CITY OF COCOA
BOARD OF ADJUSTMENT
MEETING MINUTES
DECEMBER 16, 2020

A regular meeting of the Board of Adjustment of the City of Cocoa was held on Wednesday, December 16, 2020 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

I. OPENING MATTERS:

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

ROLL CALL:

Bruce Gilmore	Chairperson
Nancy Elliott	Vice Chairperson
Robert Frey	Board Member
Connie Harvey	Board Member
Dan Quattrocchi	Board Member
Pam Shaia	Board Member
Patricia Weeks	Alternate Member
Randal Hiester	Alternate Member

MEMBERS PRESENT:

Bruce Gilmore	Chairperson
Nancy Elliott	Vice Chairperson
Dan Quattrocchi	Board Member
Pam Shaia	Board Member
Patricia Weeks	Alternate Member

MEMBERS ABSENT:

Robert Frey	Board Member
Connie Harvey	Board Member
Randal Hiester	Alternate Member

OTHERS PRESENT:

Dodie Selig	Planning and Zoning Manager
Alix Bernard	Senior Planner
Sandra Leone	Planner
Bryant Smith	Public Works Director
Kristin Eick	Assistant City Attorney
Monica Arsenault	Board Secretary

II. APPROVAL OF AGENDA & MINUTES:

Approval of Agenda: December 16, 2020.

Motion by Vice Chairperson Elliott, seconded by Alternate member Weeks, to approve the agenda with an amendment to change the date of the minutes on the agenda from October 25, 2020 to October 29, 2020. Vote on the motion carried unanimously.

Approval of Meeting Minutes: October 29, 2020

Motion by Vice Chairperson Elliott, seconded by Alternate member Weeks, to approve the minutes as written. Vote on the motion carried unanimously.

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

A. PZ-20-00000019 – Special Exception (1138 Peachtree St.)

Ms. Selig explained that the subject property is currently developed with a vacant two-story residential structure. The former use of the property was as a church, which added extensive parking area to the rear of the building.

The applicant is requesting approval of a Special Exception in order to operate a recovery half-way house (recovery residence) for 5 residents, who have successfully completed the addiction treatment program at Space Coast Recovery's primary facility located at 1215 Lake Drive.

Ms. Selig shared staff's findings and added that staff is recommending approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, C-N, Neighborhood Commercial District. Section 11 (C)(1) "Any other use in keeping with the intent of the 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 one (1) year of the Board's approval.

2. The Special Exception shall not be effective until the applicant has become certified as a recovery residence pursuant to Section 397.487, Florida Statutes.

3. If the use is extended, enlarged, or expanded, including increasing the number of residents to more than five individuals, a Special Exception approval shall be required.

4. A landscape buffer is required along the north property line.

5. The Special Exception shall terminate upon either: (1) the property ceases to be operated as a recovery residence/halfway house for a period of more than six months; (2) the sale, transfer of operation, or acquisition of the recovery

residence/halfway house by any other recovery residence organization that is not certified as a recovery residence pursuant to Section 397.487, Florida Statutes, or that is otherwise exempt pursuant to Section 397.487, Florida Statutes, as a recovery residence that is democratically operated by its residents pursuant to a charter from an entity recognized or sanctioned by Congress; or (3) the applicant's certification as a recovery residence pursuant to Section 397.487, Florida Statutes, is revoked.

Barbie Thrower, Director of the program at Space Coast Recovery, Inc., provided a history of the program and explained what it entailed.

Vice Chairperson Elliott asked what the surrounding businesses are. In response, Ms. Thrower shared there is a shutdown laundromat, a manufacturing company, and Space Coast Recovery is across the street.

Board member Shaia asked what the purpose of the program is. In response, Ms. Thrower shared that this program allows them a place to live while they work to save money to get their own place.

Ms. Thrower shared the process of how the people come to graduate the program and how they continue to assist the residents as they continue to take steps to become more independent.

Chairperson Gilmore opened the hearing to the public. There being no further comments, the public portion of the hearing was closed.

Board member Quattrocchi asked if there is parking available. Ms. Thrower stated not all of them have cars but yes, there is plenty of parking.

Motion by Alternate member Weeks, seconded by Vice Chairperson Elliott to recommend approval of the Special Exception to include the conditions set forth by staff. The Board Secretary called the roll and the vote on the motion carried unanimously.

B. <u>PZ-20-00000017 – Special Exception (100 Delannoy Ave.)</u>

Board member Shaia disclosed that a few weeks prior to the meeting she was approached by Lieutenant Dellatorre and Mr. David Lightholder about a Starbucks possibly being developed at the subject property located at 100 Delannoy Avenue. She added that she spoke with the Assistant City Attorney and it was determined that she could vote on the item this evening.

Assistant Attorney Eick asked her to summarize the conversation that was held and asked her if she felt that she could keep an open mind while reviewing and listening to the item tonight. In response, Board member Shaia shared the conversation that was held and added that she did feel she could keep an open mind while listening to both the presentation and to public comments before voting.

Ms. Selig shared that the applicant is requesting Special Exception approval in order to construct a proposed commercial building that includes a drive-thru facility to serve a nationally recognized coffee shop chain. The subject property is located at 100 Delannoy Ave. between the east and west bound lanes of State Road 520. The property has an unoccupied building, built in 1959, which was the former site of the SunTrust bank lobby and office. She added that the applicant has submitted a Concept Plan showing the proposed single-story commercial building with a drive-thru facility.

Ms. Selig discussed staff's findings from the Special Exception Analysis and noted that staff is recommending approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 13(C)(15) to allow a "drive-through facilities" use in the CBD (Central Business District) 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 one (1) year of the Board's approval.

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

3. Approval of the Special Exception shall be dependent upon City Council approval of the related Development Agreement and subject to all terms and conditions contained therein.

Ms. Selig read e-comments[1] into the record from the following:

- Anastacia Hawkins
- Brenda Fairfax
- Cole Oliver
- Donna Sullivan
- Eddie Lebraun
- Elle Smed
- Francesca Meccariello
- Indian River Cottage
- Joel Kickbusch
- Mike Ryan Jr.
- Ralph Perrone
- Susie Wasdin
- Tom Wasdin
- Elizabeth Fiegle

Chairperson Gilmore disclosed that he had a conversation with David Lightholder earlier today and that he told him he felt uncomfortable discussing the matter due

[1] Citizen e-comments

to the Sunshine Law, however he felt that the Board needed to treat this matter as they would any other and they needed to be fair and not discriminate just because it is a Starbucks.

Vice Chairperson Elliott shared she had concerns regarding the other board members being approached by Mr. Lightholder. In response, Mr. Shaw shared that Mr. Lightholder has no invested interest in the project and he is not an owner.

Additionally, Assistant City Attorney Eick explained that since the board members disclosed the discussions that they had on the record, this would be sufficient in covering Sunshine Law violations. She also provided clarification regarding what the focus of the item is this evening. The focus is not on "Starbucks" but on the drive-thru use.

Board member Shaia clarified that FDOT's construction will begin in 2022 and she asked if this is a budgeted item or a planned item. In response, Mr. Smith, Cocoa's Public Works Director, stated that it is a budgeted item. He also noted that construction will begin in the Summer of 2022. Additionally, the design for this particular project is different than FDOT's plan and could begin sooner.

Ms. Selig shared a web link for anyone who wanted further information.

Board member Shaia asked if accident reports were included in the traffic study. In response, Mr. Smith stated that they were not.

Chairman Gilmore asked if the Council will address this issue more thoroughly when considering the Development Agreement. In response, Mr. Smith stated that the applicant is meeting FDOT requirements and are doing their best to ensure public safety and reduce traffic hazards around the property.

Zackary Komninos, 4450 W Eau Gallie Blvd., Melbourne, pointed out that the SunTrust directly to the west was approved and also has a drive-thru, however this project will have additional screening from the road. He touched on the traffic issues and pointed out there will be a net increase of around three hundred trips which is fairly minimal.

Summit Shah, M&R United, pointed out that he does not think it fair that a private property owner be turned down for a project based on a public problem, especially when they are working hard to make the roadways safer. Additionally, FDOT will come behind them and make the roads even safer a little later on. He also feels this will increase property values and will help to fill some of the local vacancies. He pointed out that he understands concerns from other coffee shop owners but they will be the only ones with a drive-thru.

Vice Chairperson Elliott asked what the daily hours of a Starbucks are. It was noted that they are generally open 6am-9pm.

Chairperson Gilmore opened the hearing to the public.

Elizabeth Fiegle, 9 Rosa L Jones Dr., spoke in regard to the traffic issues along SR520. She shared she has personally experienced a fender bender in that area. She thinks this will cause more traffic accidents and it may look good on paper but not in reality. She asked the board to consider denying the request and preserve the historic downtown feel of the Village.

Ralph Perrone Sr., Merritt Island, has no issues with this property being developed and looks forward to having a business come in and clean up the vacant building and add nice landscaping. He feels that the applicant has met the requirements that the City has and has hired professionals to address these requirements in order to meet the criteria.

Aleck Greenwood, agreed with the Board but the big thing he sees is fear regarding the traffic design. He feels it is not the Board's job to design the traffic pattern, it is the professionals that have been hired and the staff that has worked so hard to get to this point. He feels that with the deceleration lanes it will create a need for FDOT to address the issues quicker. He added that he lives in the Village and supports it, however he thinks Starbucks is a destination point and will put Cocoa on the map.

Robert Boyd, 4655 Rector Rd., feels the applicants have done their due diligence and it is the Board's duty to consider this and not after-hours parking and other obsolete issues. He is a local small business owner and is in support of this project.

Scott Sewall, 607 Florida Ave., feels they need to approve the project.

Emma Kirkpatrick, representing HCVA, pointed out that she still has concerns regarding the traffic, especially east bound traffic approaching River Edge Blvd. Traffic is already backed up approaching the bridge without added traffic from a Starbucks. SunTrust has already shown that a drive thru business in this location is not appropriate and a Starbucks takes away from the quaintness of the Village. She pointed out that it was noted earlier that if this use is approved it will stay with the land and not the owner and will open the door to other similar types of businesses.

Jan Etz, 216 Brevard Ave., noted that the point of a drive-thru is to offer quick business but the point of a main street is for people to slow down and explore the businesses. She does not feel that this will bring business to the Village. She shared she is all for development but wants to do it in a way that preserves what the historic Village is all about.

Board member Shaia noted that while she feels the staff and engineers have done a very good job in doing their due diligence, she feels some concerns have still not been addressed as far as what could catastrophically happen in a potential increase in loss of life and traffic accidents.

Vice Chairperson Elliott shared that she feels the Board ought to be one hundred percent sure that this will be completely safe.

Alternate member Weeks pointed out that there are no roads that are 100% safe and people can die in parking lots. She appreciates everyone who put time into this project and the owner who spoke this evening and acknowledged that this is his right as a private property owner.

Motion by Alternate member Weeks, seconded by Board member Quattrocchi to recommend approval of the Special Exception to include the conditions set forth by staff. Vote on the motion carried 3-2.

V. OTHER BUSINESS:

None.

VI. NEXT MEETING DATE:

The Board members established that the next meeting would be held on Wednesday, January 20, 2021.

VII. ADJOURNMENT:

Motion by Vice Chairperson Elliott, seconded by Alternate member Weeks to adjourn. Vote on the motion carried unanimously.

There being no further business the meeting adjourned at 8:16 P.M.

Approved on this 21 day of April, 2021.

Bruce R. Gilmore

Bruce Gilmore, Chairperson

Monica Arsenault, Board Secretary