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 14, 2016
6:00 p.m.

I. OPENING MATTERS:
1. CALL TO ORDER
2. ROLL CALL

II. APPROVAL OF AGENDA AND MINUTES:
1. AGENDA: Regular Meeting of December 14, 2016
2. MINUTES: Regular Meeting of November 9, 2016

III. OLD BUSINESS:
None

IV. NEW BUSINESS:
A. **PZ-16-02000004 – Zoning Text Amendment – Medical Marijuana Moratorium**
Consideration of an ordinance of the City Council of the City of Cocoa, Brevard County, Florida, establishing a temporary moratorium within the jurisdictional limits of the City of Cocoa, prohibiting any and all medical cannabis activities during the moratorium period as described in the ordinance.

V. OTHER BUSINESS:
None

VI. NEXT MEETING DATE:
January 11, 2017

VII. ADJOURNMENT:

(Over)

NOTICE TO PUBLIC:

This 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.

All persons and parties are hereby advised that if they should decide to appeal any decision made by this Board with respect to any matter considered at this hearing, they will need a record of the proceedings and that for such purpose, affected persons may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The facility where this public hearing will be held is accessible to the physically handicapped. Interested parties are hereby advised that they may appear at said meeting and be heard with respect to the application. Written comment from the public with regard to the application will also be accepted.

Information pertaining to the above may be inspected at the Planning & Zoning Division at 65 Stone Street, Cocoa, Florida between 8:00 a.m. and 5:00 p.m., Monday through Friday, beginning the Friday before the Board Meeting date, or by phoning (321) 433-8535.

CITY OF COCOA
PLANNING & ZONING BOARD
MEETING MINUTES
November 9, 2016

A regular meeting of the Planning & Zoning Board of the City of Cocoa was held on Wednesday, November 9, 2016 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

OPENING MATTERS:

Chairman Michael Dobrin called the meeting to order at 6:07 P.M. The Board Secretary called the roll.

MEMBERS PRESENT:

Michael Dobrin	Chairman
Al Washington	Vice-Chairman
Troy Stephan	Board Member
Aleck Greenwood	Board Member
Todd Anderson	Board Member

MEMBERS ABSENT:

Jack Moore	Board Member
Russell Sengel	Board Member
Jake Williams	Board Member

OTHERS PRESENT:

Steven Belden, AICP	Community Services Director
Steven Biel	Senior Planner
Kim Kopp	Board Attorney- via phone
Rachel Unruh	Board Secretary

APPROVAL OF AGENDA & MINUTES:

1. Approval of Agenda: November 9, 2016.

Motion by Al Washington, seconded by Troy Stephan, to approve the agenda of November 9, 2016, as written. Vote on the motion carried unanimously.

2. Approval of Meeting Minutes: October 12, 2016.

Motion by Al Washington, seconded by Troy Stephan, to approve the minutes of October 12, 2016, as written. Vote on the motion carried unanimously.

OLD BUSINESS:

None

NEW BUSINESS:

A. **PZ-16-00200009 – Large-scale Site Plan (East Florida Motor Sales, Inc. & Mike Erdman Motors, Inc.)**

Consideration approval of a large-scale site plan consistent with Appendix A, Zoning, Article XIII, Section 1, to construct 3 new auto dealerships (Mike Erdman Toyota, Mike Erdman Nissan, and Mike Erdman Pre-owned Cars) and associated accessory buildings, totaling approximately 160,000 square feet of building area on 2 parcels containing approximately 35 acres.

Senior Planner Steven Biel presented exhibits for the Board's review. The applicant is requesting for approval of a large-scale site plan consistent with Appendix A, Zoning, Article XIII, Section 1, to construct 3 new auto dealerships (Mike Erdman Toyota, Mike Erdman Nissan, and Mike Erdman Pre-owned Cars) and associated accessory buildings, totaling approximately 160,000 square feet of building area on 2 parcels containing approximately 35 acres. The Brevard County Property Appraiser's Office identifies the parcels as Tax Account Number 2460013 and 2407992 and are located on the north side of State Road 520, approximately 0.25 miles west of Interstate 95.

Mr. Biel stated that staff recommends approval of the Large-Scale Site Plan for East Florida Motor Sales, Inc. and Mike Erdman Motors, Inc., as depicted on Exhibit A, with the following conditions:

1. Any unresolved review comments from City of Cocoa staff, or FDOT staff, shall be addressed as a condition of final site plan approval.

Mr. Dobrin asked the Board members if they had questions for staff. There was a brief discussion between staff and the Board members.

Mr. Anderson had concerns regarding the intersection of Friday Rd and SR 520, he questioned if the City had heard if a traffic light was going to be installed in the future and if not could the City help with getting one installed.

Steve Belden stated he would look into with Public Works.

Mr. Dobrin asked what the time line was for the start of the project.

Scott Nickle of Bussen-Mayer Engineering Group, 100 Parnell St, Merritt Island, was sworn in. Mr. Nickle stated the applicant approves staff recommendations and conditions. He also gave a

brief statement regarding the time line of the project and that there will be no median opening into the location just a west bound turn lane.

Discussion amongst the Board members and Mr. Nickle.

Mr. Dobrin opened the public hearing to the audience.

Susan Young, 400 Friday Rd, was sworn in. Ms. Young had concerns on the location of the three driveways and a traffic light at Friday Rd and SR 520.

Discussion amongst the Board members and Ms. Young regarding her concerns.

Mr. Dobrin closed the public hearing to the audience.

Motion by Todd Anderson, seconded by Al Washignton, to approve the large-scale site plan request with conditions recommended by staff. Vote on the motion carried unanimously.

OTHER BUSINESS:

None

NEXT MEETING:

The Board members established that the next meeting would be held on December 14, 2016.

ADJOURNMENT:

Motion to adjourn by Todd Anderson, seconded by Al Washington.

There being no further business the meeting adjourned at 6:30 P.M.

Approved on this _____ day of _____, 2016.

_____
Michael Dobrin, Chairman

_____
Rachel Unruh, Board Secretary

City of Cocoa
Planning & Zoning Board

STAFF REPORT

Date:	December 1, 2016
Project Name:	Zoning Text Amendment – Medical Marijuana Moratorium
Project No:	PZ-16-02000004
Meeting Date:	December 14, 2016
Project Planner:	Steven Biel, Senior Planner
Applicant/Owner:	City of Cocoa
Requested Action:	**CONSIDERATION OF AN ORDINANCE** of the City Council of the City of Cocoa, Brevard County, Florida, establishing a temporary moratorium within the jurisdictional limits of the City of Cocoa, prohibiting any and all medical cannabis activities during the moratorium period as described in the ordinance.

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 objectives 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

In 2014, the Florida Legislature passed the Compassionate Medical Cannabis Act (Compassionate Use Act, Florida Statute 381.986), which authorizes a licensed dispensing organization to cultivate, process, transport, and dispense "Low-THC Cannabis and derivative products for use by certain "qualified patients," as defined by Florida Statute 381.986(1)(h).

In 2015, the Florida Legislature passed the Right to Try Act (Florida Statute 499.0295), which amended the Compassionate Use Act and authorizes a licensed dispensing organization to cultivate, process, transport, and dispense "Medical Cannabis (Florida Statute 381.986(1)(f))," and derivative products for use by certain "eligible patients," as defined by Florida Statute 499.0295.

Currently, the Florida Department of Health has approved six dispensing organizations throughout Florida, which are authorized to cultivate, process, transport, and dispense Medical Cannabis, Low-THC Cannabis, and derivative products.

On November 8, 2016, Florida voters approved the Florida Right to Medical Marijuana Initiative amending the Florida Constitution to authorize "Medical Marijuana Treatment Centers," defined as "an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sell, distributes, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Florida Department of Health.

The passage of the Florida Right to Medical Marijuana Initiative expands the medical use of cannabis and related products to patients suffering from certain "Debilitating Medical Conditions," which represents a broader population of patients than those eligible under the Compassionate Use Act and the Right to Try Act.

The purpose of the proposed ordinance is to place a temporary moratorium on medical Cannabis Activities, as defined in the proposed ordinance, for a period of time reasonably necessary for the City of Cocoa to investigate the impacts of such Medical Cannabis Activities upon the public health, safety, and welfare, and to promulgate reasonable regulations relating to such activities if deemed advisable by the City of Cocoa. In addition, the proposed ordinance would allow City staff to evaluate practical regulations that would reduce the likelihood of potentially negative effects of unregulated Medical Cannabis Activities upon residents and businesses located within the City of Cocoa.

Relationship and consistency with Comprehensive Plan Policies and Objectives

The following Comprehensive Plan policies support the applicant's request:

- Future Land Use Element Objective 1.1.5 – Neighborhood Protection: The City shall ensure that additional growth and development will be respectful of established neighborhoods that define much of the City's character.

- Future Land Use Element Goal 1.1: Create and maintain a broad range of land use activities that maximize the City's potential as a growth center while protecting the public health, safety, welfare, and appearance through the thoughtful planned use and development of the land and public facilities.
- Future Land Use Element Goal 1.3: The City of Cocoa shall enhance the quality of life and prosperity of its citizens through the retention and creation of a wide range of profitable business opportunities and jobs.

II. Recommendation

Staff recommends that the Planning and Zoning Board recommend **approval** to City Council of Ordinance No. 18-2016 establishing a temporary moratorium within the jurisdictional limits of the City of Cocoa, prohibiting any and all medical cannabis activities during the moratorium period as described in the ordinance.

ORDINANCE NO. ___-2016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; ESTABLISHING A TEMPORARY MORATORIUM WITHIN THE JURISDICTIONAL LIMITS OF THE CITY OF COCOA; ADOPTING FINDINGS OF FACT; PROHIBITING ANY AND ALL MEDICAL CANNABIS ACTIVITIES DURING THE MORATORIUM PERIOD INCLUDING THE GROWING, CULTIVATION, PROCESSING, MANUFACTURE, DISPENSING, DISTRIBUTION, AND SALE OF MEDICAL CANNABIS, LOW-THC CANNABIS, DERIVATIVE PRODUCTS, AND RELATED ACTIVITIES; DIRECTING STAFF TO DEVELOP PROPOSED LAND DEVELOPMENT REGULATIONS AND OTHER RECOMMENDATIONS REGARDING SUCH CANNABIS RELATED ACTIVITIES; PROVIDING FOR PENALTIES; SEVERABILITY; CONFLICT WITH PRIOR INCONSISTENT ORDINANCES; NON-CODIFICATION; CORRECTION OF SCRIVENER'S ERRORS; AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under § 2(b), Art. VIII of the State Constitution, and Section 166.021, Florida Statutes, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, in 2014, the Florida Legislature passed the Compassionate Medical Cannabis Act, codified at Section 381.986, Florida Statutes (the "Compassionate Use Act"), which authorizes a licensed dispensing organization to cultivate, process, transport, and dispense "Low-THC Cannabis," as defined by Section 381.986(1) (e), Florida Statutes, and derivative products for use by certain "qualified patients," as defined by Section 381.986(1)(h); and

WHEREAS, in 2015 the Florida Legislature passed the Right to Try Act, codified at Section 499.0295, Florida Statutes, which amended the Compassionate Use Act and authorizes a licensed dispensing organization to cultivate, process, transport, and dispense "Medical Cannabis," as defined by Section 381.986(1)(f), Florida Statutes, and derivative products for use by certain "eligible patients," as defined by Section 499.0295, Florida Statutes; and

WHEREAS, to date, the Florida Department of Health has approved six (6) dispensing organizations throughout the State of Florida, which are authorized to cultivate, process, transport, and dispense Medical Cannabis, Low-THC Cannabis, and derivative products; and

WHEREAS, on November 8, 2016, Florida voters will vote on the Florida Right to Medical Marijuana Initiative, passage of which would amend the Florida Constitution to authorize "Medical Marijuana Treatment Centers," defined therein as "an entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their caregivers and is registered by the Department;" and

WHEREAS, the passage of the Florida Right to Medical Marijuana Initiative would expand the medical use of cannabis and related products to patients suffering from certain "Debilitating Medical Conditions," as defined therein, which represents a broader population of patients than those eligible under the Compassionate Use Act and the Right to Try Act; and

WHEREAS, the recent legalization of Low-THC Cannabis and Medical Cannabis by the Compassionate Use Act and the Right to Try Act, respectively, and potential future changes in the law including but not limited to passage of the Florida Right to Try Medical Marijuana Initiative, raise substantial questions regarding the impact of Medical Cannabis Activities, as defined herein, upon the public health, safety, and welfare within the City of Cocoa; and

WHEREAS, the purpose of this ordinance is to place a temporary moratorium on Medical Cannabis Activities, as defined herein, for a period of time reasonably necessary for the City to investigate the impacts of such Medical Cannabis Activities upon the public health, safety, and welfare, and to promulgate reasonable regulations relating to such activities if deemed advisable by the City; and

WHEREAS, the City Council finds that this Ordinance advances important government purposes, including but not limited to reducing the likelihood of potentially negative effects of unregulated Medical Cannabis Activities, as defined herein, upon residents and businesses located within the City; and

WHEREAS, the City Council of the City of Cocoa, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Cocoa.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COCOA HEREBY ORDAINS, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby ratified and fully incorporated herein by reference as legislative findings of the Cocoa City Council.

Section 2. Definitions. For the purposes of this ordinance, the following words, terms, and phrases, including their respective derivatives, have the following meanings:

a. *Derivative Product* means any form of cannabis suitable for routes of administration.

b. *Low-THC Cannabis* has the meaning established in Section 381.986(1)(e), Florida Statutes, and means a plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seed or resin.

c. *Medical Cannabis* has the meaning established in Section 381.986(1)(f), Florida Statutes, and means all parts of any plant of the genus Cannabis, whether growing or not; the seeds

thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.

d. *Medical Cannabis Activities* means, without limitation, the growing, cultivation, processing, manufacture, dispensing, distribution, storage, and wholesale and retail sale of Medical Cannabis, Low-THC Cannabis, and Derivative Products, and other related activities. The term Medical Cannabis Activities shall include any single activity or combination of activities described in this definition.

Section 3. Temporary Moratorium. Beginning on the effective date of this ordinance and continuing for a period of 270 days, or sooner if provided by an ordinance by the Cocoa City Council, a moratorium is hereby imposed upon Medical Cannabis Activities, except for activities that have previously received final approval by the City, and except where City regulation is pre-empted or otherwise inconsistent with Florida law. Further, the review of any applications for Medical Cannabis Activities that may be pending on _____, the date of the adoption of this Ordinance, shall be abated, and no new applications for such permits shall be accepted or processed during the moratorium period. In addition, to the extent that a person or entity is authorized to carry out any Medical Cannabis Activities within the City by previous final approval by the City, this moratorium shall prohibit the expansion or relocation of any such authorized activity or facility and the opening of any new facility.

Section 4. Expiration of the Temporary Moratorium. The temporary moratorium imposed by Section 3 of this Ordinance expires 270 days from the effective date of this ordinance, or at an earlier date if provided by ordinance of the Cocoa City Council.

Section 5. Recommendations for Land Development Regulations. City Staff, at the City Manager's Direction and in consultation with the City Attorney, is hereby directed to study Medical Cannabis Activities and their impact on the health, safety, and welfare of residents and businesses located within the City, and to develop and recommend, as deemed advisable by the City Manager, land development regulations for Medical Cannabis Activities in the City, and any other relevant regulations and recommendations, with such recommendations and proposed regulations being delivered to the Cocoa City Council within a reasonable time before the expiration of this moratorium.

Section 6. Penalties. Violations of this Ordinance are punishable as provided by Section 1-8 of the Cocoa City Code or other applicable Code provisions.

Section 7. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 8. Non-Codification. This Ordinance shall not be incorporated into the Cocoa City Code.

Section 9. **Severability.** If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 10. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida, and pursuant to the City Charter.

ADOPTED, by the City Council of the City of Cocoa, Florida, this ____ day of _____, 2016.

_____
HENRY U. PARRISH, Mayor

ATTEST:

_____
CARIE SHEALY, CMC
City Clerk

First Reading: _____
Legal Ad Published: _____
Effective Date: _____