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REGULAR MEETING OF THE DEVELOPMENT REVIEW COMMITTEE

Tuesday, January 26, 2016
10:00 AM
City of Margate
Municipal Building

PRESENT:
Mary Langley, Building Director
Kevin Wilson, Fire
Lt. Paul Fix, Police
Andrew Pinney, Associate Planner
Abraham Stubbins, Utilities
Jeanine Athias, Engineering
Dan Topp, Code Compliance Officer

ALSO PRESENT:
Pastor Stanley Keith Walker, The Door Christian Center
Michael Shooster, Global Response Corporation
Jennifer Heider, Camp Canine
Lisa Schettino, Camp Canine

ABSENT:
Ben Ziskal, AICP, CEcD, Director of Economic Development
Diane Colonna, CRA Executive Director
Sam May, Director of Public Works
Michael Jones, Director of Parks and Recreation

The regular meeting of the Margate Development Review Committee (DRC), having been properly noticed, was called to order by Andrew Pinney at **10:00 AM on Tuesday, January 26, 2016**, in the Commission Chambers at City Hall, 5790 Margate Boulevard, Margate, FL 33063.

Andrew Pinney advised that the order of the meeting was being changed so that the petitioner's applications could be heard first.

2) NEW BUSINESS

2C. **DRC NO. 01-16-04** CONSIDERATION FOR A CHANGE OF OCCUPANCY FOR THE DOOR CHRISTIAN CENTER
LOCATION: 2484 NORTH STATE ROAD 7
ZONING: TOC-C CORRIDOR

DRAFT

LEGAL DESCRIPTION: MARGATE COMMERCIAL CENTER, TRACT A, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 121, PAGE 28 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
PETITIONER: CRISTIAN ACERO, ACECA CONSTRUCTION

Andrew Pinney read the item title.

Pastor Stanley Keith Walker stated that he was requesting the use of two storefronts at 2484 and 2486 for a place of worship.

DRC comments:

Mary Langley advised that a building permit was required for the change of occupancy.

Kevin Wilson asked for the number of square feet. Pastor Walker responded that it was roughly 2,800 square foot. Mr. Wilson said that amount of square footage put them over the threshold for requiring a fire alarm. Mr. Wilson said the building already had fire sprinklers but over 300 square foot required a fire alarm. Pastor Keith asked for a definition of an assembly. He said they fell under the RLUIPA , the Religious Land Use and Institutionalized Persons Act, which he said restricted local zoning ordinances from conflicting with religious facilities. He said it was against a federal law to inhibit places of worship or those trying to worship. He said when the first set of plans was passed and it was deemed that the building was usable and everything was up to Code, they fell under the RLUIPA.

Ms. Langley explained that the first permit application that was submitted for that location came in as a business occupancy. She said a change of occupancy had not been discussed. She said it was for the construction of a wall and it was part of their business tax inspections. She said it was then discovered that it was going to be a church which triggered the change of occupancy. She said no one was telling him that he could not have a church at the location, rather that there were certain criteria that had to be met in order to comply with the Florida Building Code. Pastor Walker said those things that were being requested were already reflected in the plans he submitted. He said they could not be stopped from having a place of worship. Ms. Langley reiterated that they were not being stopped from having a place of worship at the location but they had to meet the Florida Building Code requirements. Pastor Walker said what the contractor submitted met the Building Code. Ms. Langley said what the contractor submitted was under false pretense; the application did not represent the correct use as it was under a business occupancy. Pastor Walker said the owner/contractor submitted the plans for a fire wall to be rebuilt. He said it was for an existing wall that had already been there. He commented that they had been The Door Christian Center since they came to Margate and they were not trying to hide anything. Ms. Langley asked if the work was permitted. He said he did not know what the prior business had been doing but it appeared that there was a wall that should not have been taken down. Pastor Walker asked how many people comprised an assembly. Mr. Wilson stated that it was 50. Ms. Langley said that it depended on the occupancy classification and that they were deemed as a small assembly. Mr. Wilson commented that it depended on square footage. Pastor Walker asked what the number of persons was before it became an assembly. Ms. Langley said it was 50 and that the maximum capacity was based on square footage.

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Mr. Wilson commented that the location had fire sprinklers but it required a fire alarm and panic hardware on the doors which was required for any assembly over 50. Pastor Walker responded that they were not an assembly of 50. Mr. Wilson said that it was based on square footage. Pastor Walker said he would need to involve his attorney because he did not understand whether it was the number of persons or the amount of square footage that was the issue. Mr. Wilson responded that without fixed seating, they were required to have seven square foot for each person. He said based on the square footage Pastor Walker provided, he calculated that 371 people could fit. Mr. Wilson said they were required to have the items he mentioned based on the square footage Pastor Walker provided. Pastor Walker asked what would be required if they closed one bay and had only 1,200 square foot. Mr. Wilson said he could not say without seeing the floor plan. Pastor Wilson said the floor plan had been provided and he said he paid the fees and paid for plans that were not being looked at. Pastor Wilson said they [the City] would hear from his attorney and he left the meeting.

Mr. Pinney asked Pastor Walker to clarify whether he was withdrawing his application. Pastor Walker responded that he was not and that they [the City] would hear from his attorney.

Mr. Pinney asked for the staff's additional comments since it was still an active application.

Dan Topp said the plaza where the church would be located had a number of dumpsters that were not in enclosures. He said the change in use would require that the plaza come up to current Code.

Jeanine Athias said that they needed to show the number of seats for the purpose of the impact fees to calculate the Equivalent Residential Connections (ERC's).

Abraham Stubbins had no comment.

Lt. Fix had no comment.

Andrew Pinney said the site was deficient in landscaping. He said the landscaping plans that were submitted were insufficient and the irrigation plans were missing.

Michael Shooster, Global Response, commented that as an owner of office buildings in the area, they have had to come before DRC in the past to change use from office to house of worship. He said the prior Building Official required them to provide a seating map and he suggested maybe that would be helpful in this instance. Mr. Pinney said a professionally prepared floor plan had been submitted but it lacked details such as the seating arrangements.

2D. **DRC NO. 01-16-06** CONSIDERATION FOR APPROVAL OF AN AMENDED SITE PLAN FOR DING-A-LING ANSWERING SERVICE
LOCATION: 541 SOUTH STATE ROAD 7, MARGATE, FL 33068
ZONING: TOC-C
LEGAL DESCRIPTION: A PORTION OF TRACT A OF "APPLEGREEN SUBDIVISION", ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 77, PAGE 38 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
PETITIONER: MICHAEL SHOOSTER

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Andrew Pinney read the item title.

Michael Shooster, Global Response, on behalf of Ding-A-Ling Answering Service, LLC, explained how their business had grown over the years and that they were now moving the telephone answering service division to a building north of their main headquarters. He explained that their type of business required power 24 hours a day, seven days a week and they needed to install a generator. He said it was important for them to show prospective customers the various services that kept them in business which included having a generator. He said they selected a spot that was close to the entrance of the business. Also, he said they wanted to build a large enough pad to accommodate the workers who might need to service and repair it.

DRC comments:

Mary Langley said that a building permit was required for the generator and the pad. She asked if it would be enclosed. Mr. Shooster said there would be bollards. He said the permit had been submitted on December 3, 2015.

Kevin Wilson said he shared the same comments provided by the Building Department.

Dan Topp had no comment.

Jeanine Athias commented that he needed to check with Broward County to ensure that they would continue to meet their stormwater requirements before they built the pad.

Abraham Stubbins asked if they had checked the location of the utilities. Mr. Shooster said they had.

Lt. Paul Fix had no comment.

Mr. Pinney said a parking calculation would be needed to show that there was a surplus of parking since they would be removing four spaces. He said the placement was visible from S.W. 6th Street and Code required the installation of a buffered hedge within ten feet of the equipment to buffer from views of the right-of-way. He said they could reorient or relocate the hedges if needed or find another solution.

Mr. Pinney granted conceptual approval and told Mr. Shooster that he would need to turn in three final site plans that would be stamped and administratively routed and, once signed off, then he could sign off on the building permit.

Mr. Shooster referenced the site plan and pointed out an alternate location that was buffered by palm trees that they planted to hide the blighted homes and apartments that bordered their property. Mr. Pinney said it might work. Ms. Athias asked if they would consider locating it closer to the building as it might be safer for the workers, and it might be less noisy for the nearby homes. Mr. Shooster said the sound levels were very low on the newer generators. He said he preferred to have the generator away from the front windows because the operators appreciated the ambient light and view. He said placing it on the side of the building would be an issue because of the problems they encountered with Hurricane Wilma.

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Mr. Pinney said he would forward Mr. Shooster a copy of the noise ordinance so he could verify the generator specs and decibel levels.

Mitch Pellecchia, 6890 N.W. 9th Street, asked about the purpose of the generator. He commented that he lived next to the water department and the noise was not bad but it was noisier for homes further away because of the way the acoustics acted on the canal. Mr. Shooster responded that the generator was for emergency back-up power and he said they would look to meet or exceed the required standards.

Mr. Pinney granted approval and asked Mr. Shooster to submit three final site plans and include details for the buffering hedge.

2E. **DRC NO. 01-16-05** APPLICATION FOR SPECIAL EXCEPTION USE FOR CAMP CANINE, IN ORDER TO PERMIT AN ANIMAL CLINIC IN PENN DUTCH PLAZA
LOCATION: 3201 NORTH STATE ROAD 7, MARGATE, FL 33063
ZONING: TRANSIT ORIENTED CORRIDOR-GATEWAY (TOC-G)
LEGAL DESCRIPTION: "MARGATE PLAZA 1", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 132, PAGE 50, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.
PETITONER: JENNIFER HEIDER, FRANCHISEE, PROMOVERE, LLC DBA CAMP CANINE

Andrew Pinney read the item title.

Jennifer Heider, franchisee of Lisa Schettino, Camp Canine, said they provided day care boarding facilities for predominantly canines but they were able to accommodate cats and other small animals. She said Margate was a dog friendly city and there was no one else offering the same type of service.

Lisa Schettino, franchisor and owner of three Camp Canine locations in South Florida, said they had been in business 15 years. She said they also offered grooming services, in addition to day care and overnight stays. She said they also planned to have an outdoor fenced yard for daytime use for which they would apply. She said it was a very upscale facility and rates ran from $60 to $79 per night for luxury suites, noting that they were fully booked over the holidays.

DRC comments:

Mary Langley commented that permits were required.

Kevin Wilson asked where they would be located in the plaza. Ms. Heider responded that they would have three spaces next to Penn Dutch. He asked if the spaces had fire sprinklers. Ms. Heider said she believed they had fire sprinklers. Mr. Wilson said there were specific requirements for boarding dogs that he would look into, noting that they might be required to have a fire alarm. Ms. Heider commented that there would be staff on premises 24 hours a day, seven days a week. Mr. Wilson said the Fire Department would do their review once their plans had been submitted.

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Dan Topp had no comment.

Jeanine Athias asked that they provide water usage information from their other locations for the purpose of determining water and sewer impact fees. She said more information was needed on the proposed play area. Ms. Schettino said they scooped, bagged and disposed of the waste in a dumpster so none of the other cities required anything special. Ms. Athias explained that there were catch basins on the property and the City needed to protect the stormwater.

Abraham Stubbins commented that there were meters in the back and he asked whether there would be any fencing. Ms. Heider said there would be fencing but they would not fence the area where the meters were so that they could be accessed for reading.

Lt. Paul Fix had no comment.

Mr. Pinney commented that the narrative that was part of the application described an outdoor play area that would take up ten parking spaces. He said a parking calculation would be needed that showed there was a surplus of parking on the property so that spaces could be dedicated to the play area. He noted that the application was missing irrigation and landscaping plans which would be needed. He said the photometric plans submitted showed insufficient lighting. He said a design professional would be required to inspect the lighting facilities and certify that they met Code before the City would be able to issue a Certificate of Completion or Certificate of Occupancy. He asked if the outdoor play area would remain asphalt or have some grass. Ms. Heider said they would be putting AstroTurf on top of the asphalt. Ms. Schettino said there were two different systems that could be used for installing AstroTurf: digging up the pavement; or laying it on top of the pavement. They would need to determine which would work best. Mr. Pinney asked if they would be installing canopies to provide shade. Ms. Heider said there would not be anything permanent. She said the dogs would have limited time outdoors in the summer months during peak sun hours. Ms. Schettino said they would use pop-ups.

Mr. Pinney provided them with copies of sections of the Code that related to minimum animal care standards and outdoor pen area requirements. He granted approval subject to conditions. He said once the conditions were met, they could apply to the City Commission for a Special Exception Use.

1A. APPROVAL OF THE MINUTES FROM THE DRC MEETINGS HELD ON: OCTOBER 27, 2015; NOVEMBER 17, 2015; NOVEMBER 24, 2015; AND DECEMBER 1, 2015.

Andrew Pinney said he had a few minor corrections, but nothing substantive. The minutes were approved as written.

2A. **DRC NO. 01-16-01** CONSIDERATION OF AN ORDINANCE TO PROVIDE PARKING STANDARDS FOR BOLLARDS AND WHEEL STOPS

Andrew Pinney advised that the item was generated by the Economic Development Department. He explained that the current Code read that any time a parking space directly

abutted a sidewalk or an above ground infrastructure it was required that a wheel stop be installed. He said the ordinance would accomplish two things: it would give property owners and developers an option to install bollards in lieu of wheel stops; and, it would provide an exemption from installing a wheel stop or bollard when the parking space was directly abutting a sidewalk that was at least seven foot wide and six inches taller. He said the ordinance was worded to include the bollard specifications from the Department of Environmental Engineering Services.

Jeanine Athias said she agreed with the exemption when the sidewalk was seven foot wide but the use of bollards should be on a case-by-case basis because they were meant for the guidance of motorists, protection of property and site access controls, but not for parking spaces. She said that even on a case-by-case basis, it should be required that they provide the number of bollards being used, the distance between them, as well as the clearance for handicap use.

Mr. Pinney said it was not anticipated that every property owner would install bollards because of the increased cost and lack of visual appeal. He said some storefront businesses might prefer the extra protection. In the past, he said there had been only a few variances granted to allow them. Ms. Athias said that was another reason to keep it on a case-by-case basis, otherwise there would be problems with people running into them with their cars. Ms. Langley agreed and noted that Target used bollards in the front of their building but not in the parking area.

Mr. Pinney clarified that the intent was for those instances where a parking space was directly abutting a walkway, wall, or infrastructure which were things that needed protection. He said it applied to a narrow scope and it would not likely be a popular choice, but property owners should be given the right to protect themselves and their property.

Ms. Athias said they would still have the right but this would give them the option to choose either a wheel stop or a bollard. She said it was likely someone would install bollards for every parking spot and it would not be aesthetically pleasing. She said the true purpose of bollards was to direct people away from an area and for property protection. She suggested the addition of more detail into the ordinance; she said D.E.E.S. was not in favor of it for parking spaces.

Mr. Pinney said the item would move forward to the Planning and Zoning Board.

Michael Shooster, Global Response, commented that they had many cars at his business and they were currently in the permitting process to replace parking bumpers around the perimeter of their building with a type D-curb. He said that parking bumpers near a walkway were tripping hazards. He said he was not in favor of bollards in front of every parking space but he said it made sense to have bollards in front of a walkway area as an alternative. Mr. Pinney commented that many property owners and developers had expressed concerns about parking bumpers being tripping hazards and being a liability.

Mitch Pellecchia, 6890 NW 9th Street, commented that bollards might possibly save lives, however, the building at Ace shopping plaza would look horrible if bollards lined the sidewalk in front of it. He suggested the use of bollards at smaller storefront locations. He also suggested that a premium be placed on the use of bollards, and the funds could be put in something like a pedestrian/bicycle safety fund.

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2B. **DRC NO. 01-16-02** APPROVAL OF AN ORDINANCE TO AMEND THE LANDSCAPING AND ZONING CODES TO ADD VERBIAGE FOR "ENCROACHING ON PROPERTY OF OTHERS"

Andrew Pinney read the item title and explained that the ordinance had been drafted by the City Attorney's office and it pertained to adjacent property owners with landscaping that encroached on their neighbor's property.

DRC Comments:

Abraham Stubbins asked who the responsible party would be and who would get the citation if a neighbor abused a tree on the other neighbor's property. Mr. Pinney said he had a similar question and that the questions would be forwarded to the City Attorney's office for review. Mr. Stubbins commented that it would be hard to enforce. He said if a tree died, the neighbor could sue the other neighbor. The ordinance permitted a neighbor to trim a tree up to the property line but under the city and county code, he said one could not abuse a tree. He noted that there would be property access issues if the neighbor needed access to the property owner's property to trim the tree properly but the property owner did not allow it. He noted too that there could be situations with property owners when a tree was shared by two property owners. He said city employees could end up in the position of being judge and jury when there were issues. He said the ordinance needed to be looked at again, noting that it would be difficult to enforce.

Jeanine Athias commented that trees would be considered hat racked when trees were trimmed on one side. Mr. Stubbins said it also would be tree abuse and the neighbor could be fined. Mr. Pinney noted that it was mentioned several times in the ordinance that tree abuse was prohibited. He said it also limited the neighbor's options in those cases where a tree was trimmed back to the main trunk because it altered the tree's natural growth pattern and was also considered tree abuse.

Mr. Pinney said there were a few situations that needed to be considered before this ordinance could be passed. He asked for additional comments.

Theresa Girardi, resident, spoke about a neighbor behind her that had tall pine trees. She said that she had to get on a ladder several times a year to trim them, but she said they had grown so tall that she could not reach them. She asked who was responsible for trimming the trees that encroached on her yard. Mr. Stubbins responded that she had the right to trim them. Ms. Girardi said it was wrong that she should have to pay to trim their trees. Mr. Stubbins said both neighbors should come together to try to come to a solution as to who should maintain them and the cost involved. He said under the Code, she had the right to trim back the branches that were overhanging her property as long as she did not abuse the trees. She asked about the roots that went under the fence and into her yard. He said she could cut the branches. He said the owner would be responsible if they knew the branches were causing a problem and did nothing about it and the tree fell and damaged a person or property. Mr. Pinney said the ordinance did not specify, in this case, that trimming could be done up to the property line. He noted that removing a sizable branch altered the natural growth pattern which created an imbalance in the tree that might affect its stability.

Mr. Pinney read a section of the ordinance that related to encroachment and noted that it did not specifically mention the property line; however, prior to that it read that permission of the adjacent property owner shall be presumed where the encroachment was tolerated without written objection delivered to the owner of the encroaching vegetation. He asked if it meant that the property owner could show up with a letter to its neighbor and and expect to be granted access to their yard to trim their tree on that day. Mr. Stubbins said the owner of the property where the tree was located had to give the neighbor permission to enter onto his or her property to do the necessary trimming. Mr. Pinney asked how it would be resolved if the owner did not grant the access and the neighbor wrote an objection that they did not accept the tree branches growing onto their property. Mr. Stubbins said it would not get resolved because the owner had to grant permission.

Mr. Pinney said the ordinance was a good start but it needed to be tweaked. Mr. Stubbins said it would be difficult to cover all the bases.

Mitch Pellecchia, 6890 N.W. 9th Street, spoke about the philosophical aspect of landscaping and how what one person considered a beautiful yard might not be shared by another. He said the ordinance pitted neighbors with different beliefs against each other. He suggested the possibility of establishing a mediation board or maybe one mediator, depending on the volume of complaints, to help the parties would work out issues. He said the ordinance was a huge hurdle because it would be impossible to make everyone happy.

Michael Shooster, Global Response, suggested that when new hedges, shrubs or trees were being put in they should be done in such a way where there was enough room so that the property owner could manage the plantings on both sides.

Mr. Pellecchia commented that the landscaping chart indicated the setback when something was first planted but then things grow outside of it. He said education was needed as people and businesses did not know a lot about landscaping and how large things might grow. Mr. Pinney said the comments would be forwarded to the City Attorney's office and the ordinance would proceed.

3) GENERAL DISCUSSION

There was no discussion.

There being no further business, the meeting adjourned at 11:01 AM.

Respectfully submitted, Prepared by: Rita Rodi

_____ Date:_____

Andrew Pinney, Associate Planner
Economic Development Department

cc: Mayor and City Commission, City Manager, City Attorney, Associate Planners, Petitioners, Committee Members

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