MINUTES
CITY OF COCOA
PLANNING & ZONING BOARD/ LOCAL PLANNING AGENCY
REGULAR MEETING
April 5, 2023

A Regular meeting of the Planning & Zoning Board Local Planning Agency was held on April 5, 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
Chris Bankhead	Board Member
Ron Chabot	Board Member
Aleck Greenwood	Board Member
Wesley Park	Board Member
Marcus Wheeler	Board Member
Merrybeth Burgess	Alternate Member
Katherine Stewart	Alternate Member

ABSENT:

Todd Anderson	Board Member
Veronica Lopez	Board Member

STAFF PRESENT:

Bryant Smith, Public Works Director & Interim P&Z Manager; Kristin Eick, Board Attorney; Lorraine Koss, Councilmember; and Monica Arsenault, Recording Secretary.

Chairperson Simpson led the assembly in the Pledge of Allegiance.

* **MOTION BY VICE CHAIRPERSON DOBRIN; SECONDED BY BOARD MEMBER PARK TO ALLOW THREE MINUTES PER INDIVIDUAL DELEGATION UNDER EACH ITEM.**

AYES: SIMPSON, DOBRIN, BANKHEAD, CHABOT, GREENWOOD, PARK, WHEELER, BURGESS, STEWART

MOTION PASSED UNANIMOUSLY (9-0)

II. APPROVAL OF AGENDA AND MINUTES:

1. AGENDA: Meeting of April 5, 2023

* **MOTION BY BOARD MEMBER WHEELER; SECONDED BY BOARD MEMBER BANKHEAD TO APPROVE THE APRIL 5, 2023 REGULAR MEETING AGENDA AS WRITTEN.**

AYES: SIMPSON, DOBRIN, BANKHEAD, CHABOT, GREENWOOD, PARK, WHEELER, BURGESS, STEWART

MOTION PASSED UNANIMOUSLY (9-0)

2. MINUTES: Meeting of March 1, 2023

* **MOTION BY BOARD MEMBER WHEELER; SECONDED BY BOARD MEMBER BANKHEAD TO APPROVE THE MARCH 1, 2023 MINUTES AS WRITTEN.**

AYES: SIMPSON, DOBRIN, BANKHEAD, CHABOT, GREENWOOD, PARK, WHEELER, BURGESS, STEWART

MOTION PASSED UNANIMOUSLY (9-0)

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

1. **PZ-23-002000002 – Small-Scale Site Plan Appeal (Advantage Self Storage)**

Board Attorney Eick provided clarification on the appeal process for this evening.

Ms. Kim Rezanka, Lacey Lyons Rezanka Attorneys at Law, and representing ADG Cocoa Holding LLC, shared that this process started in March 2022. The client met and communicated with staff several times over a length of time and were told that this was an approved use which is why they purchased the parcel.

She pointed out that there were several staff members that reviewed this project. According to Ms. Rezanka, there was a Preliminary meeting that was held where notes were taken and ADG's intentions to build a storage facility in Grissom Park were discussed. Ms. Rezanka stated that ADG has spent thousands of dollars on the site-plan and purchased the property on September 9, 2022.

After they were told repeatedly that this was a permitted use, Mr. Smith sent an email stating that this was not a permitted use. They are asking that the Board overturn the decision made by the Interim Planning and Zoning Director to deny the request. She provided evidence[1] of the site plan.

John King, ADG Cocoa Holding LLC, shared that in March of last year he had a discussion with Paul Body, the City's previous Planner. He stated that an informal meeting was held on May 23, 2022 with Sandra Leone and Paul Body. Mr. King stated that they were told that this use was permitted. He was told that the next step was to have a pre-app meeting to go over the site plan application. A local civil engineering firm was hired to go over signage. The plans were at least seventy percent complete at this point. Mr. King stated that the land use was never in question.

Additionally, the site plan was submitted on October 7, 2022. After not hearing anything for a few weeks, he called and found out that essentially there were no staff to speak with but someone would get back to him. On November 1, 2022 Mr. Smith reached out and provided an application number and let them know the application was deemed complete, however on November 14, 2022 he explained that he was not sure that a pre-app meeting was held and the project was being denied, however he offered to refund their check. This created a shock as they were so far along in the process.

Jeff Kinder, Manager of Advantage Development Group, stated that he has done a lot of research and felt they had conducted their due diligence. He feels this is a suitable project for the area. Mr. Kinder stated that self-storage has become a vibrant trend. This is a small-scale development and would sit on a three-acre site. He named several types of businesses and organizations that use self-storage facilities as the industry grows and slows. At the request of City staff, they have submitted for the right of way easements with the County, flood zone certifications, etc.

When the package was complete, they submitted the revised plans and they bought the land. This is a ten-million-dollar investment in this community. Mr. Kinder believes they had done everything the right way and are only coupled with the unfortunate timing of the

[1] Exhibit 1: Advantage Self Storage Small-Scale Site Plan

City losing its Planning staff. He hopes the Board will reconsider the decision that was made.

Ms. Rezanka provided two further exhibits[2].

Cynthia Fox Thurman, the previous Planning & Zoning Manager for the City of Cocoa, reviewed the M-2 Manufacturing and Industrial District section of the City's code from the hand out that was provided to the Board. She shared that last month the Board approved what she believed to be a similar project called Grissom Parkway Storage which is a recreational RV storage facility.

She pointed out a section of the Code that states that storage facilities are allowed. In her view, a self-storage facility is still a storage facility. She pointed out that the Board has an opportunity to approve a ten-million-dollar project and approving this project will not cause the City any harm. Research and demographics show that there is a need for storage facilities. This is not a difficult decision; however, it will be very difficult for the applicant who has spent a lot of money on this project and relied on the voice of City staff. She asked the Board to overturn the denial of the project.

Ms. Rezanka provided exhibit 4[3], a packet of documents containing emails between the applicant and City staff as well as ADG's Civil Engineer's resume, and other reports. She briefly reviewed the documents in the packet, explaining the timeline of events.

In closing, they asked the Board to consider equity. A property owner, on good faith of City staff, has incurred extensive costs for this project. They are asking the Board to look at the fairness of this case and someone from the City should have let the applicant know throughout the nine months that this took place that this project was not allowed in the zoning they were proposing. Ms. Rezanka asked the Board to consider the testimony that was heard and consider this project as they did the similar project that was approved last month.

Mr. Smith shared a power point presentation[4] and explained that in October 2022, Advantage Self Storage provided a small-scale site plan application for a Self-Service Storage Facility on Grissom Parkway. On November 14, 2022 the Director notified the applicant that the project was being denied since Self-Service Storage is not a permitted use within the M-2 Zoning District, which is the district this project is proposed. On December 14, 2022 the applicant provided a letter to appeal the denial of the site plan to the Board.

Mr. Smith provided an aerial photo of the location as well as the zoning map for the parcel. He pointed out that Self-Service Storage was removed from the M-2 zoning district through Ordinance 06-2020 on July 8, 2020. Additionally, the Planning and Zoning Board reviewed and recommended the removal of this use to Council on June 16, 2020. Ordinance 06-2020 revamped Self- Service Storage and removed references to personal storage in M-2, as well as the CBD. It also provided specific design requirements for

[2] Exhibit 2: Cindy Thurman's Resume and Section 19 - City of Cocoa Ordinances
Exhibit 3: Grissom Parkway Storage Large-Scale Site Plan

[3] Exhibit 4: Packet containing a variety of documents, including emails, reports, etc.

[4] Exhibit A: 04/05/2023 P&Z Meeting

Self-Service Storage in other zoning categories such as C-R, C-G as Special Exception, and C-W, M-1, PUD, UMD as Principal Use. The purpose of removing this from M-2 zoning was to help control the proliferation of Self-Service Storage facilities around the City and that M-2 was intended for more intense industrial uses, making this use incompatible with the District's intent.

Mr. Smith addressed that the applicant has argued within their appeal that Self-Service Storage facilities are included in the definition of Warehousing/Distribution.

Mr. Smith provided the definitions of Self-Service Storage facilities as well as Warehousing/Distribution and noted that staff disagrees with this interpretation as it is very clear that warehousing and distribution is defined as a transition point in the supply chain, not an individual unit for personal use. Additionally, while "General Storage" is included as a principal use as part of the allowed uses within M-2, Self-Service Storage is not within those allowed uses and is also a specifically defined use in the City Code of Ordinances. The M-2 Zoning District prohibits: "All uses not specifically or provisionally permitted herein". Therefore, since it is not specifically permitted in the principal or special exception uses within M-2, it is a prohibited use and there is no uncertainty regarding those terms.

Furthermore, a full site-plan analysis was not completed since the project does not meet the applicable code requirements related to M-2 uses.

Mr. Smith apologized for the incorrect information that was provided by previous staff in any pre-app meetings that were held, however the Code does not permit for self-storage facilities.

Chairperson Simpson asked if there is any way for staff to consider a rezoning. There is one recreational business out there that stands alone compared to the other industrial businesses that are there. In response, Mr. Smith explained that rezoning is usually done in clusters.

Board member Greenwood stated that a lot of work has been done on this project and it is no fault of Mr. Smith and the current staff. However, in 2020 there was an error in the verbiage that is causing an issue now. A lot of money has been spent and it is a situation now where this could create spot zoning if this is allowed, however if this hadn't happened, the ordinance could stay the same. In response, Mr. Smith explained that if this was rezoned to M-1 it could create spot zoning.

Board member Greenwood asked if the Board could make a one-time exception, due to Covid, the shortness of staff and the events that transpired. In response, Mr. Smith noted that if this is approved they cannot limit it to a one-time exception. This would set a precedent for future applications unless the zoning was changed in the future.

Board member Wheeler asked about including Special Exceptions in the Code. In response, Mr. Smith noted that in the future, if the Board would like to recommend to Council to include Special Exceptions for future applications they could do that but it would not apply at this time.

Vice Chairperson Dobrin stated that he feels that due to the mistakes made by Mr. Smith's predecessors, he would like to find a way to rectify this.

Alternate member Stewart asked if the City Council makes the final decision or if this Board does. In response, Mr. Smith stated that the Planning & Zoning Board will make the final decision this evening.

Board member Chabot feels that the Board should be careful in their consideration due to intent. A self-storage facility may employ a couple of people; however, a large industrial company will employ hundreds which is why the language may have changed back in 2020 when Covid was at its height. A larger industrial business could offer more jobs. He feels that the intent of the language needs to be deeply considered.

Board member Greenwood asked if the identity of the business was changed if they could move forward with the project.

Board member Bankhead asked, if prior to this point, a meeting was held to try to make the project work within the language of the ordinance. In response, Ms. Rezanka stated that several meetings and conversations have been held with staff and her client was essentially told there is nothing they can do.

Board member Greenwood asked Ms. Thurman, in her opinion, if she sees any way to make this project work within the language of the ordinance. In response, Ms. Thurman shared that she felt the ordinance approved in 2020 was overreaching. Back then, there was an applicant who requested the change because the language wasn't working for what they were trying to do. She feels that staff may want to go back and look at the intent of the change back in 2020 as it applied to one individual at the time. The Board would need to go back and do what they did in 2020 to rectify this issue now.

Mr. Smith explained the parking requirements for storage facilities.

Chairperson Simpson opened the hearing to the public.

Jennifer Kornas, College Green, noted that while this could be a great use, why not incorporate it as a commercial space and allow use of the bays for small businesses who cannot run their businesses out of their homes, such as mechanics.

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

Board member Wheeler asked if the applicant reviewed the Code in the beginning before any of this happened as the definition is clearly defined. In response, Mr. Kinder stated he saw that general storage facilities are allowed per item 4. He thought general storage facilities included self-storage facilities. In response to Board member Chabot's remarks, he reiterated that this is a small three-acre parcel and no matter what business goes there they will not employ hundreds of employees. He has been doing this for thirty-five years and this is the first time this has ever happened.

Further discussion was held on various ways to rectify this issue. Mr. Smith noted that he feels the best avenue would be a text amendment to allow special exceptions, that way the Board still has a little control over how many of these types of businesses go into the M-2 District.

Ms. Rezanka asked to focus back on the City's Code. For nine months, this went on and staff did not let the applicant know this was not a permitted use. There is already a storage facility next door that was just approved and they are not employing a large amount of people if that is a concern. The Board has heard testimony by several individuals who have many years of experience and she is asking that the Board reject the opinion of staff and approve their appeal.

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER CHABOT TO TABLE THE ITEM.**

Ms. Eick stated that she does not recommend tabling the item. All of the information that both parties can provide has been presented to the Board in order for them to determine whether or not they need to affirm or deny the recommendation put forward by staff.

Board member Greenwood explained that he would like to make a motion to affirm the determination made by Mr. Smith, but then consider a second motion to direct staff to come back with a text amendment to rectify the issue.

A timeline estimate was given of about three months for staff to come back with a text amendment and for it to move through the process, including the approval process through City Council.

Mr. Kinder offered to change the name of the business to fit the criteria throughout the next three months while staff works on their end to do what needs to be done, however he would still like to ask that the Board consider denying the determination made by City staff.

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER CHABOT TO AFFIRM THE DETERMINATION OF THE COMMUNITY DEVELOPMENT DIRECTOR TO DENY THE SMALL-SCALE SITE PLAN APPLICATION FOR A SELF-SERVICE STORAGE FACILITY IN THE MANUFACTURING AND INDUSTRIAL DISTRICT (M-2).**

AYES: SIMPSON, BANKHEAD, CHABOT, GREENWOOD, PARK, STEWART

NAYES: DOBRIN, BURGESS, WHEELER

MOTION PASSED (6-3)

* **MOTION BY CHAIRPERSON SIMPSON; SECONDED BY BOARD MEMBER GREENWOOD TO DIRECT CITY STAFF TO BRING BACK A**

TEXT AMENDMENT FOR SELF STORAGE AS A SPECIAL EXCEPTION ON OR BEFORE THE MAY OR JUNE MEETING.

AYES: SIMPSON, DOBRIN, BANKHEAD, CHABOT, GREENWOOD, PARK, WHEELER, BURGESS, STEWART

MOTION PASSED UNANIMOUSLY (9-0)

2. **PZ-23-02100002 - (Quail Ridge)**

Mr. Smith explained this item is to consider a Zoning Map Amendment to change the zoning designation of approximately 11.59 acres and 77 parcels from Commercial Neighborhood (C-N) to Multiple Family Residential (RU-2-15). This request is to correct a conflict between the current zoning and the Future Land Use, which is Medium Density Residential. He added that C-N is not an allowed zoning district within that land use classification. The requested zoning is consistent with the surrounding uses and zoning districts. Both C-N and RU-2-15 allow multiple family residential and a correction to the Zoning or Land Use would still allow for Multifamily. Additionally, RU-2-15 is an appropriate zoning category because of the existing multifamily within the Quail Ridge Condominiums.

Mr. Smith shared a location and zoning map of the parcels and explained that 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 is recommending 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 77 parcels totaling ±11.59 acres from C-N to RU-2-15 as described in Ordinance No. 03-2023.

Chairperson Simpson opened the hearing to the public.

Jennifer Kenny, resident of Quail Ridge, stated that while she understands the purpose of the item this evening, she has met with many of her neighbors to put together a petition to oppose the apartment complex project that may come before the Board at a later date. She wished to point out that she looked up on Sunbiz the name "Quail Ridge LLC" which is different from the "Quail Ridge Condominium Association" which is where they live. The neighborhood is made up of many older residents that are mostly retired or living on a fixed income and there are concerns that the association would not be able to afford any liabilities brought on by this apartment complex.

Jennifer Kornas, College Green resident, asked for clarification on the zoning. She is concerned for additional traffic in the area.

Janina Day, Courtyards of Cocoa, asked for clarification on the density. In response, Mr. Smith explained what is allowed in C-N and RU-2-15 to help her understand what is being presented before the Board for consideration. He clarified that this will not affect the density as it will stay the same.

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

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER BANKHEAD TO 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 77 PARCELS TOTALING ABOUT 11.59 ACRES FROM C-N TO RU-2-15 AS DESCRIBED IN ORDINANCE 03-2023.**

AYES: SIMPSON, DOBRIN, BANKHEAD, CHABOT, GREENWOOD, PARK, WHEELER, BURGESS, STEWART

MOTION PASSED UNANIMOUSLY (9-0)

3. **PZ-23-02100001 - 63 Mulberry Street (DRH Designs, Inc.)**

Mr. Smith explained that this item is to consider a Zoning Map Amendment to change the zoning designation of an approximately 0.27-acre parcel from Core Commercial (C-C) to Multiple Family Residential (RU-2-25).

This request is to correct a conflict between the current zoning and the Future Land Use, which is High Density Residential C-C which is not an allowed zoning district within that land use classification. The requested zoning is consistent with the surrounding uses and zoning districts, and would bring the property into conformance. Due to the lot characteristics of this parcel, only a single-family dwelling would be permitted.

Mr. Smith shared a location and zoning map and explained that staff has determined that this amendment is consistent with both the Code of the City of Cocoa and the Comprehensive Plan Policies and Objectives.

Staff is recommending that the Planning and Zoning Board recommend approval to the City Council of Ordinance No. 04-2023, an Official Zoning Map amendment consistent with Appendix A of the City of Cocoa, Article XXI, Section 1(G)(1), for a citizen-initiated request to change the Official Zoning Map designation of a ± 0.27-acre parcel from the CC to the RU-2-25 district.

Chairperson Simpson opened the hearing to the public.

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

* **MOTION BY BOARD MEMBER BANKHEAD; SECONDED BY BOARD MEMBER WHEELER TO RECOMMEND APPROVAL TO THE CITY COUNCIL OF ORDINANCE 04-2023, AN OFFICIAL ZONING MAP AMENDMENT CONSISTENT WITH APPENDIX A OF THE CITY OF COCOA, ARTICLE XXI, SECTION 1(G)(1), FOR A CITIZEN-INITIATED**

REQUEST TO CHANGE THE OFFICIAL ZONING MAP DESIGNATION OF ABOUT A 0.27 ACRE PROPERTY FROM THE CC TO THE RU-2-25 DISTRICT.

AYES: SIMPSON, DOBRIN, BANKHEAD, CHABOT, GREENWOOD, PARK, WHEELER, BURGESS, STEWART

MOTION PASSED UNANIMOUSLY (9-0)

4. **PZ-23-02000001 – Gym and Fitness – Zoning Text Amendment**

Mr. Smith shared that this item is to consider a Zoning Text Amendment to change district regulations regarding Gym and Fitness Facilities in various zoning districts. At the March 1st, 2023 Planning & Zoning meeting the Board requested that a definition be included in the Ordinance.

Mr. Smith provided the definition as follows:

Gym and Fitness Facility: a privately-owned, indoor establishment offering individuals or groups the ability to engage in exercise or sport related activities for the purpose of physical fitness, health, and recreation, whether or not on a membership basis. This use may include indoor gymnasiums, gymnastics centers, dojos, exercise or dance studios, yoga studios, or similar facilities where individuals may engage in regular physical activities including exercise, sports, or recreation. This use may also include incidental accessory uses such as food and beverage sales, game courts, locker rooms, training facilities, and/or saunas. This term does not include indoor playgrounds or play areas primarily designed for children.

Currently, Gym and Fitness Facilities are only allowed within the Central Business District and Urban Mixed-Use District. There are currently several of these facilities in other zoning districts where they are not permitted and staff has received interest from other parties wishing to create new gym and facilities in the City.

Staff reviewed the City's zoning districts to determine which one may be appropriate for the gym and fitness use. Limitations on square footage were also included as necessary.

Mr. Smith provided a summary chart of the proposed changes and stated that staff recommends that the Planning and Zoning Board recommend approval to the City Council of the requested zoning text amendment related to gym and fitness facilities as provided in the proposed Ordinance No. 02-2023.

Chairperson Simpson opened the hearing to the public.

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

* **MOTION BY BOARD MEMBER WHEELER; SECONDED BY BOARD MEMBER BANKHEAD TO RECOMMEND APPROVAL TO THE CITY**

COUNCIL OF THE REQUESTED ZONING TEXT AMENDMENT RELATED TO GYM AND FITNESS FACILITIES AS PROVIDED IN THE PROPOSED ORDINANCE 02-2023.

AYES: SIMPSON, DOBRIN, BANKHEAD, CHABOT, GREENWOOD, PARK, WHEELER, BURGESS, STEWART

MOTION PASSED UNANIMOUSLY (9-0)

V. OTHER BUSINESS:

1. **Tree Board Update**
2. **Recent Development**
3. **Open Discussion by Board Members**

Board member Greenwood asked if state law requires any arborist employed by the City to be certified and licensed. In response, Mr. Smith stated no, the City requires their arborists to be licensed.

Board member Greenwood asked staff, in the future, if an oak tree is being considered for removal, if staff can identify what type of oak tree it is.

VI. NEXT MEETING DATE:

The next scheduled meeting for the Planning and Zoning Board will be held on Wednesday, May 3, 2023 at 6pm in Cocoa City Hall, 65 Stone St, Cocoa, FL 32922.

VII. ADJOURNMENT:

* **MOTION BY BOARD MEMBER GREENWOOD; SECONDED BY BOARD MEMBER PARK TO ADJOURN THE REGULAR MEETING OF APRIL 5, 2023.**

AYES: SIMPSON, DOBRIN, BANKHEAD, CHABOT, GREENWOOD, PARK, WHEELER, BURGESS, STEWART

MOTION PASSED UNANIMOUSLY (9-0)

MEETING WAS ADJOURNED AT 8:50 PM.

Justin Simpson, Chairperson

Respectfully Submitted By:

Monica Arsenault, Recording Secretary