

City of Cocoa

65 Stone Street
Cocoa, FL 32922



Meeting Agenda

Wednesday, December 6, 2023

6:00 PM

Cocoa City Council Chambers

Planning and Zoning / Local Planning Agency

I. CALL TO ORDER

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

II. APPROVAL OF AGENDA AND MINUTES:

AGENDA:

[23-735](#) Request Board Approval of the Short Agenda for the Planning & Zoning December 6, 2023, Regular Meeting, either as is or with amendments.

Attachments: [PZ Short Agenda December 6, 2023.pdf](#)

MINUTES:

[23-737](#) Request Approval of the Minutes from the October 4, 2023, Planning & Zoning Meeting, either as written or with amendments.

Attachments: [10-4-2023 DRAFT.docx](#)

[23-740](#) Request Board Members approve the Minutes from the November 1, 2023, Planning & Zoning Meeting, either as written or with amendments.

Attachments: [11-1-2023 Final.docx](#)

III. OLD BUSINESS:

IV: NEW BUSINESS:

A. [23-739](#) Annual Election of Chairperson and Vice Chairperson for the Planning & Zoning Board.

Attachments: [Planning Roster.pdf](#)

B. 23-754

Approval of a PUD / Rezoning (Ordinance 22-2023) for one (1) parcel from Brevard County General Use (GU) to City of Cocoa Planned Unit Development (PUD), a Large-Scale Site Plan, and a Preliminary Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code for Windward Preserve.

Attachments:

[Ordinance No 22-2023 Rezoning Windward Preserve GU to PUD.pdf](#)
[Appendix A - Prelim Plat Submittal 3 v2.pdf](#)
[Appendix B - PUD Submittal 3 v2.pdf](#)
[Windward Preserve Location.pdf](#)
[Windward Preserve FLU.pdf](#)
[Windward Preserve Zoning.pdf](#)
[Full Engineering Plans.pdf](#)
[Landscape Plans.pdf](#)
[Windward Preserve - Draft Plat.pdf](#)
[Full Survey.pdf](#)
[Revised Potable Water Report 3.pdf](#)
[Windward Preserve School Concurrency Letter-SCADL-2023-25-Cocoa.pdf](#)
[2023-11-20 Windward Preserve Trail and Park exhibit.pdf](#)
[Amenity Plan Set.pdf](#)
[23-00300001 Traffic Study Windward Preserve \(2023.04.03\) S&S.pdf](#)
[5799.16 - Silvestri Property - Traffic Calming Study - Response to City Commer](#)
[Development Timeline.pdf](#)
[Stormwater Report 6-REVISED.pdf](#)
[Wetland SJRWMD - RAI Response Windward Preserve 5.17.23.pdf](#)
[Assessment Report Windward Preserve Environmental .pdf](#)
[Legal Ad.pdf](#)

C. 23-755

Consideration of a Zoning Map Amendment for a +/- 1.002-acre portion of property located at 825 Forrest Ave., from INST (Institutional) to RU-2-15 (Multiple Family Dwelling).

Attachments:

[Ordinance No. 23-2023 Rezoning Matthews Hope Institutional to RU-2-15](#)
[Mathews Hope Area of Rezoning.pdf](#)
[Mathews Hope Location.pdf](#)
[Mathews Hope Existing Zoning.pdf](#)
[Application Package for Matthews Hope Rezone.pdf](#)
[Order Confirmation Liners-787 MH, Kava, Flag, P&Z.pdf](#)

- D. [23-756](#) Recommend approval of proposed Ordinance 24-2023, a zoning text amendment, amending Chapter 3, *Advertising and Signs*, Section 3-23, General Regulations, of the Code of the City of Cocoa regarding Flags, providing for the repeal of prior inconsistent ordinances and resolutions, incorporation into the code severability, and an effective date.

Attachments: [Ordinance No. 24-2023 Revising Sign Code Flags.pdf](#)
[Legal Ad MH, Kava, Flag, P&Z.pdf](#)

- E. [23-757](#) Recommend approval of proposed Ordinance 25-2023, a zoning text amendment amending Appendix A, Zoning, Article XIII, *Supplementary District Regulations*, of the Zoning Ordinance of the City of Cocoa to add a new Section 33, *Kava and Kratom*, establishing distancing requirements between establishments selling Kava beverages and/or Kratom products and certain other enumerated land uses; providing for the repeal of prior inconsistent ordinances and resolutions, incorporation into the code, severability, and an effective date.

Attachments: [Exhibit A - Ordinance No. 25-2023 Regulating Kava and Kratom PZ.pdf](#)
[Order Confirmation Liners-787 MH, Kava, Flag, P&Z.pdf](#)

- F. [23-758](#) Recommend approval of proposed Ordinance 26-2023, a zoning text amendment, amending Appendix A, Article XIX, Section 2, Relating to the meeting schedule of the Planning and Zoning Board; providing for the repeal of prior inconsistent ordinances and resolutions, incorporating into the code, severability, and an effective date.

Attachments: [Ordinance No. 26-2023 Amending Article XIX P&Z Board Meeting Schedule](#)
[Legal Ad MH, Kava, Flag, P&Z.pdf](#)

V. TREE BOARD:

VI. OTHER BUSINESS:

VII. NEXT MEETING DATE:

The next regularly scheduled meeting of the Planning & Zoning Board will be on Wednesday, January 3, 2023, 6:00 PM at the Cocoa City Hall, 65 Stone Street, Cocoa, Florida.

VIII. ADJOURNMENT

NOTICE TO THE PUBLIC:

This is a public meeting. All interested parties may attend in person. The facility wherein this public meeting will be held is accessible to the physically handicapped. In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org.

Additionally, interested persons may view or listen to the meeting electronically at the following internet sites:

- (1) <https://tinyurl.com/s5e875r> or
- (2) <https://cocoa.legistar.com/DepartmentDetail.aspx?ID=26365&GUID=FF9D3369-D354-4FAB-800A-57D0AEE30153&Mode=MainBody>

However, the City is not responsible for technical difficulties that may occur while attempting to view or listen to the meeting on the internet.

Interested persons may submit their written comments or questions regarding the meeting prior to the meeting through Email at meetings@cocoafl.org, or via E-comments through the online agenda. Any electronic comments submitted will be made part of the meeting record. Written comments or questions not relevant to the Council meeting agenda will not be made part of the meeting record but will be maintained as public record.

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that: if a person decides to appeal any decision made by the City Council with respect to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to assure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise not allowed by law.

Although members of the public are entitled to be heard by the City Council on certain items on the meeting agenda pursuant to the City Council Rules of Procedure, members of the public are not entitled to an immediate response by either administrative staff members or Council; however, the City Council or administrative staff may provide a response at their discretion. When presenting before the City Council, all comments or questions should be directed to the Mayor or the chair of the meeting. Comments or questions should not be made directly to administrative staff without permission from the Mayor or chair.

Public debate by individual speakers from the audience on public hearing items shall be limited to three (3) minutes. Applicants or representatives of recognized groups with special interests in a matter shall be limited to ten (10) minutes; and total debate on a single issue shall be limited to thirty (30) minutes. Only one presentation per person per item shall be allowed.

A Council member may add an item to the agenda during the meeting only at the time the agenda is approved. If the item requires action by the Council, then it may be added to the agenda by an affirmative vote of the Council, and written documentation must be submitted at the time the item is added to the agenda. Matters may also be raised by the Council, City Manager or City Attorney under reports and acted upon by the City Council.

This agenda is posted on the Municipal Bulletin Board and at the Central Brevard Library and Reference Center in Cocoa for public review.



Legislation Details (With Text)

File #: 23-735 **Version:** 1 **Name:**
Type: Agenda **Status:** Passed
File created: 11/15/2023 **In control:** Planning and Zoning / Local Planning Agency
On agenda: 12/6/2023 **Final action:**
Title: Request Board Approval of the Short Agenda for the Planning & Zoning December 6, 2023, Regular Meeting, either as is or with amendments.
Sponsors:
Indexes:
Code sections:
Attachments: [PZ Short Agenda December 6, 2023.pdf](#)

Date	Ver.	Action By	Action	Result
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PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: November 15, 2023
Agenda Date: December 6, 2023
Prepared By: Lori Chabot, Recording Secretary
Through: Stacey Hopper, Planner; Stockton Whitten, City Manager
Requested Action:
Request Board Approval of the Short Agenda for the Planning & Zoning December 6, 2023, Regular Meeting, either as is or with amendments.

BACKGROUND:

Planning & Zoning Board Members approve the Short Agenda at the beginning of the meeting.

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

Request Board Approval of the Short Agenda for the Planning & Zoning December 6, 2023, Regular Meeting, either as is or with amendments.



CITY OF COCOA
Planning & Zoning Board /
Local Planning Agency
City Council Chambers

Cocoa City Hall
65 Stone Street
Cocoa, FL 32922

AGENDA
Regular Meeting
December 6, 2023
6:00 p.m.

I. OPENING MATTERS:

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE

II. APPROVAL OF AGENDA AND MINUTES:

1. AGENDA: Meeting of December 6, 2023
2. MINUTES: Meeting of October 4, 2023
3. MINUTES: Meeting of November 1, 2023

III. OLD BUSINESS: None

IV. NEW BUSINESS:

A. Annual Election of Chairperson and Vice Chairperson for the Planning and Zoning Board.

PZ-23-00300001 – Windward Preserve Zoning Map Amendment to PUD/Preliminary Subdivision/Large Scale Site Plan | Ordinance 22-2023

B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING THE OFFICIAL ZONING MAP DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY, TOTALING 212.10 ACRES, MORE OR LESS, AND GENERALLY LOCATED NEAR THE SOUTHEAST CORNER OF INTERSTATE 95 AND STATE ROAD 528, IN COCOA, FLORIDA, MORE PARTICULARLY DEPICTED AND LEGALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM BREVARD COUNTY GENERAL USE (GU) TO CITY OF COCOA PLANNED UNIT DEVELOPMENT (PUD); PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE. TAX PARCEL ID 24-35-10-00-502.

C. CONSIDERATION OF THE WINDWARD PRESERVE PRELIMINARY SUBDIVISION AND LARGE SCALE SITE PLAN CONSISTENT WITH CHAPTER 18 SUBDIVISIONS AND APPENDIX A ZONING OF THE CITY CODE. THE PROPERTY OWNER INTENDS TO DEVELOP A PLANNED UNIT DEVELOPMENT PROJECT, WINDWARD PRESERVE PUD, A SUBDIVISION CONTAINING 385 SINGLE-FAMILY HOMES AND COMMON SPACE TRACTS.

PZ 23-02100009 Zoning Map Amendment | Ordinance 23-2023

- D. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING THE OFFICIAL ZONING MAP DESIGNATION OF A PORTION OF ONE (1) PARCEL OF REAL PROPERTY, THAT PORTION TOTALING 1.002 ACRES, MORE OR LESS, AND GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF GRIMES STREET AND FORREST AVENUE AT 825 FORREST AVENUE, COCOA, FLORIDA, MORE PARTICULARLY DEPICTED AND LEGALLY DESCRIBED ON EXHIBIT "A" ATTACHED HERETO, FROM INSTITUTIONAL (INST) TO MULTIPLE-FAMILY DWELLING (RU-2-15); PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE.

PZ 23-02000009 Zoning Text Amendment | Ordinance 24-2023

- E. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 3, *ADVERTISING AND SIGNS*, SECTION 3-23, *GENERAL REGULATIONS*, OF THE CODE OF THE CITY OF COCOA REGARDING FLAGS; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

PZ 23-02000013 Zoning Text Amendment | Ordinance 25-2023

- F. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, *ZONING*, ARTICLE XIII, *SUPPLEMENTARY DISTRICT REGULATIONS*, OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ADD A NEW SECTION 33, *KAVA, AND KRATOM*; ESTABLISHING DISTANCING REQUIREMENTS BETWEEN, ESTABLISHMENTS SELLING KAVA BEVERAGES AND/OR KRATOM PRODUCTS, AND CERTAIN OTHER ENUMERATED LAND USES; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

PZ 23-02000012 Zoning Text Amendment | Ordinance 26-2023

- G. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING THE ZONING ORDINANCE OF THE CITY OF COCOA, APPENDIX A, ARTICLE XIX, SECTION 2, RELATING TO THE MEETING SCHEDULE OF THE PLANNING AND ZONING BOARD; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

VI. TREE BOARD:

VII. OTHER BUSINESS:

Planning and Zoning Board Open Discussion

VIII. NEXT MEETING DATE:

Wednesday, January 3rdst at 6:00 pm

IX. ADJOURNMENT

General Notice Information:

This is a public meeting. Interested parties are hereby advised that they may appear at said meeting and be heard. The facility wherein this public meeting will be held is accessible to the physically handicapped. In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org.

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that if a person decides to appeal any decision made by the BOA, P&Z Board/LPA or City Council with respect to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to assure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise not allowed by law.

The BOA or PZ Board/LPA meeting may include the attendance of one (1) or more members of the Cocoa City Council who may or may not participate in the Board discussions held at this public hearing. The BOA, PZ Board/LPA and City Council reserve the right to continue or postpone hearings to a date certain without re-advertising.

Public Participation Information:

Members of the public may view the meeting agenda, ordinances, project applications, supporting documents, and staff reports on the City's website at the following link prior to attending or commenting:

- City of Cocoa meeting calendar at <https://cocoa.legistar.com/Calendar.aspx>

Documents pertaining to the above may also be inspected at the Community Services Department, between 8:00 a.m. and 5:00 p.m., Monday through Friday, or by phoning (321) 433-8535.

Interested persons may submit their written comments or questions prior to the meeting through Email at meetings@cocoafl.org, or via E-comments through the online agenda at the link above. Any electronic comments submitted will be made part of the meeting record.

Viewing In Real Time. Interested persons are encouraged to view and listen to the hearings live by accessing the meetings at the following internet address:

- City of Cocoa meeting calendar at <https://cocoa.legistar.com/Calendar.aspx>

However, the City is not responsible for technical difficulties that may occur while attempting to view or listen to the meeting on the internet.

Special Information for Quasi-Judicial Hearings:

Any person that (1) can demonstrate that they may suffer special damages different in kind and degree from that of the general public at large; and (2) wishes to present factual or expert witnesses and/or evidence at the quasi-judicial hearing is highly encouraged to immediately contact Stacey Hopper or Lucilene Ribeiro, Planning and Zoning, at (321) 433-8451 or 8535 shopper@cocoafl.gov or lribeiro@cocoafl.org to make proper arrangements for presentation of witnesses and/or evidence. All witnesses should be identified and all evidentiary documents and exhibits that are intended to be distributed to the BOA, P&Z/LPA and City Council should be submitted to Ms. Hopper or Ribeiro via email or mail at least three (3) days prior to the hearing.



Legislation Details (With Text)

File #: 23-737 **Version:** 1 **Name:**
Type: Minutes **Status:** Agenda Ready
File created: 11/15/2023 **In control:** Planning and Zoning / Local Planning Agency
On agenda: 12/6/2023 **Final action:**
Title: Request Approval of the Minutes from the October 4, 2023, Planning & Zoning Meeting, either as written or with amendments.
Sponsors:
Indexes:
Code sections:
Attachments: [10-4-2023 DRAFT.docx](#)

Date	Ver.	Action By	Action	Result
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PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: November 15, 2023
Agenda Date: December 6, 2023
Prepared By: Lori Chabot, Recording Secretary
Through: Stockton Whitten, City Manager
Requested Action:
Request Approval of the Minutes from the October 4, 2023, Planning & Zoning Meeting, either as written or with amendments.

BACKGROUND:

Board Members approve the Minutes at the beginning of the meeting.

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Request Approval of the Minutes from the October 4, 2023, Planning & Zoning Meeting, either as written or with amendments.

**MINUTES
CITY OF COCOA
PLANNING & ZONING BOARD/ LOCAL PLANNING AGENCY
REGULAR MEETING
October 4, 2023**

A Regular meeting of the Planning & Zoning Board Local Planning Agency was held on October 4, 2023 at City Hall, 65 Stone Street, Cocoa, FL, as publicly noted.

I. CALL TO ORDER:

Chairperson Simpson called the meeting to order at 6:03 PM.

ROLL CALL:

Justin Simpson	Chairperson
Michael Dobrin	Vice Chairperson
Todd Anderson	Board Member
Ron Chabot	Board Member
Aleck Greenwood	Board Member
Veronica Lopez	Board Member
Wesley Park	Board Member
Marcus Wheeler	Board Member
Merrybeth Burgess	Alternate Member
Katherine Stewart	Alternate Member

PRESENT:

Justin Simpson	Chairperson
Michael Dobrin	Vice Chairperson
Todd Anderson	Board Member
Ron Chabot	Board Member
Aleck Greenwood	Board Member
Wesley Park	Board Member
Marcus Wheeler	Board Member

ABSENT:

Katherine Stewart	Alternate Member
Veronica Lopez	Board Member
Merrybeth Burgess	Alternate Member

STAFF PRESENT:

Mayor Michael Blake; Councilwoman Koss; Stockton Whitten, City Manager; Kristin Eick, Board Attorney; Stacey Hopper, City Planner; and Lori Chabot, Recording Secretary.

Additionally, Stephen Noto, AICP, Director of Planning for RVi Planning + Landscape Architecture was also in attendance.

Chairperson Simpson led the assembly in the Pledge of Allegiance.

II. APPROVAL OF AGENDA AND MINUTES:

1. AGENDA: Meeting of October 4, 2023

- * **MOTION BY BOARD MEMBER ANDERSON; SECONDED BY VICE CHAIRPERSON DOBRIN TO APPROVE THE OCTOBER 4, 2023 REGULAR MEETING AGENDA AS WRITTEN.**

AYES: SIMPSON, DOBRIN, ANDERSON, CHABOT, GREENWOOD, PARK, WHEELER

MOTION PASSED UNANIMOUSLY (7-0)

2. MINUTES: Meeting of July 12, 2023

- * **MOTION BY BOARD MEMBER CHABOT; SECONDED BY BOARD MEMBER ANDERSON TO APPROVE THE JULY 12, 2023 MINUTES AS WRITTEN.**

AYES: SIMPSON, DOBRIN, ANDERSON, CHABOT, GREENWOOD, PARK, WHEELER

MOTION PASSED UNANIMOUSLY (7-0)

3. MINUTES: Meeting of August 16, 2023

- * **MOTION BY BOARD MEMBER CHABOT; SECONDED BY VICE CHAIRPERSON DOBRIN TO APPROVE THE AUGUST 16, 2023 MINUTES AS WRITTEN.**

AYES: SIMPSON, DOBRIN, ANDERSON, CHABOT, GREENWOOD, PARK, WHEELER

MOTION PASSED UNANIMOUSLY (7-0)

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

PZ 23-0200007 Zoning Text Amendment | Ordinance 21-2023

- A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTION 22 OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ALLOW LARGE SCALE COMMERCIAL/MIXED-USE BUILDINGS ON CERTAIN PROPERTIES WITHIN THE COCOA WATERFRONT OVERLAY DISTRICT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Stephen Noto introduced the item through a presentation¹.

- The +/-1.95-acre Subject Property is located at the NE corner of Brevard Ave. and Church St.
- It is the old Bank of America site.
- The Subject Property is not currently occupied.
- Current zoning of the Subject Property is CBD-CVO (Central Business District –Cocoa Village Overlay)
- Current future land use of the Subject Property is MU (Mixed-Use)
- The Owner of the Subject Property, 430 Brevard, LLC has requested the City to consider an amendment to the Waterfront Overlay District Regulating Plan to designate the Subject Property as “Commercial/Mixed Use Large Buildings
- This would allow the subject property to be developed with a “vertically mixed-use building” at a maximum of eight 8 stories in height, subject to and conditioned upon City Council approval of a development agreement following consideration of multiple factors
- The Owner is proposing a \$90 million dollar development program, which may consist of up to:
 - 243 residential units (229 Flats and 14 Townhouses)
 - 11,900 sq. ft. of office space
 - 2,800 sq. ft. of retail space
 - 9,547 sq. ft. of amenity space
 - A “ground plus 6-level” parking garage that is designed internally to the building envelope.

¹ Exhibit A: Zoning Text Amendment – Ordinance 21-2023 Presentation

- Modifying the Regulating Plan to designate the Subject Property as “CL” would in no way vest any level of entitlements for this development program.
- The modification puts in to motion development density programs that are allowed by the Land Development Code and the Comprehensive Plan.
- The Owner Framework Group would be required to enter into a Developer’s Agreement (‘DA’) with the City and have that Development Agreement approved by the City Council. While those initial discussions have occurred, and an application provided, the details of the DA is not up for discussion or vote as part of this request.
- Pursuant to Appendix A, Zoning, Article XXI, Amendment, Section
- 1(G)(2), the planning board shall consider and study:
 - The need and justification for the change.
 - The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.
- The need and justification for the change.
- Currently, the tallest building that could be constructed on the Subject Property is a five-story, “commercial/mixed-use medium” building type in accordance with the Cocoa Waterfront Overlay District Regulating Plan.
- In order to achieve the 125 du/acre density, the building heights associated with “commercial/mixed-use medium”, which has a 5-story max, would not generate the building intensities needed to maximum the density allowed by the FLU designation.
- The proposed updates will allow for great flexibility of growth on the subject property by providing for building heights that functionally promote vertically mixed-use buildings.
- The need and justification for the change.
 - The City will maintain an interest and say in how the subject property is developed as a Developer’s Agreement is required for these types of projects.
 - City Council will consider factors such as economic and social benefits to City and CRA, aesthetic quality and character, architectural design, physical and visual scale, compatibility with the Cocoa Village when a particular development project is proposed.
- The need and justification for the change.
- The Cocoa Redevelopment Agency (Cocoa CRA) continues to seek major redevelopment opportunities to revitalize the Cocoa Community Redevelopment Area.
- The Long-Range Land Use Concept Plan details three Catalyst Mixed-Use Development Sites that have been identified as under-utilized due to “outdated land

use or building design” and provide the following guidance for the Subject Property specifically:

- “430 Brevard Avenue (former Bank of America site): Determine status of potential time frame for redevelopment of the property and utilize former development studies as the basis for attracting developers to consider the parcel at the corner of Church Street and Brevard Avenue.”
- The need and justification for the change.
 - The Subject Property is also noted as one of two “Medium Priority Projects” (Bank of America Site) as a Catalyst Mixed Use Redevelopment Site. Within the section describing Cocoa Village: “Significant redevelopment opportunities exist at several sites in the Village, including Bank of America, the former City Hall and Sun Trust Bank sites.” The proposed change also conforms with the following from the 2022 CRA Plan Update:
 - Goal III -Objective 1
 - Goal IV -Objective 2
 - Goal V -Objectives 3, 4, and 5
 - Goal VI -Objective 5
 - Goal VIII -Objective 1, 2, 3, and 4
 - Goal XIII -Objectives 1 and 3
- The need and justification for the change.
 - The proposed amendment is not contrary to the goals and objectives of the Waterfront Master Plan, Cocoa CRA Redevelopment Plan, or the Comprehensive Plan MU FLU policies. The proposed change allows for zoning bulk requirements that are more in line with the existing density
 - policies which allow for up to 125 du/acre
- *The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.*
- Since zoning district will not change, there will be no conflict with *the comprehensive plan. This amendment is consistent with the following policies:*
- *The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.*
- Future Land Use Element
 - Policy 1.1.2.6, Mixed-Use

- Objective 1.2.1, Smart Growth Principals
 - Policy 1.2.1.6
 - Figure FLU-1
- *The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.*
- Housing Element
 - Goal 3.1
 - Objective 3.1.1, Housing Supply
 - Policy 3.1.1.1
 - Policy 3.1.1.2
 - Policy 3.1.1.6
 - Goal 3.7
 - Objective 3.7.1, Infill Development
- Staff have determined that the request for the Land Development Code Amendment complies with all relevant sections of the City of Cocoa Code of Ordinances and Comprehensive Plan.
- Staff recommends APPROVAL of the requested Land Development Code Amendment to Appendix A, Article XI, Section 22 of the Zoning Ordinance of the City of Cocoa to allow Large Scale Commercial/Mixed-Use Buildings on certain properties within the Cocoa Waterfront Overlay District, as described in the staff report.

Vice Chairperson Dobrin brought up discussion regarding the tax implications to the City and mentioned the Cocoa CRA Plan. City Manager Whitten replied in regards to the building tax, new businesses would create an increase.

Board Member Chabot asked about the length of time the building has been vacant. Chairperson Simpson shared it has been a long time.

Board Member Greenwood summarized for the Board the history of the project, and commented on the graphic in the presentation showing the differing building heights already in the Village, stating it was a great visual especially for anyone concerned over the height. He added the builder for the project is also building near SR524.

Vice Chairperson Dobrin asked if there were any developers that have shown any interest in this. Mr. Noto replied yes. City Manager Whitten also added more information stating the Bank of America building was purchased a couple months ago, and staff anticipates a developer will be submitting a site plan and development agreement soon.

Chairperson Simpson opened the hearing to the public. There being no questions or comments, the public portion of the hearing was closed.

- * **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER PARK TO RECOMMEND APPROVAL** regarding the proposed Land Development Code Amendment to Appendix A, Article XI, Section 22 of the Zoning Ordinance of the City of Cocoa to allow Large Scale Commercial/Mixed-Use Buildings on certain properties within the Cocoa Waterfront Overlay District.

AYES: SIMPSON, DOBRIN, ANDERSON, PARK, CHABOT, GREENWOOD, WHEELER

MOTION PASSED UNANIMOUSLY (7-0)

PZ 23-02000008 Zoning Text Amendment | Ordinance No. 20-2023

- B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ZONING, ARTICLE XIII, SECTION 22, OF THE ZONING ORDINANCE OF THE CITY OF COCOA; AMENDING THE LANDSCAPING, LAND CLEARING, AND TREE PROTECTION AND REPLACEMENT STANDARDS OF THE CITY OF COCOA; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.**

Ms. Hopper introduced the item through a presentation².

The City desires to create an ordinance that may be applied without the need for discussion and negotiation of development agreements related to arbor mitigation contribution fees. The City also desires to incentivize mature tree preservation and discourage “clear-cutting” in the hopes that developers will design around trees as much as possible.

This Ordinance furthers on and off-site tree preservation, enhanced tree preservation and replacement standards, specifies new arbor mitigation fees and increases fines for non-compliance. The summary of changes to the Tree Preservation include:

- Minimum tree planting requirements
- Preservation credits for trees being preserved
- Tree Replacement Standards
- Revised Arbor Mitigation policy
- Enhanced penalty section for land clearing or removal of trees without a permit

Minimum tree planting requirements include:

- New minimum tree planting requirements have been created that deal with both the minimum number and size of trees for new construction.
- The minimum tree planting requirements cannot be satisfied by contributing to the arbor mitigation fund.

² Exhibit B: Zoning Text Amendment – Ordinance 20-2023 Presentation

Preservation credits for trees being preserved:

- Provides one tree credit for every 12" of trees preserved on-site. The tree preservation credits offered are increased for specimen trees (over 24") up to a maximum of 12 credits in order to encourage the retention of specimen trees and for developers to design around them.
- Additional credits for trees on land placed in perpetual public conservation with the City or conveyed to the City. Three additional tree credits will be provided for each tree, as defined within this ordinance, within areas above one-half acre.

Tree Replacement Standards:

- Proposes a system in which a certain number of trees must be replaced for each tree removed, depending upon size of the tree removed, as opposed to current inch-per-inch system. In this system, the number of overall trees, and consequently the tree canopy, is intended to be preserved even if the number of inches is not immediately replaced. The definition of a "tree" is amended from 4" to 6". Trees less than 6" do not need to be replaced.

Revised Arbor Mitigation policy:

- When the number of trees able to be planted in a development is smaller than the number of trees required for replacement, a contribution to the Arbor Mitigation Fund may be available. Removes requirement for 3 quotes. Fees will be determined per inch or by one reasonable, professional quote for trees not replaced.

Enhanced penalty section for land clearing or removal of trees without a permit:

- As a reminder, tree removal permits are not required for single-family and duplex lots that are actively used for single-family residential purposes. This proposed change will not affect single-family and duplex lot owners.
- The Ordinance clarifies that the code enforcement board may impose daily fines for failure to obtain a tree removal permit.
- To come into compliance, a property owner will have to obtain an after-the-fact tree removal permit. This will require a tree survey (which may need to be created based on historical data) and compliance with tree replacement and mitigation fees as would ordinarily apply.
- Moreover, additional aggravated fines are imposed per tree removed up to \$5,000 per tree as permitted by Florida law.
- Additional fines are clarified for land clearing by the ¼ acre and lastly for failure to abide by a cease and desist order.

In summary, this Ordinance furthers on and off-site tree preservation, enhanced tree preservation and replacement standards, specifies new arbor mitigation fees and increases fines to ensure compliance.

Board Member Wheeler asked about the arborists and how staff came up with the tree credits system. He asked if another municipality was used as comparison for the standards

that are being used. In response, Ms. Hopper explained that they did reach out to 3 or 4 municipalities in the area. The City has its own Arborist, Frank Mirabito, who advised on the matter.

Board Member Wheeler asked who were the municipalities. Board Attorney Kristin Eick, shared that it varied by topic. With regard to Arbor mitigation fees, staff searched through Municode to compare with other cities. The dollar amounts were arrived at by looking at Jax as well as others. Attorney Eick said she could provide the names, if the Board would like. She continued explaining some of her findings adding, the previous version did not offer credits for preserving trees except for very large trees. The vast majority of developers wouldn't receive any credits so that was one of the objectives for the new ordinance.

Board Member Greenwood stated that he likes the newer version. He added that he had a couple of comments, one about who would oversee adherence to the guidelines, would Code Enforcement be the best choice, as stated in the presentation, or would the Building Official be an option and asked for the Board's input. He likes the increase in the tree diameter and also asked the Board to consider mentioning the difference in Oak types.

Chairperson Simpson replied, stating the appropriate department to oversee would be Code Enforcement as that is what they do. He felt changing it would complicate the matter.

Board Member Anderson clarified that there is a difference between the Code Board and Code Enforcement. Chairperson Simpson agreed and added additional clarification reminding the Board that they would be hearing these situations.

Board Member Anderson asked for some clarification with regard to specimen trees. Attorney Eick replied, explaining that the changes include additional credits for specimen trees in order to encourage their retention and for developers to design around them.

Board Member Park stated in Subsection E.2.b.1 he didn't see where "unacceptable risk" was defined. Attorney Eick replied that it was not, but explained the meaning from Florida Statute for the Board.

Board Member Park also asked about Subsection E, 3A that references E4C but could not find it. Attorney Eick replied that it was not included in this ordinance because it was not changed from the previous version.

Chairperson Simpson opened the hearing to the public. There being no questions or comments, the public portion of the hearing was closed.

*

MOTION BY BOARD MEMBER ANDERSON; SECONDED BY BOARD MEMBER PARK TO RECOMMEND approval of Ordinance 20-2023 as presented. is requesting that the Tree Board/P&Z consider an amendment of the Land Development Code Appendix A, Zoning, Article XIII, Section 22 of the Zoning

Ordinance of the City of Cocoa to amend its tree preservation and replacement requirements, to amend the requirements for contribution to the City's Arbor Mitigation Fund in certain circumstances where tree replacement is not feasible, and to amend other tree-related objectives, in order to more equitably balance the interests of tree preservation and encouraging beneficial development within the City while maintaining the City of Cocoa's "Tree City USA" designation.

AYES: SIMPSON, DOBRIN, ANDERSON, PARK, CHABOT, GREENWOOD, WHEELER

MOTION PASSED UNANIMOUSLY (7-0)

V. TREE BOARD

904 Fern Ave., Cocoa, FL 32922

A Level 2 assessment of a Southern Live Oak at 904 Fern Ave. was completed. The tree is uplifting the driveway as well as encompassing the water meter. Recommend the tree be removed to reduce the future damage and risk to the driveway and water meter.

Ms. Hopper presented, stating the tree is in the City's right-of-way. She shared pictures for explanation of the location.

The tree is a large (22-inch **DBH**) Southern Live Oak (*Quercus virginiana*) that is about 50 feet tall with an approximate 30-foot spread. The Southern Live Oak has been trimmed consistently throughout its life almost to a detrimental effect. One concern is the extra force on the lever arm of the tree causing a bending moment in the trunk/base. The tree is located in the right of way just on the owners' side of the side walk approximately 25 ft from the center of the road. It is the most prominent tree in the area, meaning that it is fully exposed to the wind.

The tree is about 25 years old and currently in good health based on a scale of poor, fair, good, and excellent.

Defects and conditions of concern. The tree looks to be in good health and there are no major defects. A major concern would be the overall LCR (Live Crown Ratio) potentially causing stress to the lower half of the tree.

Arborist Report

The primary concern here is the driveway uplifting causing property damage and a potential hazard. Secondly, the encompassing roots around the water meter and lines causing a leak and potentially a financial burden. Additionally, the extra stress of the uplifted canopy putting an increased amount of leverage on the trunk/base of the tree.

Risk of Failure.

1. The likelihood of failure is POSSIBLE
2. The likelihood of causing damage to the water meter is POSSIBLE
3. The likelihood of causing damage to the driveway is imminent
4. The consequences from damage of the roots is significant, damage to the driveway and water meter are imminent.

Mitigation and Recommendation

RISK MITIGATION OPTIONS

There are a few options that can be considered for mitigation to lower the risk from this tree.

1. Remove the tree and eliminate the potential risk of the driveway hazard, as well as encircling the water meter and causing damage.
2. Do nothing and continue to wait until the water meter needs to be replaced from damage, and the driveway continues to lift causing a hazard.

REINSPECTION

If option 2 is selected, then this tree should be re-inspected in 2 years unless additional health or safety concerns come up that would warrant more frequent attention. Tree inspection services should be performed by an ISA Tree Risk Assessment Qualified (TRAQ) arborist skilled in the science of tree risk assessment.

If approved, the proposed tree removal will prevent continued driveway lifting and associated risk as well as prevent root encroachment into the water meter.

LOCATION AND SPECIES OF REPLACEMENT

The City Arborist recommends that the tree be replaced with a live oak at the Bracco Pond Park.

RECOMMENDED MOTION:

Staff recommends that the tree at 904 Fern Ave., Cocoa, FL be removed.

Board Member Anderson asked who the request was from, property owner or City. Ms. Hopper replied it was at the request of the property owners.

Board Member Greenwood stated typically, he likely would say no and question if there was another way, i.e. remove roots near meter and sidewalks. He added that this one was a tough one and could be more in favor with the tree replacement standards that are in place.

Board Member Anderson stated he would typically would vote no, however, this one, when trimmed so high, could become unstable. It is supposed to have a canopy. He is also concerned it could be a liability to the home or to the City if it belongs to the City. He added that he would be in favor of removing this tree.

Board Member Chabot stated a similar problem and expressed sympathy to the homeowner.

- * **MOTION BY BOARD MEMBER PARK; SECONDED BY BOARD MEMBER WHEELER TO RECOMMEND the tree be removed to reduce the future damage and risk to the driveway and water meter.**

AYES: SIMPSON, DOBRIN, ANDERSON, PARK, CHABOT, GREENWOOD, WHEELER

MOTION PASSED UNANIMOUSLY (7-0)

VI. OTHER BUSINESS:

- 1. Planning and Zoning Board Open Discussion - None**

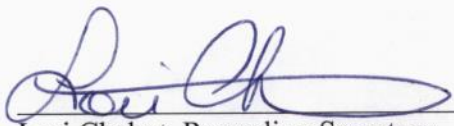
VII. NEXT MEETING DATE:

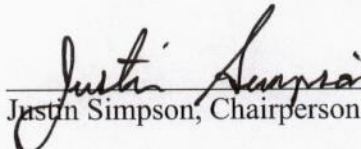
The next scheduled meeting for the Planning and Zoning Board will be held on Wednesday, November 1, 2023 at 6pm in Cocoa City Hall, 65 Stone St, Cocoa, FL 32922.

VIII. ADJOURNMENT:

MEETING WAS ADJOURNED AT 7:15 PM.

Respectfully Submitted By:


Lori Chabot, Recording Secretary


Justin Simpson, Chairperson



Legislation Details (With Text)

File #: 23-740 **Version:** 1 **Name:**
Type: Minutes **Status:** Agenda Ready
File created: 11/15/2023 **In control:** Planning and Zoning / Local Planning Agency
On agenda: 12/6/2023 **Final action:**
Title: Request Board Members approve the Minutes from the November 1, 2023, Planning & Zoning Meeting, either as written or with amendments.

Sponsors:

Indexes:

Code sections:

Attachments: [11-1-2023 Final.docx](#)

Date	Ver.	Action By	Action	Result
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PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: November 15, 2023
Agenda Date: December 6, 2023
Prepared By: Lori Chabot, Recording Secretary
Through: Stacy Hopper, Planner; Stockton Whitten, City Manager
Requested Action:
Request Board Members approve the Minutes from the November 1, 2023, Planning & Zoning Meeting, either as written or with amendments.

BACKGROUND:

Board Members approve the minutes at the beginning of the meeting.

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Request Board Members approve the Minutes from the November 1, 2023, Planning & Zoning Meeting, either as written or with amendments.

**MINUTES
CITY OF COCOA
PLANNING & ZONING BOARD/ LOCAL PLANNING AGENCY
REGULAR MEETING
November 1, 2023**

A Regular meeting of the Planning & Zoning Board Local Planning Agency was held on November 1, 2023 at City Hall, 65 Stone Street, Cocoa, FL, as publicly noted.

I. CALL TO ORDER:

Chairperson Simpson called the meeting to order at 6:01 PM.

ROLL CALL:

Justin Simpson	Chairperson
Michael Dobrin	Vice Chairperson
Todd Anderson	Board Member
Ron Chabot	Board Member
Aleck Greenwood	Board Member
Veronica Lopez	Board Member
Wesley Park	Board Member
Marcus Wheeler	Board Member
Merrybeth Burgess	Alternate Member
Katherine Stewart	Alternate Member

PRESENT:

Justin Simpson	Chairperson
Michael Dobrin	Vice Chairperson
Ron Chabot	Board Member
Aleck Greenwood	Board Member
Veronica Lopez	Board Member
Wesley Park	Board Member
Marcus Wheeler	Board Member
Katherine Stewart	Alternate Member

ABSENT:

Todd Anderson	Board Member
Merrybeth Burgess	Alternate Member

STAFF PRESENT:

Michael Blake, Mayor; Stockton Whitten, City Manager; Kristin Eick, Board Attorney; Stacey Hopper, City Planner; and Lori Chabot, Recording Secretary.

Additionally, Stephen Noto, AICP, Director of Planning for RVi Planning + Landscape Architecture was also in attendance.

Chairperson Simpson led the assembly in the Pledge of Allegiance.

II. APPROVAL OF AGENDA AND MINUTES:

1. AGENDA: Meeting of November 1, 2023

* **MOTION BY BOARD MEMBER CHABOT; SECONDED BY BOARD MEMBER WHEELER TO APPROVE THE NOVEMBER 1, 2023 REGULAR MEETING AGENDA AS WRITTEN.**

AYES: SIMPSON, DOBRIN, CHABOT, GREENWOOD, LOPEZ, PARK, WHEELER, STEWART

8

MOTION PASSED UNANIMOUSLY (8-0)

2. MINUTES: None

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

PZ 23-0200007 Zoning Text Amendment | Ordinance 21-2023

A. Consideration of a Large-Scale Site Plan for the construction of Allegra at Cocoa, a 13-building, 312-unit multi-family residential project located on +/-53.18 acres of property at the northwest corner of Cox Rd., and US Hwy 524.

Stephen Noto introduced the item through a presentation¹.

- The +/-53.18-acre Subject Property is located at the NW corner of Cox Rd. and U.S. HWY 524.
- The Subject Property is currently vacant and has Brevard County Parcel ID Numbers 24-35-23-00-11 and 24-35-23-00-775.
- The zoning of the Subject Property is RU-1-7, Single-Family Residential, and C-G, General Commercial.

¹ Exhibit A: 11/01/2023 P&Z Presentation

Planning & Zoning Board
Regular Meeting
November 1, 2023

- The Future Land Use designation of the subject property is MDR, Medium Density Residential, and COM, Commercial.
- The applicant requests to construct a 13-building, 312-unit multi-family residential project
- The project will consist of a mixture of one-and two bed room unit types, clubhouse & pool, fitness center, dog park, open space, and associated infrastructure.
- On January 10, 2023, the City Council approved Resolution 2023-008, acknowledging receipt of an application filed with the City for an Affordable Housing Land Use for a project located on the Subject Property. The Resolution also allowed for the development of an Affordable Housing Land Use project to occur on property zoned Commercial and Single-Family Residential.
- Section 166.04151, Florida Statutes, allows the governing body of a municipality to approve housing that is affordable, as defined in Florida Statute 420.0004, on any parcel that is zoned for commercial use, so long as at least 10 percent of the units included in the project are for housing that is affordable. The Statutes define “affordable” to mean that monthly rents or monthly mortgage payments, including taxes, insurance, and utilities do not exceed 30 percent of the amount which represents the percentage of the median adjusted gross annual income for households of “extremely-low-income-persons”, “low-income persons”, “moderate income persons”, or “very-low-income persons” as defined in the statute.
- The Resolution was approved with the condition that the project does not exceed 312 multi-family units, and that the project meet the requirements of the RU-2-15 zoning district, and the “affordable” housing standards set forth in Section 166.04151, Florida Statutes.
- On July 25, 2023, the City Council approved a Pre-Development Agreement and Restrictive Covenant that the Developer sought for certain waivers from the City Code for the project. The Developer sought a waiver of the Tree Mitigation Contribution requirements of the City Code and a waiver to the minimum unit size requirement of the City Code, from 800 square feet per one-bedroom unit to 660 square feet per one-bedroom unit, for a maximum of 80 units.
- The waiver was approved with the following requirements: Convey to the City the entirety of Tax Parcel Number 24-35-23-00-775 and the portion of Tax Parcel Number 24-35-23-00-11 as depicted on “Exhibit B” to the Agreement, which is approximately 11.5 acres.
- Maintain the Project as an affordable housing project for a period of thirty (30) years, which means that, at minimum, ten percent (10%) of the occupied units in the Project will be affordable housing as provided and defined in Florida law. The Developer will be required

to submit copies of tenant income verification and applicable leases to the City of Cocoa yearly to ensure compliance with this requirement.

- Reserve a minimum of three (3) one-or two-bedroom apartment units for City law enforcement officers or first responders to be rented at a 25% discounted rate, to be made available on a first come, first serve basis, at the time of initial leasing until there are no other apartments available in the Development. In addition, the Developer shall provide a lease preference above other tenant applicants to City law enforcement officers and firefighters, along with EMS/Paramedics and Brevard County schoolteachers teaching within the City limits, on a first come, first serve basis so long as it does not violate Federal Housing statutes.
- A tree mitigation waiver was also approved and will be detailed upon discussion of proposing landscaping for the project.
- The site is 53.88 acres overall with 13 acres of developed project area. The lot coverage is 20.66% (maximum 40%) and the total impervious ratio is 16.79% (maximum 65%). The project density is 6 units per acre (maximum 15).
- The project is required to provide 526 standard parking spaces and 12 handicapped parking spaces. The site plan provides 562 standard parking spaces, 39 of which are provided for in detached garages, and 13 handicapped parking spaces.
- There are two different type of apartment buildings, however each will be 3-stories tall, at a height of 30'-3-1/2". The individual garage buildings will be 14' tall, and the clubhouse will be 17' tall. Building setbacks are provided as established
- The northern property boundary will have a 20' landscape buffer, with bald cypress trees planted every 50 feet, for a total of 23 trees.
- The buffer adjacent to SR 524 exceeds 600' in length, and will provide 14 Southern Magnolias, a hedge row, and groundcover.
- The Pre-Development Agreement allowed for a specific tree removal and mitigation plan. As a result, 350 replacement trees (993 inches) will be provided; 506 being 'large' and 379 being 'medium or small', and 108 inches of palm trees.
- The applicant as provided 407 trees in total (classified as large, medium & small, and palm trees) as shown on Sheet LD-01. A total of 1,473 inches are being planted. Both the total number of trees and inches exceed the minimum required by the Agreement.
- Additional mitigation was waived if the following parameters were met:

- (i) the Developer conveys the Conveyance Parcel, as defined in Section 5.0, below, to the City;
 - (ii) the Developer maintains the Project as an affordable housing development as provided in Section 7.0 below for the requisite period of thirty (30) years;
 - (iii) the Planning and Zoning Board approves the Site Plan within eighteen (18) months of the Effective Date of this Agreement; and
 - (iv) the Developer obtains building permits for the Project and substantially commences vertical construction of the Project, which shall at minimum include building foundations, within two (2) years of the Effective Date of this Agreement.
- If the Developer fails to obtain Site Plan approval from the City or fails to obtain building permits and substantially commence vertical construction of the Project within the aforesaid eighteen (18) months or two (2) years, respectively, or fails to satisfy any of the conditions of this Section, the City shall have the right to declare the Developer in default pursuant to Section 25.0 of this Agreement. If the Developer does not cure the default within the cure period, the City shall have the right, but no obligation to, terminate this Agreement without penalty and/or immediately take any and all actions necessary to collect the entire Tree Mitigation Contribution to the extent the trees have been removed not to exceed \$945,000.00.
 - The applicant is conveying +/-11.5 acres of property as noted on Sheet C-201 of the site plan.
 - A total of 9.98 acres of useable open space and recreation area are being provided which meets the code minimum.
 - Water will be provided via an existing 36" concrete pipe that exists in the SR 524 ROW. A 3" master meter will be installed adjacent to the south eastern property line, parallel to SR 524.
 - A private lift station is proposed adjacent to Building #1 on the northeast portion of the site.
 - An Environmental Impact report was prepared for the project. A variety of wetland habitats were observed; however, no protected species were found on site. As such, the project meets the Objectives and Policies in the Comprehensive Plan related to the protection of wildlife.

- Comprehensive Plan Policy 6.1.3.6 states, “Except as provided in Future Land Use Element Policy 1.1.2.7(H), flood control for new development will be accomplished through the limitation of fill in the 100-year flood plain when economically feasible. In cases where there is no practical alternative to fill in the 100-year flood plain, compensatory storage shall be provided through excavation of a volume equivalent to the loss of storage within the 100-year flood plain resulting from the placement of fill in adjacent upland areas (above the 100-year flood plain) where such compensatory storage can be accomplished in an environmentally sound and economically feasible manner.” A total of 9.98 acres of useable open space and recreation area are being provided, which meets the code minimum.
- The project site is the head water for the flood plain it partially resides within. The project storm water ponds have been modeled to attenuate the 100-year storms in addition to those required by the City and SJRWMD. Therefore, compensatory storage and potential impact on the flood plain is offset by the reduction in discharge and detention volume on site.
- All Levels of Service requirements for Wastewater, Stormwater, Potable Water, Solid Waste, Roadways, Recreation, and Schools are being met.
- The request is consistent with the following Comprehensive Plan Policies: Future Land Use Element 1.1.2.4, Medium Density Residential Housing Element 3.1.2.5; 3.1.6.1; 3.2.4.10; 3.3.1.4.
- Staff recommends APPROVAL of the Large-Scale Site Plan for Allegra at Cocoa with the following conditions:
 - 1) Per the School Impact Analysis Capacity Determination, CD-2023-38, a *Concurrency Determination* must be performed by the School District prior to a Final Development Order and the issuance of a Concurrency Evaluation Funding of Non-deficiency by the Local Government.
 - 2) Prior to receiving any certificate of occupancy, the Developer shall meet its obligations to the City as outlined in the Pre-Development Agreement and Restrictive Covenant.
 - 3) Site Plan approval shall be conditioned upon the sale of the subject property to Allegra at Cocoa, LLC, being completed and closing occurring within one year of the Effective Date of the Pre-Development Agreement and Restrictive Covenant, dated September 14, 2023, or as otherwise be extended by the City Council.
 - 4) Prior to the issuance of building permits, the Developer shall provide as satisfactory conservation easement that permits the Minimum Activities identified in the Pre-Development Agreement and Restrictive Covenant to take place on the portion of the property to be conveyed to the City.

Mr. Noto stated the developer was present and available for questions. Chair Simpson asked developer if he had anything to add. David Bassford, MBV Engineering/Allegra of Melbourne approached the podium and offered to answer questions.

Board Member Wheeler asked Staff about an attachment to the Agenda regarding Landscaping as the writing was small and he was unable to read it. City Planner Hopper and Mr. Noto provided the information to Board Member Wheeler.

The Recording Secretary swore in the speaker(s).

Board Member Greenwood stated he was very much in support of project. He continued regarding the trees, and asked for clarification as to what the developer meant by Large trees. He also asked if he could add as many live oaks as possible. Mr. Bassford said that is the premise behind the parcel and for conservation and open space areas. He continued, with a development of this size, it is difficult to keep trees. Mr. Noto added the documents state 94 live oaks fall under large tree category, 605 inches, and other trees. Board Member Wheeler thanked staff. Discussion continued regarding types of trees and inches.

Board Member Greenwood asked about construction and the developer replied it would be wood construction. Board Member Greenwood also asked how many one beds, he replied up to 80. Discussion continued about costs per square foot, market costs. Board Member Wheeler asked for clarification regarding to 340 units, up to 80 that will be subsidized costs, 1.70 to 1.90 per square foot and with that, why are unit sizes being reduced. He replied the greater square foot, higher rent. Makes overall rent a little more affordable.

- * **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER CHABOT TO RECOMMEND APPROVAL of a Large-Scale Site Plan for the construction of Allegra at Cocoa, a 13-building, 312 unit multi-family residential project located on +-53.18 acres of property at the northwest corner of Cox Rd. and US Hwy 524.**

AYES: SIMPSON, DOBRIN, PARK, CHABOT, GREENWOOD, PARK, WHEELER

NAY: STEWART

MOTION PASSED (7-1)

- V. **TREE BOARD:** Attorney Eick notified the Board that Council adopted the ordinance at their last meeting.

- VI. **OTHER BUSINESS:**

Planning and Zoning Board Open Discussion –

Board Member Dobrin let fellow members know that November was his last meeting and thanked all for their support.

Attorney Eick let Board Members know at the next meeting a new Vice Chair will be elected. She also reported an ordinance would be brought to the Board regarding a recommendation to repeal and change the current specified meeting date of the Second Wednesday to the First Wednesday of each month.

VII. NEXT MEETING DATE:

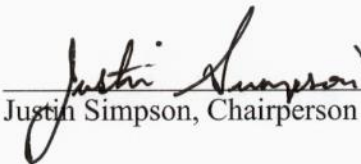
The next scheduled meeting for the Planning and Zoning Board will be held on Wednesday, December 6, 2023 at 6 pm in Cocoa City Hall, 65 Stone St, Cocoa, FL 32922.

VIII. ADJOURNMENT:

MEETING WAS ADJOURNED 6:50 PM.

Respectfully Submitted By:


Lori Chabot, Recording Secretary


Justin Simpson, Chairperson



Legislation Details (With Text)

File #: 23-739 **Version:** 1 **Name:**
Type: Agenda **Status:** Agenda Ready
File created: 11/15/2023 **In control:** Planning and Zoning / Local Planning Agency
On agenda: 12/6/2023 **Final action:**
Title: Annual Election of Chairperson and Vice Chairperson for the Planning & Zoning Board.
Sponsors:
Indexes:
Code sections:
Attachments: [Planning Roster.pdf](#)

Date	Ver.	Action By	Action	Result
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PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: November 15, 2023
Agenda Date: December 6, 2023
Prepared By: Lori Chabot, Recording Secretary
Through: Stacey Hopper, Planner; Stockton Whitten, City Manager
Requested Action:
Annual Election of Chairperson and Vice Chairperson for the Planning & Zoning Board.

BACKGROUND:

Board member nominate and elect a Chairperson and Vice Chairperson annually.

BUDGETARY IMPACT:

None

PREVIOUS ACTION:

None

RECOMMENDED MOTION:

Annual Election of Chairperson and Vice Chairperson for the Planning & Zoning Board.

Planning & Zoning Board		Meets First Wednesday Every Month @ 6pm		Expirations in November	
MEMBER	ADDRESS	PHONE	APPOINTED	EXPIRES	
Chris Bankhead (2/3 non-resident) Fulfilling Susan Moek's term VACANCY	842 Egret Rd., Cocoa, FL 32926 (Owns property at 102 Riverside Dr., Cocoa, FL 32922) pdbankhead@gmail.com	321-704-3141	01/23 Appointed	2023	
Wesley Park Fulfilling Al Washington's term	1112 Abington St., Cocoa, FL 32922 Wesley.n.park@gmail.com	321-298-4943	01/23 Appointed	2023	
Veronica Lopez-Velez (Replaced Trina Gilliam)	571 Cressa Cir. Cocoa, FL 32926 Ronilope011@gmail.com	407-498-8510 (cell)	12/21 Appointed	2024	
Ron Chabot Fulfilling Marilyn Green's term	2114 Clairemont Dr. Cocoa, FL 32922 Ron982@msn.com	321-403-3861	01/23 Appointed	2024	
Michael Dobrin VACANCY	100 Riverside Drive #406, 32922-7864 MIKE- CONNIE@cleanderpointe.com	637-0884	11/20 Reappointed 11/17 Reappointed 10/14 Reappointed 10/11 Reappointed 11/08 Reappointed 4/06 Appointed to fill unexpired term	2023	
Aleck Greenwood	PO Box 1077 Cocoa, FL 32923 Agreenwood2@cfl.rr.com	321-917-3770	12/22 Reappointed 08/2022 Appointed as Regular member (fulfilling term of J. Blanco) 01/2019 Appointed	2025	
Marcus Wheeler	709 Ixora Ave. Cocoa, FL 32922 lushorn@gmail.com	321-271-9871	01/23 Appointed	2026	
Justin Simpson	2515 Stanford Dr. Cocoa, FL 32926 Justin.darrell.simpson88@gmail.com	907-347-1003	05/2021 Appointed	2024	
Todd Anderson (1/3 non-resident)	6570 Pleasant Ave., Cocoa, FL 32927 toddpanderson@yahoo.com	403-7595 (cell)	01/23 Reappointed 02/2020 Appointed 11/16 Reappointed 1/28/14 appointed (to fill vacancy	2025	

			left by Stephenson)	
MerryBeth Burgess- 1 st Alternate	19 Parkway Street Cocoa, FL 32922 merrybethburgess@rocketmail.com	404-683-0560 home/cell	01/2022 Appointed	No expiration
Katherine Stewart- 2 nd Alternate	5261 Talbot Blvd., Cocoa, FL 32926 Katherineann_s@yahoo.com	267-226-2284	01/23 Appointed	No expiration
Debbie Joyee (Non-Voting Member) VACANCY	3231 Nottingham Ln., Cocoa, FL 32926 Debbie32926@brighthouse.com Debbie3231nl@outlook.com	321-338-2047	03/2020 Appointed	No expiration
LIAISON	Councilman Hearn	474-1189	Updated 1/23	
Counsel: Anthony Garganese/Kristin Eick	PO Box 2873, Orlando, FL 32802- 2873	866-425-9566 407-472-0178 (Kristin Eick)		
RECORDING SECRETARY	Lori Chabot	433-8491		



Legislation Details (With Text)

File #: 23-754 **Version:** 1 **Name:**
Type: Ordinance **Status:** Agenda Ready
File created: 11/27/2023 **In control:** Planning and Zoning / Local Planning Agency
On agenda: 12/6/2023 **Final action:**
Title: Approval of a PUD / Rezoning (Ordinance 22-2023) for one (1) parcel from Brevard County General Use (GU) to City of Cocoa Planned Unit Development (PUD), a Large-Scale Site Plan, and a Preliminary Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code for Windward Preserve...End

Sponsors:

Indexes:

Code sections:

Attachments: [Ordinance No 22-2023 Rezoning Windward Preserve GU to PUD.pdf](#)
[Appendix A - Prelim Plat Submittal 3 v2.pdf](#)
[Appendix B - PUD Submittal 3 v2.pdf](#)
[Windward Preserve Location.pdf](#)
[Windward Preserve FLU.pdf](#)
[Windward Preserve Zoning.pdf](#)
[Full Engineering Plans.pdf](#)
[Landscape Plans.pdf](#)
[Windward Preserve - Draft Plat.pdf](#)
[Full Survey.pdf](#)
[Revised Potable Water Report 3.pdf](#)
[Windward Preserve School Concurrency Letter-SCADL-2023-25-Cocoa.pdf](#)
[2023-11-20 Windward Preserve Trail and Park exhibit.pdf](#)
[Amenity Plan Set.pdf](#)
[23-00300001 Traffic Study Windward Preserve \(2023.04.03\) S&S.pdf](#)
[5799.16 - Silvestri Property - Traffic Calming Study - Response to City Comments \(2023.11.16\).pdf](#)
[Development Timeline.pdf](#)
[Stormwater Report 6-REVISED.pdf](#)
[Wetland SJRWMD - RAI Response Windward Preserve 5.17.23.pdf](#)
[Assessment Report Windward Preserve Environmental .pdf](#)
[Cocoa Barrera Shores LLC DA - November 7, 2006.pdf](#)
[Cocoa Hagen-Nicholson Properties DA - March 8, 2005.pdf](#)
[Exhibit B-Beachline Prelim Site Plan 09-28-2021.pdf](#)
[Recorded Beachline Partners Settlement Implementation Agreement.pdf](#)
[Stipulated Settlement Agreement 12-11-07 RECORDED.pdf](#)
[Legal Affidavit Windward Preserve.pdf](#)

Date	Ver.	Action By	Action	Result
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PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA

ITEM

Memo Date: November 29, 2023
Agenda Date: December 6, 2023
Prepared By: Eric Raasch, AICP - Inspire Placemaking Collective, Inc.; Contract Planner to the City of Cocoa
Through: Stockton Whitten - City Manager
Requested Action:
Approval of a PUD / Rezoning (Ordinance 22-2023) for one (1) parcel from Brevard County General Use (GU) to City of Cocoa Planned Unit Development (PUD), a Large-Scale Site Plan, and a Preliminary Subdivision consistent with Chapter 18 Subdivisions and Appendix A Zoning of the City Code for Windward Preserve.

BACKGROUND:

Project Information:

The proposed Windward Preserve PUD is located south of State Road 528 (Beachline) and east of Interstate 95. Windward Preserve includes one parcel of land identified by the Brevard County Property Appraiser as parcel identification number 24-35-10-00-502. The proposed project will be accessed through two access points off of James Road.

History:

This project dates back to 2004, at which time the City approved Ordinance 31-2004 to annex the subject property into the City of Cocoa. Later in 2004, Brevard County filed a Petition for Writ of Certiorari to challenge the annexation. In 2005, the City entered into the City of Cocoa / Hagen-Nicolson Properties, LLC Preceding Development Agreement, which contemplated the exchange of development rights and City services in exchange for the annexation. This agreement was amended in 2006 to replace Hagen-Nicolson Properties, LLC with a new development entity, Barrera Shores, LLC. In 2008, Brevard County and City of Cocoa entered into a Stipulated Settlement Agreement to resolve the outstanding litigation associated with the annexation. This agreement included certain provisions related to density, buffering, access, and traffic calming for the project. In 2022, the City and Beachline Partners, LLC entered into a Settlement Implementation Agreement to further outline the responsibilities of the City and the developer as it relates to the development of the property.

Project Details:

The proposed Windward Preserve PUD contains 212.20 gross acres, of which 177.18 are proposed for development. The remaining 34.92 acres will be placed into a conservation easement as shown in the Preliminary Plat. This project is proposed to include 385 detached single-family dwelling units, which will be completed in two phases. The first phase will consist of 185 detached single-family dwelling units, the primary amenity center, and both entrances off James Road. The second phase will include 200 detached single-family dwelling units and the park area. The project will include a multi-use trail throughout the community. The project is consistent with the prior agreements between the current and previous owners and the City.

Future Land Use Designation: Very Low Density Residential / Conservation

Zoning District: Brevard County General Use (GU)

Existing Land Use: Vacant Land

Council District: District 3 - Councilmember Matthew Barringer

Legal Ad Date: November 21, 2023

Overview of Surrounding Area:

	Future Land Use Des	Zoning Districts	Land Uses
North	Very Low Density Res Conservation (City)	General Use (Brevard County)	Retention Ponds / Brightline Railroad Tracks
South	RES 1 (Brevard Count	RR-1 Rural Residential (Brevard County)	Single-Family Residential
East	RES 1 (Brevard Count	RR-1 Rural Residential (Brevard County)	Single-Family Residential / Vacant Land
West	RES 1:2.5 (Brevard Co	AU Agricultural Residential and GU General Use (Brevard County)	Interstate 95 / Vacant Land / Single-Family Residential (West of I -95)

**Preliminary Subdivision / Large Scale Site Plan Analysis
Consistency with Code of the City of Cocoa**

The submitted application and plans have been reviewed by City staff for consistency with Chapter 18 - Subdivisions and Appendix A - Zoning of the City of Cocoa Code, and the development agreements that were previously approved by the City of Cocoa. Staff has found the applications to be in substantial compliance, with the exception of the items found in Appendix A within this report.

PUD Analysis:

The decision of the Planning and Zoning Board of the City of Cocoa on the preliminary / final development plan application shall include the findings of fact that serve as a basis for its recommendation. In making its recommendation, the Planning and Zoning Board of the City of Cocoa shall consider the following facts:

1. Degree of departure of proposed planned unit development from surrounding areas in terms of character and density.

Staff Finding:

The proposed Windward Preserve PUD is bordered by I-95 to the west and stormwater ponds

associated with the Brightline rail system to the north. The site is bordered to the south and the east by larger-lot single-family development and undeveloped land that has a maximum density of one (1) dwelling unit per acre within unincorporated Brevard County. The subject property has a Future Land Use Map (FLUM) designation of Very Low Density Residential, which allows for consideration of densities of up to four (4) dwelling units per acre. The proposed gross density for the project is 1.82 dwelling units per acre and the proposed net density is 2.1 dwelling units per acre, consistent with the underlying FLUM designation. While the proposal is slightly more dense than the surrounding communities to the south and the east, the applicant is proposing compatibility measures to provide a transition from this project and the adjacent communities. First, wetlands have been preserved adjacent to the eastern property line and there is no proposed access from the east of the site on Friday Road. Second, the applicant has located stormwater ponds, open space tracts, and preserved wetlands adjacent to the southern property line as a transition to the community to the south.

Additionally, the property is subject to the Stipulated Settlement Agreement between Brevard County and the City of Cocoa that was recorded in Brevard County Records on January 9, 2008. That agreement restricts the gross density of the property to 2.3 dwelling units per acre or a maximum of 600 total residential units. The Settlement Implementation Agreement, recorded in Brevard County Records on July 28, 2022, further restricts the density of the subject property down to 418 single-family residential units. The proposed PUD has a gross density of 1.82 dwelling units per acre and 385 dwelling units, well under the maximum allowable under the prior development agreements.

2. Compatibility within the planned unit development and relationship with surrounding neighborhoods.

Staff Finding:

Both the Stipulated Settlement Agreement and the Settlement Implementation Agreement include provisions for compatibility with the surrounding area, specifically the existing residential communities located to the south and east of the property. These provisions include a cap on the number of units, minimum home sizes, the location of open spaces and preservation on the eastern and southern borders of the property, prohibition of access from Friday Road, the installation of traffic calming devices along James Road, the provision of various recreational amenities, and enhanced landscaping at the project's entrance. Additionally, the site is bordered by I-95 to the east and stormwater ponds associated with the Brightline system to the north. The applicant's proposal is in compliance with these compatibility measures, as previously approved by the City of Cocoa in the respective agreements.

3. Prevention of erosion and degrading of surrounding area.

Staff Finding:

The Final Development Plan has been subject to certified analysis from licensed professionals (to include engineered site drawings, as well as relevant environmental conditions, topographical data and development impacts) to ensure that all applicable local, regional, state, and federal laws, with regard to the prevention of land erosion and degradation, are met. Over half (28.4 out of 54.11 acres) of the on-site wetlands will be preserved, and these wetlands and their upland buffers will aid in controlling and minimizing potential environmental impacts to the surrounding areas. Moreover, the project will be required to accommodate stormwater runoff onsite, thereby reducing impacts to the surrounding area.

4. Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation

as shown in the preliminary development plan.

Staff Finding:

A review of the level of service for public facilities is provided below under the Concurrency Management section heading.

5. The nature, intent and compatibility of common space, including the proposed method for the maintenance and conservation of said common space.

Staff Finding:

Windward Preserve will have an amenity center, a park, and a multi-use trail system throughout the entirety of the development. The amenity center area (Tract F) will include a clubhouse, multi-purpose field, pool, and dog park and be part of Phase 1 of the development, which also includes a portion of the multi-use trail. The neighborhood park (Tract G) includes playground equipment, a trail, and a grilling area. The rest of the multi-use pathway and park area will be included with Phase 2 of the project. The amenity center and park areas are both consistent with the Settlement Implementation Agreement, which detail the minimum requirements for those facilities. The homeowner's association or Community Development District, as applicable, will own and maintain the recreational amenities within the project.

6. The feasibility and compatibility of the specified stages contained in the preliminary development plan to exist as an independent development.

Staff Finding:

Windward Preserve is proposed to be constructed in two phases. The first phase will include both access points from James Road, necessary infrastructure improvements, the amenity center, and 185 single-family dwelling units primarily located along the south and western portion of the development. Phase 2 will include the remaining infrastructure, the neighborhood park, and the remaining 200 single-family dwelling units along the north and eastern portions of the property. Each phase will be able to stand alone, with the access being provided in Phase 1.

7. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development.

Staff Finding:

Per the Traffic Impact Study conducted by LTG Engineering & Planning dated April 2023, the project will generate an average of 3,488 daily trips at project build out. As part of LTG's analysis, segments of SR 524, Friday Road, James Road, Cox Road, and Westminster Drive were evaluated for peak-hour, two-way level of service at projected buildout. The analysis found that the segment of SR 524 from Cox Road to Industry Road is expected to exceed the peak hour two-way capacity at build out. However, Ordinance 14-2023 removed concurrency requirements for SR 524, and staff notes that the engineering and design for the widening of SR 524 is programmed in the Florida Department of Transportation (FDOT) tentative work program for fiscal year 2024 / 2025.

As stated further below, James Road is a Brevard County owned and maintained roadway. The road will be improved at the applicant's expense, and the applicant has been coordinating with the County regarding the road design and associated traffic calming measures.

8. The availability and adequacy of water and sewer service to support the proposed planned unit development.

Staff Finding:

As detailed in the Concurrency Management / Adequate Public Facilities section of this report, water, sewer and reclaimed water for the project will be serviced by City of Cocoa. Capacity is currently available to serve this project.

9. The benefits within the proposed development and to the general public to justify the requested departure from standard land use requirements inherent to a Planned Unit Development classification.

Staff Finding:

The PUD zoning classification is a concept that encourages and permits variations in development standards by allowing for the deviation in lot size, bulk or type of dwellings, density, lot coverage, and open space from that typically required under zoning district regulations. The purpose of a PUD is to encourage the development of planned residential neighborhoods that provide a range of uses designed to serve the residents of the community.

The PUD designation provides flexibility from conventional zoning standards to allow for conservation, wetland preservation, and efficient land use management; thus, securing open space for parks and recreational uses. Windward Preserve is proposed to include the preservation of over 34 ± acres of on-site wetlands and wetland buffers, which will be placed into conservation easements.

Further, the proposed development will have a favorable effect on the City's budget, and thus, a favorable effect upon its residents. There is an expected increase in ad valorem tax revenue from the build-out of the PUD, an increase in state and federal intergovernmental transfers based on population (e.g. sales and fuel surcharge taxes), and an increase in water and sewer revenues.

10. The conformity and compatibility of the planned unit development with any adopted development plan of the City of Cocoa.

Staff Finding:

The proposed PUD is consistent and compatible with the goals, objectives, and policies of the City of Cocoa's Comprehensive Plan.

Additionally, the proposed PUD meets the requirements set forth in the Stipulated Settlement Agreement and the Settlement Implementation Agreement, both of which have been approved by the City of Cocoa. The Settlement Implementation Agreement includes an exhibit showing the proposed community layout and the maximum number of dwelling units. The proposed PUD is generally consistent with that layout and represents a reduction of 33 lots from Preliminary Site Plan that was included as Exhibit A of the Settlement Implementation Agreement.

Additionally, the PUD code provides additional requirements for building setbacks, landscape buffers, minimum floor area per dwelling unit, maximum length of structures, off-street parking, lighting, trash enclosures, and preservation of trees/landscape requirements. These have been reviewed and found to be in compliance.

11. The conformity and compatibility of the proposed common space, primary residential and nonresidential uses within the proposed planned unit development.

Staff Finding:

Section 17(F)(3) of Article XI, Appendix A, Zoning, Code of the City of Cocoa, establishes the minimum common recreation and open space regulations for residential PUDs. The code defines common recreation and open space, related to a residential planned unit development, as improved usable area designed and intended for the use or enjoyment of residents of the PUD. Moreover, "such usable space may be in the form of active or passive recreational areas including but not limited to playgrounds...nature trails and lakes." The proposed PUD provides a trail system throughout the development that connects to the amenity center and to the park/ tot lot. This trail system connects to sidewalks and open spaces throughout the community. The common space and residential use within the proposed PUD have been designed to provide contiguous areas of open space throughout the community with the goal of preserving large wetlands throughout the development. Per code, the community is required to include 35.44 acres of open space and the applicant is proposing 35.52 acres of open space in addition to the preserved wetlands.

Site Plan Analysis:

The submitted application and plans have been reviewed by City staff for consistency with Chapter 18 - Subdivisions and Appendix A - Zoning of the City of Cocoa Code, and the development agreements that were previously approved by the City of Cocoa. Staff has found the applications to be in substantial compliance, with the exception of the items found in Appendix B within this report.

Consistency with Comprehensive Plan Policies and Objectives

Future Land Use Element

Policy 1.1.2.2: Very Low Density Residential (VLDR). Very low density residential areas consist of neighborhoods of single family detached housing. The following criteria shall be used for determining appropriate locations for very low density residential areas.

- a. Very low density residential areas shall be buffered from the nuisance effects of agricultural uses, higher intensity uses and major traffic corridors.
- b. Very low density residential developments should be located in areas where more intensive development would be unwarranted due to environmental constraints.

Policy 1.1.10.3: Innovative land use development patterns, including PUDs and Cluster Zoning shall be permitted and encouraged in appropriate areas, as defined in the land development regulations.

Objective 1.2.1: Smart Growth Principles. New development in the City shall incorporate "Smart Growth" principles that will lead to compact development standards as opposed to conventional development standards that encourage urban sprawl.

Future Land Use Element

Policy 1.1.2.13: The Conservation Future Land Use Category is intended to protect environmentally sensitive natural resource systems as defined in Chapter 163 Part II F.S.

B. The boundaries of the Conservation Future Land Use category may be adjusted to be consistent with a wetland jurisdictional line determination by the SJRWMD without the need for a comprehensive plan amendment. In those areas initially presumed but later determined not to be classified as a wetland will take on the future land use category assigned to the upland portion of the development site.

Staff Response: A portion of the wetlands within the project area are being proposed to be impacted through this request. The applicant has submitted an Environmental Resource Permit (ERP) through the St. Johns Water Management District (SJRWMD) that states that the quality of the wetlands that are proposed to be impacted are either low or average quality, with no wetland being identified as having high ecological value. SJRWMD issued Uniform Mitigation Assessment Method (UMAM) scores for the impacted wetlands, which ranged from 0-6, on a scale of 0 to 10. Should these wetland impacts be approved by the SJRWMD, this request will be consistent with FLU Policy 1.1.2.13.

Recreation and Open Space Element

Policy 10.1.2.2: All new development of recreational facilities in the City shall be required to meet the Florida Accessibility Code.

Staff Response: The proposed trails will be constructed with ADA compliant materials and maintenance will fall under the CDD or HOA, as applicable. The appropriate entity will be required to maintain the trail in accordance with ADA standards.

Concurrency Management / Adequate Public Facilities

Wastewater

The Windward Preserve project is going to generate 115,500 gallons per day. The Sellers Plant is currently permitted to treat 3.5 mgd of wastewater. The maximum peak flow over the past three months was 3.83 mgd with typical daily average flows of 2.0 mgd. Thus, there is sufficient capacity for wastewater.

Stormwater Management

The Level of Service (LOS) for Stormwater Management is as follows:

Design Storm Event"	25-year frequency/24-hour duration event
On-site Stormwater Management:	Retention of the first one inch of rainfall for areas of more than one acre.
Stormwater Quantity:	Post development stormwater runoff flow rates, quantities, peaks, and velocities shall be equal to or less than levels that existed prior to development.
Stormwater Quality:	No significant degradation of water quality in receiving water bodies.

The applicant has submitted a permit to the St. Johns River Water Management District and is not proposing any deviations from the City of Cocoa's above requirements or Water Management District standards.

Potable Water

Per Comprehensive Plan Potable Water policy 7.1.1.1, the City's level of service (LOS) standard for potable water is 122 gallons per capita per day (gpcpd) per Equivalent Residential Connection (ERC), or 340 gallons per day per ERC. The applicant's potable water analysis is based on a rate of 350 gallons per day per ERC, which is estimated to generate 64,983 gallons per day on average, when including the recreational amenity.

The Dyal Plant provides potable for the City of Cocoa service area and it is currently permitted to operate at 48 million gallons per day (mgd). The maximum provision over the past twelve months is 34 mgd. Thus, there is sufficient capacity for potable water available to serve the project.

Solid Waste

The LOS standard for solid waste capacity within the City of Cocoa is 1.2 tons of solid waste disposal per capita per year. The residential collection LOS shall be two times per week per household with green waste and recyclables once per week. The City contracts with Waste Management for the provision of solid waste, and the projected solid waste generated will be collected consistent with the adopted level of service standards.

Roadways (Transportation)

Access to the project will be provided through the extension of James Road. James Road is a Brevard County owned and maintained roadway. The road will be improved at the applicant's expense, and the applicant has been coordinating with the County regarding the road design and associated traffic calming measures.

Per the Traffic Impact Study conducted by LTG Engineering & Planning dated April 2023, the project will generate an average of 3,488 daily trips at project build out. As part of LTG's analysis, segments of SR 524, Friday Road, James Road, Cox Road, and Westminster Drive were evaluated for peak-hour, two-way level of service at projected buildout. The analysis found that the segment of SR 524 from Cox Road to Industry Road is expected to exceed the peak hour two-way capacity at build out. The design for the widening of SR 524 is programmed in the Florida Department of Transportation (FDOT) tentative work program for fiscal year 2024 / 2025.

Recreation

Per Comprehensive Plan Recreation Policy 10.1.1.3, the LOS standard for recreation facilities is 1.25 acres per 1,000 population.

Pursuant to the City of Cocoa Comprehensive Plan Evaluation and Appraisal Report (October 2010) Data and Analysis, Cocoa has a surplus of 118.34 acres of parks, which was determined to be more than sufficient to meet the needs of the citizens through 2020. Per the U.S. Census, the City's estimated 2022 population was 19,559, which requires 24.45 acres of park and recreation facilities within the City. The EAR identified the City as having 323.58 acres (including the 165.09 acres Cocoa Conservation Area) available for residents. Per the U.S. Census, the City has an average of 2.4 persons per household, which would yield a population of 925 people at buildout. Based on the City's LOS, the project will require 0.925 acres of recreation to accommodate the proposed population. The applicant is proposing 35.52 acres of open space and recreation within the project. Thus, the City has sufficient recreation and parks to support the project and maintain the adopted LOS.

Schools

A School Capacity Determination was filed with Brevard Public Schools for this project. The applicant will be required to comply with all applicable standards in terms of capacity and concurrency.

BUDGETARY IMPACT:

Based on a 2.4 persons per dwelling unit multiplier, the project can be expected to add 925 persons to the City's population base. An increase in population will positively affect intergovernmental revenues received where the distribution formula is population based, such as gasoline and sales taxes.

In addition to the direct fiscal impact to the City's General Fund, the development project will increase the economic attractiveness of the City by increasing its market and trade area potential, an important factor to corporate site selectors as well as retail and dining establishments.

PREVIOUS ACTION:

The City of Cocoa has taken the following previous actions related to the subject property:

- **April 28, 2005:** City of Cocoa / Hagen - Nicholson Properties, LLC Preceding Development Agreement recorded in Brevard County Records
- **November 21, 2006:** City of Cocoa / Barrera Shores, LLC Preceding Development Agreement recorded in Brevard County Records
- **January 1, 2008:** Stipulated Settlement Agreement between Brevard County and the City of Cocoa recorded in Brevard County Records
- **July 28, 2022:** Settlement Implementation Agreement between City of Cocoa and Beachline Partners, LLC recorded in Brevard County Records

RECOMMENDED MOTION:

Staff recommends the Planning & Zoning Board recommend **approval** to City Council of the Final PUD and Preliminary Subdivision and Large-Scale Site Plan for Windward Preserve with the conditions set forth below:

1. The project shall comply with the Planned Unit Development Plans for Windward Preserve.
2. The provided Development Schedule shall be binding upon the development of Windward Preserve. Amenities proposed for Phase One shall be completed prior to issuance of the 150th Certificate of Occupancy for Phase One. Amenities proposed for Phase Two shall be completed prior to the issuance of the 150th Certificate of Occupancy for Phase Two.
3. The Applicant shall satisfy all remaining review comments contained in Appendix A and B.
4. The clubhouse facility shall be an enclosed structure under heat and air.
5. Residential driveways shall be constructed of stone or brick pavers, or stamped and stained concrete.
6. All utilities constructed on the property including, but not limited to, electric, water, sewer, reclaimed water, cable, phone, fiber optics, natural gas, and other similar kinds of utilities to service the property constructed underground unless otherwise necessary to be above ground and approved by the City.
7. Each lot and all common landscaped areas shall be equipped with in-ground reclaimed water irrigation systems.
8. The project shall incorporate the use of energy efficient lighting systems, insulation, ENERGY STAR rated windows, low-flow water fixtures, modern heat pumps, energy efficient HVAC systems, and the ability for roof top solar panels.
9. The applicant shall coordinate with Brevard County and surrounding property owners to

determine the applicable traffic calming devices for James Road and shall construct the traffic calming devices as approved by Brevard County. All traffic calming devices along James Road shall be constructed and completed following land clearing of the property but prior to any further construction or site work being completed.

10. Single-family living area shall be a minimum of 1,500 square feet, with an average of 1,800 square feet, and a minimum building footprint of 2,400 square feet.
11. The same architectural elevation shall not be built on a lot that is adjacent to or directly across the street from, or diagonal to the lot.
12. The developer shall comply with tree protection and preservation requirements found within Sec. 22 of the City of Cocoa Code, and shall be permitted to further supplement the Final Development Plan with revisions to the landscaping plans, a tree preservation survey, and request for additional preservation or other credits in compliance with the Code prior to land clearing commencement.
13. The developer shall comply and address all comments by the City Surveyor prior to submittal of any application for final plat approval.
14. If a Community Development District is formed for this community, the applicant shall update and provide notice to the City regarding ownership and maintenance obligations for the common areas and infrastructure within the community.
15. The Applicant shall be required to produce approvals from St. John's River Water Management District permitting the proposed wetland mitigation plans such that the boundaries of the Conservation Area may be adjusted pursuant to Comprehensive Plan Policy 1.1.2.13.



Legislation Details (With Text)

File #: 23-755 **Version:** 1 **Name:**
Type: Ordinance **Status:** Agenda Ready
File created: 11/27/2023 **In control:** Planning and Zoning / Local Planning Agency
On agenda: 12/6/2023 **Final action:**
Title: Consideration of a Zoning Map Amendment for a +/- 1.002-acre portion of property located at 825 Forrest Ave., from INST (Institutional) to RU-2-15 (Multiple Family Dwelling).

Sponsors:

Indexes:

Code sections:

Attachments: [Ordinance No. 23-2023 Rezoning Matthews Hope Institutional to RU-2-15](#)
[Mathews Hope Area of Rezoning.pdf](#)
[Mathews Hope Location.pdf](#)
[Mathews Hope Existing Zoning.pdf](#)
[Application Package for Matthews Hope Rezone.pdf](#)
[Order Confirmation Liners-787 MH, Kava, Flag, P&Z.pdf](#)

Date	Ver.	Action By	Action	Result
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PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: December 6, 2023
Agenda Date: December 6, 2023
Prepared By: Stephen Noto - Planning Consultant
Through: Stockton Whitten - City Manager
Requested Action:

Consideration of a Zoning Map Amendment for a +/- 1.002-acre portion of property located at 825 Forrest Ave., from INST (Institutional) to RU-2-15 (Multiple Family Dwelling).

BACKGROUND:

The applicant, Ms. Hannah French of The Porchlight Foundation Inc., on behalf of the property owner, Mr. Paul Thonnard of Charity Properties, LLC., is requesting to amend the Zoning Map designation of property located at 825 Forrest Ave. The rezoning amendment is for +/- 1.002-acres of the +/- 5.88-acre Subject Property from INST, Institutional, to RU-2-15, Multiple Family Dwelling. The Brevard County Parcel ID of the Subject Property is 24-36-28-76-A. The Subject Property is located at the northwest intersection of Grimes St., and Forrest Ave., and the northeast intersection of US HWY 1 and Hillcrest Dr. On July 25, 2023, the City Council adopted Ordinance 06-2023, which amended the Future Land Use Map (FLUM) designation of the Subject Property from COMM, Commercial, to HDR, High Density Residential. The purpose of the FLUM amendment was to complete the first step of regulatory amendments prior to submittal of this rezoning request. During that process, it was noted that an eventual rezoning request to RU-2-25 would occur on a portion of

the project, generally stated as the “western portion” of the site. This request, however, is to rezone to RU-2-15.

The reason for the request is that the Applicant wishes to expand the existing Matthew’s Hope facilities on-site to include multi-family units in the +/-1.002 acres of the +/- 5.88-acre Subject Property and to include the existing day care facility, which received Special Exception approval from the Board of Adjustment on February 1, 2023, within the partial rezoning area. The specific location of the rezoning area is more centrally located on the site as opposed to being on the “western portion”, as shown in the exhibits attached to this staff report. The planned use for the rezoning area is to provide low-income multi-family units as part of the Matthew’s Hope organization that currently operates on the Subject Property. The multi-family units would be constructed within a portion of the existing structure in space that previously was utilized as classrooms for the former church.

The existing zoning of Institutional permits religious institutions and associated educational and recreational facilities. The Subject Property was previously zoned RU-2-15 on the eastern portion of the property, and RU-2-25 on the western portion. The purpose of the previous zoning change to Institutional in 2016 was to provide for an electronic sign, which are not permitted in residential zoning districts.

Future Land Use Designation:	Current: High Density Residential
Zoning District:	Current: INST (Institutional) Proposed: City of Cocoa RU-2-15 (Multiple Family Residential)
Existing Land Use:	Religious / Social Service Area
Council District:	District 2 - Deputy Mayor Hearn
Legal Ad Date:	November 20, 2023

Overview of Surrounding Area:

	Future Land Use Designations	Zoning Districts	Land Uses
North	COMM, Commercial	C-N, Neighborhood Commercial	Financial Institution
South	COMM, Commercial	RU-2-15, Multiple-Family Dwelling	Single-Family Residences; Mixed-Use Commercial Property

East	NCOMM, Neighborhood Commercial; COMM, Commercial.	C-N, Neighborhood Commercial	Improved County Land; Retail Stores; Single-Family Residences; Warehousing, Distribution, and Trucking Terminal
West	COMM, Commercial	C-W, Wholesale Commercial	Mini-Warehousing

I. Rezoning Analysis

The Planning & Zoning Division staff have reviewed the criteria contained in Appendix A of the City of Cocoa, Article XXI, Section 1(G) as follows:

a. The proposed change is contrary to the established land use pattern.

Staff Finding: The surrounding land areas consist of a mixture of residential, non-residential, and institutional uses. The residential uses consist of land zoned RU-2-15, with Commercial Future Land Use, developed as single-family homes.

The proposed RU-2-15 zoning district is not contrary to the established land use pattern. The Applicant will be required to comply with the development standards of the RU-2-15, Multiple-Family Dwelling District of the Code of Ordinances. The proposed partial rezoning area would encompass 1 acre of the subject property which currently includes the day care center and classroom buildings, which are located on the northern portion of the site and buffered from the single-family homes to the south on Hilcrest Drive.

b. The proposed change would create an isolated district unrelated to adjacent and nearby districts.

Staff Finding: As noted in the table above, the surrounding zoning districts are a mixture of C-N, RU-2-15, C-N, C-W, and INST. The area of the Subject Property that will be designated as RU-2-15 will not be isolated or unrelated to the adjacent and nearby districts.

c. The proposed change would materially alter the population density pattern and thereby increase or overtax the load on public facilities such as schools, utilities, streets, access, etc.

Staff Finding: The area to be rezoned is +/- 1.002-acres in size. The proposed R-2-15 zoning district allows for a maximum of 15 dwelling units per acre for multi-storied structure, or 10 units per acre for single-story structures. Both densities are less than what is allowed by the current FLU of HDR (High Density Residential), which has a maximum of 25 units per acre. As a result, the maximum number of units that may be developed across the +/- 1.002-acres proposed for rezoning is 15. Per the Applicant, their plan is to build six (6) dwelling units by converting the existing classrooms into multi-family dwellings. The proposed change will not materially alter the population density pattern given the surrounding FLU and zoning categories and will have minimal impact on public facilities given the maximum units within the +/- one acre proposed for rezoning. The proposed rezoning constitutes a smaller area of the property than was previously zoned RU-2-15 and RU-2-25 prior to 2016.

- d. Existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.*

Staff Finding: The Subject Property was previously zoned RU-2-15 on the eastern property, and RU-2-25 on the western portion. The purpose of the previous zoning change to Institutional was to provide for an electronic sign. The existing district boundaries are illogically drawn based on the conditions of the area proposed for change which already includes a day care facility, as the proposed RU-2-15 area is only +/-1.002 of the Subject Property's +/-5.88 total acres. The area to be changed currently acts as a day care facility, classroom building, green space and small portion of the existing building that is adjacent to the north side of Hillcrest Dr.

- e. The proposed change would be contrary to the Future Land Use Map and would have an adverse effect on the Comprehensive Plan.*

Staff Finding: The existing FLUM designation of the subject property is HDR. The proposed rezoning is consistent with Future Land Use Element Policy 1.1.2.3. Further, Figure FLU-1, Standards for Future Land Use Categories, showed that RU-2-15 is an applicable zoning district for the HDR FLU category.

- f. Changed or changing conditions make the passage of the proposed amendment necessary.*

Staff Finding: The Applicant has stated that "as the needs of the community have changed" they have proposed the partial rezoning in order to support their low-income housing initiative and to accommodate the low-cost day care facility on site. Any additional uses beyond what are allowed by the existing Institutional zoning, which is a limited number, requires a rezoning.. The proposed rezoning will accommodate the existing daycare use on site and will be consistent with the surrounding zoning districts and mix of residential, commercial, and institutional uses.

- g. The proposed change will adversely influence living conditions in the neighborhood.*

Staff Finding: The maximum density allowed by the FLU designation is 25 units per acre. The proposed rezoning to RU-2-15 will limit the +/- 1.002-acres to a maximum of 15 dwelling units. The applicant is proposing to provide six dwelling units. In either case of six or fifteen dwelling units, the proposed change will not adversely influence living conditions in the neighborhood as the partial rezoning area is buffered from the single-family residences on Hilcrest by the existing parking lot and former church/Matthew's Hope buildings. The form of the Subject Property is not anticipated to change, in that access points and building footprint are anticipated to remain the same. The intended use of the area to be rezoned is expected to improve the living conditions of those that are unable to currently house themselves as they transition to stable housing.

- h. The proposed change will create or excessively increase traffic congestion or otherwise affect public safety.*

Staff Finding: It is not anticipated that the proposed rezoning would create or excessively increase traffic congestion or otherwise affect public safety. As noted above, the maximum

density of 15 dwelling units per acre is less than what is allowed under the MDR Future Land Use designation. Police protection is provided by the City of Cocoa Police Department. They indicate that they will be able to provide crime prevention and police protection services at the same level of service provided to other City residents and businesses with existing resources. Fire Protection is provided by the City of Cocoa's Fire Station No. 2 (300 Brunson Avenue) which is located south of the subject parcel. All stations will continue to provide Enhanced BLS (Basic Life Support) services and fire prevention and protection services.

- i. The proposed change will create a drainage problem.*

Staff Finding: The applicant will be required to provide full engineering design as part of the site plan review process. That plan will be required to meet all relevant City standards related to site plans, to include drainage. It is not anticipated that the project will create a drainage problem as any potential issues will be reviewed and address by Staff during the site plan review process.

- j. The proposed change will seriously reduce light and air to adjacent areas.*

Staff Finding: Any new construction is required to meet the requirements of the City Code to ensure light and air to adjacent areas are not reduced. It is not anticipated that this project will reduce light and air to adjacent areas.

- k. The proposed change will adversely affect property values in the adjacent areas.*

Staff Finding: It is not anticipated that property values would be affected by the proposed rezoning. As previously mentioned, the area to be rezoned is +/-1.002-acres of the total +/-5.88 acre that make up the Subject Property. It is not anticipated that the zoning change will adversely affect property values in the adjacent areas.

- l. The proposed change will be a deterrent to the improvement or development of adjacent property in accord with existing regulations.*

Staff Finding: It is not anticipated that the proposed rezoning would be a deterrent to the improvement or development of adjacent property. None of the surrounding properties are vacant, and the rezoning is not anticipated to functionally impact any surrounding parcel.

- m. The proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare.*

Staff Finding: The proposed change will not constitute a grant of special privilege to the property owner of the subject property as contrasted with the public welfare. The proposed zoning designation meets the requirements of the Comprehensive Plan and is consistent with the residential zoning districts in the surrounding area.

- n. There are substantial reasons why the property cannot be used in accord with existing zoning.*

Staff Finding: As previously mentioned, the zoning district of Institutional allows a limited number of uses:

- 1) Public and semipublic buildings such as government administrative offices,

public safety buildings and uses of a similar nature.

- 2) Public and private schools and learning centers.
- 3) Religious institutions and associated educational and recreational facilities.
- 4) Health institutions, including but not limited to hospitals, clinics, nursing and convalescent homes.
- 5) Cultural institutions, including but not limited to museums, libraries, community centers, and art galleries.
- 6) Public parks and playgrounds.
- 7) Utilities and associated equipment facilities; public and private.

Residential uses are not a permitted, accessory, or special exception use. As a result of this limitation, the property cannot be used as proposed by the Applicant, without a rezoning.

- o. Whether the change suggested is out of scale with the needs of the neighborhood of the city.*

Staff Finding: The proposed rezoning is not out of scale with the needs of the area and would complement the existing residential scale in the immediate area.

- p. It is impossible to find other adequate sites in the city for the proposed use in districts already permitting such use.*

Staff Finding: It is not impossible to find other adequate sites in the city for the proposed use, however the Subject Property currently operates as Matthew's Hope Ministries, and this rezoning request is due in part to the expansion of their services on the Subject Property.

Consistency with Comprehensive Plan Policies and Objectives

The proposed RU-2-15 zoning designation is consistent with the allowable uses under the "High Density Residential" Future Land Use per the City of Cocoa Comprehensive Plan.

Concurrency Management/Adequate Public Facilities

Section 15-22 of the City Code provides for a concurrency management system to ensure public facilities and services needed to support development are available concurrent with the impacts of such development and that development orders and development permits are not issued in a manner that will not result in a reduction in the levels of service below the adopted level of service standards adopted by the City for public facilities and services, as contained in the City's adopted Comprehensive Plan.

If capacity issues relating to any public facilities or services regulated by the City of Cocoa adopted Comprehensive Plan is identified, necessary and appropriate mitigation will be required to be addressed prior to construction. However, because the maximum density remains unchanged and is in fact less than prior density permitted on the property, no further impact to public facilities is anticipated.

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

PZ-23-00000001 -02/01/23 A Special Exception was approved for the Matthews Hope daycare.

PZ-005000002 -07/25/23 - Ordinance 06-2023 - Future Land Use (Comprehensive Plan Amendment) changing the FLU designation from Commercial to High Density Residential.

RECOMMENDED MOTION:

Staff recommends that the Planning & Zoning Board recommend APPROVAL to City Council of the Zoning Map Amendment consistent with Appendix A, Zoning, Article XXI, to change the Zoning Map designation of a portion of one parcel, that portion totaling +/-1.002-acres, from INST (Institutional) to RU-2-15 (Multiple Family Dwelling).



Legislation Details (With Text)

File #:	23-756	Version:	1	Name:	
Type:	Ordinance	Status:		Agenda Ready	
File created:	11/27/2023	In control:		Planning and Zoning / Local Planning Agency	
On agenda:	12/6/2023	Final action:			
Title:	Recommend approval of proposed Ordinance 24-2023, a zoning text amendment, amending Chapter 3, Advertising and Signs, Section 3-23, General Regulations, of the Code of the City of Cocoa regarding Flags, providing for the repeal of prior inconsistent ordinances and resolutions, incorporation into the code severability, and an effective date.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ordinance No. 24-2023 Revising Sign Code Flags.pdf Legal Ad MH, Kava, Flag, P&Z.pdf				

Date	Ver.	Action By	Action	Result
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PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: November 27, 2023
Agenda Date: December 6, 2023
Prepared By: Stacey Hopper - City Planner
Through: Stockton Whitten - City Manager
Requested Action:

Recommend approval of proposed Ordinance 24-2023, a zoning text amendment, amending Chapter 3, *Advertising and Signs*, Section 3-23, General Regulations, of the Code of the City of Cocoa regarding Flags, providing for the repeal of prior inconsistent ordinances and resolutions, incorporation into the code severability, and an effective date.

BACKGROUND:

The applicant, is requesting the Planning and Zoning Board consider an amendment of the General Regulations, Advertising and Signs, Section 3-23 regarding Flags.

The applicants flag pole contractor submitted a permit for a 130' flag pole with a 40' by 80' flag. The applicant has contracted with this flag pole company to provide flags and poles to all of the applicant's properties around the country. According to City of Cocoa regulations, the maximum flag pole height is 32' high with a flag height no larger than 25% of the flag pole height. As this project would not qualify for a waiver, and does not fit the definition for a variance, city staff was asked if a tailored ordinance could be created to allow flag poles and flags of this size in specifically designated locations at major intersections adjacent to Interstate 95.

Ordinance 24-2023 proposes flag poles above the standard height of 32' be allowed only on commercial properties and be within 1500' of an Interstate 95 intersection. Further, no non-standard flag pole shall be allowed closer than 1000' to another non-standard flag pole and no more than one flag may be flown at a time on the pole.

Project Name: Zoning Ordinance Text Amendment - Advertising and Signs,
Ordinance 24-2023
Project No.: PZ-23-02000008
Meeting Date: December 6, 2023
Applicant: Camping World of Cocoa
Property Owner: National Retail Properties, Inc
Project Location: 4680 Highway 520, Cocoa, FL 32926
Future Land Use Designation: Commercial
Zoning District: Zoning Not Assigned
Existing Land Use: Commercial
Council District: District 3
Legal Ad Date: November 21, 2023

I. Zoning Ordinance Amendment Analysis

In accordance with Section 1(G)(2), Article XXII, Appendix A (Zoning), of the Code of the City of Cocoa, the Planning and Zoning Board shall consider and study the following when an amendment to the zoning code is proposed:

- a. *The need and justification for the change.*
- b. *The relationship of the proposed amendment to the purposes and objective of the comprehensive planning programs and to the comprehensive plan, with appropriate consideration as to whether the proposed changes will further the purposes of [the] zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.*

Need and justification for change

Need: The existing City of Cocoa code limits flag and flag pole sizes within densely populated residential and commercial areas in an effort to limit visually cluttering and competing flag and advertising signs. Large, sparsely populated commercial areas, adjacent to the interstate provide an opportunity for large flags without the concern of overburdening the senses with an over-abundance of visual distraction.

Justification: The proposed Ordinance seeks to allow erection of a large-scale flag and flag pole, within certain specifically designated areas and zoning districts adjacent to major intersections with I-95. The city seeks to allow this flag and flag pole, and future others, to encourage business growth through the subtle advertising and target marketing of this and other business's primary customer base.

The narrow tailoring of this ordinance, set to specific locations, near I-95 interchanges and limited only to Commercial Zoning Districts is designed to encourage cooperation with all business, who are within the designated area and wish to create a brand identity through the display of a large format flag.

Summary: In summary this ordinance furthers business development and relations between the city and the business community, expands the potential for growth and business retention and facilitates a growing economic base within the city of Cocoa.

Following Staff Analysis, the proposed Ordinance, attached as Exhibit A, Ordinance 24-2023 is recommended to the Planning and Zoning Board.

If approved, the proposed Ordinance will impact commercial businesses within a 1500' of a I-95 intersection through the patriotic display of a large format flag and flag pole.

Relationship and consistency with Comprehensive Plan Policies and Objectives

The proposed ordinance will not negatively impact existing neighborhoods and will help to increase the retention of existing business within the city of Cocoa with this non-monetary economic incentive.

- **Objective 1.3.1 - Economic Base Enhancements.** The City shall seek to establish and maintain a stable and growing economic base through strategic incentive programs and diversification of the economy.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Staff recommends that the Planning and Zoning Board recommend approval of Ordinance 24-2023 as presented.



Legislation Details (With Text)

File #: 23-757 **Version:** 1 **Name:**
Type: Ordinance **Status:** Agenda Ready
File created: 11/27/2023 **In control:** Planning and Zoning / Local Planning Agency
On agenda: 12/6/2023 **Final action:**
Title: Recommend approval of proposed Ordinance 25-2023, a zoning text amendment amending Appendix A, Zoning, Article XIII, Supplementary District Regulations, of the Zoning Ordinance of the City of Cocoa to add a new Section 33, Kava and Kratom, establishing distancing requirements between establishments selling Kava beverages and/or Kratom products and certain other enumerated land uses; providing for the repeal of prior inconsistent ordinances and resolutions, incorporation into the code, severability, and an effective date...End

Sponsors:

Indexes:

Code sections:

Attachments: [Exhibit A - Ordinance No. 25-2023 Regulating Kava and Kratom PZ.pdf](#)
[Order Confirmation Liners-787 MH, Kava, Flag, P&Z.pdf](#)

Date	Ver.	Action By	Action	Result
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PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: November 30, 2023
Agenda Date: December 6, 2023
Prepared By: Stacey Hopper - City Planner
Through: Stockton Whitten - City Manager
Requested Action:

Recommend approval of proposed Ordinance 25-2023, a zoning text amendment amending Appendix A, Zoning, Article XIII, *Supplementary District Regulations*, of the Zoning Ordinance of the City of Cocoa to add a new Section 33, *Kava and Kratom*, establishing distancing requirements between establishments selling Kava beverages and/or Kratom products and certain other enumerated land uses; providing for the repeal of prior inconsistent ordinances and resolutions, incorporation into the code, severability, and an effective date.

BACKGROUND:

The applicant, City of Cocoa, is requesting the Planning and Zoning Board consider an amendment of the Appendix A, Zoning, Article XIII *Supplementary District Regulations*, of the Zoning Ordinance of the City of Cocoa to add a new Section 33, Kava and Kratom, and set in place distance requirements between establishments selling Kava beverages and/or Kratom products and schools, religious institutions, public parks and playgrounds.

History: Prior to this ordinance, a noticeable increase of retail outlets selling Kava and Kratom have

been applying for businesses licenses within the City of Cocoa usually through smoke shops as a product for off-premise consumption. However, recently Kava and Kratom shops have been requesting Business Tax Receipts for Kava Bars and other outlets where the Kava or Kratom is served in a coffee shop or bar atmosphere for immediate on-premise consumption.

Kava known as (*Piper methysticum*) (also known as intoxicating pepper) is a shrub native to the South Pacific Islands. Kava is harvested for its rootstock, which contains the pharmacologically active compounds kavalactones. Kava is consumed in several ways. Kava dietary supplements are commonly sold as pills or capsules. Kava is also available as whole root, powdered root, or extracts. Kava supplements are often sold at herbal wellness shops but can also be found at commonplace grocers. Kava is also commonly sold as a beverage by the same name made from dried Kava root powder and brewed into a tea-like drink. Kava beverages are increasingly being sold recreationally for on-site consumption at Kava-beverage-based establishments due to the beverage's euphoric effects.

According to the United States Drug Enforcement Administration ("DEA"), Kava is increasingly being used for recreational and homeopathic purposes because of the effects produced from consuming the rootstock, such as euphoria, muscle relaxation, sedation, and analgesia. The United States Food and Drug Administration ("FDA") has not made an official determination about the efficacy of Kava as an analgesic or as a treatment for anxiety. In 2002, the FDA issued an advisory alerting consumers and healthcare providers to the potential risk of liver-related injuries associated with the use of Kava. Several cases of liver damage (hepatitis and cirrhosis) and liver failure have been associated with commercial extract preparations of Kava. Consumption of Kava may produce side effects such as decreased coordination and fatigue. Kava potentiates the effects of alcohol, including the impairments caused by alcohol. Kava is not a controlled substance in the United States. Due to concerns of liver toxicity, Kava is subject to regulatory controls in many countries including Australia, Canada, France, Germany, Japan, Malaysia, Norway, Poland, Singapore, South Africa, Sweden, Switzerland, and the United Kingdom.

Kratom (*Mitragyna speciosa*) is a tropical tree native to Southeast Asia. According to the DEA, consumption of Kratom leaves produces stimulant effects in low doses, analgesic and euphoric effects at mid-level doses, and depressant effects at high doses. According to the Mayo Clinic, Kratom is a highly addictive substance. Studies have shown that people who consume Kratom for over six months experience withdrawal symptoms similar to those experienced during opioid withdrawal. According to the Mayo Clinic, as with other recreational drugs, it is possible to overdose on Kratom. Symptoms of and treatment for Kratom overdoses mirror those for opioid overdoses. Kratom is the known cause of at least 36 overdose deaths. The FDA has not approved Kratom for any medical use. The DEA has listed Kratom as a Drug of Chemical Concern. Medical literature has shown that not only is Kratom addictive, Kratom use is associated with a clear set of effects and side effects ranging from dry mouth and insomnia to hallucinations, delusion, confusion, and withdrawal symptoms (including symptoms of limb spasticity, hostility, aggression, and emotional instability). Kratom is regulated as a controlled substance in Thailand, Malaysia, and Myanmar, where the plant is a native species. Despite the dangers of Kratom use, Kratom products are promoted as legal psychoactives. There is an increasing prevalence in establishments which sell Kratom, including establishments which sell Kratom for on-site consumption.

Ordinance 25-2023, proposes minimum distances between the locations selling these potentially addictive substances, specifically Kava beverages and any form of Kratom, and gathering places where the youth of the city congregate.

Project Name: Zoning Ordinance Text Amendment - Kava and Kratom,
Ordinance 25-2023
Project No.: PZ-23-02000013
Meeting Date: December 6, 2023
Applicant: City of Cocoa
Property Owner: N/A
Project Location: Various Zoning Districts
Future Land Use Designation: Various
Zoning District: Various
Existing Land Use: N/A
Council District: City wide
Legal Ad Date: November 21, 2023

I. Zoning Ordinance Amendment Analysis

In accordance with Section 1(G)(2), Article XXII, Appendix A (Zoning), of the Code of the City of Cocoa, the Planning and Zoning Board shall consider and study the following when an amendment to the zoning code is proposed:

- a. *The need and justification for the change.*
- b. *The relationship of the proposed amendment to the purposes and objective of the comprehensive planning programs and to the comprehensive plan, with appropriate consideration as to whether the proposed changes will further the purposes of [the] zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.*

Need and justification for change

Need: Because of the new and changing cultural acceptance of Kava and Kratom and the lack of current ordinances of the City addressing these substances, in addition to the dearth of federal regulations in place to identify Kava and Kratom as controlled substances, Ordinance 25-2023 is proposed to limit access to these products through distancing the establishments selling or serving them from areas where the youth of the city congregate.

Justification: Due to the potentially harmful health effects of Kava and the lack of significant medical studies on the long-term effects of Kava use, and the harmful effects of Kratom use, including its addictive nature and hallucinogenic side effects, it is in the best interest of the youth of the City of Cocoa to have limited exposure to Kava beverages and Kratom products.

In recognizing the dangers Kratom consumption poses to youth, the Florida Legislature has codified Florida Statutes § 500.92 (2023), the Florida Kratom Consumer Protection Act, which makes it unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, any Kratom product to a person under 21 years of age.

Summary: In summary, the City desires to ensure that the youth of the City of Cocoa are limited in their exposure to Kava and Kratom and do not have easy access to these products, therefore it is recommended that, until the such time as Federal Legislation catches up to the evolving culture surrounding these potentially harmful and addictive drugs, physical distancing as recommended by this Ordinance be put in place to limit youth exposure to these substances.

Following Staff Analysis, the proposed Ordinance, attached as Exhibit A, Ordinance 25-2023 is recommended to the Planning and Zoning Board.

If approved, the proposed Ordinance will not impact establishments selling Kava beverages or any form of Kratom for off or on-premise consumption outside of a 500' exclusion zone around a school, church, public park or playground as measured from the nearest edge of the property boundaries.

Relationship and consistency with Comprehensive Plan Policies and Objectives

The proposed ordinance will limit the locations where Kava beverage and Kratom sellers within the City of Cocoa may locate. Schools, religious institutions, (churches, mosques, and synagogues), public parks and playgrounds exist with the fabric of existing neighborhoods, therefore limiting access to Kava and Kratom is in line with the following objective of the Comprehensive Plan.

- **Objective 1.1.5 Neighborhood Protection** - The City shall ensure that additional growth and development will be respectful of established neighborhoods the define much of the City's character.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

Location restrictions on the sale of alcoholic beverages in relation to the distances to churches, schools and daycares can be found in the City of Cocoa code in the following ordinances: No. 2-79, § 10, 3-6-79; Ord. No. 13-05, § 3, 5-10-05.

RECOMMENDED MOTION:

Staff recommends that the Planning and Zoning Board recommend approval of Ordinance 25-2023 as presented.



Legislation Details (With Text)

File #: 23-758 **Version:** 1 **Name:**
Type: Ordinance **Status:** Agenda Ready
File created: 11/27/2023 **In control:** Planning and Zoning / Local Planning Agency
On agenda: 12/6/2023 **Final action:**
Title: Recommend approval of proposed Ordinance 26-2023, a zoning text amendment, amending Appendix A, Article XIX, Section 2, Relating to the meeting schedule of the Planning and Zoning Board; providing for the repeal of prior inconsistent ordinances and resolutions, incorporating into the code, severability, and an effective date.

Sponsors:

Indexes:

Code sections:

Attachments: [Ordinance No. 26-2023 Amending Article XIX P&Z Board Meeting Schedule.pdf](#)
[Legal Ad MH, Kava, Flag, P&Z.pdf](#)

Date	Ver.	Action By	Action	Result
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PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: November 30, 2023
Agenda Date: December 6, 2023
Prepared By: Stacey Hopper - City Planner
Through: Stockton Whitten - City Manager
Requested Action:

Recommend approval of proposed Ordinance 26-2023, a zoning text amendment, amending Appendix A, Article XIX, Section 2, Relating to the meeting schedule of the Planning and Zoning Board; providing for the repeal of prior inconsistent ordinances and resolutions, incorporating into the code, severability, and an effective date.

BACKGROUND:

The applicant, City of Cocoa, is requesting the Planning and Zoning Board consider an amendment of the Appendix A, Article XIX, Section 2, setting the date of the Planning and Zoning Board meeting.

History: In the past, according to Ordinance 20-2003, the Planning and Zoning Board meeting was held on the second Wednesday of the month. However, in August of 2018, the City Council meeting schedule was changed such that meetings were regularly held on the 2nd and 4th Wednesday of the month. Accordingly, Planning and Zoning Board meetings were changed to the 1st Wednesday of the month to accommodate the new City Council meeting schedule. Since 2018, the Planning and Zoning Board has regularly held meetings on the 1st Wednesday of the month.

Although in October of 2020 the City Council meetings were moved from the 2nd and 4th Wednesday

of the month back to the 2nd and 4th Tuesday of the month, the 1st Wednesday schedule does appear to work well for the Board and for the staff that must support Board meetings so that they do not need to attend evening meetings twice in one week.

Proposed Ordinance 26-2023, eliminates from the City Code a specific meeting day of the Planning and Zoning Board, currently still codified as the 2nd Wednesday of the month. The Ordinance does not specify a set day of the regular Planning and Zoning meetings, but rather instructs that a regular meeting schedule be established by the Board with at least monthly intervals and with special meetings to be held as necessary at the request of the Chair or Vice-Chair of the board.

Project Name: Zoning Ordinance Text Amendment - Planning and Zoning Board Meeting Schedule, Ordinance 26-2023
Project No.: PZ-23-02000012
Meeting Date: December 6, 2023
Applicant: City of Cocoa
Property Owner: N/A
Project Location: Various Zoning Districts
Future Land Use Designation: N/A
Zoning District: N/A
Existing Land Use: N/A
Council District: City wide
Legal Ad Date: November 21, 2023

I. Zoning Ordinance Amendment Analysis

In accordance with Section 1(G)(2), Article XXII, Appendix A (Zoning), of the Code of the City of Cocoa, the Planning and Zoning Board shall consider and study the following when an amendment to the zoning code is proposed:

- a. *The need and justification for the change.*
- b. *The relationship of the proposed amendment to the purposes and objective of the comprehensive planning programs and to the comprehensive plan, with appropriate consideration as to whether the proposed changes will further the purposes of [the] zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.*

Need and justification for change

Need: The City code needs to be updated to reflect the change in date of the Planning and Zoning Board meeting.

Justification: The change of the City Council meeting date from Wednesday back to Tuesday would result in back to back City Board Meetings if the current ordinance requiring Planning and Zoning Board meetings to occur on the 2nd Wednesday of the month were observed, causing difficulty for

City Clerk, Planning and IT staff and forcing key City staff to be away from home two consecutive nights in the 2nd week of each month. When the Planning and Zoning Board meeting was moved to the 1st Wednesday of the month, these staffing issues were resolved, but the City code was not updated to reflect this change.

Summary: Ordinance 26-2023 strikes the 2nd Wednesday of the month from the code and provides flexibility to the Planning and Zoning Board to establish the regular meeting schedule, as long as it is a monthly schedule. The Ordinance leaves the meeting day to the will of the Planning and Zoning Board, and does not specify a certain day that the meeting must be held on, but rather ensures that a Planning and Zoning Board meeting regularly occurs once a month at the will of the P&Z Board.

Following Staff Analysis, the proposed Ordinance, attached as Exhibit A, Ordinance 26-2023 is recommended to the Planning and Zoning Board.

Relationship and consistency with Comprehensive Plan Policies and Objectives

N/A.

STRATEGIC PLAN CONNECTION:

N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

Ordinance 20-2003, July 22, 2003. Set in place the schedule of the P&Z meeting as the 2nd Wednesday of the month and removing the provision for the time and place of the meeting to be prescribed by the board.

RECOMMENDED MOTION:

Staff recommends that the Planning and Zoning Board recommend approval of Ordinance 26-2023 as presented.