

CITY OF COCOA
PLANNING & ZONING BOARD MEETING
MEETING MINUTES
April 9, 2019

A Special Meeting of the Planning & Zoning Board of the City of Cocoa was held on Tuesday, April 9, 2019 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

OPENING MATTERS:

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

MEMBERS PRESENT:

Michael Dobrin	Chairman
Todd Anderson	Board Member
Jeri Blanco	Board Member
Sherry Ervin	Board Member
Trina Gilliam	Board Member
Lawrence Koss	Board Member
Aleck Greenwood	Alternate Member

MEMBERS ABSENT:

Al Washington	Vice Chairman
Marilyn Green	Board Member
Russell Sengel	Board Member

OTHERS PRESENT:

Dodie Selig	Planning & Zoning Manager
Kristin Eick	Board Attorney
Monica Arsenault	Board Secretary
Jake Williams, Jr.	Board Liaison

APPROVAL OF AGENDA:

1. Approval of Agenda: April 9, 2019.

Motion by Board member Ervin, seconded by Board member Gilliam, to approve the agenda of April 9, 2019 with an amendment to table the Dr. Joe Lee Smith Community Center Large Scale Site Plan item until further notice. The vote on the motion carried unanimously.

Chairman Dobrin asked Ms. Selig if she could explain why the item needed to be tabled. In response, Ms. Selig shared that the item needs to be tabled due to an engineering issue with the retention pond.

2. Approval of Minutes: March 6, 2019.

Motion by Board member Blanco, seconded by Board member Koss, to approve the minutes of March 6, 2019 as written. The vote on the motion carried unanimously.

OLD BUSINESS:

None.

NEW BUSINESS:

**A. PZ-18-00200017 – Large Scale Site Plan – Dr. Joe Lee Smith Community Center
(TABLED)**

The City of Cocoa, Public Works Department, is requesting Approval of a Large Scale Site Plan entitled "Dr. Joe Lee Smith Community Center". The subject property comprises 2 parcels of land totaling ±3.23 acres and is generally located at the southwest corner of Stone Street and Washington Street. The property is more specifically identified by the Brevard County Property Appraiser as Parcel #'s 24-36-33-00-264 and 24-36-33-CC-12.E-2. The City is proposing to develop a new community center building comprising a total of approximately 15,708 sq.ft. along with parking and stormwater retention facilities.

Ms. Eick noted that this item would need to be re-advertised.

B. PZ-19-02000001 – Text Amendment – Indoor gun range in M-2 zoning district

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTION 19 OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ALLOW INDOOR SHOOTING RANGES AS A PERMITTED USE SUBJECT TO CERTAIN CONDITIONS, INCLUDING ANCILLARY RETAIL SALES AND RESTAURANT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Ms. Selig explained that the amendment was precipitated by a project proposed for an indoor shooting range. This business model is similar to another operation in Melbourne and one in Volusia County. At the present time there is no provision for indoor shooting ranges as a use in the City's zoning code.

She pointed out that staff is proposing to make a text amendment in the Code under Article XI, Section 19(A)(12)(d) by adding the following:

- (5) Indoor shooting ranges, with ancillary retail sales and restaurant subject to the requirements of subsection (A)(12)(d)(2.) of this Section, shall be permitted with the following conditions:
- a. All firing shall take place within a completely enclosed building.
 - b. Site plan applications for the development of an indoor shooting range shall include a plan by a Florida registered engineer demonstrating that the building is soundproof and appropriately designed for such use.

Ms. Selig noted that when an amendment to the zoning code is proposed the Board needs to consider the need and justification for the change as well as the relationship of the proposed amendment to the purposes and objectives of the Comprehensive Plan.

She shared that currently, outdoor firearm testing facilities are permitted as a special exception in the M-1 and M-2 districts, when ancillary to a permitted firearm manufacturing use as. The staff report for the ordinance allowing outdoor firearm testing facilities, dated February 13, 2013, recommended this use as a special exception to ensure outdoor firearms testing facilities would not be located within close proximity to residential areas.

Ms. Selig explained that staff's primary concern regarding the proposed zoning text amendment is protection of the surrounding community and the environment. Sport shooting and training ranges are regulated in part under Section 790.333, Florida Statutes. This statute provides that it is the public policy of the State of Florida to encourage the safe handling and operation of firearms and mandates appropriate training in the safe use and handling of firearms for persons licensed to carry concealed firearms and for persons licensed to hunt in the state. Sport shooting and training ranges throughout the state provide the location at which this important public purpose is served and at which the firearms training mandates are fulfilled.

Additionally, Section 790.333, F.S., further provides that the Legislature has preempted the whole field of regulation of *firearms and ammunition use* at sport shooting and training ranges, including the environmental effects of projectile deposition at sport shooting and training ranges. However, zoning ordinances regarding the siting of shooting ranges continue to be permitted. The Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) have adopted lead standards to protect employee health and safety. OSHA published a Fact Sheet in June 2018, titled "Lead Hazards: Protecting Workers at Indoor Firing Ranges".

Furthermore, firing range waste must be managed in accordance with the Resource Conservation and Recovery Act (RCRA) and Title 40 Code of Federal Regulations (CFR) 260-265. The U.S. EPA has published a brochure, titled "Do you Use Best Management Practices for Lead at Your Outdoor Shooting Range?" and the National Park Service has published a brochure on "Firing Range Waste Management." These brochures include information that would be relevant to indoor shooting ranges for the handling of hazardous waste.

Ms. Selig pointed out the following Comprehensive Plan policies:

- Future Land Use Element Goal 1.1: Create and maintain a broad range of land use activities that maximize the City's potential as a growth center while protecting the public health, safety, welfare, and appearance through the thoughtful planned use and development of the land and public facilities.
- Future Land Use Element Goal 1.2: Location Criteria for Land Uses. Future land use categories and land development regulations shall be consistent with the density and intensity standards in Policy 1.1.1.1 and be based upon the following locational and development standards and criteria:

- Future Land Use Policy 1.1.2.10: Industrial zoning districts shall be regarded as appropriate locations for businesses that might have adverse secondary effects on residential areas, religious establishments, schools, parks, or day care centers located within the City.
- Future Land Use Element Goal 1.3: The City of Cocoa shall enhance the quality of life and prosperity of its citizens through the retention and creation of a wide range of profitable business opportunities and jobs.

Ms. Selig stated that staff recommends that the Planning and Zoning Board recommend approval to City Council of Ordinance No. XX-2019 amending Appendix A, Article XI, Section 19 of the zoning ordinance of the City of Cocoa to allow indoor shooting ranges as a permitted use subject to certain conditions, including ancillary retail sales and restaurant.

Board member Koss inquired if the restaurant will be serving alcohol. In response, Ms. Selig replied affirmatively and explained that there will be rules in place. She provided an example of an indoor gun range, Frog Bones, in Melbourne and shared some of their best practices. Furthermore, she pointed out that it would be in the best interest of the owner/operator's insurance company to ensure that there is security in place in order to keep intoxicated individuals from entering the range to shoot.

Alternate member Greenwood asked if any issues had arisen in any of these similar types of businesses in the past. In response, Ms. Selig shared that she was not aware of any issues at Frog Bones, however she had not spoken with anyone from the Volusia location so she was not sure of any incidents there.

Board member Blanco asked if there is any relation between the applicant and some of the other indoor gun ranges in the area. In response, Ms. Selig stated no. Additionally, Board member Blanco clarified that in addition to the range the establishment will only have the restaurant which will serve beer and wine. In response, Ms. Selig replied affirmatively.

Board member Ervin clarified that this is will be in the Grissom Park/Industrial area. In response, Ms. Selig replied affirmatively.

Mr. Bob Scales, 111 Cleveland Ave., Cocoa Beach, Florida, provided a presentation¹. He shared a preliminary site plan and noted that the potential building is currently a concrete shell which will comply with noise regulations. He spoke briefly of Frog Bones in Melbourne and the Orlando Gun Club as well as an indoor range in Volusia County for comparison purposes.

Mr. Scales discussed safety and quality indoor ranges. He pointed out that there will be state of the art ventilation as one of the most important health factors for an indoor range is the ventilation. They go above industry standards to keep shooters healthy and to filter lead particles from recycled air. They work with an HVAC contractor as well to make sure they are meeting all regulations.

¹ Presentation provided by Bob Scales

He explained that sometimes there is a perception that gun ranges are only established for fun, however they offer training courses as well to harbor a safe environment for enthusiasts, families, and law enforcement.

Mr. Scales mentioned the restaurant which will offer beer and wine as well as food such as burgers and fries.

To address safety concerns, he pointed out that the range is a privilege and in order to use it one must attend a safety orientation which will qualify that person to utilize the range. Additionally, a stamp of water resistant UV ink will be stamped on anyone's hand that has an alcoholic beverage. Range attendants will check for a stamp before allowing entrance into the range. Clients must agree and are subject to a breathalyzer test if alcohol use is suspected. Failure results in immediate loss of privileges.

Board member Ervin asked if the parking lot will be monitored by security cameras. In response, Mr. Scales stated yes.

Alternate member Greenwood asked Mr. Scales if he has had any experience with individuals who want to enter the range that are under the influence, but are not necessarily under the influence of alcohol. In response, Mr. Scales explained that all of the staff will be trained to look for those who seem to be under the influence or impaired in any way before entering the range. He also shared that there will be structured consequences put in place for first time and second time offenders.

Alternate member Greenwood inquired whether the concrete will be solid poured concrete in the concrete blocks or if it is necessary because there are containment setups. In response, Mr. Scales explained the structure of the building and pointed out that there is a mat made by a company in Minnesota that they use to line the interior walls for additional protection. The mats are approximately an inch thick and they serve as a sound barrier as well. Each two foot square can take up to fifty (50) bullets before it needs to be removed and replaced.

Board member Ervin asked if this is a private membership club. In response, Mr. Scales explained that it is not but any individual who wishes to use the facility will need to take a safety course and by agreeing to do this they are agreeing not to break the rules, otherwise they will lose their privileges.

Chairman Dobrin asked if there any restrictions on the types of weapons that can be used at this facility. In response, Mr. Scales noted that there will be no automatic weapons and the intent is to regulate use under fifty (50) calibers.

Chairman Dobrin opened the discussion to the public. There being no response the public portion of the discussion was closed.

Motion by Alternate member Greenwood; Seconded by Board member Ervin to recommend approval to City Council of Ordinance No. XX-2019 amending Appendix A, Article XI, Section 19 of the zoning ordinance of the City of Cocoa to allow indoor shooting ranges as a permitted use subject to certain conditions, including ancillary retail sales and restaurant. Vote on the motion carried unanimously.

OTHER BUSINESS:

A. Tree Board Update

Ms. Selig shared that there is a tree item that will be coming before the Board in May. The tree in particular is located on North Indian River Drive.

Additionally, she added that she has spoken with the Assistant City Manager and staff intends on setting up a meeting with Dana Sussman from the Extension Office as requested by the Board.

Alternate member Greenwood shared an article² from Fox News regarding a Florida tree activist's reaction to a tree being removed during a City Council meeting.

Alternate member Greenwood spoke about a suggestion that had been made in the past about removing and replacing oak trees. He shared an example of new development in the City and how they were able to save one of the oak trees on the property but needed to remove four others. He added that the Board may want to consider an amendment to the Tree Ordinance to include a requirement that if an oak tree is removed it is to be replaced somewhere in the City. Additionally, he pointed out that, as previously stated by Vice Chairman Washington, the Board should be made aware of any tree removals prior to their removal, even if an emergency meeting needs to be held.

Ms. Selig and Board member Blanco asked Alternate member Greenwood to clarify his request. In response, Alternate member Greenwood clarified that with the Board's approval, he would like to request that an item be placed on a future agenda to address an amendment being made to the current ordinance to include language about the removal of oak trees on commercial property and the requirement to replace them in other areas of the City.

Ms. Selig clarified that Alternate member Greenwood spoke only of oak trees on commercial property. In response, Alternate member Greenwood agreed. He also added that it might be possible to revisit the idea of oak trees on residential property as well. He suggested that if a residential property owner wishes to remove an oak tree from their property that they contribute an oak tree somewhere else in the City.

Board member Koss provided a handout³ to the Board. He asked five questions in regard to private property owners planting in public (city) easements, as noted in the handout. In response, Ms. Selig stated that she will take the first four questions to Public Works for a response and will report back to the Board. In regard to the fifth question, she stated that the City does not have an educational outreach program about tree care and ordinances for the citizens of Cocoa.

Board member Koss asked that staff and the Board possibly consider establishing an outreach program to educate citizens. He also shared three photos of a particular property on Manor Drive between 2011 and 2019 to show how many trees were removed over the years.

Additionally, he provided information such as a Senate bill and City of Cocoa Ordinance 12-2018 to the Board. He further raised a concern as to why the City spends the money

² Fox News article

³ Landscape Requirement Ordinances

it does on improving medians and other landscaped areas of the City if they don't plan to spend the money to maintain those areas.

Board member Blanco asked for clarification in regard to a question that was asked at the previous meeting which was what the recourse is if a private property owner hires a private company to remove a public tree that is located in an easement or right-of-way by their property. In response, Ms. Eick explained that although the Tree Ordinance does not apply to single-family lots and duplex lots, all public or private rights-of-way are subject to the City's ordinance. She added that if a private property owner wanted to remove a tree from the public right-of-way they would be subject to the tree removal permit requirement and to demonstrate that they meet the criteria before removing the tree. Additionally, if the tree was an oak tree, an item would be brought before the Tree Board and then the City Council would make the final decision as to whether or not it could be removed.

B. Recent Development Update

Ms. Selig shared that while no applications have been received, an applicant may be interested in the old Home Depot site. There is also some potential interest in two properties along SR524. These two properties are located next to each other at Cox Rd. and SR524.

Chairman Dobrin inquired about an update on the hotel development in Cocoa Village. In response, Alternate member Greenwood shared that Mr. Jack Brown is still in the process of finishing the second half of the Redevelopment Agreement. He also mentioned that Mr. Brown has plans to move to the area within the next month so he can be closer to the project.

Chairman Dobrin asked if anyone had heard about a projected completion date for the SR524 road widening. In response, Board member Ervin shared that she had attended a FDOT meeting two years ago and the completion date was set for 2025. She added that she has seen surveyors out along the road almost every day.

Ms. Selig noted that she did not believe the project had been budgeted for yet. Board member Ervin added that she did not think they were set to begin until 2021.

Board member Anderson asked to make a motion to have the questions brought forth by Board member Koss answered at the next meeting so the Board can be privy to that information.

Motion by Board member Anderson; Seconded by Alternate member Greenwood to have the questions brought forth by Board member Koss to be answered by the next scheduled meeting. Vote on the motion carried unanimously.

NEXT MEETING:

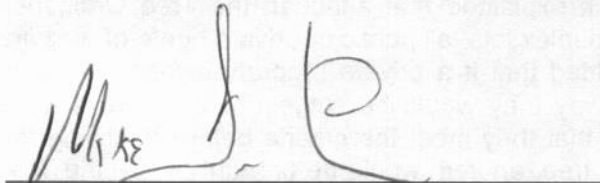
The Board members established that the next meeting would be held on Wednesday, May 1, 2019.

ADJOURNMENT:

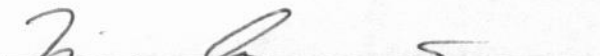
Motion to adjourn by Board member Koss, seconded by Board member Ervin. The vote on the motion carried unanimously.

There being no further business the meeting adjourned at 7:10 P.M.

Approved on this 1 day of May, 2019.



Mike Dobrin, Chairman



Monica Arsenault, Board Secretary