Amended 12/31/19

CITY OF COCOA
BOARD OF ADJUSTMENT
MEETING MINUTES
SEPTEMBER 9, 2019

A special meeting of the Board of Adjustment of the City of Cocoa was held on Wednesday, September 9, 2019 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

I. OPENING MATTERS:

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

MEMBERS PRESENT:

Rip Dyal	Chairperson
Nancy Elliott	Board Member
Connie Harvey	Board Member
Pam Shaia	Board Member

MEMBERS ABSENT:

Robert Frey[1]	Vice Chairperson
Bruce Gilmore	Board Member (arrived at 6:05PM)
Brenda Warner	Board Liaison

OTHERS PRESENT:

Dodie Selig, Planning and Zoning Manager, **Angela Essing**, City Planner, **Kristen Eick** Assistant City Attorney, **Courtney Jackson**, Board Secretary, **Sandra Leon**, Planner, **Jake Williams Jr**., Mayor

II. APPROVAL OF AGENDA & MINUTES:

Chairperson Dyal welcomed new member Pam Shaia and asked for a moment

Chairperson Dyal welcomed new member Pam Shaia and asked for a moment of silence for the passing of late-member Matthew Ford.

* **MOTION by Board Member Harvey; SECONDED by Board Member Elliott to approve the September 9, 2019 agenda with amendments.**

AYES: DYAL, ELLIOTT, HARVEY, SHAIA

MOTION PASSES UNAMIOUSLY (4-0)

Board Member Harvey asked if Item E could be moved to be the first item discussed as they are in regarding to parking.

[1] Amendment to add "e" to name by Board Member Frey made on 12/18/19.

Approval of Meeting Minutes: April 17, 2019

* **MOTION made by Board Member Harvey; SECONDED by Board Member Elliott to approve the September 9, 2019 agenda with amendments.**

AYES: Dyal, Elliott, Harvey, Shaia

MOTION PASSED UNAMIOSULY (4-0)

III. OLD BUSINESS:

NONE.

IV. NEW BUSINESS:

E. PZ-19-00800001-WAV*302 Brevard Ave (parking) PZ-19-00000010 –Special Exception for a Public (fee based) Parking Lot (302 Brevard Ave)[2]

A request for a Waiver from Appendix A, Zoning, Article XI, Section 1(D)(42) of the City of Cocoa Code to waive the minimum parking requirements for a theatre use for the Cocoa Village Playhouse addition in the CBD-CVO (Central Business District- Cocoa Village Overlay) Zoning District. (Parcel ID: 24-36-33-37-*-U).

Ms. Selig provided a power point[3] that explained the project summary and Staff's recommendation and conditions for the Waiver Request.

Board Discussion:

Board Member Harvey asked **Ms. Selig** to elaborate on Staff's finding that relays to the Playhouses' parking.

Ms. Selig brought up an aerial photo from the PowerPoint[4] and discussed that the primary code that triggered the parking issue deals with the form based codes of the Cocoa Waterfront Overlay District and explained what the City's options were for parking.

Further discussion between **Board Member Elliott** and **Ms. Selig** regarding the parking situation and parking in the Village.

Board Member Harvey inquired about the recent changes in the parking ordinance.

Ms. Selig explained about the pay for parking use on the Bank of America site being approved and shared it is being used to test the market and is just one of the ways they are trying to elevate the parking issue at hand.

Mayor Williams Jr. added that Council is aware there is an emergency for addressing the parking issue and assured the board they are working on finding solutions.

Floor discussion:

Greg Stark (Stark Architecture, Melbourne, FL): thanked the board for allowing them for coming here. Stated that there are some physical constraints to provide parking on the site and would have

[2] Vice Chairperson Gilmore arrived at 6:05pm.
[3] PowerPoint of 302 Brevard Ave.
[4] Slide 9 of 302 Brevard Ave PowerPoint.

to demolish the building to provide off-street parking on the site complications. But shared what is great about the project is that they are converting a merchantable occupancy into to a business occupancy which is an expansion of the Cocoa Village Playhouse, but the idea of the peak usage for parking remains unchanged.

Stacy Hawkins-Smith (1130 Michigan Ave, Cocoa) added the summary of the project is to enhance what the playhouse already does and they are not adding additional show times so that will not affect the current parking situation.

* **MOTION made by Vice Chairperson Gilmore; SECONDED by Board Member Harvey to approve the Special Exception for parking as per staff recommendation.**

AYES: Dyal, Elliott, Gilmore Harvey, Shaia

MOTION PASSED UNAMIOSULY (5-0)

Ms. Selig introduced **Angela Essing** to present the remainder of the items.

A. PZ-19-00000012 – Special Exception for 210 King Street (Recreation Facility).
A request for a Special Exception from Appendix A, Zoning, Article XI, Section 13 (C)(7) of the City of Cocoa Code to allow a commercial recreation facility, "Stumpy's Hatchet House", in the CBD (Central Business District) Zoning District. (Parcel ID: 24-36-33-35-*-1.01).

Ms. Essing presented the power point and video that provided a project summary of the agenda item.[5] She explained that the application is for a recreation facility to throw hatches similar to bowling or darts, the current building was built in 1923 and is currently split into four tenant spaces. A previous tenant obtained a special exception for a liquor license for the property which meant the new tenant does not have to apply for one as it runs with the land and provided an overview of the building's parking plan per CBD District.

Board Discussion:
Discussion between **Board Members** and **Staff** regarding the explanation of the special exception for a liquor license that runs with the land rather than the individual tenant and discussion of the building's history.

Vice Chairperson Gilmore stated the special exception liquor license is a City and Staff issue and asked to limit board discussion to whether or not they are going to allow the recreation place.

Discussion between **Board Member Harvey** and **Ms. Selig** regarding if the hatchet house's sign choice is allowable.

Chairperson Dyal closed Board Discussion and opened discussion to the floor.

[5] PowerPoint of 210 King St. (Recreation Facility).

Floor Discussion:

Angie Sullivan, Applicant (1484 Timacuan Dr., Melbourne) thanked everyone for allowing them to be there and gave a brief background of the business and video previously shown. She noted that they are excited to add Cocoa Village as their next location in Florida.

Discussion between **Board Member Harvey** and **Ms. Sullivan** regarding, parking, loading and unloading for the Hatchet House and discussion of customer capacity and how many people can be in the throwing lanes/pits.

Wesley Murray (4200 Vancouver Ave.) wanted to share that he and his business give them their full support and they welcomed the Hatched House to the Cocoa Village community.

Lois Felder (2158 Auburn Lakes Dr., Viera) asked about the hours of operation and inquired about the type of signage they are planning to have.

Mr. Sullivan shared that their hours are not yet set but are looking at the following hours of operation:
-Monday & Tuesday: Closed
-Wednesday & Thursday: 4pm-10pm
-Friday: 4pm-midnight
-Saturday: noon-midnight
-Sunday: 1pm-8pm
She then explained that the signage they are looking at is the logo lying flat against the building to ensure nothing is protruding over the sidewalk.

* **MOTION made by Vice Chairperson Gilmore; SECONDED by Chairperson Dyal to approve Special Exception per staff recommendation.**

AYES: Dyal, Elliott, Harvey, Gilmore, Shaia

MOTION PASSED UNAMIOSULY (5-0)

B. PZ-19-00000013 – Special Exception for 1240 Dixon Blvd (Church)

A request for a Special Exception from Appendix A, Zoning, Article XI, Section 12 (C)(8) of the City of Cocoa Code to allow for a church use in the C-G (General Commercial) Zoning District. (Parcel ID: 24-36-29-B0-*-A.03 and A.05).

Ms. Essing presented a PowerPoint[6] discussing the overview of the project and shared Staff's recommendation/conditions. She stated it is important for the site to have an access easement with the Celebration Tabernacle and she explained the

[6] PowerPoint for 1240 Dixon Ave (Church).

applicants are requesting two parcels because Parcel A.03 needs A.05 to continue to operate as a Church.

Board Discussion:

Discussion between **Board Member Harvey** and **Ms. Essing** regarding clarification of the applicant's request for use of both parcels, what the Board is being asked to approve, and if it will affect the building.

Floor Discussion:

Juan Estrada, Pastor (3013 Dover Lane) thanked the board for the opportunity and provided a brief background of his Church. He expressed that this is a great opportunity to have their own Church and that they are not looking to change anything, they just want a chance to praise God.

* **MOTION BY BOARD MEMBER HARVEY; SECONDED BY BOARD MEMBER SHAIA**

AYES: DYAL, ELLIOTT, HARVEY, GILMORE, SHAIA

MOTION PASSED UNAMIOUSLY (5-0)

B. PZ-19-00000014 – Special Exception for 2700 Clearlake Rd (Vet)

A request for a Special Exception from Appendix A, Zoning, Article XII, Section 12 (C)(7) of the City of Cocoa Code to allow for a veterinary use within the Walmart store as "any other use in keeping with the intent of the district" in the CG (General Commercial) Zoning District. (Parcel ID: 24-36-17-00-256).

Ms. Essing shared a PowerPoint[7] that discussed the project summary for the item including Staff's recommendations/conditions.

Floor Discussion:

Jasmine Bate, Applicant: provided an overview of VetIQ that included hours of operation, entry-ways for pets/owners and employees, and procedures they perform for animals. She explained they are a primary/preventive care for pets and do not perform any surgical procedures.

Board Member Elliott inquired if it is a walk-in vet clinic and if you are able to drop your pets off while you shop at Wal-Mart next door.

Ms. Bate said they do not house or board any of the pets, it is walk-in only.

Board Member Shaia asked if there is a separate area for reactive cats and dogs.

[7] 2700 Clearlake Rd (Vet) PowerPoint.

Ms. Bate explained there is not a designated area for them to be separated, but there is a wall that is utilized for separation during the check-ups and discussed how they handle reactive pets.

Discussion between **Board Member Shaia** and **Ms. Bate** regarding waiting areas and Ms. Bate explained their text system that notifies the owner that their pet is ready to be seen.

Discussion **Board Member Shaia** and **Ms. Bate** explaining PetIQ's other existing locations in the United States.

Discussion between **Board Member Elliott** and **Ms. Bate** regarding locations PetIQ is affiliated with.

Discussion between Vice Chairperson Gilmore and **Ms. Selig** regarding clarification of the language and criteria in Staff Analysis No. G for the item.

Board Member Harvey asked if there was any requirement for a pet relief area.

Ms. Selig replied that code does not require it.

Board Member Elliott asked Ms. Bate how they plan to clean up pet messes if there is limited grass area.

Ms. Bate replied that they encourage owners to take their pets to use the restroom before their visit, but staff is used to cleaning up pet messes.

Discussion between **Board Member Shaia**, **Board Member Elliott**, and **Ms. Bate** regarding lack of grass area in the Walmart.

Board Member Elliott expressed her concern for a vet office in that area.

Discussion between **Board Member Shaia** and **Ms. Selig** regarding codes pertaining to special removal of animal feces and if this has been done in another plaza in Cocoa.

Board Member Harvey asked what the repercussions were for animals relieving themselves in the parking lot if there is not a grass area.

Ms. Bate explained that in her experience, mulch suffices and there is a not a specific need for grass for that reason.

Board Member Shaia how many clients do you usually have that is similar in size.

Ms. Bate explained that because it is a new business, it varies, but they are currently seeing 10-12 pets a day with the hopes to increase that number as they progress in marketing for affordable and accessible veterinary care.

Ms. Bate shared the hours of operation with the Board:

- Tuesday-Saturday, open 10am-7pm and closed for lunch 2pm-3pm.

- Closed Sunday and Monday.

Board discussion:

Vice Chairperson Gilmore expressed his concern for the wording in the staff analysis regarding the entrances and wanted to make a motion adding a 3rd condition to Staff's recommendation that limit pet entrances.

Board Member Harvey added with the clarification that the door to and from Walmart are just for employees to enter the store and not a pet entrance.

* **MOTION made by Vice Chairperson Gilmore; SECONDED by Board Member Harvey to approve Special Exceptions per Staff Recommendation with Amended Third Condition that PetIQ Customers Shall Access PetIQ through a Direct outside Entry (To Prevent Pet-Entry from within the Walmart Store).**

AYES: DYAL, ELLIOTT, HARVEY, GILMORE, SHAIA

MOTION PASSES UNAMOUSLY (5-0)

D. PZ-19-00000009 – Special Exception for a 502 Brevard Ave (Bar)

A request for a Special Exception from Appendix A, Zoning, Article XI, Section 13 (C)(6) of the City of Cocoa Code to allow for a bar use in the CBD-CVO (Central Business District- Cocoa Village Overlay) Zoning District. (Parcel ID: 24-36-33-77-*-06).

Ms. Selig provided a PowerPoint[8] that explained the project summary and staff recommendation.

Board Discussion:

Discussion between **Board Member Harvey** and **Ms. Selig** regarding if outside seating would change the use of the building, if City Code addresses outside seating in general and how it would apply in situations that it does, if plantings would be added to the outside seating area, if the existing landscaping would be treated and if landscaping around a seating area is required.

Board Member Elliott suggested that the square footage has not changed and only the building use has changed and because of that, she thinks that Staffs should think broader when it comes to downtown development.

Assistant City Attorney Eick added that parking should be the criteria for the special exception use itself, while the code sets the minimum based on square footage, the board has room to address the use as part of the special exception.

[8] PowerPoint for Bar

Board Member Gilmore asked for clarification that they are just approving the use for a bar and not approving a liquor license or any license in general.

Ms. Selig confirmed that it was they are approving as staff handles the rest.

Chairperson Dyal clarified that it is a pub not a bar.

Board Member Elliott asked for clarification that because the building has a special use[9] liquor license under the special exception, if the tenant leaves, the license remains with the building.

Assistant City Attorney Eick confirmed that is correct.

Discussion between **Board Member Gilmore** and **Assistant City Attorney Eick** regarding the clarification of the special exception liquor license running with the land and not the business itself.

Floor Discussion:

David Lemon, Applicant (1550 Venus St., Merritt Island) thanked the Board and explained that he is excited to bring a new experience to Cocoa Village because they will not be serving food, craft beers, or a sports bar because they are specializing in offering only mid-high end wines and European imports in a lounge area atmosphere.

Board Member Harvey and **Mr. Lemon** regarding the landscaping, temporary use of picnic tables, future plans for types of seating, and using the picnic tables as possible overflow seating.

Board Member Harvey asked if they were allowed overflow seating.

Ms. Selig explained that they would have to look at the site plan to determine pedestrian safety to determine if it is allowable.

Board Member Harvey asked if smoking is allowed.

Mr. Lemon replied that there is no smoking allowed.

Discussion between **Board Member Elliott** and **Mr. Lemon** regarding the signage that was chosen for the Pub.

Discussion between **Board Member Shaia** and **Mr. Lemon** if he intends to keep the dumpster on-site for his building and how it is covered by 3 walls.

Diana Lynn (9502 Brevard Dr.) expressed there are several unresolved issues on the list that she has received for this property and pointed out that because the building is owned by Stefan properties, who is a habitual code-offender, she felt the Pub would lead the same pattern. She explained that the building has been given 3 stop-work

[9] Amendment by Assistant City Attorney Eick on 12/18/19

order stickers during renovation and they were taken down without permission and renovation was continued and asked about the status of the fines that were issued.

Ms. Selig stated that her concerns are handled by the Code Enforcement Board and she does not have direct access to the status of the fines given to 502 Brevard Ave.

Ms. Lynn explained she and the community felt that the code requirements should have been completed 6 months ago and reminded the Board that according to the Code Enforcement Board, Stefan properties currently has 5 open cases and violations on other properties and they should take that into consideration.

Board Member Harvey asked for clarification if the "list" she is referring to is the Staff analysis to which **Ms. Lynn** confirmed that it was. It was explained to Ms. Lynn that those questions are standard to ask.

Ms. Lynn added that regardless if they're standard there is still a lot to be done before allowing occupancy, which is why they are asking for a special exception.

Chairperson Dyal explained that their scope does not deal with codes, it is only to approve a special exception, so that the applicant can move forward with using the property for what they wish it.

Mr. Wesley shared his experience with stop-work orders and his experience obtaining work permits. He feels more businesses going in would be great for everyone and would bring more people into the town. He lastly shared that he feels that the process should not be made so difficult for people just trying to better the town with their business.

Troy Stefan (415 Dellanoy Ave.) rebutted Ms. Lynn's concerns by clarifying the code requirement issues that were listed in the Staff Analysis for the pub.

<u>Board Discussion</u>

Vice Chairperson Gilmore pointed out that while the audience member's stances are probably valid, it needs to be addressed that their position as a Board is very limited. He explained the scope of the Board and the process for the special exception and that the only decision they are able to make tonight, is to approve the use of a pub at that location. He added that the final approval comes from City Staff and if there are further concerns, they need to discuss it with Staff as they deal with everything else.

* **MOTION made by Vice Chair Gilmore; SECONDED by Chairperson Dyal to approve the Special Exception per Staff Recommendation.**

AYES: Dyal, Elliott, Harvey, Gilmore, Shaia

MOTION PASSED UNAMIOUSLY (5-0)

V. <u>OTHER BUSINESS:</u>

Vice Chairperson Gilmore announced the recent passing of Late-Board Member Matthew Ford and shared that he was loved by all the Board Members and he was a good man who will be missed.

VI. NEXT MEETING DATE:

The Board members established that the next meeting would be held on October 16, 2019.

VII. ADJOURNMENT:

MOTION by Chairperson Dyal; SECONDED by Board Member Elliott to adjourn the special meeting of September 9, 2019.

AYES: Dyal, Elliott, Harvey, Gilmore, Shaia

MOTION PASSED UNAMIOUSLY (5-0)

There being no further business the meeting adjourned at 7:56P.M.
Approved on this 18 day of December, 2019.

Rip Dyal, Chairperson

Respectfully Submitted by:

Courtney Jackson, Board Secretary