:

- The Special Exception shall not be effective until the applicant has secured all the permits and approvals necessary for any development related to the Special Exception, such as site plan approval. Such permits shall be obtained within one (1) year of the Board's approval.
- If the use is extended, enlarged, or expanded, a Special Exception approval shall be required.
- Onsite production shall be limited to beer only.
- No alcohol consumption, other than that associated with a bar and lounge area, shall be permitted on-site.
- All materials and supplies related to the brewery operation shall be stored in an enclosed structure.

Vice Chairwoman Elliott asked for clarification about the lack of outdoor dumpsters for the units. In response, Ms. Selig explained that each tenant is responsible for their own

[1] Exhibit A: BOA Power Point Presentation 4/17/19

trash and there are indoor dumpsters on the premises that are rolled out once the trash is ready to be picked up.

The applicant, Stephen Shannon, Bugnutty Brewing Company, shared that they are currently located in Merritt Island but are very excited to open their business in Cocoa. He added that any assistance the Board can provide in helping to move the process along would be greatly appreciated.

Vice Chairwoman Elliott asked what the vision is for the new location. In response, Mr. Shannon explained that they are splitting the square footage of the unit in half to provide both a brewery and a bar area. He pointed out that they make their beer on-site and serve only their beer on-site. He noted that there will be no other types of alcohol served on the premises except beer at this time.

Chairman Frey opened the discussion to the audience. There being no response, the public portion of the discussion was closed.

Board member Gilmore asked for clarification about a condition under staff's recommendation which states that there will be no alcohol consumption permitted on-site other than that associated with a bar and lounge area. In response, Mr. Shannon explained that while their license does permit them to serve other types of alcohol they will only be serving beer and he believes that this may be what the condition is trying to address. Ms. Selig added that this condition was pulled directly from the City Code.

Motion by Board member Gilmore; seconded by Chairman Frey, to recommend approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 13(C)(26) and Article XI, Section 13(C)(6) to allow a "Craft Brewery" and "Bar" use in the CBD-CVO (Central Business District – Cocoa Village Overlay) Zoning District with the proposed conditions.

The Recording Secretary called the roll.

Vote on the motion carried unanimously.

B. PZ-19-00000007 – Special Exception for a Commercial Recreational Use (Theater) (211 Willard St.)

A request for a Special Exception from Appendix A, Zoning, Article XI, Section 13 (C)(7) of the City of Cocoa Code to allow for a commercial recreational use (theater) in the CBD (Central Business District) Zoning District. The property is identified as 211 Willard Street, Cocoa, Florida. (Parcel ID: 24-36-33-35-*-1.04)

Ms. Selig pointed out that the applicant's talent agency business currently operates from the front office of the building and she uses the large center room as a rehearsal studio for dancers and musicians. The theater use being requested would be an extension of this business use to allow talent showcase events such as comedy nights to be held on-site. Additionally, the main room will provide seating for approximately 80 people and the front office/reception room will provide space for taking/selling tickets. At the back of the main room there is an existing wardrobe room, kitchen, bathroom and green room for performers.

Ms. Selig shared a location map and stated that staff is recommending approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 13 (C)(7) of the City of Cocoa Code to allow for a commercial recreational use (theater) in the CBD (Central Business District) Zoning District with the following conditions:

- The Special Exception shall not be effective until the applicant has secured all the permits and approvals necessary for any development related to the Special Exception, such as site plan approval. Such permits shall be obtained within one (1) year of the Board's approval.

- If the use is extended, enlarged, or expanded, a Special Exception approval shall be required.

Ms. Selig shared that she has had a conversation with the tenant across the street and noted that staff is aware of the parking situation. She pointed out that there is a small parking lot south of King Street and a larger lot located off of Florida Avenue as well as cross walks for pedestrians to use to safely cross the street.

Vice Chairwoman Elliott inquired about the lack of restroom facilities as there is only one restroom available to accommodate eighty (80) people. In response, Ms. Selig mentioned that it is her understanding that the Fire Department has granted capacity of eighty (80) people with the current conditions. She added that when the applicant applies for her Business Tax Receipt the Building Department will examine the site and the Fire Department will also re-inspect the unit and if they find that there are things that do not meet the Code then they will address those issues at that time.

Additionally, Vice Chairwoman Elliott inquired about the trash situation. In response, Ms. Selig noted that she believes they have trash receptacles indoors.

Vice Chairwoman Elliott inquired if beer and wine will be served on the premises. In response, Ms. Selig explained that while this is not a bar use the cost of alcohol could potentially, for example, be included in the ticket price and this would need to be discussed further.

The applicant, Karen Maybury, 211 Willard St., provided a background history of how she came into the entertainment business and how she decided to begin her business. She noted that at the moment she is not applying for a bar or liquor license and she does not plan to serve food which will alleviate the trash issue. She shared that she also believes there won't be more than fifty (50) people at a time.

Board member Gilmore asked about her intention to potentially include beer and wine in the ticket price. In response, she explained that she would need to do more research before she allowed this as she does not want glass on the premises but it is something she may consider in the future.

Ms. Eick clarified that a liquor license is not something the Board would approve, however the Board would need to determine whether a separate Special Exception would be needed at a later date as this issue is not on the table at this time.

Chairman Frey opened the discussion to the audience.

Mr. Mike Selig, a property owner in Cocoa Village, explained that they consistently have parking issues already and he is concerned with the influx of people that this new business could potentially bring. He is also concerned with pedestrians who J-walk across Willard Street and what could potentially happen if liquor eventually becomes involved.

There being no further comment, the public portion of the discussion was closed.

Board member Gilmore asked Ms. Eick if the Board needs to consider the parking issue at this time. In response, Ms. Eick explained that parking is a condition in both Criteria A and also in Criteria B, noted in the staff report, and this is an impact of part of the use that the Board should consider.

Ms. Maybury noted that she is willing to include on show tickets that attendees are not to park across the street and she will also enforce that her performers park in the Village parking lot as well. She explained that she feels that she is bringing revenue to the Village both because of her business and also because attendees will more than likely have dinner in the Village prior to the show.

Mr. Albert Elebash, 200 Willard St., reiterated Mr. Selig's sentiments regarding the parking issue. He added that the Board should consider the assembly usage in a building that sits directly on 40mph, three lane traffic with nothing but a sidewalk that separates the front door from the road.

There being no additional comments, the public portion of the discussion was closed.

Board member Gilmore asked what the code calls for in regard to parking in the Central Business District. In response, Ms. Selig explained that in the Central Business District, if the building footprint is not being altered, additional parking does not have to be provided. She added that depending on the age of the building, and if the footprint is being altered by more than one hundred (100) square feet, additional parking must be provided or the issue needs to at least be addressed in some way.

Vice Chairwoman Elliott pointed out Item B(a) on page 3 of the staff report and asked if this is separate from changing the square footage footprint. In response, Ms. Selig replied affirmatively.

Ms. Maybury explained that she is only looking to have shows two to four times per month and the shows will be at night. She pointed out that she believes that there is a solution to the parking issue and suggested that the property owner across the street consider charging for parking if they have spaces available so they can take advantage of an opportunity to make money as well.

Ms. Lois Felder, 217 King St., Cocoa, believes that the Comedy Club would be a marvelous addition to the Village. She noted that she has seen the City pass up many great businesses in the past to make room for a parking garage that was never built. She stated that the Seligs and Elebashs own a large piece of property along SR 520 and they may want to consider developing underground parking in the future to help resolve the parking issue.

Motion by Chairman Frey; seconded by Board member Dyal, to recommend approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 13 (C)(7) of the City of Cocoa Code to allow for a commercial recreational use (theater) in the CBD (Central Business District) Zoning District with the proposed conditions.

The Recording Secretary called the roll.

The vote on the motion passed unanimously.

C. PZ-19-00000008 – Special Exception for Height of a Structure (850 Cidco Rd.)

A request for a Special Exception from Appendix A, Zoning, Article XI, Section 19 (C)(1) of the City of Cocoa Code to allow for a principle structure in excess of 60 feet in height in the M-2 (Manufacturing and Industrial) Zoning District. The property is identified as 850 Cidco Road, Cocoa, Florida. (Parcel ID: 24-35-12-00-6)

Ms. Selig explained that the applicant is requesting approval of a Special Exception in order to build a structure in excess of the sixty (60) foot maximum height allowed in the M-2 zoning district. The site is located at the western end of Cidco Road, formerly owned by Coastal Steele, and has several buildings, as well as outdoor areas for parking, material and equipment storage as well as stormwater retention. The applicant intends to construct a building for industrial fabrication/manufacturing use that will have a metal frame with a fabric covering. This design will be more flexible than a conventional building structure as it can be adapted to meet the applicant's future project needs. Although the exact height has not been determined, the applicant is requesting approval of a one hundred and twenty (120) foot height for this building.

She pointed out that the main existing fabrication building on the site is approximately one hundred and forty-five (145) feet wide by three hundred (300) feet long and forty (40) feet in height. The new building will be located directly behind (to the north) of the existing fabrication building in an open area that was previously used for material delivery and storage. This area was depicted on the prior site plan as part of the location of phase III, a one hundred (100) foot expansion of the main building.

Ms. Selig presented several location maps and stated that Staff is recommending approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 19 (C)(1) of the City of Cocoa Code to allow for a principle structure in excess of sixty (60) feet in height in the M-2 (Manufacturing and Industrial) Zoning District with the following conditions:

- The Special Exception shall not be effective until the applicant has secured all the permits and approvals necessary for any development related to the Special Exception, such as site plan approval. Such permits shall be obtained within one (1) year of the Board's approval.

- If the height is extended, enlarged, or expanded, a Special Exception approval shall be required.
- The height of the proposed building shall be no more than one hundred and twenty (120) feet.

Board member Gilmore asked if this will affect the proposed high speed railroad track. In response, Ms. Selig stated that it would not affect that project at all.

Mr. Dale Coxwell, 850 Cidco Road, explained that he received a letter[2] of support from their neighbor, V.A. Paving, and provided a copy to the Board members.

Vice Chairwoman Elliott asked what the purpose of the building will be. In response, Mr. Coxwell explained that it will be a job shop but it is designed to be aesthetically pleasing so passersby will not see all of the large mechanical equipment and cranes at the back of the property.

Board Liaison Warner spoke in favor of Mr. Coxwell's business and shared that she had toured Coastal Steele a few years back and is sure that this will be a great project.

Chairman Frey opened the discussion to the public. There being no questions or comments, the public portion of the discussion was closed.

Motion by Board member Dyal; seconded by Chairman Frey, to recommend approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 19 (C)(1) of the City of Cocoa Code to allow for a principle structure in excess of 60 feet in height in the M-2 (Manufacturing and Industrial) Zoning District with the proposed conditions.

The Recording Secretary called the roll.

The vote on the motion passed unanimously.

~~D. PZ-19-00000009 – Special Exception for a Bar use (1811 N. Cocoa Blvd)~~ (Withdrawn by Staff)

E. PZ-19-00000010 – Special Exception for a Public (fee based) Parking Lot (430 Brevard Ave)

A request for a Special Exception from Appendix A, Zoning, Article XI, Section 13 (C)(9) of the City of Cocoa Code to allow for a public (fee based) parking lot on 2 parcels in the CBD-CVO (Central Business District - Cocoa Village Overlay) Zoning District. The properties are identified as 430 Brevard Avenue, Cocoa, Florida. (Parcel ID: 24-36-33-39-B-11 and 24-36-33-39-B-7)

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[2] Exhibit B: Letter from V.A. Paving

Ms. Selig explained that the application applies to two parcels which are currently developed as a bank with a drive-thru and associated parking. The building was occupied by Bank of America but they are no longer in operation at this location. The property owner is considering options for future development of the site but has no fixed plans at the present time. The use being applied for at this time is in part an effort to determine market potential and also in part to address the problem of constant trespassing on the site. The unauthorized use of the property represents a liability to the property owner that would be lessened by making public parking the principle use on the property.

She pointed out that there will be two solar powered ticket machines located on the property where individuals can purchase parking tickets. She shared a location map and photos of the subject property.

She stated that staff recommends approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 13 (C)(9) of the City of Cocoa Code to allow for a public (fee based) parking lot on two parcels in the CBD-CVO (Central Business District - Cocoa Village Overlay) Zoning District with the following conditions:

- The Special Exception shall not be effective until the applicant has secured all the permits and approvals necessary for any development related to the Special Exception, such as site plan approval and/or a parking agreement. Such permits shall be obtained prior to the fee-based public parking operation commencement. Further, the Special Exception shall not become effective until a zoning text amendment for Appendix A, Article XI, Section 22(F), is approved by the City Council to allow for parking, public or private, as a special exception use in the Cocoa Village Overlay sub-district.

- If the use is extended, enlarged, or expanded, a Special Exception approval shall be required. In addition, should the existing building be occupied in the future, Special Exception approval would be required to continue the parking lot use.

- A parking easement agreement with the owner(s) of parcel # 24-36-33-39-B-8 shall be required in order for this Special Exception approval to apply to the applicant's parcel # 24-36-33-39-B-7. This easement agreement must be secured in a form acceptable to the City Attorney, with adequate notice provisions to the City in the event of a termination or modification of the easement by the parties, prior to the Special Exception becoming effective for parcel # 24-36-33-39-B-7 and fee-based public parking operation commencing on that parcel. Should the easement agreement be terminated by the parties for any reason, the Special Exception approval for the applicant's parcel # 24-36-33-39-B-7 shall terminate. This condition shall not affect the Special Exception approval for the applicant's parcel # 24-36-33-39-B-11.

Ms. Selig read an email[3] expressing opposition of this item into the record on behalf of Michael DiChristopher who was unable to attend the meeting.

[3] Exhibit C: Email from Michael DiChristopher

She pointed out that although the Board can approve the Special Exception, a text amendment would still need to be approved by both the Planning and Zoning Board and also the City Council.

Board member Gilmore clarified that this is the first time this type of proposal has been made.

Thomas O'Toole, Manager of The Parking Operator LLC, shared that he has been in the parking business for twenty-five (25) years. Mr. Peter Paganelli, Mr. O'Toole's business partner, explained the piece of property and shared that they currently have a lease on the property. He pointed out some of the issues they are facing with the parking lot and mentioned that they bear the liability and pay the property taxes on the property. He explained that they would like to offer public parking at this location as a lack of parking in the Village has been a long standing issue. He shared that at first they intend to offer pay-per day parking instead of imposing hourly rates. Any generated revenue will help to offset some of their costs pertaining to liability and taxes.

Vice Chairwoman Elliott asked how the parking will be managed or if it will be based on an "honor system". In response, Mr. O'Toole explained that there will be kiosks where tickets can be purchased. Parking tickets will then need to be visibly placed on the dashboard of the vehicle. He clarified that end of day parking will end at 3:59am as they don't want to encourage overnight parking.

Board member Gilmore asked who would be liable if an individual purchased a parking ticket but failed to place it on their dashboard and their car was towed. In response, Mr. O'Toole explained that the goal of their company is to make sure that everyone understands the rules, however, the individual would be held accountable if their car was towed if they did not follow the instructions. He added that there will also be plenty of signage on the property explaining the rules and regulations.

Board member Gilmore asked what will happen if the building eventually gets leased. In response, Mr. O'Toole and Mr. Paganelli explained that they would need to address that issue as it arises, however they are also able to abandon the parking business altogether if needed as they will not be running electric or digging into the ground in order to install the kiosks. The kiosks are able to be pulled without ruining any sort of infrastructure.

Board member Dyal asked if they have a towing contract. In response, Mr. O'Toole shared that they do have a contract with a local towing company.

Chairman Frey opened the discussion to the public.

Aleck Greenwood, 640 Brevard Avenue, asked if an individual could pay for their ticket, leave, and come back and then place the ticket on their dashboard to park. He also asked if these kiosks can be turned off on weekends for Village events or Civic Center events. In response, in regard to the first question, Mr. O'Toole explained that this is a possibility and there is no real way to stop it from happening. In his experience, he has also seen individuals try to pass their tickets off to others when they are done with their parking spot. Additionally, in regard to the second question, Chairman Frey pointed out that the property owner has full authority over their parking lot and this will probably be peak revenue times for them. Board member Dyal added that this parking lot is actually not accessible during most events as the streets are closed off.

Ms. Felder asked if the property owner is considering fixing the potholes in the parking lot that are a current liability. She also asked if they would consider allowing merchants the ability to validate parking tickets for customers so they can park free of charge.

Pam Shaia, Tails at the Barkery, 308 Brevard Ave., asked to point out that there are several events that the City or the merchants put on throughout the year in which the streets are closed to vehicular traffic and wanted to make sure the applicants were aware of this. In response, Mr. O'Toole stated that he is aware of the street closures and there will be no conflict as he feels that their business is no different than anyone else's and he is in full support of these special events.

There being no further comment, the public portion of the discussion was closed.

Board Liaison Warner added that she feels this will be a great experiment in terms of allowing the City an opportunity to see how people will react to paid parking.

Board member Gilmore pointed out that this could potentially cause competition for the City down the line should they decide to offer their own parking. In response, Board Liaison Warner stated that her hope is that this business will create enough interest in privately owned parking businesses so that the City does not have to spend tax payer dollars on public parking.

Motion by Board member Gilmore; seconded by Vice Chairwoman Elliott, to recommend approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 13 (C)(9) of the City of Cocoa Code to allow for a public (fee based) parking lot on 2 parcels in the CBD-CVO (Central Business District - Cocoa Village Overlay) Zoning District with the proposed conditions.

The Recording Secretary called the roll.

The vote on the motion passed unanimously.

V. OTHER BUSINESS:

A. ELECTION OF CHAIRPERSON & VICE CHAIRPERSON

Motion by Board member Gilmore; seconded by Vice Chairwoman Elliott, to elect Rip Dyal as Chairperson. Vote on the motion carried unanimously.

Motion by Vice Chairwoman Elliott; seconded by Board member Gilmore, to elect Robert Frey as Vice Chairperson. Vote on the motion carried unanimously.

VI. NEXT MEETING DATE:

The Board members established that the next meeting would be held on May 15, 2019.

VII. ADJOURNMENT:

Motion by Board member Dyal; seconded by Chairman Frey to adjourn the regular meeting of April 17, 2019. Vote on the motion carried unanimously.

There being no further business the meeting adjourned at 8:04 P.M.

Approved on this 9 day of September, 2019.

Robert Frey, Chairman

Monica Arsenault, Board Secretary