

**AMENDED NOTICE of APPEAL**



July 1, 2024  
Stockton Whitten  
City Manager for City of Cocoa  
65 Stone Street  
Cocoa, Florida 32922

Sir, In response to your letter of June 25<sup>th</sup>, As the Appellant Aggrieved Person, Please accept this as my, ((and/or) (“our”)) Amended Notice of Appeal from the final decision of the Board of Adjustment arising out of its hearing held May 15, 2024.;

**1). MATTER APPEALED**

The final decision of the City of Cocoa Board of Adjustment, Case# 24-271 rendered as a result of its May 15, 2024 hearing in City Hall Council Chambers, granting the application of Farm Bar, Inc. for a SPECIAL EXCEPTION to the property it owns located at 638 Brevard Avenue, Cocoa, Florida for an outside bar and package store in accordance with Article XI, Section 13(C) and Section 22(F) to allow for a “bar or lounge, with or without package store” to operate a beer and wine bar.

**2.) MANNER IN WHICH THIS PARTY IS AGGRIEVED.**

Appellant Aleck Greenwood owns property adjacent to 638 Brevard Ave, at (640 Brevard Avenue) and resides there full time.

Appellant is an aggrieved party ((“party” is undefined in the City Code for this matter, but deference to the Oxford Dictionary, is a “person” as defined therein) by virtue of the fact that the permitted exceptional use of 638 Brevard Avenue as an outside bar is incompatible with his use and quiet enjoyment of his property that will negatively

impact his quality of life as it will generate an unacceptable level of noise for the residential use of his property, and it preceded that of 638 Brevard Avenue for over 35 years and therefore negatively impacts his property values.

### **3.) STANDING**

Appellant would incorporate the matters stated in Section 2, above, and would further state as an owner and resident of an adjacent property to that which the Board of Adjustment (BOA) **GRANTED** the special exception qualifies as an “aggrieved party” and therefore has standing to bring this appeal pursuant to City of Cocoa Zoning Ordinance Appendix A, Article XVII Section 1(a)(1) which states that “ANY” (emphasis supplied) party aggrieved by “ANY” final decision of the BOA shall have the right to appeal the final decision to the City Council by filing a notice of appeal along with an administrative fee established by the City Council by resolution.”

Appellant has timely and duly filed said notice of appeal and paid the fee as required by the City. Furthermore, Appellant is a “party” (person) and a property owner and resident of the City of Cocoa and has sufficient standing to bring this appeal before the City Council.

### **4.) SUBSTANCE AND LEGAL BASIS OF APPEAL**

The BOA erred in granting the **SPECIAL EXCEPTION** to 638 Brevard Avenue, on the factual and legal basis which includes, but not limited to, the following:

- A.) The applicant owner of 638 Brevard Avenue for the SPECIAL EXCEPTION to said property failed to carry its burden showing that it would be in compliance with all applicable rules to the granting of same, as set forth in Article XVII Section 2 SPECIAL ESCEPTIONS (A)-(K) of the Zoning Code of the City of Cocoa.
- B.) The granting by the BOA of this SPECIAL EXCEPTION adversely affects the public interest, especially of the contiguous property owners, in Violation of ARTICLE XVII, Section 2 (D) which states “**in no case shall (the BOA) grant a SPECIAL EXCEPTION that in ANY WAY ADVERSELY AFFECTS THE PUBLIC INTEREST** (emphasis supplied), adversely affecting nearby property owners by negatively impacting their quality of life and lowering property values is adverse to the public interest.”
- C.) The BOA failed to make written findings certifying compliance with the specific rules governing SPECIAL EXCEPTIONS as set forth in the City of Cocoa’s Zoning Code Article XVII Section 2 (A)-(K) also set forth on the application for SPECIAL EXCEPTION required to be properly completed by the applicant.
- D.) The BOA has failed to consider the matters set forth herein by the aggrieved party appellant and surrounding residents and property owners that expressed at the May 15th hearing by failing to prescribe appropriate conditions and safeguards to protect their interests to protect them from the negative effects of the operation of an outdoor bar during afternoon and evening hours affecting the City’s residents.

This includes the fact that the City has failed on numerous occasions to enforce the noise ordinances when complaints have been made by more than several residents and property owners with regard to other bars in Cocoa Village. Yet the BOA disregarded this issue when granting this property at 638 Brevard, (which is in a previously quiet area for many years of South Brevard Avenue), to operate with live entertainment and mechanical music in an outside environment during early afternoon hours, early evening hours and late nighttime hours disturbing the peace for the City's residents.

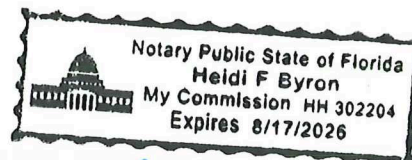
Wherefore, Appellant requests the City Council of Cocoa to docket this matter on its agenda for a de novo hearing on this matter and consider the testimony and evidence to be presented and find that the BOA erred in granting the SPECIAL EXCEPTION to the property located at 638 Brevard Avenue, Cocoa, Florida.

Respectfully,



Aleck Greenwood  
(Aggrieved Person Appellant)  
640 Brevard Avenue, 201  
Cocoa, Florida 32922  
321.917.3770

PERSONALLY  
KNOWN



7/2/24