CITY OF COCOA
BOARD OF ADJUSTMENT
MEETING MINUTES
November 16, 2022

A regular meeting of the Board of Adjustment of the City of Cocoa was held on Wednesday, November 16, 2022 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

I. OPENING MATTERS:

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

ROLL CALL:

Nancy Elliott	Chairperson
Pam Shaia	Vice Chairperson
Kaitlyn Aliano	Board Member
Bruce Gilmore	Board Member
Robert Dyar	Board Member
Dan Quattrocchi	Board Member
Patricia Weeks	Board Member
Jenny Swisher	Alternate Member

MEMBERS PRESENT:

Nancy Elliott	Chairperson
Pam Shaia	Vice Chairperson
Kaitlyn Aliano	Board Member
Bruce Gilmore	Board Member
Robert Dyar	Board Member
Dan Quattrocchi	Board Member
Patricia Weeks	Board Member

MEMBERS ABSENT:

Jenny Swisher	Alternate Member

OTHERS PRESENT:

Bryant Smith	Interim Growth & Economic Dev. Director
Rip Dyal	Board Liaison
Kristin Eick	Assistant City Attorney
JoAnna Zurinsky	Recording Secretary

II. APPROVAL OF AGENDA & MINUTES:

* **Motion by Board Member Weeks; Seconded by Board Member Dyar, to approve the November 16, 2022 agenda as written.**

Vote on the motion carried unanimously (7-0).

AYES: Elliott, Shaia, Aliano, Gilmore, Dyar, Quattrocchi, Weeks

* **Motion by Vice Chairperson Shaia; Seconded by Board Member Weeks, to approve the May 18, 2022 minutes as written.**

Vote on the motion carried unanimously (7-0).

AYES: Elliott, Shaia, Aliano, Gilmore, Dyar, Quattrocchi, Weeks

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

A. PZ-22-00000004 – Special Exception (226 King St.)

Mr. Smith provided a presentation [1]and explained that this item is for consideration of a Special Exception in the CBD zoning district to allow a bar/lounge use without a package store. He pointed out that the subject property is located at 226 King Street in Cocoa. Within the agenda packet there is a number of criteria that staff reviews as part of the application from the applicant. Mr. Smith explained that after reviewing the application, staff feels that all of the criteria was met.

Mr. Smith provided an aerial view map to show public parking locations and noted that staff felt that there will be an adequate amount of parking. Additionally, there are crosswalks along the SR520 corridor, most of which are located at intersections that have pedestrian signals which enhances the safety of those trying to cross the road. He also mentioned that there will be work done along this corridor over the next twelve months, including the installment of additional street lights, that will further enhance the safety of the crosswalks and enhance pedestrian mobility.

This particular property is generally surrounded by other commercial establishments and a number of bar/lounge uses that are also immediately surrounding this property which is why staff feels this type of business would be appropriate in this area.

Mr. Smith stated that staff is recommending approval of the Special Exception with the following conditions:

- 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, including building permits.

- If the use as a bar or lounge is discontinued for a period greater than six months, then the special exception shall become null and void.

[1] Exhibit A: 11/16/2022 BOA Presentation

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

Board Member Quattrocchi inquired if the current zoning allows this use and if so, why would a Special Exception be needed. In response, Mr. Smith explained it is a permitted use, however there are two different types of uses. There is principle permitted uses that do not have to come before the Board and there are permitted uses that are only granted through a Special Exception. This allows for the Board to be able to review the application package to ensure that all necessary criteria are met.

Vice Chairperson Shaia asked what the maximum occupancy is inside the business. In response, Jimmy Hudson and Samone Jackson, the applicants, shared that the occupancy limit is one hundred forty-three (143).

Chairperson Elliott asked if this is more of an in-and-out type business or if it is more of a sit-down type of business. In response, Mr. Hudson and Ms. Jackson explained that it is a hookah lounge so people will more than likely stay for an hour or more at a time. They will have televisions inside the establishment so customers can watch sports events and they will also play music at a moderate level so that people still have the ability to interact with each other at a normal volume.

Chairperson Elliott asked if they will be serving food at their business. In response, Ms. Jackson stated they would not be selling food.

Vice Chairperson Shaia inquired about their operating hours. In response, Ms. Jackson shared that during the week they plan to be open from 4pm to midnight and on the weekends they plan to be open from 2pm to 2am. She also pointed out that they will be serving beer, wine and soft drinks but will not offer a full liquor bar at this time.

There being no further questions or comments from the Board, Chairperson Elliott opened the hearing to the public. She noted that the City received three emails[2] from individuals who could not attend the meeting in person. Two of the individuals are for the project and one is opposed.

Candace Rogers, 93 Delannoy Ave., Cocoa, pointed out that from the announcement she could not tell what kind of "bar" this business would be, but it is her understanding now that this is a hookah bar that will be serving alcohol. In response, Mr. Smith replied affirmatively.

Ms. Rogers inquired about the amount of parking needed. In response, Mr. Smith shared that this entire property is exempt from the typical parking requirements.

Ms. Rogers noted that she has concerns about this business being so close in proximity to the Iglesias De Dios church who holds around four services per week. Furthermore, she has safety concerns about the location of the business. She explained that she is not so concerned about the hookah portion of the business but rather the alcohol. She

[2] Emails received from Victoria Jones, Alton Edmond & a Cocoa resident

noted that State Road 520 is already dangerous enough but when people have had alcohol it can become even more dangerous.

Danita Davis, 3849 Weaver St., Cocoa, shared that she grew up here. She has been around the area where the business is proposing to go and has never had any issues with traffic. She added that she feels there is ample parking available for the public to use and thinks that this business will bring good vibes and energy to Cocoa. She explained that it is not a typical bar meaning that this is a hookah lounge where people can relax and she does not think it will be the type of place where people will drink uncontrollably.

Additionally, she mentioned that this building will be monitored by security to keep an eye on things.

Kim McCann, 137 S. Courtney Pkwy., Merritt Island, shared that she is a representative of Lamberly Enterprises LLC, owners of 226 King Street where the business is proposed to be located. She explained that they bought the property in January of last year and are in the process of renovating it. There is an adjacent public parking lot right next to their building with a lot of overgrown landscaping which has blocked visibility almost completely on west bound SR520. They have hired a landscaping crew to maintain the lot to ensure visibility safety. Ms. McCann expressed that it is important to them to be good neighbors and rent to good tenants.

Ms. McCann shared that they have also met with project managers regarding the work that is going to be done along SR520 as it will affect their right of way in front of the building, however she feels that the improvements are going to do a lot to enhance the downtown area.

Chairperson Elliott asked Ms. McCann how they manage their waste as she didn't see trash receptacles on the picture that was provided. In response, Ms. McCann explained that they have both an existing dumpster and a recyclable receptacle on the property and pointed out the location.

Additionally, Mr. Smith pointed out that the church rule does not apply within the CBD District and there is no minimum distance requirement.

There being no further questions or comments from the public, the public portion of the hearing was closed.

* **Motion by Board Member Weeks; Seconded by Board Member Dyar, to approve the Special Exception with the conditions recommended by staff.**

Board Member Gilmore asked the Board if they might wish to consider amending the motion to be more specific as to what type of bar/lounge this is. He feels as though the term "bar" might be too broad of a term which could allow any type of bar use and so the Board may want to consider adding a condition that the Special Exception is approved for a hookah bar and lounge with the ability to serve beer and wine.

Mr. Smith explained that the "bar and lounge" use is specific to alcoholic beverages and that's what is being considered this evening. The City's Code also does not consider the types of shops or lounges separately. There is not a specific zoning category within the City for a smoke lounge or anything similar.

Chairperson Elliott asked Board Attorney Eick if the Board could make a motion that the approval of the Special Exception is specifically for this application with these owners and the specified usage. In response, Board Attorney Eick explained that the Board could make a motion with that condition if they would like, however, the Special Exception itself is for a bar/lounge use as defined which is based on alcoholic beverage consumption.

Chairperson Elliott further asked if the Board were to grant the alcohol usage would it be one of those instances where it stays with the building? In response, Board Attorney Eick replied affirmatively and explained that Special Exceptions run with the land so if, for example, the owners changed that would not affect the Special Exception. However, one of the conditions for approval that is being recommended by staff is that if the Special Exception is discontinued for a period of six months or more than the Special Exception is automatically terminated.

Patricia Freeman, a citizen, asked where the building was located and if the business will occupy the entire space. In response, staff clarified the location of the building and that the business will not be using the entire footprint of the building.

The Recording Secretary called the roll.

Vote on the motion carried unanimously (7-0).

AYES: Elliott, Shaia, Aliano, Gilmore, Dyar, Quattrocchi, Weeks

V. OTHER BUSINESS:

None.

VI. NEXT MEETING DATE:

It was established that the next meeting would be determined at a later date.

VII. ADJOURNMENT:

* **Motion by Board Member Quattrocchi; seconded by Board Member Weeks to adjourn the Regular meeting of November 16, 2022.**

Vote on the motion carried unanimously (7-0).

AYES: Elliott, Shaia, Aliano, Gilmore, Dyar, Quattrocchi, Weeks

There being no further business the meeting adjourned at 6:34 P.M.

Approved on this 1 day of February, 2023.

Nancy Elliott

Nancy Elliott, Chairperson

Monica Arsenault, Board Secretary