

CITY OF COCOA
BOARD OF ADJUSTMENT
MEETING MINUTES
November 15, 2017

A regular meeting of the Board of Adjustment of the City of Cocoa was held on Wednesday, November 15, 2017 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

I. OPENING MATTERS:

Chairman Robert Frey called the meeting to order at 6:03 P.M. The Board Secretary called the roll.

MEMBERS PRESENT:

Robert Frey	Chairman
Bruce Gilmore	Board Member
Alex (James) Goins	Board Member
Jane Jollay	Board Member
Connie Harvey	Board Member
Matthew Ford	Board Member
Rip Dyal	Board Member (Alternate)

MEMBERS ABSENT:

Nancy Elliot	Vice Chairwoman
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OTHERS PRESENT:

Cindy Thurman	Planning and Zoning Manager
Karen Hamilton	Community Services Director
Kristin Eick	Assistant City Attorney
Monica Arsenault	Board Secretary

II. APPROVAL OF AGENDA & MINUTES:

Approval of Agenda: November 15, 2017.

Approval of Meeting Minutes: September 20, 2017; October 18, 2017

Motion by Rip Dyal, seconded by Matthew Ford, to approve the minutes and agenda with an amendment regarding the removal of the approval of the September 20, 2017 minutes as they were approved at a previous meeting. Vote on the motion carried unanimously.

III. OLD BUSINESS:

None

IV. NEW BUSINESS:

A. PZ-17-00000001 – Special Exception (2075 W. King Street Land Trust) TABLED FROM 10/18/17

Consideration of a Special Exception request from Appendix A, Zoning, Article XI, Section 5(C)(10) of the City of Cocoa Code to allow for an Adult Congregate Living Facility (ACLF) use in the RU-2-15 (Multiple Family Dwelling) Zoning District. The Brevard County Property Appraiser identifies the subject property as Account Number 2423993.

The applicant is requesting Special Exception approval in order to construct an ACLF use, along with other residential uses, on approximately 102.2 acres of the 130.66-acre parcel. The 28.46-acre portion of the overall parcel to the north and fronting SR 520 is zoned C-W with a "Commercial" future land use designation, and has been separately approved for a Special Exception for mini-warehouses.

Ms. Thurman explained that this southern portion of the parcel was granted a future land use amendment from "Low Density Residential" to "Medium Density Residential" and "Conservation" and a rezoning from RR-1 to RU-2-15 in order to construct the proposed ACLF. The future land use amendment to Medium Density Residential and Conservation and the rezoning to RU-2-15 is not effective yet. Future land use amendments do not become effective until thirty-one (31) days after it is filed with the state. Ms. Thurman stated that if approved, it will be contingent upon the state approving the Comprehensive Plan change.

Additionally, Ms. Thurman provided a brief history of the Special Exception. She stated that neighbors had raised concerns regarding the increase in density. She stated that neighbors sought a commitment from the Applicant to not build other types of housing that is otherwise permitted in the district, such as apartments. As a result of these concerns, a Binding Development Agreement (BDA) was established to address these issues.

Ms. Thurman reviewed the BDA which allows for several uses on the property. It includes 55+ residential units, which shall be either individually owned condominiums or detached units, which will be located on the western portion of the property surrounding the former lake. They shall be one story and have no more than four units per building. They will also be deed restricted limiting rentals to a minimum of one year applicable to each dwelling unit, except that such restriction shall not prohibit short-term vacation rentals that are established by unit owners, from time to time, in accordance with all applicable local and state laws.

The BDA also includes independent living which will have no more than four units per building which will be single-story. The units shall meet the minimum living area requirements of the City Code. The ACLF shall house all communal facilities and amenities that will be utilized by the other two housing components, including kitchens, visitors' centers, clubhouses, storage facilities, offices, and other

recreational facilities. The Applicant shall also construct and maintain a six foot buffer wall along the boundary of the property buffering the fifty-five and older units from the commercial property to the north and along the southern boundary of the property depicted as the ACLF Main Facility. The Applicant shall provide a six foot fence on the western boundary of the property and along the southern boundary of the property on either side of the buffer wall. The buffer wall and fence shall be in addition to landscaping requirements required by the City Code. The Applicant shall also limit ingress and egress to SR 520.

Ms. Thurman stated that it should be noted that the special exception application is only for an ACLF use on the portion of the property designated for such use. A special exception is not needed for 55+ residential development, which is otherwise allowed in the RU-2-15 district. Accordingly, the special exception, if approved, must be limited to the portion of the property labeled for ACLF and independent living use on the Land Use Map.

Because it is not known whether the Applicant intends to provide personal services to independent living residents or if the Applicant intends to do so, whether it will obtain a home health license for the independent living facility, it is recommended that the ACLF special exception, if approved, extend to the independent living facility portion of the Land Use Map, in the event licensure as an assisted living facility is required for that portion.

Ms. Thurman explained that before any special exception may be issued, certain conditions need to be met. She stated that the Applicant must demonstrate that there is ingress and egress to the property and proposed structures thereon providing automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe. She stated that staff recommends that a condition of approval be that sidewalks must be provided from the independent living units and ACLF main facility and along the entrance road to SR 520.

She stated that the Applicant also needs to explain where the required off-street parking will be, however, this will be addressed in the site plan stage of the project. Furthermore, the Applicant will need to explain the impact of refuse and service areas. Staff recommends that a condition of approval include that refuse and service areas for the ACLF main facility be located adjacent to the main facility and away from the residentially zoned properties to the west and south. Ms. Thurman stated that the proposed use would not require additional utilities as the property can be served by the City of Cocoa Utilities Department for water, sewer, and reclaimed service. As the property is currently vacant there is no solid waste service and so upon development of the site, a private hauler would provide service.

Additionally, the Applicant must demonstrate adequate screening and buffering with reference to type, dimension and character as well as explain the impact of signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, and compatibility with properties in the district. Sign details will be reviewed during the site plan review as well as during the building permit review.

Ms. Thurman stated that adequate yard and open space must also be demonstrated by the Applicant. She explained that the subject property was used formerly as a borrow pit and there are also other ponds and areas that will be left open and aesthetically landscaped. The pending future land use amendment will include designation of 31.05 acres as a Conservation, in addition to the borrow areas. At the time of development, pursuant to Comprehensive Plan Policy 1.1.2.13, wetlands within the Conservation Future Land Use category shall be encumbered by a perpetual conservation easement.

She went on to explain that the RU-2-15 zoning district has a maximum building height of thirty-five (35) feet. The ACLF main facility shall be limited to two stories in height pursuant to the BDA. In addition, the independent living units shall be single story.

Ms. Thurman stated that there are no renewal or termination dates. Staff has found that the proposed uses are compatible with other uses in the general vicinity along SR 520.

Ms. Thurman stated that staff recommends approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 5(C)(10) to allow for an ACLF use in the RU-2-15 Zoning District with the following conditions:

1. The Special Exception shall not be effective until the applicant has secured all the permits and approvals necessary for any development related to the Special Exception, such as site plan approval. Such permits shall be obtained within six (6) months of the Board's approval.
2. If the use is extended, enlarged, or expanded, a Special Exception approval shall be required.
3. The Special Exception is contingent upon the future land use amendment from Low Density Residential to Medium Density Residential and rezoning from RR-1 to RU-2-15 becoming effective as provided by Florida Statute.
4. The Special Exception shall be limited to the portion of the 102.2 acres that is reserved for the ACLF main facility and, to the extent that ACLF or assisted living facility licensure is required by the Agency for Health Care Administration for operations proposed for the independent living units, the portion reserved for the independent living units as depicted in the Land Use Map, Exhibit B of the BDA.
5. The Applicant shall provide, during the site plan process, sidewalks for pedestrian safety connecting the ACLF main facility and the independent living units with and along the access road to SR 520.
6. The Applicant shall be required to provide for emergency vehicle access satisfactory to the Cocoa Fire Chief during site plan review.

7. Refuse and service areas for the ACLF main facility shall be located adjacent to the two-story main ACLF facility and away from the residentially zoned properties to the west and south.

Mr. Frey opened the discussion to the Board for questions.

Mr. Gilmore commended staff on the staff report.

Ms. Harvey clarified the living area requirements.

Mr. Frey closed the discussion to the Board and opened the discussion to the audience.

Mr. Mitch Goldman, of Cantwell and Goldman, stated that they were in agreement with City staff, however, they would like to request that eighteen months be granted for site plan approval rather than six months.

Ms. Harvey asked Mr. Goldman to explain his requested time frame. Mr. Goldman's client, Mr. Greg Desbrough, of Jacksonville, Florida, explained that they are anticipating site plan approval to take longer than six months due to the extensive time needed for engineering.

Mr. Goins asked why the sidewalks were not included on the initial site plan. In response, Mr. Desbrough stated that the initial plan was put together quickly but sidewalks have been anticipated from the very beginning.

Mr. Frey closed the discussion to the public.

Motion by James Goins, seconded by Rip Dyal, to approve the special exception in accordance with Appendix A, Zoning, Article XI, Section 5(C)(10), to allow for an ACLF use in the RU-2-15 Zoning District with the stated conditions and an amendment to allow the applicant eighteen months instead of six months. Vote on the motion carried unanimously (7-0).

V. OTHER BUSINESS:

None

VI. NEXT MEETING DATE:

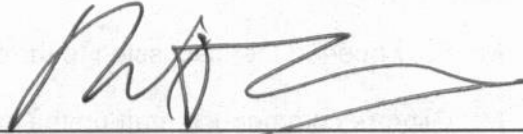
The Board members established that the next meeting would be held on Wednesday, December 20, 2017.

VII. ADJOURNMENT:

Motion by Rip Dyal, seconded by Robert Frey to adjourn. Vote on the motion carried unanimously.

There being no further business the meeting adjourned at 6:28 P.M.

Approved on this 21 day of Feb, 2018



Robert Frey, Chairman



Monica Arsenault, Board Secretary