Original

City of Cocoa

65 Stone Street
Cocoa, FL 32922

Meeting Agenda

Wednesday, October 4, 2023

6:00 PM

Cocoa City Council Chambers

Planning and Zoning / Local Planning Agency

I. CALL TO ORDER

1. ROLL CALL

2. INVOCATION

3. PLEDGE OF ALLEGIANCE

II. APPROVAL OF AGENDA AND MINUTES:

AGENDA:

1. 23-615 Request Approval of the Short Agenda for the Planning & Zoning Regular Meeting on October 4, 2023, either as written or with amendments.

Attachments: PZ Short Agenda October 4 2023 (003).pdf

MINUTES:

2. 23-611 Request Board Approval of the Minutes for the July 12, 2023, Planning & Zoning Special Meeting either as written or with amendments.

Attachments: 07-12-2023 DRAFT.pdf

3. 23-612 Request Board Approval of the Minutes from the August 16, 2023, Planning & Zoning Special Meeting, either as written or with amendments.

Attachments: 08-16-2023 DRAFT.pdf

III. OLD BUSINESS: NONE

IV. NEW BUSINESS:

A. 23-617 Consideration of a Land Development Code Amendment to Appendix A, Article XI, Section 22 of the Zoning Ordinance of the City of Cocoa to allow Large Scale Commercial/Mixed-Use Buildings on certain properties within the Cocoa Waterfront Overlay District.

Attachments:
- Ordinance No. 21-2023 _ LDC Text Amendment 430 Brevard Ave Properties.pd
- Exhibit A to Ord 21-2023 - Regulating Plan Map September 2023 .pdf
- Exhibit B - 430 Brevard Av Location.pdf
- Exhibit C - 430 Brevard Av Zoning.pdf
- Exhibit D - 430 Brevard Av Future Land Use .pdf
- Legal Ad October 4.pdf

B. 23-623 An ordinance of the City Council of the City of Cocoa, Brevard County, Florida; amending Appendix A, Zoning, Article XIII, Section 22, of the zoning ordinance of the City of Cocoa. amending the Landscaping, Land Clearing, and Tree Protection and Replacement Standards of the City of Cocoa; providing for the repeal of prior inconsistent ordinances and resolutions, incorporation into the code, severability, and an effective date.

Attachments:
- Exhibit A - Ordinance No. 20-2023 - Amending Tree Preservation - DRAFT 09.2
- Exhibit B - Legal Ad October 4.pdf

V. TREE BOARD:

23-619 Consideration: Removal of an oak tree in the right-of-way at 904 Fern Ave, Cocoa, FL 32922.

Attachments:
- Exhibit A - 904 Fern ave Cocoa Fl 32922.pdf
- Exhibit B - Pictures.pdf

VI. OTHER BUSINESS: Planning and Zoning Board Open Discussion

VII. NEXT MEETING DATE:

The next regularly scheduled meeting of the Cocoa Redevelopment Agency will be on Tuesday at 5:00 PM at the Cocoa City Hall, 65 Stone Street, Cocoa, Florida.

VIII. ADJOURNMENT

NOTICE TO THE PUBLIC:

This is a public meeting. All interested parties may attend in person. The facility wherein this public meeting will be held is accessible to the physically handicapped. In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org.

Additionally, interested persons may view or listen to the meeting electronically at the following internet sites:
(1) https://tinyurl.com/s5e875r or
(2) https://cocoa.legistar.com/DepartmentDetail.aspx?ID=26365&GUID=FF9D3369-D354-4FAB-800A-57D0AEE30153&Mode=MainBody

However, the City is not responsible for technical difficulties that may occur while attempting to view or listen to the meeting on the internet.

Interested persons may submit their written comments or questions regarding the meeting prior to the meeting through Email at meetings@cocoafl.org, or via E-comments through the online agenda. Any electronic comments submitted will be made part of the meeting record. Written comments or questions not relevant to the Council meeting agenda will not be made part of the meeting record but will be maintained as public record.

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that: if a person decides to appeal any decision made by the City Council with respect to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to assure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise not allowed by law.

Although members of the public are entitled to be heard by the City Council on certain items on the meeting agenda pursuant to the City Council Rules of Procedure, members of the public are not entitled to an immediate response by either administrative staff members or Council; however, the City Council or administrative staff may provide a response at their discretion. When presenting before the City Council, all comments or questions should be directed to the Mayor or the chair of the meeting. Comments or questions should not be made directly to administrative staff without permission from the Mayor or chair.
Public debate by individual speakers from the audience on public hearing items shall be limited to three (3) minutes. Applicants or representatives of recognized groups with special interests in a matter shall be limited to ten (10) minutes; and total debate on a single issue shall be limited to thirty (30) minutes. Only one presentation per person per item shall be allowed.

A Council member may add an item to the agenda during the meeting only at the time the agenda is approved. If the item requires action by the Council, then it may be added to the agenda by an affirmative vote of the Council, and written documentation must be submitted at the time the item is added to the agenda. Matters may also be raised by the Council, City Manager or City Attorney under reports and acted upon by the City Council.

This agenda is posted on the Municipal Bulletin Board and at the Central Brevard Library and Reference Center in Cocoa for public review.

Legislation Details (With Text)

File #:	23-615	**Version:** 1	**Name:**		
Type:	Agenda		**Status:**	Agenda Ready	
File created:	9/28/2023		**In control:**	Planning and Zoning / Local Planning Agency	
On agenda:	10/4/2023		**Final action:**		
Title:	Request Approval of the Short Agenda for the Planning & Zoning Regular Meeting on October 4, 2023, either as written or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	PZ Short Agenda October 4 2023 (003).pdf				

Date	Ver.	Action By	Action	Result

PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: September 28, 2023
Agenda Date: October 4, 2023
Prepared By: Lori Chabot, Recording Secretary
Through: Stacey Hopper, Planner
Requested Action:
Request Approval of the Short Agenda for the Planning & Zoning Regular Meeting on October 4, 2023, either as written or with amendments.

BACKGROUND:

Board Members approve the Agenda at the beginning of the meeting.

BUDGETARY IMPACT:

None

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Request Approval of the Short Agenda for the Planning & Zoning Regular Meeting on October 5, 2023, either as written or with amendments.

CITY OF COCOA
Planning & Zoning Board /
Local Planning Agency
City Council Chambers

Cocoa City Hall
65 Stone Street
Cocoa, FL 32922

AGENDA
Regular Meeting
October 4, 2023
6:00 p.m.

I. **OPENING MATTERS:**
1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE

II. **APPROVAL OF AGENDA AND MINUTES:**
1. AGENDA: Meeting of October 4, 2023
2. MINUTES: Meeting of July 12, 2023
3. MINUTES: Meeting of August 16, 2023

III. **OLD BUSINESS:** None

IV. **NEW BUSINESS:**

PZ 23-0200007 Zoning Text Amendment | Ordinance 21-2023

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTION 22 OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ALLOW LARGE SCALE COMMERCIAL/MIXED-USE BUILDINGS ON CERTAIN PROPERTIES WITHIN THE COCOA WATERFRONT OVERLAY DISTRICT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

PZ 23-02000008 Zoning Text Amendment | Ordinance No. 20-2023

B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ZONING, ARTICLE XIII, SECTION 22, OF THE ZONING ORDINANCE OF THE CITY OF COCOA; AMENDING THE LANDSCAPING, LAND CLEARING, AND TREE PROTECTION AND REPLACEMENT STANDARDS OF THE CITY OF COCOA; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Legislation Details (With Text)

File #:	23-611	**Version:** 1	**Name:**		
Type:	Minutes		**Status:**	Agenda Ready	
File created:	9/25/2023		**In control:**	Planning and Zoning / Local Planning Agency	
On agenda:	10/4/2023		**Final action:**		
Title:	Request Board Approval of the Minutes for the July 12, 2023, Planning & Zoning Special Meeting either as written or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	07-12-2023 DRAFT.pdf				

Date	Ver.	Action By	Action	Result

PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: September 25, 2023
Agenda Date: October 4, 2023
Prepared By: Lori Chabot, Recording Secretary
Through: Luci Ribeiro, Planning Department
Requested Action:
Request Board Approval of the Minutes for the July 12, 2023, Planning & Zoning Special Meeting either as written or with amendments.

BACKGROUND:

Board Members approve the minutes at the beginning of the meeting.

BUDGETARY IMPACT:

None

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Request Board Approval of the Minutes for the July 12, 2023, Planning & Zoning Special Meeting either as written or with amendments.

V. TREE BOARD:

904 Fern Ave., Cocoa, FL 32922

A Level 2 assessment of a Southern Live Oak at 904 Fern Ave. was completed. The tree is uplifting the driveway as well as encompassing the water meter. Recommend the tree be removed to reduce the future damage and risk to the driveway and water meter.

VI. OTHER BUSINESS:

Planning and Zoning Board Open Discussion

VII. NEXT MEETING DATE:

Wednesday, November 1st at 6:00 pm

VIII. ADJOURNMENT

General Notice Information:

This is a public meeting. Interested parties are hereby advised that they may appear at said meeting and be heard. The facility wherein this public meeting will be held is accessible to the physically handicapped. In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org.

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that if a person decides to appeal any decision made by the BOA, P&Z Board/LPA or City Council with respect to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to assure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise not allowed by law.

The BOA or PZ Board/LPA 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. The BOA, PZ Board/LPA and City Council reserve the right to continue or postpone hearings to a date certain without re-advertising.

Public Participation Information:

Members of the public may view the meeting agenda, ordinances, project applications, supporting documents, and staff reports on the City's website at the following link prior to attending or commenting:

- City of Cocoa meeting calendar at https://cocoa.legistar.com/Calendar.aspx

Documents pertaining to the above may also be inspected at the Community Services Department, between 8:00 a.m. and 5:00 p.m., Monday through Friday, or by phoning (321) 433-8535.

Interested persons may submit their written comments or questions prior to the meeting through Email at meetings@cocoafl.org, or via E-comments through the online agenda at the link above. Any electronic comments submitted will be made part of the meeting record.

Viewing In Real Time. Interested persons are encouraged to view and listen to the hearings live by accessing the meetings at the following internet address:

- City of Cocoa meeting calendar at https://cocoa.legistar.com/Calendar.aspx

However, the City is not responsible for technical difficulties that may occur while attempting to view or listen to the meeting on the internet.

Special Information for Quasi-Judicial Hearings:

Any person that (1) can demonstrate that they may suffer special damages different in kind and degree from that of the general public at large; and (2) wishes to present factual or expert witnesses and/or evidence at the quasi-judicial hearing is highly encouraged to immediately contact Dodie Selig, Planning and Zoning Manager, at (321) 433-8535 or lribeiro@cocoafl.org, to make proper arrangements for presentation of witnesses and/or evidence. All witnesses should be identified and all evidentiary documents and exhibits that are intended to be distributed to the BOA, P&Z/LPA and City Council should be submitted to Ms. Selig via email or mail at least three (3) days prior to the hearing.

MINUTES
CITY OF COCOA
PLANNING & ZONING BOARD/ LOCAL PLANNING AGENCY
SPECIAL MEETING
July 12, 2023

A Special meeting of the Planning & Zoning Board Local Planning Agency was held on July 12, 2023 at City Hall, 65 Stone Street, Cocoa, FL, as publicly noted.

I. CALL TO ORDER:

Chairperson Simpson called the meeting to order at 6:00 PM.

ROLL CALL:

Justin Simpson	Chairperson
Michael Dobrin	Vice Chairperson
Todd Anderson	Board Member
Chris Bankhead	Board Member
Ron Chabot	Board Member
Aleck Greenwood	Board Member
Veronica Lopez	Board Member
Wesley Park	Board Member
Marcus Wheeler	Board Member
Merrybeth Burgess	Alternate Member
Katherine Stewart	Alternate Member

PRESENT:

Justin Simpson	Chairperson
Michael Dobrin	Vice Chairperson
Todd Anderson	Board Member
Aleck Greenwood	Board Member
Veronica Lopez	Board Member
Wesley Park	Board Member
Marcus Wheeler	Board Member
Merrybeth Burgess	Alternate Member
Katherine Stewart	Alternate Member

ABSENT:

Chris Bankhead	Board Member
Ron Chabot	Board Member

STAFF PRESENT:

Stockton Whitten, City Manager; Charlene Neuterman, Community Services Director; Luci Ribeiro, Planner; Kristin Eick, Board Attorney; and Joanna Zurinsky, Recording Secretary.

Chairperson Simpson led the assembly in the Pledge of Allegiance.

II. APPROVAL OF AGENDA AND MINUTES:

1. AGENDA: Meeting of July 12, 2023

* **MOTION BY BOARD MEMBER ANDERSON; SECONDED BY BOARD MEMBER PARK TO APPROVE THE JULY 12, 2023 SPECIAL MEETING AGENDA WITH AN AMENDMENT TO MOVE IV.5 to item IV.1.**

AYES: SIMPSON, DOBRIN, ANDERSON, BURGESS, GREENWOOD, LOPEZ, PARK, STEWART, WHEELER

MOTION PASSED UNANIMOUSLY (9-0)

2. MINUTES: Meeting of June 7, 2023

* **MOTION BY BOARD MEMBER ANDERSON; SECONDED BY BOARD MEMBER PARK TO TABLE THE MINUTES OF JUNE 7, 2023 MINUTES.**

AYES: SIMPSON, DOBRIN, ANDERSON, BURGESS, GREENWOOD, LOPEZ, PARK, STEWART, WHEELER

MOTION PASSED UNANIMOUSLY (9-0)

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

1. PZ-23-02100004 N Range Rd – Cocoa Woods Zoning Map Amendment (Ordinance 12-2023)

Luci Riberio introduced the item stating Stephen Noto would be presenting the item. Stephen Noto provided a presentation.

- Applicant proposes to amend the zoning category on both parcels, which equal+/- 19.23 acres in size, from RU-1-7, Single-Family Residential District, to RU-2-15, Multiple Family Residential.
- The Future Land Use of both parcels is LDR, Low-Density Residential, which allows a maximum density of 7du/acre.
- The applicant intends to subdivide the property to provide for 122 townhome units at a density of 6.33 du/acre.
- Pages 2 thru 6 of the staff report detail the required 15 Findings to support the requested rezoning.

Staff has determined this rezoning request is consistent with both the Code of the City of Cocoa and the Comprehensive Plan Policies and Objectives.

Staff recommends **APPROVAL** of the requested Zoning Map Amendment to change the Zoning Map designation from RU-1-7 (Single-Family Residential District) to RU-2-15 (Multiple Family Dwelling) on two parcels totaling ±19.23-acres, which have Parcel ID numbers 24-35-24-00-759 and 24-35-24-00-758.

Board Attorney Eick reminded the Board to swear in all those who wish to speak on the item and the following were sworn in: Sue Lindeman, Jerry Grove, James Tidwell, Michael Bivey, James Jordan, Peg Wadell and Dr. Beakley.

Attorney Eick added the applicant was available to speak as well. Board Member Greenwood asked about the construction type. The Applicant responded this was still in the planning stages. Speakers discussed concerns over flooding and traffic with the development.

Chairperson Simpson thanked the public for their comments. Many issues like this get resolved when a project gets to site plans, etc. The applicant may be able to address these comments. Mr. Noto stated that at this point they don't have full engineer plans to review.

The Developer spoke addressing the concerns raised and the process that begins with this item. Vice Chairperson Dobrin stated that residents express problems with what is planned. He stated he would not feel comfortable moving forward at this point. Board Member Anderson stated his concern is density and would be opposed to changing the density in this area. This is a rural area.

Attorney Eick clarified this item would not change the density. However, the RU-215 does allow for townhomes as a product and would allow for smaller lot sizes.

Board Member Greenwood stated the property across the street was sold and owned by the school board.

Board Member Stewart said she is concerned about the wetlands and wildlife.

Board Member Park asked if that would be brought up during the site plan review. In response, Mr. Noto confirmed that it would.

Board Member Greenwood asked if the Board tabled this item, are these items that the Developer could return and address? He feels more information is needed.

Board Member Wheeler reiterated what the current task is. The items of concern will be brought forward at a later time, and explained his understanding of his position today.

Board Member Greenwood agreed, stating he would like to ask Developer to return with more information especially in regard to drainage.

Board Member Park added that if it were to come back, it would give the developer more time to address concerns further.

Attorney Eick reminded the Board to offer criteria for denial. Chairperson Simpson explained for legal purposes this needs to be identified.

Board Wheeler added that would be line item 18A – Land Use and 18H – Congestion – these would be the purpose for denial.

* **MOTION BY BOARD MEMBER ANDERSON; SECONDED BY VICE CHAIRPERSON DOBRIN TO OPPOSE PZ-23-02100004 N Range Rd – Cocoa Woods Zoning Map Amendment (Ordinance 12-2023) based on 18A and 18H.**

AYES: SIMPSON, DOBRIN, ANDERSON, BURGESS, GREENWOOD, LOPEZ, STEWART,

NAYS: PARK, WHEELER

MOTION PASSED (7-2)

2. **PZ-23-00500003 SR 524 Large Scale Comp Plan Text Amendment (Ordinance 14-2023)**

Luci Ribeiro introduced the item stating City Manager Whitten would be presenting along with Director Charlene Neuterman.

This item was move to item number IV.2 on the order of the agenda and all other items on the agenda were placed on a sub-sequential descending order, following this item.

City Manager Whitten presented this item via the following from a presentation and introduced Interim Public Works Director Abigail Morgan to stand in for questions from the Board and by the general public at large.

The following was presented in full for this item and is part of the Meeting Agenda:

- Text amendment to the Transportation Element and Capital Improvement Element
- Removing minimum level of service standards for SR 524
- SR 524 located in the City of Cocoa but under the jurisdiction of the State (FDOT)

- Maximum Allowable Volumes (MAV) and Levels of Service (LOS) are divided into 3 segments of SR 524:
    - I-95 to SR 520
    - I-95 to Cox Road
    - Cox Road to Industry Road

- MAV and LOS determinations are generated through a series of calculations that include the following:
    - **Roadway Type**
    - **Roadway Characteristics** (lane width, number of lanes medians, terrain, turn lanes, etc.)
    - **Traffic Characteristics** (flow rates, number of heavy vehicles, seasonal volumes, etc.)
    - **Traffic Control** (signals, signal cycle time, etc.)
    - **Multimodal Considerations** (paved shoulders or bike lanes, pavement condition, on-street parking, sidewalks, etc.)

- Generally, the higher the LOS, the more efficient those operating conditions are.
- Section 163.3180, Florida Statutes renders transportation concurrency optional
- SR 524 is a state road, and the City has no authority to control the schedule and construction of capital improvements to increase the capacity of the road
- Consideration of this comp plan amendment will allow the City to continue to approve projects that will enhance and grow the community and the tax base.
- Windward Estates – Stipulated Settlement Agreement
- Most of the proposed projects take at least 3 years to complete.
- The City will get impact fees from these developments that can be utilized to accelerate the SR524 Improvement Project with FDOT.
- Once the improvement project is complete, roadway capacity will grow beyond what is currently needed.
- The city will be working with partners such as the Space Coast Planning & Transportation Organization, the Florida Department of Transportation, and the County to leverage funds and apply for grants to help accelerate the project.
- The City currently has approximately $4 to $5 million in Impact Fee Revenues
- The City will collect approximately another $4 to $5 million in Impact Fees for projects under review if they are approved
- SR 524 is the number 4 ranked project on the Space Coast Transportation Planning Organization's (SCTPO) overall project ranking
- SR 524 is the number 2 ranked state road project on the SCTPO's Regionally Significant Project Listing

Cocoa Resident Leroy Darby commented how glad he was that the Florida DOT was planning the construction, and Board Member Park stated that he supported the construction, but did have concerns with traffic flows.

Board Member Anderson also posed questions concerning the widening of SR524 and Michigan Avenue.

Discussion ensued among Board Members with regard to this project and how it may affect citizens and whether or not more information is needed. Members echoed concerns however, expressed their support. City Manager Whitten replied to their concerns.

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER ANDERSON TO APPROVE the SR524 Large Scale Comp Plan Test Amendment (Ordinance 14-2023).**

AYES: SIMPSON, DOBRIN, ANDERSON, BURGESS, GREENWOOD, LOPEZ, PARK, STEWART, WHEELER

MOTION PASSED UNANIMOUSLY (9-0)

3. **PZ-20-00100002 – Adamson Creek Phase Two Zoning Map Amendment to PUD/Preliminary Subdivision/Large-Scale Site Plan/Development Agreement (Ordinance 10-2023)**

Alternate Board Member Stewart recused[1] herself from this item on the agenda, citing she was a resident of Adamson Creek Subdivision.

This item was presented by Luci Ribiero and the vote will be for both items 23-415 and 23-428 and will be taken as one motion. She discussed the project summary that included Conservation Easement, Future Land Use, PUD Analysis, Site Plan Analysis and Recommendation. This is the final phase for this project.

Applications related to this project:

- Binding Development Agreement
- Rezoning from RR-1 to PUD
- Ordinance 10-2023
- Final Planned Unit Development (PUD)
- Preliminary Subdivision
- Large-Scale Site Plan

Background

- Located off Adamson Road, this project is considered a standalone PUD and Subdivision despite shared amenities and connection with Adamson Creek Phase 1
- The Future Land Use of the surrounding area is a combination of Very Low Density Residential and Conservation (City), Medium Density Residential and Conservation (City), and RES 2 (Brevard County).
- Final project
  - 30 single-family residences

[1] Voting Conflict Form 8B Submitted

- recreational space amenities that will include a walking path surrounding a stocked stormwater pond, along with a fishing platform and other open space areas
- In this subdivision the lots are 50 feet in width and 120 feet in depth which equates to 6,000 SQF
- Staff does not expect the level of service of public facilities to be diminished beyond their acceptable levels of service with this change

- Development Agreement
  - Phase 2 of the project contains 79.13 acres overall, with 14.39 acres of land that will be developed. The remaining 64.74 acres of land will be placed into a conservation easement
  - A conservation easement with 50.70 acres is dedicated to the City in lieu of contributions to the arbor mitigation bank

PUD Analysis

Density Max allowed = 4 units/acre; Providing = 0.38 units/acre

Compatibility - The proposed single-family development will be compatible with the Adamson Creek neighborhood and with the adjacent residential properties to the west and south

Benefit - The Planned Unit Development classification permits flexible design to promote conservation, wetland preservation, and more efficient land use management, thus, securing open space for parks and recreational uses.

Site Plan Analysis

The City of Cocoa Public Works Department as part of the Site Plan review process requested a Traffic Signal Warrant analysis at the intersection of SR 524 and Adamson Road. Based on the results and as a concern to Adamson Creek neighborhood traffic safety, the department forwarded the study to the proper jurisdictions to evaluate and establish improvements.

After further discussion between Brevard County and the City of Cocoa, it has been determined that FDOT must conclude the TSWS analysis to determine guidelines for the developer to accommodate improvements to this intersection.

Preliminary Plat

A third-party surveyor has conducted a first plat subdivision review, and the applicant will address the comments received before the next July 25 City Council quorum.

Staff recommends the Planning & Zoning Board recommend **approval** to City Council of the Final PUD, Preliminary Subdivision for Adamson Creek Phase 2 and Approval of the Adamson Creek Phase Two Development Agreement between the City of Cocoa and DR Horton Inc with the following conditions:

- The approval of the rezoning to PUD shall be contingent upon execution of the Adamson Creek Phase Two Development Agreement.

- The approval of the preliminary subdivision shall be conditioned upon the correction of the preliminary plat to conform with the plat review comments provided by Southeastern Surveying on July 7, 2023.
- Provide traffic control at the intersection of SR524 and Adamson Rd as determined by FDOT analysis

Staff recommends approval of the Large-Scale Site Plan with the conditions set forth below:

- The Large-Scale Site Plan shall not be effective until and unless the Final PUD/Preliminary Subdivision has been approved by City Council.
- Provide traffic control at the intersection of SR524 and Adamson Rd as determined by FDOT analysis

Ms. Ribeiro stated the Engineer /Applicant was present for questions.

Chairperson Simpson asked if the mentioned traffic control was referring to a stop light. In response, Ms. Ribeiro replied FDOT was still under review and could be another type of traffic control item and staff was waiting to hear from them as to their recommendations.

Chairperson Simpson asked, if upon approval, Adamson Creek will foot the bill, Ms. Ribeiro noted yes, that is correct.

The applicant spoke and was sworn in. Board Member Greenwood complemented the applicant for the work they had done stating he was impressed with their creation of the pond.

Ms. Ribeiro also added the pond would be stocked for fishing.

Chairperson Simpson opened the hearing to the public for comments.

* **MOTION BY BOARD MEMBER WHEELER; SECONDED BY BOARD MEMBER GREENWOOD TO APPROVE** the Adamson Creek Phase Two Zoning Map Amendment to PUD/Preliminary Subdivision/Large-Scale Site Plan/Development Agreement (Ordinance 10-2023) in conjunction with **(Item #3) Consideration of the Adamson Creek Phase Two Preliminary Subdivision/Large-Scale Site Plan/Development Agreement** with the conditions listed by Staff Recommendation.

AYES: SIMPSON, DOBRIN, ANDERSON, BURGESS, GREENWOOD, LOPEZ, PARK, WHEELER

MOTION PASSED UNANIMOUSLY (8-0)

4. PZ-23-02100005 Central Brevard Sharing Zoning Map Amendment (Ordinance 11-2023)

Ms. Luci Ribeiro introduced the item. She also stated, the applicant, David Brubaker was in attendance and available for questions. Also speaking on the item was Cocoa Resident Joan Leonard and Mr. Dean Larry.

- Consideration of a Zoning Map Amendment consistent with Appendix A, Zoning, Article XXII, changing the Official Zoning Map designation a single parcel with approximately 0.64 acres from County Single-Family Residential (RU-1-9) to City Multi-family Residential (RU-2-15).
- The Central Brevard Sharing Center acquired this property on Ruth St. to expand and improve the capacity of their existing operations facility on Aurora St. This nonprofit organization provides emergency assistance and guidance to those in our community who are struggling to obtain life's most basic needs. They have been serving the community since 1978.
- The proposed rezoning is not contrary to the established land use pattern, which is commercial to the north and single-family residential to the south and east, with Central Brevard Sharing Center already operating on abutting property directly to the east. The rezoning will provide a transitional use between the heavier commercial uses along SR 520 and the single-family residential uses to the south and east and will provide a natural expansion of the Central Brevard Sharing Center, and identified the location.

Staff has determined this amendment to be consistent with both the Code of the City of Cocoa and the Comprehensive Plan Policies and Objectives.

Staff recommends that the Planning & Zoning Board recommend **APPROVAL** to the City Council of the Zoning Map amendment consistent with Appendix A, Zoning, Article XXII, to change the Official Zoning Map designation of one (1) parcel from the Brevard County Single-Family Residential (RU-1-9) to the City Multi-Family Residential (RU-2-15) zoning classification.

Ms. Ribeiro stated there are local residents who would like to speak on this.

Board Member Wheeler said he resides in the area and asked if he should recuse himself. Attorney Eick stated it depends on where he resided. He replied, giving details of where he resides and stated he also had a question. She asked if he received a mailing prior to the meeting, he replied he did not. Attorney Eick said he would not be required to recuse himself.

David Brubaker, the Applicant, spoke discussing the expansion of their local services offered to residents. This project would allow them to serve more people. Board Member Wheeler thanked Mr. Brubaker for his services and had a question. His question was about the Rezoning from single family to multi-family and what his intended use was. Mr. Brubaker explained that there is a social service component within that zoning that would allow them to expand.

Chairperson Simpson called Ms. Joan Leonard who was sworn in. She explained she has been in Cocoa a long time and owns property adjacent to the Sharing Center. She added that she is in support of their expansion.

Arthur Dean, resident, spoke stating he just built a house near the location adding when it rains it floods their home. He is concerned of the added building and what it will do to his home and property.

Board Member Greenwood complimented Brevard Sharing Center. He also asked about the drainage. He asked if current codes require onsite retention. In response, staff replied affirmatively. Mr. Greenwood further asked if the applicant would have to provide their own retention areas. In response, staff replied affirmatively.

Board Member Park asked staff if there was any thought to create a zoning for nonprofit organizations who are looking to do things that continually having to use RU residential style zones. Attorney Eick replied there are multiple zoning districts that allow for social service centers and is usually addressed through a special exception. However, that is something that could be discussed in house. Discussion continued among board members on this subject and the drainage concerns and what may have occurred when the property was annexed.

Ms. Leonard added that area uses septic not City sewer. That is a concern as well.

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER ANDERSON TO APPROVE PZ-23-02100005 Central Brevard Sharing Zoning Map Amendment (Ordinance 11- 2023).**

AYES: SIMPSON, DOBRIN, ANDERSON, BURGESS, GREENWOOD, LOPEZ, PARK, STEWART, WHEELER

MOTION PASSED UNANIMOUSLY (9-0)

5. **PZ-23-021000056 Mike Erdman Zoning Map Amendment (Ordinance 13-2023)**

Luci Ribeiro presented the item and discussed the Site Plan Amendment and future land use:

- Consideration of Zoning Map Amendment consistent with Appendix A Zoning, Article XXI, to change the Zoning Map of a portion to a single parcel with approximately 9.1 acres, from Brevard County "BU-1 General Retail Commercial" to City of Cocoa "C-G General Commercial."
- The south portion of this parcel had an approved site plan in 2022 for overflow parking and affiliated infrastructure, and the applicant proposes an amendment to accommodate a Cadillac showroom sales and service Department Building with associated parking.
- This rezoning will in no way impact the level of service for facilities in this area.
- The Future Land Use of the surrounding area is a combination of Commercial, and Neighborhood Commercial

- BU-1 General Retail Commercial-Brevard County

Staff recommends that the Planning & Zoning Board recommend **APPROVAL** to City Council of the Zoning Map Amendment from Brevard County "BU-1 General Retail Commercial" to City of Cocoa "C-G General Commercial".

Ms. Ribeiro added that a representative from Mike Erdman was present for questions. Chairperson Simpson asked for clarification on the location map and specifically about Camping World. Ms. Ribeiro replied they were also located in the City.

Chairperson Simpson opened the hearing to the public for comments.

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER PARK TO APPROVE PZ-23-021000056 Mike Erdman Zoning Map Amendment (Ordinance 13-2023.)**

AYES: SIMPSON, DOBRIN, ANDERSON, BURGESS, GREENWOOD, LOPEZ, PARK, STEWART, WHEELER

MOTION PASSED UNANIMOUSLY (9-0)

V. OTHER BUSINESS:

1. **Tree Board Update - None**
2. **Recent Development - None**
3. **Open Discussion by Board Members**

VI. NEXT MEETING DATE:

The next scheduled meeting for the Planning and Zoning Board will be a SPECIAL MEETING to be held on Wednesday, August 16, 2023 at 6pm in Cocoa City Hall, 65 Stone St, Cocoa, FL 32922.

VII. ADJOURNMENT:

* **MOTION BY BOARD MEMBER PARK; SECONDED BY BOARD MEMBER GREENWOOD TO ADJOURN THE REGULAR MEETING OF JULY 12, 2023.**

AYES: SIMPSON, DOBRIN, ANDERSON, BURGESS, GREENWOOD, LOPEZ, PARK, STEWART, WHEELER

MOTION PASSED UNANIMOUSLY (9-0)

MEETING WAS ADJOURNED AT 8:40 PM.

_____
Justin Simpson, Chairperson

Respectfully Submitted By:

_____
Lori Chabot for Joanna Zurinsky, Recording Secretary

Legislation Details (With Text)

File #:	23-612	**Version:** 1	**Name:**		
Type:	Minutes		**Status:**	Agenda Ready	
File created:	9/25/2023		**In control:**	Planning and Zoning / Local Planning Agency	
On agenda:	10/4/2023		**Final action:**		
Title:	Request Board Approval of the Minutes from the August 16, 2023, Planning & Zoning Special Meeting, either as written or with amendments.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	08-16-2023 DRAFT.pdf				

Date	Ver.	Action By	Action	Result

PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: September 25, 2023
Agenda Date: October 4, 2023
Prepared By: Lori Chabot, Recording Secretary
Through: Luci Ribeiro, Planning Department
Requested Action:
Request Board Approval of the Minutes from the August 16, 2023, Planning & Zoning Special Meeting, either as written or with amendments.

BACKGROUND:

Board Members approve the minutes at the beginning of the meeting.

BUDGETARY IMPACT:

None

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Request Board Approval of the Minutes from the August 16, 2023, Planning & Zoning Special Meeting, either as written or with amendments.

MINUTES
CITY OF COCOA
PLANNING & ZONING BOARD/ LOCAL PLANNING AGENCY
SPECIAL MEETING
August 16, 2023

A Special meeting of the Planning & Zoning Board Local Planning Agency was held on August 16, 2023 at City Hall, 65 Stone Street, Cocoa, FL, as publicly noted.

I. CALL TO ORDER:

Chairperson Simpson called the meeting to order at 6:03 PM.

ROLL CALL:

Justin Simpson	Chairperson
Michael Dobrin	Vice Chairperson
Todd Anderson	Board Member
Chris Bankhead	Board Member
Ron Chabot	Board Member
Aleck Greenwood	Board Member
Veronica Lopez	Board Member
Wesley Park	Board Member
Marcus Wheeler	Board Member
Merrybeth Burgess	Alternate Member
Katherine Stewart	Alternate Member

PRESENT:

Justin Simpson	Chairperson
Michael Dobrin	Vice Chairperson
Ron Chabot	Board Member
Aleck Greenwood	Board Member
Veronica Lopez	Board Member
Wesley Park	Board Member
Marcus Wheeler	Board Member
Merrybeth Burgess	Alternate Member

ABSENT:

Todd Anderson	Board Member
Chris Bankhead	Board Member
Katherine Stewart	Alternate Member

STAFF PRESENT:

City Manager, Stockton Whitten, Kristin Eick, Board Attorney and Lori Chabot, Recording Secretary.

Chairperson Simpson led the assembly in the Pledge of Allegiance.

II. APPROVAL OF AGENDA AND MINUTES:

1. AGENDA: Meeting of August 16, 2023

* **MOTION BY BOARD MEMBER PARK; SECONDED BY VICE CHAIR DOBRIN TO APPROVE THE AUGUST 16, 2023 SPECIAL MEETING AGENDA AS WRITTEN.**

AYES: SIMPSON, DOBRIN, CHABOT, GREENWOOD, LOPEZ, PARK, WHEELER; BURGESS

MOTION PASSED UNANIMOUSLY (8-0)

2. MINUTES: Meeting of June 7, 2023

* **MOTION BY BOARD MEMBER CHABOT; SECONDED BY VICE CHAIR DOBRIN TO APPROVE THE JUNE 7, 2023 MINUTES AS WRITTEN.**

AYES: SIMPSON, DOBRIN, CHABOT, GREENWOOD, LOPEZ, PARK, WHEELER; BURGESS

MOTION PASSED UNANIMOUSLY (8-0)

III. OLD BUSINESS:

None.

Recording Secretary, Lori Chabot sworn all speakers in at once.

IV. NEW BUSINESS:

PZ 23-02100007 Vacant Lot N Range Road Zoning Map Amendment | Ordinance 15-2023

A. **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA;** AMENDING THE OFFICIAL ZONING MAP DESIGNATION OF ONE (1) PARCEL OF REAL PROPERTY, TOTALING 6.61 ACRES, MORE OR LESS, AND GENERALLY LOCATED EAST OF THE INTERSECTION OF NORTH RANGE ROAD AND KATHI KIM STREET, AND WEST OF CLEARLAKE ROAD IN COCOA, FLORIDA, MORE PARTICULARLY DEPICTED AND LEGALLY DESCRIBED ON EXHIBIT "A" ATTACHED

HERETO, FROM BREVARD COUNTY MEDIUM-DENSITY MULTIPLE-FAMILY RESIDENTIAL (RU-2-10) TO CITY OF COCOA MULTIPLE-FAMILY DWELLING (RU-2-15); PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, SEVERABILITY, AND AN EFFECTIVE DATE. Tax Parcel ID 24-36-30-00-256.

Stephen Noto introduced the item through a presentation (attached to these minutes).

Applicant proposes to amend the zoning category of the subject property from Brevard County RU-2-10, Medium-Density Multiple-Family Residential, to City of Cocoa RU-2-15, Multiple Family Residential.

The Future Land Use of the subject property is LDR, Low Density Residential, which allows a maximum residential density of 7 dwelling units per acre.

The subject property is +/- 6.61 acres in size. Of the +/- 6.61 acres, +/- 2.52 acres are upland from the wetlands on site. The remaining +/- 4.19 acres of wetland are not proposed to be disturbed.

The subject property was annexed into the City of Cocoa from unincorporated Brevard County via Ordinance No. 03-2007 at the request of the property owner. While a City of Cocoa Future Land Use Designation of LDR was given to the property, a Zoning Category was not.

The subject property previously had the Brevard County RU-2-10 zoning district category. This is the same zoning category as the subdivision to the west on Kathi-Kim St. and Delys St., Sabal Lakes Estates. It is also the same zoning district as the subdivision to the south, Space Coast Gardens.

Both subdivisions consist of a mixture of single-family detached homes, and duplex buildings.

The applicant has provided a conceptual plan for a future project to create a four-lot subdivision which would allow for four (4) duplex buildings to be built. This would create 8 new dwelling units.

- The applicant has agreed to cap this residential density as a condition of approval, and it will be recorded as such in the adopted Ordinance.

Access would occur from the public rights-of-ways of Kathi-Kim St. and Delys St. Both streets are the only legal form of access to the subject property. As shown in the concept plan, two buildings would access from Kathi-Kim St., and two would access from Delys St.

The full review of the subdivision plan will occur at a later date when an applicant submits a proper engineering and subdivision plan

The full staff analysis is provided on pages 3-6 of the staff report. The analysis shows that all 16 findings have been met for support of the request. The request provides for a City of Cocoa Zoning Category. The requested zoning district in consistent with the existing LDR FLU designation of the subject property, per the Comprehensive Plan.

Transportation:

- Per the Space Coast Transportation Planning Organization (TPO) Transportation data Management System, 2-way data collected on N. Range Rd. adjacent to Oak Haven Ln., showed 5,970 average annual daily trips in 2022 on N. Range Rd. The adopted LOS for N. Range Rd., is 'E', and is identified as a Urban Major Collector.

- As of the most recent AADT count, there are roughly 10,000 AADT's available on the roadway within it's adopted LOS (Space Coast TRP 'Segments Functional Classification, Maximum Acceptable Volume – MAV – and Levels of Service – LOS, 2020).

- If the property were developed at its maximum density of 7 du/acre, irrespective of the zoning district, the 47 dwelling units built would generate approximately 344 average annual daily trips. However, that maximum is not proposed. The current proposal being only 8 dwelling units, approximately 59 average annual daily trips would be generated.

Of note is that the FLU designation of LDR is more restrictive, density wise, than the RU-2-15 zoning district.

Staff has determined this rezoning request is consistent with both the Code of the City of Cocoa and the Comprehensive Plan Policies and Objectives

Staff recommends **APPROVAL** of the requested Zoning Map Amendment to change the Zoning Map designation from Brevard County RU-2-10 (Medium-Density Multiple-Family Residential) to City of Cocoa RU-2-15 (Multiple Family Dwelling) on one parcel totaling ±6.61-acres, which has Parcel ID number 24-36-30-00-256, with the condition that Ordinance 15-2023 shall be amended to include a maximum density of 4 du/acre on the parcel.

Chair Simpson asked about the cul-de-sac in the area and Board Member Wheeler asked for clarification on number of units and if it accommodates for wetland. Mr. Noto replied yes. Attorney Eick added that would be assuming there is not wetland impact. Mr. Noto also added there is one access.

Applicant, Jim McKnight of Rockledge spoke stating, there is no development plan at this time. The latest survey shows both cul-de-sacs intrude into property and 4.9 acres are

wetlands. The development of that property is uncertain however, it needs a zoning designation change in order to do anything.

Ms. Cynthia of the audience, lives on cul-de-sac at Kathy Kim Street. Her main concern is flooding and traffic, it is currently peaceful. The additional duplexes will create a hassle getting in and out. She stated she is also concerned about wild life in the area. She has gopher turtles and worries about them.

Ms. Tabitha of Cocoa of the audience stated she has spoken with Mr. Noto and. asked several questions. One regarding whether there would there be a new wetlands delineation? She asked if there had been an environmental study? Want to be sure this has been addressed through the phase. She mentioned the encroachment of the cul-de-sac and asked if there had been a new traffic plan? Will the studies be made available to public prior to subdivision process? Will there be a stormwater assessment?

Mr. Noto replied, the dwelling units were 4 units per buildable acre. Roughly 2 ½ usable acres, not including the wetlands. The studies or reports would be made public record. Chair Simpson added this parcel needs a designation.

Ms. Mary Parker of Cocoa spoke with planning staff who were very helpful. She doesn't have a problem with building duplexes, however, will watch to see what occurs after that. Her concerns were stormwater drainage, sewage, the adjoining building and the additional impacts. She discussed the current restrictive covenants. **She provided a written letter.**

Chair Simpson explained that when council meets and when town hall meets, its a good idea to attend those meetings and show a presence. She realizes tonight is not about the actual building, that would come later.

Board Member Wheeler clarified the purpose of the board and there are many other steps they don't participate. In 2007 the lad did not receive property classification. It needs to be classified and that is the role of the board today. There will be other submissions. RU10 is a county designation not a city. Attorney Eick added the City RU210 in the City is reserved for the Consent Decree area. Audience asked for Attorney Eick to clarify. The zoning code RU 210 language states it is specifically for the Consent Decree area which is in the downtown area of Cocoa. The RU210 standards are specifically written to address the Federal decree requirement.

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY VICE CHAIR DOBRIN TO RECOMMEND A ZONING MAP AMENDMENT consistent with Appendix A, Zoning, Article XXI, to change the Zoning Map designation of one parcel totaling 6.61 acres from Brevard County RU-2-10 (Medium-Density Multiple-Family Residential) to City of Cocoa RU-2-15 (Multiple Family Dwelling). To include Maximum density 4 units per acre.**

AYES: SIMPSON, DOBRIN, LOPEZ, PARK, CHABOT, GREENWOOD, WHEELER; BURGESS

MOTION PASSED UNANIMOUSLY (8-0)

PZ 23-02000005 Pint & Pistol, LLC Zoning Text Amendment | Ordinance No. 16-2023

B. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTION 19, OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO AMEND THE LIST OF PERMITTED USES RELATED TO RESTAURANTS IN THE M-2 DISTRICT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Stephen Noto introduced the item through a presentation (attached to these minutes).

Applicant has requested that the Land Development Code (LDC) be updated to allow restaurants to service liquor, in addition to beer and wine, in the M-2 Zoning District.

Pint & Pistol currently operates at 2911 Oxbow Circle as a shooting range and restaurant, which serves beer and wine.

Pursuant to *Appendix A, Zoning, Article XXI, Amendment, Section 1(G)(2), the planning board shall consider and study*

a. The need and justification for the change.

b. The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.

Currently, the code allows restaurants in the following zoning districts:

- C-N
- C-G
- CBD
- C-C
- PUD
- UMD
- M-2

Each zoning district has their own unique standards related to restaurants, less the CBD. However, none of the districts, aside from M-2, restrict sales to only beer and wine.

The LDC currently defines a Restaurant as "Any building or structure or portion thereof, in which food is prepared and served for pay to any person not residing on the premises."

(C) RESTAURANTS; ALCOHOLIC BEVERAGE SALES AS ACCESSORY USE. Providing a restaurant meets the following requirements, the sale of alcoholic beverages for on-premise consumption shall be allowed as an accessory use and in such cases, the provisions of paragraph (E) of this section shall not apply:

1. The restaurant must have seating accommodations at tables for at least forty (40) persons, excluding seats or stools in a bar or lounge area. For purposes of satisfying this requirement, any restaurant seeking an exemption under subsection (C) shall obtain written confirmation and approval from the fire inspector that such restaurant is lawfully providing seating at tables for at least forty (40) people.
2. The facility must contain a kitchen to prepare and serve meals when open for business.

Article 13, Section 20 states:

(E) RESTRICTIONS AS TO LOCATION.

(1) No license for the on-premises sale and consumption of alcoholic beverages containing more than one percent (1%) alcohol by weight shall be granted or permission given where the proposed premises is within **three hundred (300) feet of an established school, church or residential zone**; nor shall a church or school be granted a license or permitted to begin operations where the proposed church or school is within three hundred (300) feet of an established premises which is licensed for the sale and on-premise consumption of alcoholic beverages containing more than one percent (1%)alcohol by weight.

(2) Such distances shall be measured by a straight line from the nearest point of the building or portion of a building which is the proposed premises, to the nearest point of the building or portion of a building which is the established premises. Said distance shall be verified by a survey prepared by a Florida registered land surveyor, paid for by the property owner or applicant of the proposed premises, and provided to the Community Development Department for review.

(5) A variance may be granted from the three hundred (300) foot rule if the applicant shows the premises (1) was historically used as an establishment licensed for the on-premise consumption of alcoholic beverages, a church or a school, and (2) meets the criteria provided in Appendix A, Article XVII, Section 3 of this Code.

Florida Statutes 562.45(2): "...a location for on-premises consumption of alcoholic beverages **may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school** unless the county or municipality approves the location as promoting the public health, safety, and general welfare of the community under proceedings as provided in s. 125.66(4), for counties, and s. 166.041(3)(c), for municipalities."

This request supports both Goal 1.1 and Objective 1.1.1. of the Future Land Use Element.

The Comprehensive Plan encourages flexibility of uses via the states Goal and Objective above, as well as via Figure FLU-1 of the FLU Element.

Staff has determined this rezoning request is consistent with both the Code of the City of Cocoa and the Comprehensive Plan Policies and Objectives as outlined in the Staff Analysis in the staff report.

Staff recommends that the Planning & Zoning Board recommend APPROVAL to City Council to amend the list of permitted uses related to restaurants in the M-2 District, as outlined in the Land Development Code.

Mr. Noto stated applicant has requested an amendment to the code in order to serve beer wine and liquor.

Chair Simpson mentioned a church and how it is registered. Mr. Noto replied and he believes it is beyond the 500 distance. Attorney Eick stated this is text amendment, not just to apply to Pint Pistol. Vice Chair Dobrin asked how long the Pint and Pistol has been in business. Applicant, Bob Stole replied, a year in October. Vice Chair Dobrin asked if they intended to wait to add liquor when you opened. He replied the intention to add liquor has occurred over time. Chair Simpson added, it is likely easier to get license for just been wine. Board Member Greenwood stated he didn't understand a place to have hard liquor and shoot guns and asked if had any incidents with beer and wine or if they had ever had to trespass anyone. Applicant replied they have not had an incident and had not had to trespass anyone. He continued they have very strick protocals.

* **MOTION BY BOARD MEMBER PARK; SECONDED BY BOARD MEMBER CHABOT TO RECOMMEND THE LAND DEVELOPMENT CODE AMENDMENT to amend the list of permitted uses related to restaurants in the M-2 District**

AYES: SIMPSON, DOBRIN, LOPEZ, PARK, CHABOT, GREENWOOD, WHEELER; BURGESS

MOTION PASSED UNANIMOUSLY (8-0)

PZ 23-00500004 915 Florida Ave Comp Plan Text Amendment | Ordinance No. 17-2023

C. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA, ADOPTING A LARGE SCALE COMPREHENSIVE PLAN TEXT AMENDMENT; AMENDING A POLICY IN

THE FUTURE LAND USE ELEMENT AUTHORIZING THE CITY COUNCIL TO APPROVE BY DEVELOPMENT AGREEMENT RESIDENTIAL DENSITIES OF UP TO 125 DWELLING UNITS PER ACRE RELATED TO VERTICAL MIXED-USE PROJECTS; EXPANDING THE VERY LIMITED GEOGRAPHICAL AREA TO WHICH THE POLICY APPLIES TO INCLUDE A PARCEL OF CITY-OWNED LAND GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF ROSA L. JONES DRIVE AND FLORIDA AVENUE AND WHICH IS MORE PARTICULARLY DESCRIBED HEREIN BY PARCEL INFORMATION AND MAP THAT CONSISTS OF APPROXIMATELY 4.32 ACRES, MORE OR LESS, AND IS DESIGNATED MIXED-USE FUTURE LAND USE ON THE FUTURE LAND USE MAP AND WHICH IS DESIGNATED SOUTH END (SE) SUBDISTRICT WITH A COMMERCIAL/MIXED-USE LARGE (CL) BUILDING TYPE ON THE COCOA WATERFRONT OVERLAY DISTRICT REGULATING PLAN; REQUIRING A DEVELOPMENT AGREEMENT BY THE CITY COUNCIL TO APPROVE SUCH PROJECTS ON SUCH REAL PROPERTY UNDER CERTAIN TERMS AND CONDITIONS DEEMED NECESSARY AND ACCEPTABLE TO THE CITY COUNCIL; FOR THE REPEAL OF PRIOR INCONSISTENT.

Stephen Noto introduced the item through a presentation (attached to these minutes).

The applicant is the City of Cocoa.

The purpose of the requests is to allow for greater redevelopment opportunities on City owned land located at 915 Florida Ave. The adoption of the proposed ordinances, in combination, would allow for up to an 8-story, 125 du/acre, vertical mixed-use building located at 915 Florida Avenue, conditional upon the City Council approving a development agreement in its discretion after considering multiple factors.

While no concepts for such a project have been received, the City is taking a proactive approach by setting forth the regulations for such a project to encourage a public-private partnership for a new gateway project into the Cocoa Village and Downtown area of Cocoa and in anticipation of releasing a new RFP seeking redevelopment of the City-owned parcel.

These proposed updates are part of a larger plan to continue offering unique redevelopment solutions within the Downtown/Cocoa Village area.

Comprehensive Plan Amendment

- Summary: Allows up to 125 du/acre, conditioned upon and subject to City Council approving a development agreement after consideration of facts outlined in Policy 1.1.2.6 of the Comprehensive Plan

- Update to Note 9 of Figure FLU-1

- "…the maximum density may be increased by the City Council for certain approved redevelopment projects on properties designated Cocoa Village and South End Subdistrict with a Commercial/Mixed Use Large (CL) building type on the Cocoa Waterfront Overlay District Regulating Plan pursuant to Policy 1.1.2.6."

- Update to Policy 1.1.2.6 Mixed-Use (MU), (b)(A) including the South End Subdistrict as part of the 125 du/acre policy, as well as showing the location of the 125 du/acre map.

- Adding South End Subdistrict to 1.1.2.6 Mixed-Use (MU) (b)(C)(iv)

- Updates Figure FLU-2 to add 915 Florida Avenue as eligible for up to 125 du/acre

Ordinance No. 17-2023 details the proposed technical updates to the Comprehensive Plan.

- The subject property has the Mixed-Use (MU) FLU designation.

- Existing policies in FLU Element Figure FLU-1 Note 9 and Policy 1.1.2.6 are being adjusted to include, generally, the addition of the "South End Subdistrict" portion of the Cocoa Waterfront Overlay District Regulating Plan, to accommodate 915 Florida Avenue as being part of the 125 du/acre density program.

- These changes are outlined further in the Ordinance and Staff Report.

Existing Figure FLU-2 is amended to add 915 Florida Avenue as property eligible for up to 125 du/acre, conditioned upon and subject to development agreement

- City Council will consider density increases when a particular project is proposed and will consider the same factors as previously established for other 125 du/acre eligible properties:
- Economic and social benefits to City and CRA
- Aesthetic quality and character, architectural design, physical and visual scale
- Proposed enhancements that will significantly bring the overall quality of the development above and beyond the minimum requirements set forth in the City Code
- Compatibility and harmony with the character of the Cocoa Village and subdistrict
- Impact on public facilities

- Adequacy of on-site parking and impact on off-site parking
- Consistency with the CRA Redevelopment Plan and Waterfront Master Plan
- Proven first-hand experience of the developer to complete the project
- Development Schedule
- Incorporate of "green" community designs
- Recommendation of CRA
- Compliance with the LDC and Comprehensive Plan policies

Staff report covers the full LOS analysis as a result of the request for potable water, solid waste, stormwater, transportation, police, fire, school, and park services.
Sewer LOS analysis since updated with additional modeling.

Sewer LOS will likely be impacted by the project.

- If a project is developed at the very maximum density allowed, the threshold allowed by the Sewer Master Plan and Capital Facility Plan likely will be exceeded for gravity sewer lines in the Cocoa Village should other sites eligible for 125 du/acre program also be constructed at maximum density. The additional flows would likely also impact existing Lift Station #2, requiring modifications to the Station to meet LOS.

- As a result, upgrades to the sewer system would likely be necessary to achieve maximum density.

Note that when a site plan is submitted, all required studies (environmental, transportation, etc.) will be reviewed as part of the site plan review process.

The proposal complies with all aspects of the Comprehensive Plan, and furthers many of the Goals, Objectives, and Policies outlined in the FLU and Housing elements, as well as the East Central Florida Comprehensive Regional Policy Plan.

The City of Rockledge was notified about the request due to the subject property being adjacent to City of Rockledge jurisdictional limits.

This is an Expedited State Review Amendment.

- Process: City Council for Transmittal Hearing
- Transmittal to State for DEO Review
- Adoption by the City Council

Staff has determined that the request for an Expedited State Review Comprehensive Plan Amendment complies with all relevant sections of the City of Cocoa Code of Ordinances and Comprehensive Plan.

Staff recommends **APPROVAL** of the requested Expedited State Review Comprehensive Plan Text Amendment to expand the very limited geographic area by which vertical mixed-use projects may be built at 125-units per acre, to include a +/- 4.32 acre parcel of City-owned land located at 915 Florida Ave., Cocoa, Florida (Brevard County Parcel ID 24-36-33-80-23)

Stephen Noto introduced the item through a presentation (attached to these minutes). He stated Items C and D are related but will be presented separately. This is a redevelopment strategy brought by the City to allow for up to 8 stories to eventually issue an RFP for developers. This is the first step and is setting the stage for a larger review. This opens potential for use of the property. This would not change map designation but would allow to build 125 units per acre. He wants to outline the benefits and impacts and stated the sewer level service would likely be updated to achieve maximum density.

Board Member Greenwood asked if other properties been designated. Mr. Noto stated the hotel site, the Chase site and Bank America has already been designated. Board Member Greenwood stated this would clean it up the RFP. This would not set anything in stone, if approved would go to next level. Alternate Member Burgess asked for clarification. Mr. Noto replied stating her questions is related to the next item. Attorney Eick explained the RFP process and that it would come back to this board re: a site plan or DA, but this board would see that. Alternate Member Burgess asked, if we approve, can anyone build 8 stories. Attorney Eick replied the 8 stories is the next item. This item is about the density, not the height. This sets the table for the density and will go to council. She also stated this is not an approval of a particular project.

Board Member Wheeler asked a question regarding specific verbiage on page 5. Attorney Eick explained the verbiage and where it came from, the Cocoa CRA Redevelopment Plan that covers that area.

Board Member Greenwood stated this property is in line with the hotel that is being looked at adding, they are running out of property to do this.

Board Member Greenwood asked for a copy of Item C Powerpoiont.

City Manager Whitten explained this property is a catalytic property. It previously was a moble-home lot. The Consent decree area has boundaries. When you say to encourage affordable, low density, the consent decree is limited. It is also about the properties in and around the site. Board Member Wheeler replied there is a default mechanism that is supposed to take place to conceptualize the area, and to include the historical piece. City Manager Whitten stated, what would bring those who lived in consent decree back to the area? He continued, nice properties in and around the area, and this the intent. That is a redevelopment plan statement. Board Member Greenwood added, when the project gets built, it creates a nicer area and improves property values. Discussion continued.

Rudy Barrios, owns 916 Florida, Formerly, El Charros, asked for clarification as to what the City has in mind for the area? Will it be affordable homes? City Manager Whitten, replied eventually there will be an RFP. It could be mixed use, condos, apts, hotel. The RPF will be geared to the market and best use. Ultimately, an RFP for a mixed use and the market place will determine the best proposal. Board Member Greenwood added the public can be involved when it gets to that point.

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER CHABOT TO RECOMMEND APPROVAL FOR AN EXPITITED STATE REVIEW COMPREHENSIVE PLAN TEST AMENDMENT to expand the very limited geographic area by which vertical mixed-use projects may be built at 125-units per acre to include a +/- 4.32 acre parcel of City-owned land located at 915 Florida Avenue, Cocoa, Florida (Brevard County Parcel ID 24-36-33-80-23).**

AYES: SIMPSON, DOBRIN, LOPEZ, PARK, CHABOT, GREENWOOD, WHEELER; BURGESS

MOTION PASSED (8-0)

PZ 23-00500004 CWOD Zoning Text Amendment | Ordinance No. 18-2023

D. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTION 22 OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ALLOW LARGE-SCALE COMMERCIAL/MIXED-USE BUILDINGS ON CERTAIN PROPERTIES WITHIN THE COCOA WATERFRONT OVERLAY DISTRICT AS MORE PARTICULARLY DEPICTED ON EXHIBIT "A" ATTACHED HERETO; CHANGING THE LIST OF PERMITTED AND SPECIAL EXCEPTION USES IN APPENDIX A, ARTICLE XI, SECTION 22, OF THE ZONING ORDINANCE OF THE CITY OF COCOA FOR THE WATERFRONT OVERLAY DISTRICT, SOUTH END SUBDISTRICT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Stephen Noto introduced the item through a presentation (attached to these minutes).

The applicant is the City of Cocoa.

The purpose of the request is to allow for greater redevelopment opportunities on City owned land located at 915 Florida Ave. The adoption of the proposed ordinances, in combination, would allow for up to an 8-story, 125 du/acre, vertical mixed-use building located at 915 Florida Avenue, conditional upon the City Council approving a development agreement in its discretion after considering multiple factors.

While no concepts for such a project have been received, the City is taking a proactive approach by setting forth the regulations for such a project to encourage a public-private partnership for a new gateway project into the Cocoa Village and Downtown area of Cocoa and in anticipation of releasing a new RFP seeking redevelopment of the City-owned parcel.

These proposed updates are part of a larger plan to continue offering unique redevelopment solutions within the Downtown/Cocoa Village area.

The project request has two parts:
LDC Update (covered in next presentation)

- Summary: Changes uses allowed in the South End and allows buildings up to 8 stories in height, conditioned upon and subject to City Council approval of a development agreement after consideration of certain factors
- Update Waterfront Overlay District Regulating Plan to allow Commercial/Mixed-Use Large (CL) Building types on 915 Florida Ave.
- Update Section 22, F, to include C-C, Core Commercial, in the South End (SE) column of uses.
  - Permitting certain Office and Commercial uses.
- Adding Commercial/Mixed Use Large (CL) to South End in the Design Districts and Building Types Table
- Adding clarifying language to Note 3 of said Table.

Ordinance No. 18-2023 details the proposed technical updates to the LDC.

The staff report provides analysis for the following pursuant to Appendix A, Zoning, Article XXI, Amendment, Section 1(G)(2), the planning board shall consider and study:

- The need and justification for the change.
- The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.

The need and justification for the change.

- Currently, the largest building allowed on 915 Florida Avenue is 5 story, Commercial/Mixed-Use Medium building
- The proposed updates will allow for great flexibility of growth on the subject property by providing for building heights that promote vertically mixed-use buildings.
- The City will maintain an interest and say in how the subject property is developed as not only is the City the owner of the land, but a Developer's Agreement is required for these types of projects.

- City Council will consider factors such as economic and social benefits to City and CRA, aesthetic quality and character, architectural design, physical and visual scale, compatibility with the Cocoa Village and South End when a particular development project is proposed
- On-going market trends show that in downtown areas, these types of projects maximize tax base, services, housing and economic opportunities, and transportation.

The need and justification for the change.

- Uses to be added to the South End to promote a vertical mixed-use project
  - Professional offices, studios, clinics, labs, general offices
  - Bar or lounge (SE)
  - Cultural centers, museums, galleries, community centers (commercial)
  - Gym and Fitness Facilities of less than 7500 square feet
  - Package store, beer and wine (SE)
  - Pharmacy, Optical Services
  - Recreation structures, theaters, driving ranges, bowling alleys (not drive in theaters) (SE)
  - Retail stores (except automotive)

The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.

- A companion FLU amendment is being processed to allow for the density of up to 125 dwelling units per acre.
- The subject property is already Mixed-Use (MU), as such, the proposed LDC amendment continues to comply with the Comprehensive Plan, as well as furthers the Goals, Objectives, and Policies, as outlined in the Staff Report.

Staff has determined that the request for the Land Development Code Amendment complies with all relevant sections of the City of Cocoa Code of Ordinances and Comprehensive Plan.

Staff recommends **APPROVAL** of the requested Land Development Code Amendment to Appendix A, Article XI, Section 22 of the Zoning Ordinance of the City of Cocoa to allow Large Scale Commercial/Mixed-Use Buildings on certain properties within the Cocoa Waterfront Overlay District and to amend the list of permitted and special exception uses in the South End Subdistrict of the Cocoa Waterfront Overlay District.

Mr. Noto continued, this item is shifting gears from density to building height. He continued, much like prior item, this item is to set the max height in the code, and then prepares it for the RFP to go out. The language changes the uses and is in compliance with

the goals in comp plan. Photos shown are comparing existing heights to and 8 story bldg. vs 5 story and tower.

Alternate Burgess asked about the 8-story building in the photo and if it was at the south East of King. Clarification given as to the location.

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER CHABOT TO RECOMMEND A LAND DEVELOPMENT CODE AMENDMENT TO APPENDIX A, ARTICLE XI, SECTION 22 of the Zoning Ordinance of the City of Cocoa to allow Large Scale Commercial/Mixed-Use Buildings on certain properties within the Cocoa Waterfront Overlay District and to amend the list of permitted and special exception uses in the South End Subdistrict of the Cocoa Waterfront Overlay District.**

AYES: SIMPSON, DOBRIN, LOPEZ, PARK; CHABOT, GREENWOOD, WHEELER; BURGESS

MOTION PASSED UNANIMOUSLY (8-0)

PZ 23-02000006 Zoning Text Amendment | Ordinance 19-2023

E. **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA;** AMENDING THE ZONING ORDINANCE OF THE CITY OF COCOA RELATING TO HEIGHT OF VISUAL SCREENS, INCLUDING FENCES AND WALLS, FOR CERTAIN RESIDENTIAL USES; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

Stephen Noto introduced the item through a presentation (attached to these minutes).

Consideration of a Zoning Text Amendment regarding visual screening regulations, as required in Appendix A, Zoning, Article XIII, Supplementary District Regulations, Section 5.

Various complaints to the Planning and Zoning Department let to a discussion between staff and the city manager of the setback and height requirements for fences and walls in the city. The assistant city attorney recommended a revision to the city code to increase readability and comprehension of the visual screening requirements.

The main changes related to this ordinance are:

- Remove the specific requirement in fence and wall bulk regulations described as "in front of a principal structure".
- Clarify the height maximum requirement for fences located behind the front building as 6'.
- Eliminate the 4' max requirement for fences located on the side corner setback.
- Provide for a fence to be located with a minimum of 5' from the nearest edge of a sidewalk within the side corner setback, or at the property line within the side corner setback on properties with no sidewalk.
- Provide direction that the site visibility triangle must be maintained.

Staff has determined this amendment to be consistent with both the Code of the City of Cocoa and the Comprehensive Plan Policies and Objectives

Staff recommends the Planning & Zoning Board recommend **APPROVAL** to the City Council of Ordinance 19-2023.

Mr. Noto stated this item is a form up of cleanup and clarification. Staff received number of calls re height requirements of fences and walls, many as corner lots. See it frequently. Specifically, an old fence and the homeowner wants to rebuild but the current code doesn't allow. This will be a little more in favor of the homeowner

Board Member Greenwood asked if approved, how does it affect those that have been in place for years. Mr. Noto replied, those would be grandfathered. Board Member Greenwood asked about stem walls, and how it affect that. Mr. Noto replied, it is based on where the measure it taken. Those that hold back dirt, more of a retaining wall which are treated differently than a fence.

Chair Simpson asked where would the height start for the fence. At the level ground? Attorney Eick replied, where height is measured from is not being changed explaining the tallest fence is 6 feet. Board Member Greenwood asked about a fence in the front of the house and if the height restriction was still 4 feet, she replied yes. He also asked for clarification on what this applies to and she stated it is more for a corner lot.

* **MOTION BY BOARD MEMBER PARK; SECONDED BY BOARD MEMBER GREENWOOD TO RECOMMEND A ZONING TEST AMENDMENT regarding height and placement of Visual screens including fences and walls for certain residential uses.**

AYES: SIMPSON, DOBRIN, BANKHEAD, LOPEZ, PARK, CHABOT, GREENWOOD, WHEELER; BURGESS

MOTION PASSED UNANIMOUSLY (8-0)

V. TREE BOARD

None

VI. OTHER BUSINESS:

1. Planning and Zoning Board Open Discussion

Chair Dobin asked about the status of old Bank of America Building. Board Member Greenwood replied there is a contract on the property and is contingent on what they can work out.

Attorney Eick stated there may not be any items for the Sept meeting, but will keep posted.

VII. NEXT MEETING DATE:

The next scheduled meeting for the Planning and Zoning Board will be held on Wednesday, September 6, 2023 at 6pm in Cocoa City Hall, 65 Stone St, Cocoa, FL 32922.

VIII. ADJOURNMENT:

MEETING WAS ADJOURNED AT 8:03 PM.

_____
Justin Simpson, Chairperson

Respectfully Submitted By:

_____
Lori Chabot, Recording Secretary

Legislation Details (With Text)

File #:	23-617	**Version:** 1	**Name:**		
Type:	Agenda		**Status:**	Agenda Ready	
File created:	9/28/2023		**In control:**	Planning and Zoning / Local Planning Agency	
On agenda:	10/4/2023		**Final action:**		
Title:	Consideration of a Land Development Code Amendment to Appendix A, Article XI, Section 22 of the Zoning Ordinance of the City of Cocoa to allow Large Scale Commercial/Mixed-Use Buildings on certain properties within the Cocoa Waterfront Overlay District.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Ordinance No. 21-2023 LDC Text Amendment 430 Brevard Ave Properties.pdf Exhibit A to Ord 21-2023 - Regulating Plan Map September 2023 .pdf Exhibit B - 430 Brevard Av Location.pdf Exhibit C - 430 Brevard Av Zoning.pdf Exhibit D - 430 Brevard Av Future Land Use .pdf Legal Ad October 4.pdf				

Date	Ver.	Action By	Action	Result

PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: October 4, 2023
Agenda Date: October 4, 2023
Prepared By: Stephen Noto - Planning Consultant
Through: Stockton Whitten - City Manager
Requested Action:
Consideration of a Land Development Code Amendment to Appendix A, Article XI, Section 22 of the Zoning Ordinance of the City of Cocoa to allow Large Scale Commercial/Mixed-Use Buildings on certain properties within the Cocoa Waterfront Overlay District.

BACKGROUND:

The applicant, City of Cocoa, is requesting an amendment to Land Development Code Appendix A, Article XI, Section 22 of the Zoning Ordinance of the City of Cocoa to allow for Commercial/Mixed Use-Large Buildings (CL) on certain properties within the Cocoa Waterfront Overlay District Regulating Plan. The subject parcels proposed to be designated CL, which share the address 430 Brevard Ave., are located at the NE corner of Brevard Ave. and Church St., and consist of the following Brevard County Parcel ID numbers:

- 24-36-33-39-B-7
- 24-36-33-39-B-8

- 24-36-33-39-B-11

The total acreage of the three parcels is 1.95 acres (collectively the "Subject Property").

Future Land Use Designation: Current: Mixed-Use, MU

Zoning District: Current: Central Business District Cocoa Village Overlay, CBD-CVO

Existing Land Use: Mixed-Use Commercial Property, Multi-Tenant Office Building, Parking Lot

Waterfront Overlay Designation: Cocoa Village, CV

Council District: District 3 - Councilmember Dyal

Legal Ad Date: August 1, 2023

Overview of Surrounding Area:

	Future Land Use Designations	Zoning Districts	Land Uses
North	MU, Mixed Use	CBD-CVO, Central Business District Cocoa Village Overlay	Retail Stores/Mixed-Use Commercial Property
South	MU, Mixed Use	CBD-CVO, Central Business District Cocoa Village Overlay	Restaurant/ Professional Building
East	INST, Institutional; MU, Mixed Use	CBD, Central Business District	Cocoa Waterfront Park
West	MU, Mixed Use	CBD-CVO, Central Business District Cocoa Village Overlay	Office Building/Retail Stores/Mixed-Use Commercial Property

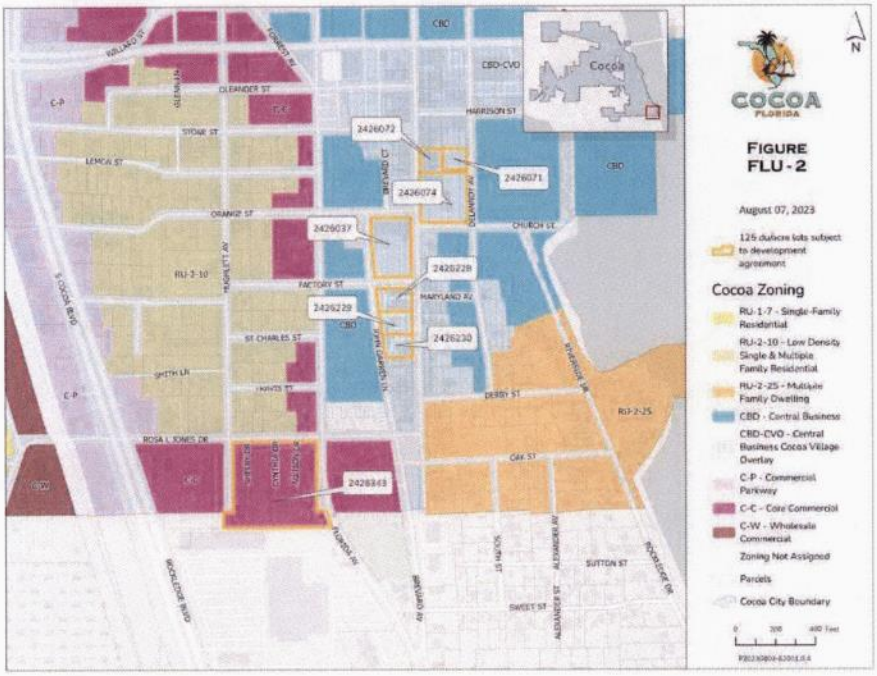
Background:

The proposed LDC amendment has been undertaken by the City of Cocoa at the request of Framework Group, LLC, who own the Subject Property noted above. The Planning and Zoning Board is required to make recommendations to the City Council regarding the proposed LDC amendments based on the criteria set forth in the Staff Analysis portion of this report.

Over the last several years, the City of Cocoa has created multiple policies that allow for unique and dense redevelopment opportunities with the City's Community Redevelopment Area (CRA). The Mixed Use (MU), Future Land Use (FLU) Designation in the FLU Element of the City's Comprehensive Plan states that the Mixed-Use land use category (MU FLU) "is intended to provide a mixture of residential, commercial, office, recreational and institutional uses along the major transportation corridors." The majority of parcels within the City that are designated as MU are generally located adjacent to certain portions of SR 520, US 1, Brunson Blvd., King St., and the Cocoa Village Area, as more accurately shown on the attached FLU Map.

The density that is generally allowed within the MU FLU category is 25 du/acre and includes a bonus of up to 5 du/acre if residential housing units are developed as part of a vertical mixed-use project, per FLU Element Policy 1.1.2.6, which brings the max du/acre total to 30 du/acre.

The City also adopted policies that allow for "vertically mixed-use projects" to occur in very limited geographical areas, specifically on +/- 8.82 acres within the Cocoa Village and South-End Subdistricts to develop at densities of up to 125 du/acre, subject to and conditioned upon a development agreement approved at the discretion of the City Council after consideration of many factors as outlined in Policy 1.1.2.6 via Ordinance 07-2022. The map below shows the location of those +/- 8.82 acres.



In addition, five parcels, totaling +/- 5.72 acres, including the recently added 915 Florida Ave. property, have been designated with a commercial/mixed use large (CL) building type on the Cocoa Waterfront Overlay District Regulating Plan, which allows vertically mixed-use buildings constructed to a maximum of eight (8) stories in height, again subject to approval of a Development Agreement by the City Council.

As provided in Ordinance 07-2023, the very limited geographical areas deemed conditionally appropriate for the 125 du/acre program were, in part, chosen because they currently consist of older, but non-historic, buildings and vacant property identified in the Cocoa Community Redevelopment Area's Redevelopment Plan as particular catalytic sites in the Cocoa Village area for redevelopment.

The section below will detail a new request that is a result of the above policy strategies undertaken by the City.

Request:

The Framework Group, LLC, as the owner of the Subject Property noted on page 1 of this staff report, has requested that the City designate the Subject Property as "Commercial/Mixed Use-Large Buildings", or "CL", on the Cocoa Waterfront Overlay District Regulating Plan. This would allow the subject property to be developed with a "vertically mixed-use building" at a maximum of eight (8) stories in height, subject to and conditioned upon City Council approval of a development agreement following consideration of multiple factors.

Modifying the Cocoa Waterfront Overlay District Regulating Plan to 'CL' on this subject property will in no way vest any entitlements on the subject property, including any information related to the conceptual development program.

If this item is approved, and to take advantage of the density programming allowed by the 'CL' designation, Framework Group would be required to enter into a Developer's Agreement ('DA') with the City and have that Development Agreement approved by the City Council. While those initial discussions have occurred, and Framework Group has applied for said DA, the details of the DA is not up for discussion or vote as part of this request.

The following analysis provides for technical detail related to the request and the potential impact to City services.

I. Staff Analysis

Pursuant to Appendix A, Zoning, Article XXI, Amendment, Section 1(G)(2), the planning board shall consider and study:
a. The need and justification for the change.
b. The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes, regulations, and actions designed to implement the comprehensive plan.

a. Need and justification for the change

Staff Finding: Currently, the tallest building that could be constructed on the Subject Property is a five-story, "commercial/mixed-use medium" building type in accordance with the Cocoa Waterfront Overlay District Regulating Plan. In order to achieve the 125 du/acre density, the building heights associated with "commercial/mixed-use medium", which has a 5-story max, would not generate the building intensities needed to maximum the density allowed by the FLU designation. The proposed change would maximize the densities allowed by the Comprehensive Plan and achieve the goals as further detailed below.

The Cocoa Redevelopment Agency (Cocoa CRA) continues to seek major redevelopment opportunities to revitalize the Cocoa Community Redevelopment Area.

The Long-Range Land Use Concept Plan details three Catalyst Mixed-Use Development Sites that have been identified as under utilized due to "outdated land use or building design"

and provided the following guidance for the Subject Property specifically:

> "430 Brevard Avenue (former Bank of America site): Determine status of potential time frame for redevelopment of the property and utilize former development studies as the basis for attracting developers to consider the parcel at the corner of Church Street and Brevard Avenue."

The Subject Property is also noted as one of two "Medium Priority Projects" (Bank of America Site) as a Catalyst Mixed Use Redevelopment Site. Within the section describing Cocoa Village: "Significant redevelopment opportunities exist at several sites in the Village, including Bank of America, the former City Hall and Sun Trust Bank sites." The proposed change also conforms with the following from the 2022 CRA Plan Update:

> Goal III: Prevent the future occurrence of slum and blight.
>
> Objective 1: As warranted, work with the Planning & Zoning staff, Planning and Zoning Board, and the City Council to revise the zoning classifications and the land development regulations within the redevelopment district based on the adopted overlay district to encourage a high degree of design and development standards for new construction and rehabilitation. Ensure that new development consists of appropriate land uses that will stabilize and enhance the overall quality of life of the area in order to achieve the desires and interests of its residents and property owners.
>
> Goal IV: Encourage the acquisition, demolition, and reuse of those properties, which, by virtue of their location, condition, or value no longer function at their highest potential economic use and are currently depressing the value and viability of the uses in the near vicinity to them.
>
> Objective 2: Encourage partnerships among the property owners, the private sector and the public sector in order to implement proposed redevelopment projects which will achieve public goals.
>
> Goal V: Maintain the unique and positive character of the sub-districts while promoting economic vitality of each.
>
> Objective 3: Make the redevelopment area competitive with major activity centers in Brevard County while maintaining its unique character.
>
> Objective 4: Expand the economic base of the district retaining existing jobs while creating new diverse employment opportunities.
>
> Objective 5: Create investment opportunities which will increase the tax base thereby generating additional revenues to finance actions which support CRA goals.
>
> Goal VI: Market the CRA as a major destination point in the Central Florida Region.
>
> Objective 5: Promote the redevelopment area as a unique center of activities that include a full range of commercial, office, institutional, community, residential, and neighborhood service facilities as well as the Cocoa Village Playhouse, arts and

entertainment.

Goal VIII: Encourage innovation in land planning and site development techniques.

Objective 1: Work with the City and Planning and Zoning Board to include Mixed Use Developments within the Cocoa Overlay District, where appropriate.

Objective 2: Work with the City and Planning and Zoning Staff in the development of performance standards to be used within the CRA which will provide incentives and/or bonuses for developer proposals that provide for creative design and amenities.

Objective 3: Achieve the on-site mixing of residential and commercial uses in appropriate locations as determined by the community.

Objective 4: The CRA will promote mixed-use development patterns in new projects to provide greater diversity of use in close proximity of one another to promote reduced dependence on automobiles, and increased use of pedestrian and bicycle travel.

Goal XIII: Encourage and promote the provision of decent, safe, and sanitary housing to meet the needs of the present and future population of the CRA.

Objective 1: Identify and encourage areas where private interests can develop housing and the necessary support infrastructure in the CRA.

Objective 3: The City shall promote mixed-use developments that include provisions for a wide variety of housing types and price ranges.

The City Council will consider factors such as economic and social benefits to City and CRA, aesthetic quality and character, architectural design, physical and visual scale, compatibility with the Cocoa Village and South End when a particular development project is proposed and prior to approving a Development Agreement request to achieve the maximum of eight stories, in its sole discretion.

The proposed amendment is not contrary to the goals and objectives of the Waterfront Master Plan, Cocoa CRA Redevelopment Plan, or the Comprehensive Plan MU FLU policies. The proposed change allows for zoning bulk requirements that are more in line with the existing density policies which allow for up to 125 du/acre.

It should also be noted that the Subject Property is adjacent to the Waterfront Subdistrict of the Cocoa Waterfront Overlay District, which already allows for commercial mixed-use large building types with eight stories, without the need for a development agreement.

b. The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of this zoning code and other codes,

regulations, and actions designed to implement the comprehensive plan.

Staff Finding:
Since the zoning district will not change, there will be no conflict with the comprehensive plan. This amendment is consistent with the following policies:

Future Land Use Element, Policy 1.1.2.6 Mixed-Use (MU). The Mixed-Use land use category is intended to provide a mixture of residential, commercial, office, recreational and institutional uses along the major transportation corridors (such as SR 520 and US 1). Based on current land use trends, the City estimates that the mix of uses in the mixed-use category will be 50 percent residential and 50 percent non-residential. The Floor Area Ratio (FAR) measure shall not be applied to residential developments, or the residential portion of a mixed-use building or development.

Future Land Use Element, Objective 1.2.1: Smart Growth Principles. New development in the City shall incorporate "Smart Growth" principles that will lead to compact development standards as opposed to conventional development standards that encourage urban sprawl.

Future Land Use Element, Policy 1.2.1.6: New development, as well as infill development shall provide interconnected street grid networks, where feasible, to disperse traffic and encourage walkability. Developments may include a hierarchy of narrow streets, boulevards, and alleys; high quality pedestrian networks; designs that encourage a greater use of bicycles, rollerblades, scooters and walking as daily transportation; connectivity to public transit; and a land use mix that demonstrates reduced external trips by encouraging internal trips.

Future Land Use Element, Figure FLU-1

Housing Element, Goal 3.1: The City shall encourage and promote the provision of decent, safe, and sanitary housing to meet the needs of the present and future population of the City.

Objective 3.1.1, Housing Supply: Assist the private sector to create additional units and preserve existing units to satisfy the projected demand of dwelling units of various types, sizes, and costs which will be needed to house the City's anticipated population through the planning horizon.

Policy 3.1.1.1: The City's Future Land Use Map shall provide adequate lands to accommodate the projected housing growth.

Policy 3.1.1.2: The City shall continue to provide land use designations and zoning districts on the Future Land Use and the Official Zoning Maps to ensure a variety of housing types including single family, duplex, and multifamily are allowed within the City.

Policy 3.1.1.6: The City shall promote mixed-use developments that include provisions for a wide variety of housing types and prices.

GOAL 3.7: The City shall promote opportunities for the creation of housing and infill

development within the City.

Objective 3.7.1, Infill Development: The City shall continue to promote infill housing development by supporting alternative development standards where appropriate and feasible.

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

NA

RECOMMENDED MOTION:

Staff recommends that the Planning & Zoning Board recommend APPROVAL to City Council regarding the proposed Land Development Code Amendment to Appendix A, Article XI, Section 22 of the Zoning Ordinance of the City of Cocoa to allow Large Scale Commercial/Mixed-Use Buildings on certain properties within the Cocoa Waterfront Overlay District.

ORDINANCE NO. 21-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTION 22 OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ALLOW LARGE SCALE COMMERCIAL/MIXED-USE BUILDINGS ON CERTAIN PROPERTIES WITHIN THE COCOA WATERFRONT OVERLAY DISTRICT AS MORE PARTICULARLY DEPICTED ON EXHIBIT "A" ATTACHED HERETO; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

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

WHEREAS, the City Council desires to amend the Cocoa Waterfront Overlay Regulating Plan and Appendix A, Article XI, Section 22 – Cocoa Waterfront Overlay District, Cocoa Village Subdistrict, to allow for Commercial/Mixed-Use Large (CL) Building types to be developed on certain properties where indicated on the Regulating Plan in the Cocoa Village Subdistrict; and

WHEREAS, the City Council of the City of Cocoa, Florida, 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 fully incorporated herein by this reference as legislative findings of the City Council of the City of Cocoa.

Section 2. **Regulating Plan Amendment.** Appendix A, Zoning, is hereby amended to delete the Regulating Plan set forth in Article XI, Section 22(G), City Code, and replace it with the Regulating Plan attached hereto as **Exhibit "A"** and fully incorporated herein by this reference.

Section 3. **Repeal of Prior Inconsistent Ordinances and Resolutions.** All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of other ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 4. **Incorporation into Code.** This Ordinance shall be incorporated into the City Code of the City of Cocoa and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

Section 5. **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 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the _____ day of _____, 2023.

_____
MICHAEL C. BLAKE
Mayor

ATTEST:

_____
MONICA ARSENAULT
Interim City Clerk

Legal Ad Published: _____
First Reading: _____
Legal Ad Published: _____
Second Reading: _____

EXHIBIT A

REGULATING PLAN

EXHIBIT "A"

Proposed Update to Regulating Plan

City of Cocoa - Waterfront Overlay District

Cocoa, FL

9/18/2023

Sub-district	Allowable Building Type														
	Homestead HS	Estate ES	House HS	Cottage CO	Townhouse TH	Apartment Building AB	Courtyard Apartment CA	Comm/Mixed *Small CS	Comm/Mixed *Med CM	Comm/Mixed *Large CL	Single-Story Commercial SC	Large Format Commercial LF	Institutional IT	Civic IC
Cocoa Village (CV)				o	o	•	•	•	•	o (3)	o		•	•
Heart of Cocoa (HC)		•	•	•	• (1)			(3)					•	•
King/Willard Corridor (KW)			o		o	o		•	•		•		•	•
Uptown Neighborhood (UN)		•	•	•	•								•	•
South of the Village (SV)	•	•	•	•	•	o	o	o					•	•
South End (SE)				•	•	•	•	•	•	o (3)	o		•	•
Waterfront (WF)					•	•	•	•	•	•	o		•	•
North of Village (NV)					•	•	•	•	•		o	o	•	•

o Allowed only where indicated on Regulating Plan

• Allowed throughout Design District

* New development within the Comm/MXD use district may be developed as either commercial or mixed use.

1. Townhomes allowed up to four per building.
2. Consistent with the Substitute Consent Decree as ordered on January 28, 2009.
3. Development of Commercial/Mixed Use-Large building types in this design district shall require a development agreement approved subject to the discretion of the City Council after consideration of the following factors: economic and social benefits to the City and Community Redevelopment Agency, aesthetic quality and character, architectural design, physical and visual scale, compatibility with the special and distinctive character of Cocoa Village and respective subdistrict, and other similar relevant factors.

Waterfront Overlay
Sub-Districts:

- Cocoa Village (CV)
- Heart of Cocoa (HC)
- King/Willard Corridor (KW)
- Uptown Neighborhood (UN)
- South of the Village (SV)
- South End (SE)
- Waterfront (WF)
- North of Village (NV)
- Consent Decree Area

Additional building type allowed for this parcel only

Required minimum and maximum street setback (in feet)

Break in street setback dimension

Right of way line (beginning point of street setback measurment)

Internal Lot Line



COCOA
FLORIDA

N

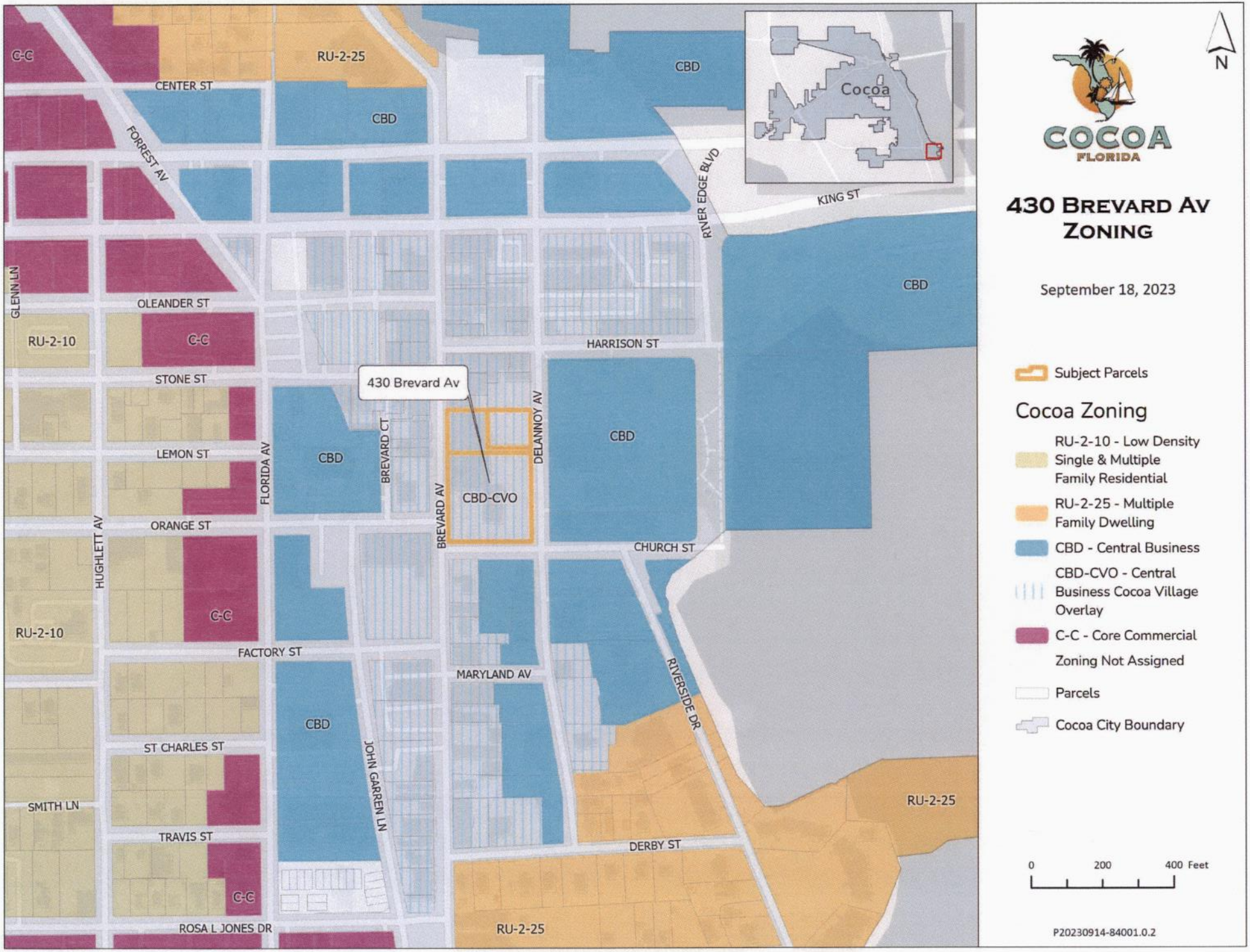
430 Brevard Av Location

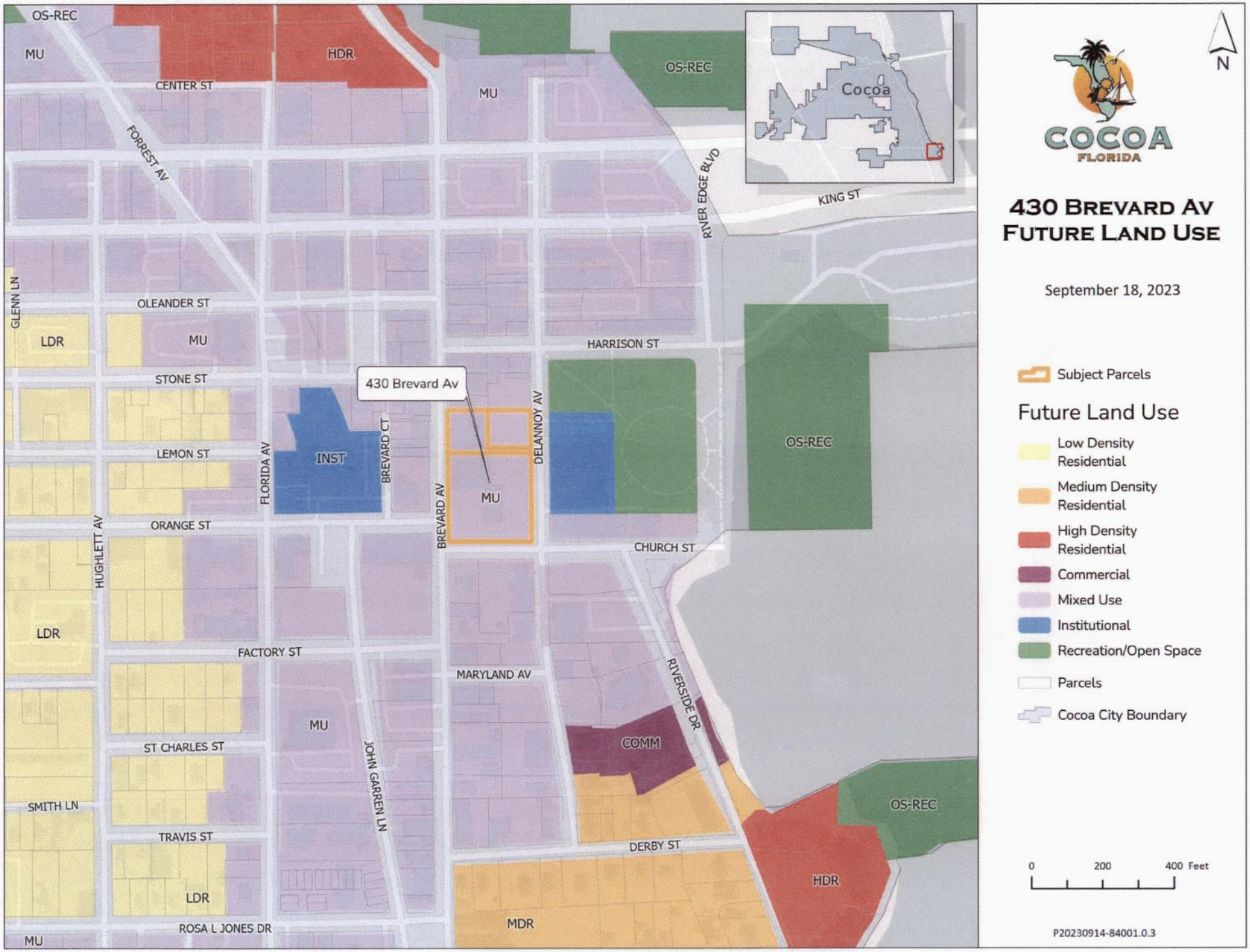
September 18, 2023

Subject Parcels
Parcels
Cocoa City Boundary

0 200 400 Feet

P20230914-84001.0.1


C-C
RU-2-25
CBD
CENTER ST
FORREST AV
RIVER EDGE BLVD
KING ST
Cocoa
GLENN LN
OLEANDER ST
RU-2-10
C-C
HARRISON ST
STONE ST
430 Brevard Av
DELANNOY AV
BREVARD CT
LEMON ST
FLORIDA AV
BREVARD AV
CBD-CVO
ORANGE ST
HUGHLETT AV
CHURCH ST
FACTORY ST
MARYLAND AV
RIVERSIDE DR
ST CHARLES ST
JOHN GARREN LN
SMITH LN
TRAVIS ST
DERBY ST
ROSA L JONES DR
N
COCOA
FLORIDA
430 BREVARD AV ZONING
September 18, 2023
Subject Parcels
Cocoa Zoning
RU-2-10 - Low Density Single & Multiple Family Residential
RU-2-25 - Multiple Family Dwelling
CBD - Central Business
CBD-CVO - Central Business Cocoa Village Overlay
C-C - Core Commercial
Zoning Not Assigned
Parcels
Cocoa City Boundary
0
200
400 Feet
P20230914-84001.0.2


OS-REC
MU
HDR
CENTER ST
FORREST AV
MU
OS-REC
Cocoa
KING ST
RIVER EDGE BLVD
GLENN LN
OLEANDER ST
LDR
MU
HARRISON ST
STONE ST
430 Brevard Av
INST
BREVARD CT
FLORIDA AV
DELANNOY AV
OS-REC
LEMON ST
BREVARD AV
MU
HUGHLETT AV
ORANGE ST
CHURCH ST
LDR
FACTORY ST
MARYLAND AV
RIVERSIDE DR
MU
COMM
ST CHARLES ST
JOHN GARREN LN
SMITH LN
OS-REC
TRAVIS ST
DERBY ST
HDR
LDR
MDR
ROSA L JONES DR
MU
COCOA
FLORIDA
N
430 Brevard Av
Future Land Use
September 18, 2023
Subject Parcels
Future Land Use
Low Density Residential
Medium Density Residential
High Density Residential
Commercial
Mixed Use
Institutional
Recreation/Open Space
Parcels
Cocoa City Boundary
0
200
400 Feet
P20230914-84001.0.3

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Order Amount 312.80

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No. of Affidavits: 1

Run Dates: 09/26/23

Text of Ad:

Ad#5832585 09/26/2023

CITY OF COCOA
NOTICE OF PUBLIC HEARING
NOTICE IS HEREBY GIVEN THAT THE PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AND THE COCOA CITY COUNCIL PROPOSE TO CONSIDER THE FOLLOWING:
ZONING TEXT AMENDMENT

PZ 23-0200008 Zoning Text Amendment | Ordinance 20-2023

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ZONING, ARTICLE XIII, SECTION 22, OF THE ZONING ORDINANCE OF THE CITY OF COCOA; AMENDING THE LANDSCAPING, LAND CLEARING, AND TREE PROTECTION AND REPLACEMENT STANDARDS OF THE CITY OF COCOA; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

PZ 23-0200007 Zoning Text Amendment | Ordinance 21-2023

A. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ARTICLE XI, SECTION 22 OF THE ZONING ORDINANCE OF THE CITY OF COCOA TO ALLOW LARGE SCALE COMMERCIAL/MIXED-USE BUILDINGS ON CERTAIN PROPERTIES WITHIN THE COCOA WATERFRONT OVERLAY DISTRICT; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

PLANNING & ZONING BOARD/ LOCAL PLANNING AGENCY
PUBLIC HEARING WILL BE HELD ON
October 4, 2023

CITY COUNCIL 1st PUBLIC HEARING WILL BE HELD ON
October 10, 2023

ALL HEARINGS WILL TAKE PLACE AT 6:00 P.M. OR SOON THEREAFTER IN THE COCOA CITY HALL COUNCIL CHAMBERS LOCATED AT
65 STONE STREET, COCOA, FL

General Notice Information:
This is a public meeting. Interested parties are hereby advised that they may appear at said meeting and be heard. The facility wherein this public meeting will be held is accessible to the physically handicapped. In accordance with the Americans With Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk of the City of Cocoa, listed below, at least 48 hours prior to the meeting: Carie Shealy, City Clerk, 65 Stone Street, Cocoa, by telephone at (321) 433-8484 or via email at cshealy@cocoafl.org . Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that if a person decides to appeal any decision made by the BOA, P&Z Board/LPA or City Council with respect

to any matter considered at its meeting or hearing, that person will need a record of the proceedings and for such purpose, affected persons may need to assure that a verbatim record of the proceedings is made, and such record shall include the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals otherwise not allowed by law.
The BOA, PZ Board/LPA and City Council reserve the right to continue or postpone hearings to a date certain without re-advertising.

Public Participation Information:
Members of the public may view the meeting agenda, ordinances, project applications, supporting documents, and staff reports on the City's website at the following link prior to attending or commenting:
• City of Cocoa meeting calendar at https://cocoa.legistar.com/Calendar.aspx
Documents pertaining to the above may also be inspected at the Community Services Department, between 8:00 a.m. and 5:00 p.m., Monday through Friday, or by phoning (321) 433-8451.
Interested persons may submit their written comments or questions prior to the meeting through Email at meetings@cocoafl.org, or via E-comments through the online agenda at the link above. Any electronic comments submitted will be made part of the meeting record.
Viewing In Real Time. Interested persons are encouraged to view and listen to the hearings live by accessing the meetings at the following internet address:
• City of Cocoa meeting calendar at https://cocoa.legistar.com/Calendar.aspx
However, the City is not responsible for technical difficulties that may occur while attempting to view or listen to the meeting on the internet.

Legislation Details (With Text)

File #:	23-623	**Version:** 1	**Name:**		
Type:	Agenda		**Status:**	Agenda Ready	
File created:	9/29/2023		**In control:**	Planning and Zoning / Local Planning Agency	
On agenda:	10/4/2023		**Final action:**		
Title:	An ordinance of the City Council of the City of Cocoa, Brevard County, Florida; amending Appendix A, Zoning, Article XIII, Section 22, of the zoning ordinance of the City of Cocoa. amending the Landscaping, Land Clearing, and Tree Protection and Replacement Standards of the City of Cocoa; providing for the repeal of prior inconsistent ordinances and resolutions, incorporation into the code, severability, and an effective date.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Exhibit A - Ordinance No. 20-2023 - Amending Tree Preservation - DRAFT 09.27.2023.pdf Exhibit B - Legal Ad October 4.pdf				

Date	Ver.	Action By	Action	Result

PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: September 28, 2023
Agenda Date: October 4, 2023
Prepared By: Stacey Hopper - City Planner
Through: Stockton Whitten - City Manager
Requested Action:
An ordinance of the City Council of the City of Cocoa, Brevard County, Florida; amending Appendix A, Zoning, Article XIII, Section 22, of the zoning ordinance of the City of Cocoa. amending the Landscaping, Land Clearing, and Tree Protection and Replacement Standards of the City of Cocoa; providing for the repeal of prior inconsistent ordinances and resolutions, incorporation into the code, severability, and an effective date.

BACKGROUND:

The applicant, City of Cocoa, is requesting that the Tree Board/P&Z consider an amendment of the Land Development Code Appendix A, Zoning, Article XIII, Section 22 of the Zoning Ordinance of the City of Cocoa to amend its tree preservation and replacement requirements, to amend the requirements for contribution to the City's Arbor Mitigation Fund in certain circumstances where tree replacement is not feasible, and to amend other tree-related objectives, in order to more equitably balance the interests of tree preservation and encouraging beneficial development within the City while maintaining the City of Cocoa's "Tree City USA" designation.

The City last substantially revised the Landscaping Requirements and Tree Protection and

Preservations standards in 2020. After an examination of the Ordinance's impacts on developments since its adoption in 2020, the City proposes a zoning text amendment to create a new standard for Landscaping, Land Clearing and Tree Protection and Replacement that is intended to further tree preservation initiatives and modify standards related to contributions to the Arbor Mitigation Fund. The Ordinance introduces a tree preservation credit system and clarifies the tree replacement standards. City staff has worked closely with the City Arborist in preparing the proposed Ordinance.

Project Name:	Zoning Ordinance Text Amendment - Landscaping, Land Clearing and Tree Protection and Replacement Standards, Ordinance 20-2023
Project No.:	PZ-23-02000008
Meeting Date:	October 4, 2023
Applicant:	City of Cocoa
Property Owner:	N/A
Project Location:	Various Residential Zoning Districts
Future Land Use Designation:	Various
Zoning District:	Various
Existing Land Use:	N/A
Council District:	City-wide
Legal Ad Date:	September 26, 2023

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 objective 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

The proposed amendment has been undertaken by the City of Cocoa as a result of a review of large-scale site plan developments undertaken in the city over the past 3 years. This review revealed that, very often, landscaping and tree removal plans submitted in conjunction with development projects resulted in the developers incurring large arbor mitigation contribution fees as a result of their proposals favoring payment and mitigation over tree preservation. The developers have regularly come to the city requesting relief from the estimated arbor mitigation fees. In some cases, Development Agreements have been utilized to provide full or partial waivers of the arbor mitigation in accordance with Section 15-21 of the City Code, which authorizes variances or waivers from applicable land development regulations of the City, provided that there is a bona fide need and the

owner agrees to provide significant enhancements to the subject property that bring the overall quality of the proposed development above and beyond the minimum requirements set forth in the land development regulations and serve the public health, safety, and welfare of the citizens and visitors of the City. However, the City desires to create an ordinance that may be applied without the need for discussion and negotiation of development agreements with such frequency related to arbor mitigation contribution fees. The City also desires to incentivize mature tree preservation and discourage "clear-cutting" in the hopes that developers will design around trees as much as possible.

As a remedy for this situation, the City of Cocoa has proposed the following broad categories of changes to the tree code, which are summarized below:

- Minimum tree planting requirements
- Preservation credits for trees being preserved
- Tree Replacement Standards
- Revised Arbor Mitigation policy
- Enhanced penalty section for land clearing or removal of trees without a permit.

Minimum Tree Planting Requirements. New minimum tree planting requirements have been created that deal with both the minimum number and size of trees for new construction. For new single family and duplex lots less than 7500 sq. ft. in size, no fewer than two trees per lot shall be planted and each tree shall be 8' tall with a 3" diameter base and a two-foot spread. For single family and duplex lots 7,500 sq. ft. or greater, additional trees are required for each fraction of 4000 sq ft. per lot. For new commercial, industrial, multifamily and other developments, requiring site plan approval, no fewer than 6 trees per acre are required to be planted. The minimum tree planting requirements cannot be satisfied by contributing to the arbor mitigation fund.

Tree Preservation Credits. In order to encourage tree preservation, the City has created a tree preservation credit system. The former ordinance reserved tree credits (decreasing the tree replacements required on-site) only for specimen trees greater that 42" that were preserved. This proved to rarely occur, such that most developers received no reduction in tree replacement requirements even if it endeavored to save many trees onsite. The new ordinance provides one tree credit for every 12" of trees preserved on-site. The tree preservation credits offered are increased for specimen trees (over 24") up to a maximum of 12 credits in order to encourage the retention of specimen trees and for developers to design around them. Further, the City will now offer additional credits for trees on land placed in perpetual public conservation with the City or conveyed to the City. Three additional tree credits will be provided for each tree, as defined within this ordinance, within areas above one-half acre and with a width not less than 75'.

TABLE 1 - Proposed Tree Credit Table for Reduction in Replacement Trees.

D.B.H of Preserved Tree	Reduction in Replacement Trees
6" - 23"	For every 12" preserved, 1 credit
24" - 35"	8 Credits
36" - 42"	10 Credits
Greater than 42"	12 Credits

Tree Replacement Standards. The Tree Replacement requirements are proposed to be significantly changed. Currently, for each inch of a tree removed, an equivalent number of inches must be replaced or an arbor mitigation bank contribution must be made for those inches of trees that are not feasible for replacement. The Ordinance proposes to move to a system in which a certain number of trees must be replaced for each tree removed, depending upon size of the tree removed. In this system, the number of overall trees, and consequently the tree canopy, is intended to be preserved even if the number of inches is not immediately replaced. Tree replacements must be maintained for a minimum of 2 years, and it is intended that they will grow to maturity and will eventually replace the trees removed. To ensure adequate tree replacement, in number and sustainability, a minimum size and number of trees are required as shown in Table 2 - Tree Replacement Standards. Trees of 24" and above will be replaced with a minimum of 9 trees, with a diameter of 3". Trees larger than 24", Specimen Trees, will be replaced with a minimum of equivalent inches removed. Again, developers are incentivized to design around specimen trees because the replacements requirements are significant and remain based on inches.

TABLE 2 - Tree Replacement Standards

D.B.H. of Protected Tree	Number of Replacement Trees Required for Each Tree Removed	Minimum Size of Replacement Tree	Total Replacement Required (Inches)
6" - 12"	1	3"	3"
13" - 23"	4	3"	12"
24" and above (Specimen)	Minimum of 9	3"	Minimum 27" or equivalent to inches removed

Arbor Mitigation Contribution Fund. When the number of trees able to be planted in a development is smaller than the number of trees required for replacement, a contribution to the Arbor Mitigation Fund may be available. However, in no case will the contribution to the Arbor Mitigation Fund be a replacement for the minimum number of trees that are required to be planted described above. The table below highlights the cost per caliper inch not replaced at $100 per inch for trees 6" to 23", and a cost of $200 per inch for trees 24" and larger (specimen). For the first class of tree, the established amount may be reduced by submitting a single, reasonable quote from a professional arborist. This alters the current requirement that provides arbor mitigation contribution fees are determined by the average of three quotes obtained for the cost of the trees not replaced, plus installation and maintenance costs for two years following planting. The City has received multiple complaints from developers that it is very difficult to obtain the requisite number of quotes.

TABLE 3. Proposed Arbor Mitigation Fund fees

D.B.H of Removed Tree Not Replaced	Contribution to Arbor Mitigation Fund *
6" - 23"	$100.00 per inch not replaced
24" and up (Specimen)	$200.00 per inch not replaced

* In lieu of the $100.00 per inch contribution for non-specimen trees not replaced, the applicant may submit a reasonable professional quote for the cost of the required replacement trees, plus installation costs, which may be deemed acceptable in the discretion of the City's arborist.

Penalties. This ordinance clarifies and increases the fines for tree removal without a permit. As a reminder, tree removal permits are not required for single-family and duplex lots that are actively used for single-family residential purposes, so this proposed change will not affect single-family and duplex lot owners. The Ordinance clarifies that the code enforcement board may impose daily fines for failure to obtain a tree removal permit. To come into compliance, a property owner will have to obtain an after-the-fact tree removal permit. This will require a tree survey (which may need to be created based on historical data) and compliance with tree replacement and mitigation fees as would ordinarily apply. Moreover, additional aggravated fines are imposed per tree removed up to $5,000 per tree as permitted by Florida law. Additional fines are clarified for land clearing by the ¼ acre and lastly for failure to abide by a cease and desist order.

Summary. In summary, this Ordinance furthers on and off-site tree preservation, enhanced tree preservation and replacement standards, specifies new arbor mitigation fees and increases fines to ensure compliance.

Following Staff analysis, the proposed amendments to the Zoning Ordinance, attached as Exhibit A, Ordinance 20-2023 are recommended to the Tree Board/Planning and Zoning Board.

If approved, the proposed amendment will impact residential zoning districts for single-family, duplex dwellings, multi-family, commercial, industrial and all new developments requiring site plans.

Relationship and consistency with Comprehensive Plan Policies and Objectives

The proposed changes will not negatively impact existing neighborhoods and will help to clarify requirements regarding tree permits, tree mitigation and use of the Arbor Mitigation Fund. Having clear requirements will help with the enforcement of regulations for the developers and homeowners alike. Furthermore, there will be no negative impacts on the City's level of service standards regarding these changes.

- **Objective 12.1.6: Hydrology, Vegetation and Wildlife.** Protect and conserve soils and native vegetation communities, and maintain the natural functions of the City's ecological zones in a manner consistent with Goals, Objectives and Policies of the Future Land Use Element.

STRATEGIC PLAN CONNECTION:
N/A

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

Approved by the City Council 12/12/2018 - Ordinance 12-2018 Landscape Requirements Related to Tree Protection and Preservation.

Approved by the City Council 08/26/2020 - Ordinance 12-2020 for Landscaping Requirements, Amending Land Clearing and Tree Protection and Replacement Standards

RECOMMENDED MOTION:

Staff recommends that the Planning and Zoning Board recommend approval of Ordinance 20-2023 as presented.

ORDINANCE NO. 20-2023

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COCOA, BREVARD COUNTY, FLORIDA; AMENDING APPENDIX A, ZONING, ARTICLE XIII, SECTION 22, OF THE ZONING ORDINANCE OF THE CITY OF COCOA; AMENDING THE LANDSCAPING, LAND CLEARING, AND TREE PROTECTION AND REPLACEMENT STANDARDS OF THE CITY OF COCOA; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, INCORPORATION INTO THE CODE, SEVERABILITY, AND AN EFFECTIVE DATE.

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

WHEREAS, the City of Cocoa Tree Protection and Preservation Ordinance is codified in the City of Cocoa Code of Ordinances Appendix A, Zoning, Article XIII, Supplementary District Regulations, Section 22, Landscape Requirements, Subsection E, Tree Protection and Preservation;

WHEREAS, the City Council finds that trees benefit the City by decreasing urban noise, urban heat islands, air pollution, and flooding, by providing habitat for urban wildlife, and by contributing to property values and the character of the City; and

WHEREAS, the City Council desires to ensure that the City continues to realize the benefits provided by its urban forests, as recognized by its "Tree City USA," designation; and

WHEREAS, the City Council further desires to amend its tree preservation and replacement requirements, to amend the requirements for contribution to the City's Arbor Mitigation Fund in certain circumstances where tree replacement is not feasible, and to amend other tree-related objectives, in order to more equitably balance the interests of tree preservation and encouraging beneficial development within the City; and

WHEREAS, on the _____ day of _____, 2023, the City's Planning and Zoning Board/Local Planning Agency reviewed this Ordinance, held a public hearing, and recommended approval of this Ordinance; and

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

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

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and reflect the intent and purpose of the City Council of the City of Cocoa.

Section 2. **Code Amendment.** Appendix A, Zoning, Article XIII, Supplementary District Regulations, Section 22, of the Code of Ordinances of the City of Cocoa, Florida, is hereby amended as follows (underlined type indicated additions and ~~strikeout~~ type indicates deletions, while asterisks (* * *) indicate a deletion from the Ordinance of text existing in Section 22. It is intended that the text in Section 22 denoted by the asterisks and set forth in this Ordinance shall remain unchanged from the language existing prior to the adoption of this Ordinance.):

* * *

APPENDIX A – ZONING

* * *

ARTICLE XIII. – SUPPLEMENTARY DISTRICT REGULATIONS

* * *

Sec. 22. – Landscape Requirements.

* * *

(B) DEFINITIONS. [For the purpose of this section, certain words or terms used herein shall be interpreted as follows:]

* * *

Land clearing: The act of removing or destroying trees, ground cover, and other vegetation by manual, mechanical, or chemical means. Routine lawn mowing, sod replacement, planting of landscape material, shrub pruning, and shrub removal shall not be considered land clearing, provided no grade change occurs. Removal of understory by bush hog, forestry mulcher, or other means shall not be considered routine mowing ~~when preparing a property for construction or results in trees being removed, destroyed or severely damaged~~.

* * *

Tree: A woody or fibrous perennial plant with an upright trunk which normally grows, or is capable of growing, to an overall height of a minimum height of fifteen (15) feet in the central coastal area of Florida, and having a trunk diameter of ~~four (4)~~ six (6) inches or greater as measured diameter at breast height (d.b.h.) or four and one-half (4½) feet above actual grade

* * *

(D) ~~PLAN APPROVAL. Where a site plan is required in accordance with article 13, section 1, of the City of Cocoa Zoning Code, the landscape plan shall be submitted simultaneously with site plan. If a site plan is not required (i.e., parking lot), the landscape plan must be submitted before permits are issued. The landscape plan must indicate the following:~~

~~(1) Location and dimension of all required buffers;~~

~~(2) Location and dimension of all required internal landscaping;~~

~~(3) Location, size and description of all landscape materials;~~

~~(4) Property boundary;~~

~~(5) Location and area of off-street parking and vehicular use areas;~~

~~(6) Location of sprinklers and/or outlet locations;~~

~~(7) Calculations for the determination of internal landscaping requirements;~~

~~(8) Location of principal structure(s).~~

~~No permit shall be issued for building or paving unless site plan and/or landscape plan comply with these provisions. No certificate of occupancy shall be issued until the landscaping is complete and it shall be unlawful to occupy the premises unless the landscape plan has been approved, complied with, and received a final inspection from the enforcement official.~~

MINIMUM TREE PLANTING REQUIREMENTS. No certificate of occupancy shall be issued on the types of construction indicated below unless the underlying parcel has at least the required minimum number of approved trees:

1. Any new single-family or duplex dwelling unit on a lot of less than 7,500 square feet: not fewer than two trees on each lot. Each tree shall be at least eight feet tall with a 3 inch d.b.h. minimum and a two-foot spread. Palm trees shall have at least six feet of clear trunk.

2. Any new single-family or duplex dwelling unit on a lot equal to 7,500 square feet or greater: not fewer than two trees plus one additional tree for each 4,000 square feet or fraction thereof over 7,500 square feet on each lot. Each tree shall be at least eight feet tall with a 3 inch d.b.h. minimum and a two-foot spread. Palm trees shall have at least six feet of clear trunk.

3. Any commercial, industrial, multifamily or other structure requiring small-scale or large-scale site plan approval under the city land development regulations: no fewer than six trees per acre. However, this minimum tree planting requirement shall not apply to commercial or industrial developments on parcels that are two (2) acres or less.

The minimum tree planting requirements of this subsection shall not be eligible for arbor mitigation fund fees in lieu of replacement.

* * *

(E) TREE PROTECTION AND PRESERVATION.

(1) The provisions of this subsection (E) shall apply to the following:

(a) All vacant and undeveloped property.

(b) The open space areas of all developed property, except single-family or duplex lots.

(c) All public or private rights-of-way.

(2) The provisions of this subsection (E) shall not apply to the following:

(a) Single-family or duplex lots.

(b) Land clearing and tree removal activities authorized and preempted by state or federal law, which include, but are not limited to:

1. Removal of trees on residential property which pose ~~danger~~ an unacceptable risk to persons or property in accordance with F.S. § 163.045, for which no replacement trees will be required provided that the property owner possesses the documentation required by state law. For purposes of this subsection, "residential property" and "unacceptable risk" shall be defined as ~~property with a fully-constructed single-family home or duplex used for residential purposes, except as provided herein~~ provided in F.S. § 163.045, as may be amended. The term "residential property" for purposes of this subsection does not include multi-family residential property, common areas owned by a homeowners' or condominium association, vacant land zoned or designated residential or mixed-use (e.g., PUD, CBD, CN) on the city's official zoning map or future land use map, public rights-of-way, or land subject to particular landscaping, tree planting or preservation requirements pursuant to an executed development agreement, landscape easement granted to the city, or conservation easement.

2. Removal of trees by an electric utility to clear trees away from power lines in order to ensure the safe transmission of electricity to customers, as provided by Florida Statutes and Electric Tariff Rules, including the preemption under F.S. § 163.3209.

(3) *General requirements.*

(a) Except as provided in subsections (E)(2) and (E)(4)(c), no tree shall be removed without first obtaining a tree removal permit and no land shall be cleared without first obtaining a land clearing permit.

(b) All new applications for subdivision plats and site plans shall be accompanied by a tree removal and/or land clearing application at the time of initial submittal of the

plans so that due consideration may be given to protection of trees during the subdivision and/or site plan design process. If a site plan is not required (i.e., parking lot), a landscape plan must be submitted before permits are issued.

(c) No permit shall be issued for building or paving unless the site plan and/or landscape plan comply with these provisions. No certificate of occupancy shall be issued until the landscaping is complete and it shall be unlawful to occupy the premises unless the landscape plan has been approved, complied with, and received a final inspection from the enforcement official.

(4) *Permit requirements.*

(a) *Application contents.* Each application for a tree removal and land clearing permit shall state the reasons for requested removal of the tree(s) and vegetation and be accompanied by a tree inventory, consisting of a scaled drawing with a scale of one (1) inch equals fifty (50) feet or less, indicating:

1. Property boundaries and, if trees are proposed for removal from the right-of-way, the right-of-way boundaries.

2. The location of all individual trees, including the tree's common or scientific name, and measured diameter at breast height (d.b.h.) of trees on the property ~~within twenty (20) feet of any construction area or area to be disturbed on the property~~, except that individual trees within the building envelope (structure and seven and one-half (7 ½) feet around the perimeter), within the portion of any wetland that will not be disturbed, or within an existing conservation easement may be omitted.

3. Identification of all trees proposed for removal.

4. Identification of trees to be preserved ~~greater than forty-two (42) inches d.b.h. or relocated~~ and replacement tree credit requested for the preserved tree, if any. Replacement tree credit requested for preserved trees shall be based upon the values provided in Table 1.

5. The location of existing and proposed improvements, if any, including existing and proposed buildings and structures, proposed additions to existing buildings and structures, impervious surfaces (e.g. pool decks, drives, parking areas), stormwater retention areas, utilities, and other such improvements.

6. A replacement plan consistent with subsection (E)(5), indicating the means of compensating for the tree(s) to be removed and including the species and size of any replacement tree(s).

7. The number of caliper inches and type of replacement trees that cannot be planted on site and statement regarding the reasons that such replacements cannot be made on site, if any. ~~Where requesting to make a contribution to the Arbor Mitigation Fund, three (3) professional quotes for the required replacement trees, plus installation and two-year maintenance costs to the city shall be submitted.~~ Where the applicant requests to make a contribution to the Arbor Mitigation Fund to offset all or a portion of the required tree replacements, the amount which must be contributed to the Fund shall be based upon the values provided in Table 3. The calculation of the contribution shall be provided in the application.

8. If grade changes are proposed on the site, a grading plan drawn to scale shall be provided. In addition, a written statement shall be provided by a landscape architect or other competent professional indicating the probability of whether the grade change will result in the death of tree(s) intended to be preserved. Said statement shall immediately be brought to the attention of the city arborist at the time the application is filed and attached to the application.

9. A protection plan describing how preserved tree(s) shall be preserved on the site and adjacent properties during construction, tree removal and grading. This plan must address protection of the root system, crown, and stems of the trees, a means of supplying water and essential elements to the root system, and the proposed location of tree protection barriers.

10. An application requesting approval for land clearing without removal of trees must only include the property boundaries, identification of the area to be cleared drawn to scale, a statement of the reasons for removal of the vegetation in accordance with subsection (E)(6) below, and the seeding or mulching plan if required.

11. Landscaping plans shall include the location and dimension of all required buffers; location and dimension of all required internal landscaping; location, size and description of all landscape materials; location of sprinklers and/or outlet locations; location and area of off-street parking and vehicular use areas; location of all structures; and property boundaries.

Upon request, the enforcement official may permit an applicant to omit certain portions of the tree removal or land clearing application and inventory where compliance with the requirements set forth herein would be unnecessarily burdensome and would not be needed for the city to evaluate the application. Such applications may include those unrelated to new development of buildings, structures or infrastructure on the subject land and limited only to the removal of one (1) or more isolated and specific trees on already-developed land.

* * *

(d) *Duration of permit.* A tree removal or land clearing permit shall expire 90 days from the date of issuance for permits that are not issued in conjunction with an approved subdivision plat or site plan. Two extensions of 30 days each may be authorized by the building official, provided appropriate justification warrants, such as unusual weather, seasonal situations or inability to obtain permits from other agencies. Trees not removed during the life of the permit may not be removed without the issuance of a new permit based upon a new application.

(5) *Tree replacement.*

(a) As a condition of granting a tree removal permit, the applicant shall be required to replace trees being removed at its sole cost.

(b) Tree species. Whenever possible and practicable, trees should be replaced with the same species as those removed or, to encourage lower maintenance and water conservation and the planting of the right trees in the right place, trees listed on the UF/IFAS Florida-Friendly Plant Selection and Landscape Design List. When palm trees are used as a replacement tree, they must be capable of having a mature height taller than twelve (12) feet and cannot constitute more than thirty-five (35) percent of the total replacement inches required.

(c) Trees removed by the city. Except where tree board recommendation or approval is required in subsection (H)(1)(d) below, specimen trees removed by the city on public property or within the right-of-way and that are not within the building envelope (structure and seven and one-half (7 ½) feet around the perimeter) shall be replaced with either a tree of the same species or a tree of a different species that is more suitable for the location as determined by the city arborist or an arborist certified by the International Society of Arboriculture. The replacement trees shall be planted in a location deemed most appropriate by the director of public works or his or her designee.

(d) Replacement credit for trees preserved. To encourage the retention of existing ~~large~~ trees in the city, the following credits shall be applied to reduce the number of replacement trees required by this section, excluding ~~areas more than twenty (20) feet outside of the limits of any construction area or area to be disturbed,~~ wetland areas that are to remain undisturbed~~,~~ and existing conservation areas:

~~Preserved Tree size~~	~~Credit~~
~~Greater than 42" d.b.h~~	~~= 100% of caliper inches of each tree over 42" being preserved~~

TABLE 1.

D.B.H of Preserved Tree	Reduction in Replacement Trees* **
6" - 23"	For every 12" preserved, 1 credit
24" - 35"	8 Credits
36" - 42"	10 Credits
Greater than 42"	12 Credits

* One credit is equivalent to a 3" replacement tree.

** For each tree located within a public conservation area dedicated to the city as part of a development project or within an area to be conveyed to the city (excluding jurisdictional wetlands determined by the St. John's River Water Management District or the U.S. Army Corp of Engineers, or as depicted on the map of existing wetlands in the city comprehensive plan), three (3) additional replacement tree credits may be applied for each tree preserved within the area. However, the minimum tree planting requirements set forth in Subsection (D) shall still apply. Such public conservation area or land area conveyed to the city must be at least one-half acre with widths not less than 75 feet, unless otherwise approved by the city council.

(e) Size and number of replacement trees. Where replacement tree(s) are required, the appropriate number of trees shall be planted ~~such that the newly planted trees, in sum, are equivalent to the d.b.h. of the tree(s) removed~~ as provided in Table 2, less any replacement credit for preserved trees. Further, trees ~~Trees~~ removed within the building envelope (structure and seven and one-half (7 ½) feet around the perimeter) shall not be required to be replaced. The replacement trees shall further have a minimum d.b.h., depending upon the diameter of the tree removed, as described in the table below. ~~For example, if a nine-caliper-inch tree were removed and no replacement credit for preserved tree available, the applicant must provide a total of nine caliper inches of tree replacements, with each replacement tree having a minimum d.b.h. of three (3) inches.~~

~~Diameter of existing Tree (Inches)~~	~~Minimum caliper (Inches) of each replacement tree~~
~~4—11~~	~~3~~
~~12—17~~	~~3~~
~~18—23~~	~~4~~
~~24—29~~	~~4~~
~~>30~~	~~6~~

TABLE 2 – Tree Replacement Standards

D.B.H. of Protected Tree	Number of Replacement Trees Required for Each Tree Removed	Minimum Size of Replacement Tree	Total Replacement Required (Inches)
6" – 12"	1	3"	3"
13" – 23"	4	3"	12"
24" and above (Specimen)	Minimum of 9	3"	Minimum 27" or equivalent to inches removed

~~(d)~~ (f) Arbor Mitigation Fund Alternative. An Arbor Mitigation Fund is established by the city to provide an option to make a fee payment to the city in lieu of providing the required replacement trees on site. The Arbor Mitigation Fund shall be a part of the city general fund, but is reserved exclusively for the design, acquisition, installation and maintenance of trees on public property or, in certain circumstances private property, the funding of studies related to the city's tree canopy, ~~or~~ the operation and maintenance of a public tree nursery, or expenses related to compliance with the City's Tree City USA designation, including public education and outreach and arbor day celebration expenses. Before approving planting trees on private property, the enforcement official must find that the trees will provide aesthetic benefits to many of the same citizens who would have benefitted from the installation of the trees on public property. The private property owner must be willing to sign a tree maintenance agreement with the city.

The arbor mitigation alternative may only be utilized as a last resort after all other design alternatives to provide required replacement trees and to preserve existing trees have been considered. The applicant must demonstrate that there is insufficient room on the site for required replacement trees due to:

1. Existing or proposed trees;
2. Existing or proposed structures, required parking, access driveways, stormwater retention areas, or utilities;
3. Land condition (e.g., topography, soil type);
4. Insufficient area for the tree to establish.

The arbor mitigation contribution shall be determined by the values established in Table 3. ~~current wholesale market value, as determined by the average of three (3) professional quotes, of the required replacement trees which cannot reasonably be accommodated on site, plus installation and two-year maintenance costs to the city. The quotes obtained shall clearly identify the required number of total replacement caliper inches, the number of~~

~~caliper inches for each replacement tree not able to be planted on site, and the species of tree.~~

TABLE 3.

D.B.H of Removed Tree Not Replaced	Contribution to Arbor Mitigation Fund
6" - 23"	$100.00 per inch not replaced*
24" and up (Specimen)	$200.00 per inch not replaced

* In lieu of the $100.00 per inch contribution for non-specimen trees not replaced, the applicant may submit a reasonable professional quote for the cost of the required replacement trees, plus installation costs, which may be deemed acceptable in the discretion of the City's arborist for purposes of determining the arbor mitigation fund contribution.

~~(e)~~ (g) Maintenance of replacement trees. All replacement trees shall be maintained in a healthy, living condition. Any such trees which die or become diseased or damaged within two (2) years of planting shall be replaced by the applicant. The city shall retain perpetual jurisdiction to ensure compliance with this requirement.

~~(f)~~ (h) Waiver. The board of adjustment may grant a waiver to provisions of this subsection where the applicant demonstrates that the literal interpretation of this section will deny the applicant reasonable use of the property or where such waiver can be demonstrated to be consistent with the purpose and intent of this section.

(6) *Land clearing.* The clearing of land includes the removal of trees and natural vegetation. The clearing of land is contrary to this ordinance except under the following conditions:

(a) Clearing of trails and transect lines.

(b) Clearing within a dedicated public or private easement or right-of-way for the purpose of construction, maintenance, or improvement of roadways, utilities, or drainage systems.

(c) Clearing of land for bona fide agricultural purposes.

(d) Clearing of land for which there exists an approved site plan or building permit and accompanying landscape plan.

(e) Other land clearing as approved by the city council

All land to remain bare for a period greater than sixty (60) days shall be seeded and/or mulched so as to prevent erosion and sedimentation.

(7) *Tree protection during construction.* During construction, protective barriers shall be placed so as to prevent the destruction or damaging of trees. Trees destroyed or receiving major damage shall be removed and replaced before occupancy or use unless approval has been granted under permit.

(8) *Tree exemptions.* The following tree species are exempted from these regulations:

(a) Schinus terebinthifolius (Brazilian Pepper).

(b) Melaleuca quinquenervia (Melaleuca, Cajeput).

(c) Metopium toxiferum (Poison Wood).

(d) Casvarina equisetfolia

Casvarina lepidophilia

Casvarina cumminghamiana (Australian Pine).

(e) Casvarina glauca (Brazilian Oak).

(f) Melaleuca leucadendra (Punk Tree).

(g) Enterlobium cyclocarpum (Ear Pod Tree).

(h) Morus Rubra (American Mulberry).

(i) Melia azedarach (Chinaberry).

(j) Citrus trees.

(k) All other undesirable trees, as specified in the Florida Exotic Pest Plant Council (FEPPC) Invasive Plant List.

(9) *Nuisances declared.* Any tree or trees that may be declared a nuisance or a threat to the health, safety, or welfare of the citizenry of the city and may be so deemed by the enforcement official. If declared a nuisance, the enforcement official shall, as provided in section 6-903 of the Code, cause notice to be served upon the owner to remove said trees. If necessary, the enforcement official may proceed to remove or abate the nuisance in the manner provided in section 6-903 of the Code.

(F) VARIANCES. Reserved.

(G) PENALTIES. Any person who violates this ordinance or causes such to be violated, shall be subject to action before the code enforcement board of the city. In addition to all other remedies set forth in ~~this section~~ the City Code or any applicable agreement between the city and a property owner, one (1) or more of the following civil fines shall apply to violations of this section:

(1) Failure to obtain a permit under subsection (E)(3): Fine of two hundred fifty dollars ($250.00) ~~per tree~~ for each day the person fails to obtain an after-the-fact tree removal permit after the time provided to comply by the code enforcement board or, if at least one specimen tree has been removed, five hundred dollars ($500.00) ~~per specimen tree removed~~ for each day the person fails to obtain an after-the-fact tree removal permit after the time provided to comply by the code enforcement board, or five hundred dollars ($500.00) per quarter acre of land cleared for each day the person fails to obtain an after-the-fact land clearing permit after the time provided to comply by the code enforcement board, whichever is greater~~, not to exceed five thousand dollars ($5,000.00)~~. Fines imposed for repeat violations shall be as provided in Chapter 162,

Florida Statutes, as may be amended. ~~The fine under this subsection is in addition to the fine provided in subsections (G)(2) or (3) for removal of a tree without a permit.~~ If the trees were removed or land was cleared in anticipation of a development project on the property, the City's Code Enforcement Board may, in its discretion, allow for up to one year for the developer to obtain approval of an after-the-fact tree removal permit in conjunction with approval of a site plan, site plan amendment, or subdivision preliminary plat approval. In order to obtain an after-the-fact tree removal permit, a tree survey shall be required as provided in this Section based on best available evidence of the trees that existed on the property prior to removal, such as aerial photographs. Restoration, replacement, and/or mitigation shall be required in order to obtain an after-the-fact tree removal or land clearing permit as provided in this Section, in addition to the aggravating penalties provided in subsections (G)(2), (3), (4), and/or (5) below.

(2) Notwithstanding the penalties in subsection (G)(1) for failure to obtain a permit, ~~Removal~~ for each individual tree removed ~~of a tree~~ without a permit: A fine ~~Fine~~ of ~~fifty~~ one hundred dollars (~~$50.00~~ 100.00) per caliper inch, not to exceed five thousand dollars ($5,000.00) per tree. Violations of this Section are considered irreparable and irreversible in nature. To the extent that a tree survey prepared during the course of applying for an after-the-fact tree removal permit reveals further inches removed, the City's Code Enforcement Board retains jurisdiction to adjust the fine.

(3) Notwithstanding the penalties in subsection (G)(1) for failure to obtain a permit, ~~Removal~~ for each individual specimen tree removed ~~of a specimen tree~~ without a permit: A fine ~~Fine~~ of one hundred fifty dollars (~~$100.00~~ $150.00) per caliper inch, not to exceed five thousand dollars ($5,000.00) per tree. Violations of this Section are considered irreparable and irreversible in nature. To the extent that a tree survey prepared during the course of applying for an after-the-fact tree removal permit reveals further inches removed, the City's Code Enforcement Board retains jurisdiction to adjust the fine.

(4) Notwithstanding the penalties in subsection (G)(1) for failure to obtain a permit, for each individual tree removed without a permit with inches removed unknown: A fine of five thousand dollars ($5,000.00) per tree. This subsection shall apply if trees are removed in a manner making it impossible to determine the number of inches removed, such as where all stumps of the trees are removed. Violations of this Section are considered irreparable and irreversible in nature.

(5) Notwithstanding the penalties in subsection (G)(1) for failure to obtain a permit, land clearing without a permit: A fine of five thousand dollars ($5,000.00) per each quarter acre cleared. This subsection may also be utilized if the number of trees removed cannot be determined. Violations of this Section are considered irreparable and irreversible in nature.

(~~4~~6) Notwithstanding the penalties in subsection (G)(1) for failure to obtain a permit, ~~Failure~~ failure to abide by a cease and desist order issued under this section: Fine of five hundred dollars ($500.00) per day.

* * *

Section 3. 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 4. Incorporation Into Code. This Ordinance shall be incorporated into the City Code of the City of Cocoa and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance and the City Code may be freely made.

Section 5. 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 6. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Council of the City of Cocoa, Florida.

ADOPTED by the City Council of the City of Cocoa, Florida, in a regular meeting assembled on the _____ day of _____, 2023.

_____
MICHAEL C. BLAKE
Mayor

ATTEST:

_____
CARIE SHEALY, MMC
City Clerk

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

Legislation Details (With Text)

File #:	23-619	**Version:** 1	**Name:**		
Type:	Agenda		**Status:**	Agenda Ready	
File created:	9/28/2023		**In control:**	Planning and Zoning / Local Planning Agency	
On agenda:	10/4/2023		**Final action:**		
Title:	Consideration: Removal of an oak tree in the right-of-way at 904 Fern Ave, Cocoa, FL 32922.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	Exhibit A - 904 Fern ave Cocoa Fl 32922.pdf Exhibit B - Pictures.pdf				

Date	Ver.	Action By	Action	Result

PLANNING & ZONING BOARD/LOCAL PLANNING AGENCY AGENDA ITEM

Memo Date: October 4, 2023
Agenda Date: October 4, 2023
Prepared By: Stacey Hopper - City Planner
Through: Stockton Whitten - City Manager
Requested Action:
Consideration: Removal of an oak tree in the right-of-way at 904 Fern Ave, Cocoa, FL 32922.

BACKGROUND:

City Staff Arborist was called to assess the risk of one Southern Live Oak (*Quercus virginiana*) tree in the right-of-way at 904 Fern Ave., Cocoa, FL 32922. A Level 2 assessment disclosed that the tree is in good health. The tree has been uplifted causing a low Live Crown Ratio (LCR) which could cause extra stress on the base and roots. Upon observation it was noticed that the tree is uplifting of the driveway as well as encompassing the water meter. Recommend the tree be removed to reduce the future damage to the driveway, water meter and to reduce risk.

Project Name: Tree Risk Assessment and Removal Recommendation
Project No.: City Initiated
Meeting Date: October 4, 2023
Applicant: City of Cocoa
Property Owner: Larry and Domita Gilmore
Project Location: 904 Fern Ave., Cocoa, FL 32922

Future Land Use Designation: RU-1-7

Zoning District: Residential

Existing Land Use: Residential

Council District: District 1 - Alex Goins

I. Staff Analysis

Appendix A, Zoning, Article XIII, Section 22, Landscape Requirements, Subsection (H), Tree Board, provides that the duties and responsibilities of the Tree Board include the following:

(c) No oak tree located on city public right-of-way or city owned property shall be removed or significantly pruned prior to review and recommendation by the tree board and approved by the city council, subject to the following exceptions:

(1) The emergency removal of a hazardous or seriously damaged oak tree, to mitigate an imminent threat to the health, safety, and welfare of the property owner or the general public. Prior to emergency removal, the imminent threat should be documented to include but not be limited to (1) photographs of the tree(s) including any areas that may be damaged, diseased, or infested (2) approximate measurements including tree height, spread, d.b.h., and (3) distance to structure(s) or other immovable target(s) if felled.

(2) Oak trees that are dead.

(3) Volunteer oak trees less than four (4) inches in diameter at four and one-half (4½) feet in height.

(4) Oak trees that are part of a previously approved site plan or city council-approved construction, roadway, utility or drainage project.

(5) Pruning of less than thirty (30) percent of the canopy.

(d) Where an oak tree located on city public right-of-way or city owned property is removed for any reason, the tree board shall either:

(1) Include with its recommendation to the city council regarding removal of the oak tree, a recommendation on both the location and species of a replacement tree; or

(2) Approve the location and species of a replacement tree following removal of the oak tree when an exception as provided in subsection (H)(1)(c)(1) through (5) applies.

OBSERVATIONS OF THE CITY ARBORIST:

The Tree. The tree is a large (22-inch **DBH**) Southern Live Oak (*Quercus virginiana)* that is about 50 feet tall with an approximate 30-foot spread. The Southern Live Oak has been trimmed consistently throughout its life almost to a detrimental effect. One concern is the extra force on the lever arm of the tree causing a bending moment in the trunk/base. The tree is located in the right of way just on the owners' side of the side walk approximately 25 ft from the center of the road. It is the most prominent tree in the area, meaning that it is fully exposed to the wind.

Tree Health. The tree is about 25 years old and currently in good health based on a scale of poor, fair, good, and excellent.

Defects and conditions of concern. The tree looks to be in good health and there a are no major defects. A major concern would be the overall LCR (Live Crown Ratio) potentially causing stress to the lower half of the tree.

The Primary Concern

The primary concern here is the driveway uplifting causing property damage and a potential hazard. Secondly, the encompassing roots around the water meter and lines causing a leak and potentially a financial burden. Additionally, the extra stress of the uplifted canopy putting an increased amount of leverage on the trunk/base of the tree.

RISK RATINGS EXPLAINED

What does LOW RISK posed by small dead branches for people mean? Risk ratings are comprised of three parts. My assessment determined that within the 2-year time frame:

1. The likelihood of failure is POSSIBLE
2. The likelihood of causing damage to the water meter is POSSIBLE
3. The likelihood of causing damage to the driveway is imminent
4. The consequences from damage of the roots is significant, damage to the driveway and water meter are imminent.

Risk Tolerance

Risk tolerance is the amount of risk the property owner is willing to accept. Different people have varying amounts of risk they will tolerate. The property owner has decide their own risk tolerance and decide on a course of action for this tree. Be aware that all trees begin at a **low** risk rating

RISK MITIGATION OPTIONS

There are a few options that can be considered for mitigation to lower the risk from this tree.

1. Remove the tree and eliminate the potential risk of the driveway hazard, as well as encircling the water meter and causing damage
2. Do nothing and continue to wait until the water meter needs to be replaced from damage, and the driveway continues to lift causing a hazard.

REINSPECTION

If option 2 is selected, then this tree should be re-inspected in 2 years unless additional health or safety concerns come up that would warrant more frequent attention. Tree inspection services should be performed by an ISA Tree Risk Assessment Qualified (TRAQ) arborist skilled in the science of tree risk assessment.

If approved, the proposed tree removal will prevent continued driveway lifting and associated risk as well as prevent root encroachment into the water meter.

LOCATION AND SPECIES OF REPLACEMENT

The City Arborist recommends that the tree be replaced with a live oak at the Bracco Pond Park.

BUDGETARY IMPACT:

N/A

PREVIOUS ACTION:

N/A

RECOMMENDED MOTION:

Staff recommends that the tree at 904 Fern Ave., Cocoa, FL be removed as recommend by the certified arborist.

Josh DeCarlo

155 N Wilson ave

City of Cocoa, 32922

Email:

August 22, 2023

904 Fern ave, Cocoa Fl 32922

Please find below my Tree Risk Assessment report for your Southern Live Oak.

REPORT

SUMMARY

I assessed the risk of one Southern Live Oak (*Quercus virginiana*) tree on your property using a Level 2 assessment. I found that the tree is in good health. It has been uplifted causing a low LCR which could cause extra stress on the base and roots. Upon observation I noticed the uplift of the driveway as well as the encompassing of the water meter. I would recommend the tree be removed to reduce the future damage and risk.

ASSIGNMENT

My assignment was to provide a tree risk assessment for one Southern Live Oak (*Quercus virginiana*) because of potential damage to surrounding environment, driveway and water meter. The tree is located on the property described as: 904 Fern ave, Cocoa Fl 32922

METHODOLOGY

I performed a **Level 2** Tree Risk Assessment based on the ANSI A-300 (Part 9, 2017) Tree Risk Assessment standard and used the methodology defined in the International Society of Arboriculture's Best Management Practice for Tree Risk Assessment (2017).

OBSERVATIONS

The Tree. The tree is a large (22-inch **DBH**) Southern Live Oak (*Quercus virginiana)* that is about 50 feet tall with an approximate 30-foot spread. The Southern Live Oak has been trimmed consistently throughout its life almost to a detrimental effect. One concern is the extra force on the lever arm of the tree causing a bending moment in the trunk/base. The tree is located in the right of way just on the owners' side of the side walk approximately 25 ft from the center of the road. It is the most prominent tree in the area, meaning that it is fully exposed to the wind.

Tree Health. The tree is about 25 years old and currently in good health based on a scale of poor, fair, good, and excellent.

Defects and conditions of concern. The tree looks to be in good health and there a are no major defects. A major concern would be the overall LCR (Live Crown Ratio) potentially causing stress to the lower half of the tree.

ANALYSIS

The Primary Concern

The primary concern here is the driveway uplifting causing property damage and a potential hazard. Secondly, the encompassing roots around the water meter and lines causing a leak and potentially a financial burden. Additionally, the extra stress of the uplifted canopy putting an increased amount of leverage on the trunk/base of the tree.

RISK RATINGS EXPLAINED

What does LOW RISK posed by small dead branches for people mean? Risk ratings are comprised of three parts. My assessment determined that within the 2-year time frame:

1. The likelihood of failure is POSSIBLE
2. The likelihood of causing damage to the water meter is POSSIBLE
3. The likelihood of causing damage to the driveway is imminent
4. The consequences from damage of the roots is significant, damage to the driveway and water meter are imminent.

Risk Tolerance

Risk tolerance is the amount of risk you are willing to accept. Different people have varying amounts of risk they will tolerate. You will have to decide your own risk tolerance and decide on a course of action for this tree. Be aware that all trees begin at a **low** risk rating

RISK MITIGATION OPTIONS

There are a few options that can be considered for mitigation to lower your risk from this tree.

1. Remove the tree and eliminate the potential risk of the driveway hazard, as well as encircling the water meter and causing damage
2. Do nothing and continue to wait until the water meter needs to be replaced from damage, and the driveway continues to lift causing a hazard.

REINSPECTION

This tree should be re-inspected in 2 years unless you have additional health or safety concerns that warrant more frequent attention. Tree inspection services should be performed by an ISA Tree Risk Assessment Qualified (TRAQ) arborist skilled in the science of tree risk assessment.

ASSUMPTIONS AND LIMITING CONDITIONS

My inspection was a ground based visual inspection. The inspection was limited to defects that can be seen while standing on the ground. There may be defects below ground or in the canopy that were not visible from this perspective. These hidden defects may result in the failure of branches, trunks, or roots. No other trees on this property were inspected other than those specifically addressed in this report.

GLOSSARY

Normal Weather. This tree risk assessment is based on 'normal weather' for the region. Hurricanes are considered 'abnormally extreme' weather and were not considered in this risk assessment. Any tree can fail during abnormally extreme weather.

Response growth. Response growth is wood formation that compensates for weaknesses caused by defects that naturally occur in trees, like hollowness.

Level 2 Tree Risk Assessment. A level 2 Tree Risk Assessment is a basic assessment providing a detailed visual inspection of a tree and surrounding site that may include the use of simple tools. It requires that the tree risk assessor inspect completely around the trunk looking at the visible aboveground roots, trunk, branches, and site.

ISA Tree Risk Assessment Methodology – the categorization of tree risk based on the ISA's Best Management Practices categorization of likelihood of tree failure, the likelihood of impacting a defined asset, and the likely consequences of the failure and impact. The four categories of tree risk are low, moderate, high and extreme.

Level 3 Tree Risk Assessment. A level 3 Tree Risk Assessment is an advanced assessment performed to provide detailed information about specific tree parts, defects, assets, or site conditions. Specialized equipment, data collection and analysis, and/or expertise are usually required.

LCR. LCR stands for Live Crown Ratio and is the % of total tree height that supports live foliage.

DBH. DBH stands for Diameter at Breast Height and it is the diameter of the tree measured at 4.5 feet above the ground.

Decay Formula. The tree risk decay formula is based on 'mechanical pipe formula' and is a ratio of stem wall thickness to diameter. The physical loss of more than two-thirds of the trunk makes the tree likely to fail during normal weather. The 'decay formula' assumes a centered symmetrical decay pattern and a tree with a balanced canopy. The decay formula is a starting point and many other factors must be weighed that increase or decrease likelihood of failure.

Residual Risk. Residual risk is the risk rating after a mitigation action is completed.

Risk Ratings Range. The range of possible risk ratings is low, moderate, high, and extreme.

Normal Weather. Weather common in this area, storms that typically occur every year. Normal weather for Southwest Florida is defined as a thunderstorm that produces 50 to 55 mph wind gusts and heavy rain.

Heading cuts. A pruning cut that removes a branch or stem between nodes leaving a stub.

Time Frame. Time frame is the duration of time for the assessment.

Respectfully,

Joshua A. DeCarlo

Certified Arborist, FL-9913A

Tree Risk Qualified









COCOA
FLORIDA

Tree Removal
904 Fern Ave.



Aerial Tree Removal 904 Fern Ave.





All BCPAO maps and/or map applications are maintained for assessment and illustrative purposes only and do not represent surveys, plats, or any other legal instrument. Likewise, measurement and location tools are for assessment and illustrative purposes only and do not necessarily reflect real-world conditions. Due to the nature of Geographic Information Systems (GIS) and cadastral mapping, map layers may not precisely align and may not represent precise location, shape, and/or legal boundaries. Only a Florida-licensed surveyor can determine legally-relevant property boundaries, elevation, distance, area, and/or location in Florida.

Map created October 2, 2023 (map data dates may vary)

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Arborist Report

The Tree. The tree is a large (22-inch **DBH**) Southern Live Oak (*Quercus virginiana)* that is about 50 feet tall with an approximate 30-foot spread. The Southern Live Oak has been trimmed consistently throughout its life almost to a detrimental effect. One concern is the extra force on the lever arm of the tree causing a bending moment in the trunk/base. The tree is located in the right of way just on the owners' side of the side walk approximately 25 ft from the center of the road. It is the most prominent tree in the area, meaning that it is fully exposed to the wind.

Tree Health. The tree is about 25 years old and currently in good health based on a scale of poor, fair, good, and excellent.

Defects and conditions of concern. The tree looks to be in good health and there a are no major defects. A major concern would be the overall LCR (Live Crown Ratio) potentially causing stress to the lower half of the tree.

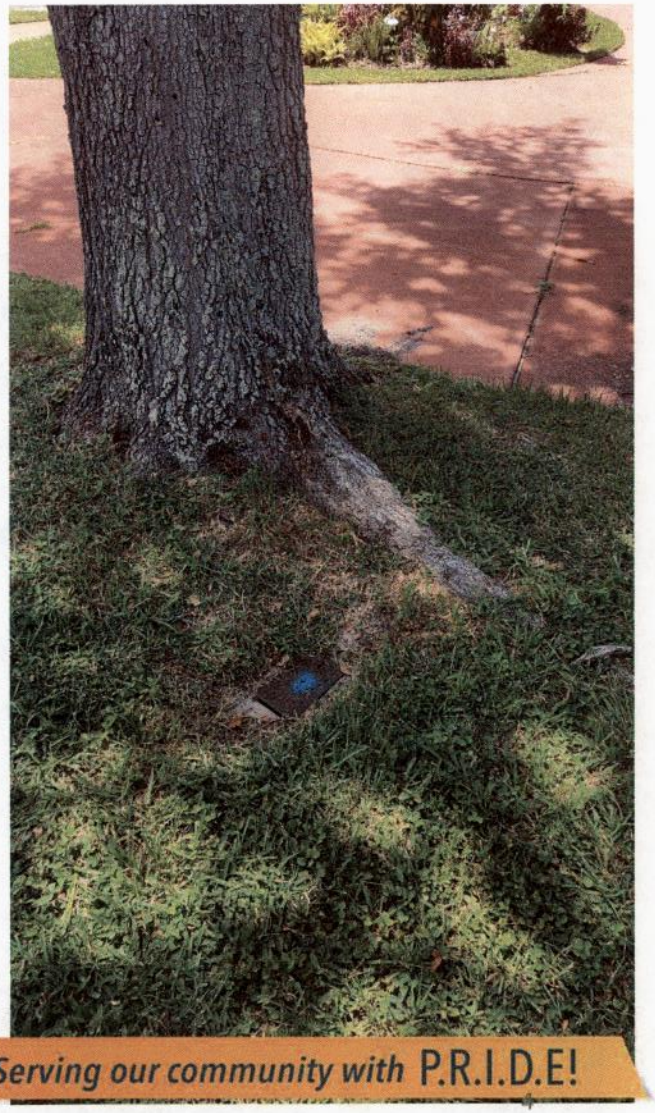


Arborist Report

The Primary Concern. The primary concern here is the driveway uplifting causing property damage and a potential hazard. Secondly, the encompassing roots around the water meter and lines causing a leak and potentially a financial burden. Additionally, the extra stress of the uplifted canopy putting an increased amount of leverage on the trunk/base of the tree.

Risk of Failure.

1. The likelihood of failure is POSSIBLE
2. The likelihood of causing damage to the water meter is POSSIBLE
3. The likelihood of causing damage to the driveway is imminent
4. The consequences from damage of the roots is significant, damage to the driveway and water meter are imminent.



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Mitigation and Recommendation

RISK MITIGATION OPTIONS
There are a few options that can be considered for mitigation to lower the risk from this tree.
1. Remove the tree and eliminate the potential risk of the driveway hazard, as well as encircling the water meter and causing damage.
2. Do nothing and continue to wait until the water meter needs to be replaced from damage, and the driveway continues to lift causing a hazard.

REINSPECTION
If option 2 is selected, then this tree should be re-inspected in 2 years unless additional health or safety concerns come up that would warrant more frequent attention. Tree inspection services should be performed by an ISA Tree Risk Assessment Qualified (TRAQ) arborist skilled in the science of tree risk assessment.

If approved, the proposed tree removal will prevent continued driveway lifting and associated risk as well as prevent root encroachment into the water meter.

LOCATION AND SPECIES OF REPLACEMENT
The City Arborist recommends that the tree be replaced with a live oak at the Bracco Pond Park.

RECOMMENDED MOTION:
Staff recommends that the tree at 904 Fern Ave., Cocoa, FL be removed.





QUESTIONS/CONTACT

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Ordinance 20-2023 – Tree Preservation

In summary, this Ordinance furthers on and off-site tree preservation, enhanced tree preservation and replacement standards, specifies new arbor mitigation fees and increases fines to ensure compliance.



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Ordinance 20-2023 – Tree Preservation

Enhanced penalty section for land clearing or removal of trees without a permit

- As a reminder, tree removal permits are not required for single-family and duplex lots that are actively used for single-family residential purposes. This proposed change will not affect single-family and duplex lot owners.
- The Ordinance clarifies that the code enforcement board may impose daily fines for failure to obtain a tree removal permit.
  - To come into compliance, a property owner will have to obtain an after-the-fact tree removal permit. This will require a tree survey (which may need to be created based on historical data) and compliance with tree replacement and mitigation fees as would ordinarily apply.
- Moreover, additional aggravated fines are imposed per tree removed up to $5,000 per tree as permitted by Florida law.
- Additional fines are clarified for land clearing by the ¼ acre and lastly for failure to abide by a cease and desist order.

Ordinance 20-2023 – Tree Preservation

Tree Replacement Standards

- Proposes a system in which a certain number of trees must be replaced for each tree removed, depending upon size of the tree removed, as opposed to current inch-per-inch system. In this system, the number of overall trees, and consequently the tree canopy, is intended to be preserved even if the number of inches is not immediately replaced. The definition of a "tree" is amended from 4" to 6". Trees less than 6" do not need to be replaced.

Revised Arbor Mitigation policy

- When the number of trees able to be planted in a development is smaller than the number of trees required for replacement, a contribution to the Arbor Mitigation Fund may be available. Removes requirement for 3 quotes. Fees will be determined per inch or by one reasonable, professional quote for trees not replaced.



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Ordinance 20-2023 – Tree Preservation

Minimum tree planting requirements

- New minimum tree planting requirements have been created that deal with both the minimum number and size of trees for new construction.
- The minimum tree planting requirements cannot be satisfied by contributing to the arbor mitigation fund.

Preservation credits for trees being preserved

- Provides one tree credit for every 12" of trees preserved on-site. The tree preservation credits offered are increased for specimen trees (over 24") up to a maximum of 12 credits in order to encourage the retention of specimen trees and for developers to design around them.
- Additional credits for trees on land placed in perpetual public conservation with the City or conveyed to the City. Three additional tree credits will be provided for each tree, as defined within this ordinance, within areas above one-half acre.



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Ordinance 20-2023 – Tree Preservation

The City desires to create an ordinance that may be applied without the need for discussion and negotiation of development agreements related to arbor mitigation contribution fees. The City also desires to incentivize mature tree preservation and discourage "clear-cutting" in the hopes that developers will design around trees as much as possible.

This Ordinance furthers on and off-site tree preservation, enhanced tree preservation and replacement standards, specifies new arbor mitigation fees and increases fines for non-compliance.

- Summary of changes to the Tree Preservation
  - Minimum tree planting requirements
  - Preservation credits for trees being preserved
  - Tree Replacement Standards
  - Revised Arbor Mitigation policy
  - Enhanced penalty section for land clearing or removal of trees without a permit

Ordinance 20-2023

Landscaping, Land Clearing, and Tree Protection and Replacement Standards

COCOA
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Ordinance 20-2023

Landscaping, Land Clearing, and Tree Protection and Replacement Standards



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Planning and Zoning Board Meeting

October 4, 2023

