

Rezoning

August 25, 2021

City Commission Meeting

ID 2021-342

Rezoning from R-1 and R-3 to CF-1

Margate Care for Heroes, LLC

AGENDA

- I. APPLICATION
- II. BACKGROUND
- III. CITY PROCESS & REVIEW CRITERIA
- IV. ANALYSIS
- V. RECOMMENDATION

APPLICATION

Applicant: Margate Care for Heroes, LLC,

Applicant Address: 603 Melaleuca Drive

Applicant is requesting to rezone an approximate ~1-acre parcel (43,675 square feet) **comprised of three lots** with an existing 8,845 square foot building from Multiple Dwelling R-3 district and One-Family Dwelling R-1 district to Community Facility CF-1 district **to permit** medical rights in an I-2 building. *A site plan was not submitted with the rezoning application.*



APPLICATION

Describe proposal/request in detail, including non-residential square footage and/or number of dwelling units

Change of zoning to CF-1 to allow Medical Rights in a I-2 Building. This property was converted from a 10 unit apartment building to a Long Term Care Facility. Permit 15-00001248 4/26/16, CO 3/30/2017.

Current Zoning

One-Family Dwelling R-1 District ("R-1")

- Single-Family Homes, Recreation buildings and social centers, churches, synagogues, sewage/water treatment storage pumps, community residential homes and recovery residences (≤ 6 residents)

Multiple Dwelling R-3 District ("R-3")

- Everything permitted in R-1, R-2 and multiple unit dwelling, community residential homes and recovery residences (up to 14 residents)

Proposed Zoning & Permitted Uses

Community Facility District ("CF-1")

- House of worship and school on the same plot
- Hospitals, detoxification facilities, and long-term care facilities
- Municipal buildings, fire stations, playgrounds, etc.

Florida Building Code provides for types of buildings and uses permitted in accordance with the building type. The existing building was built in accordance with I-2 building standards. The Florida Building Code provides that I-2 uses include foster care facilities, detoxification facilities, hospitals, nursing homes, psychiatric hospitals

CF-1 Uses vs I-2 Uses

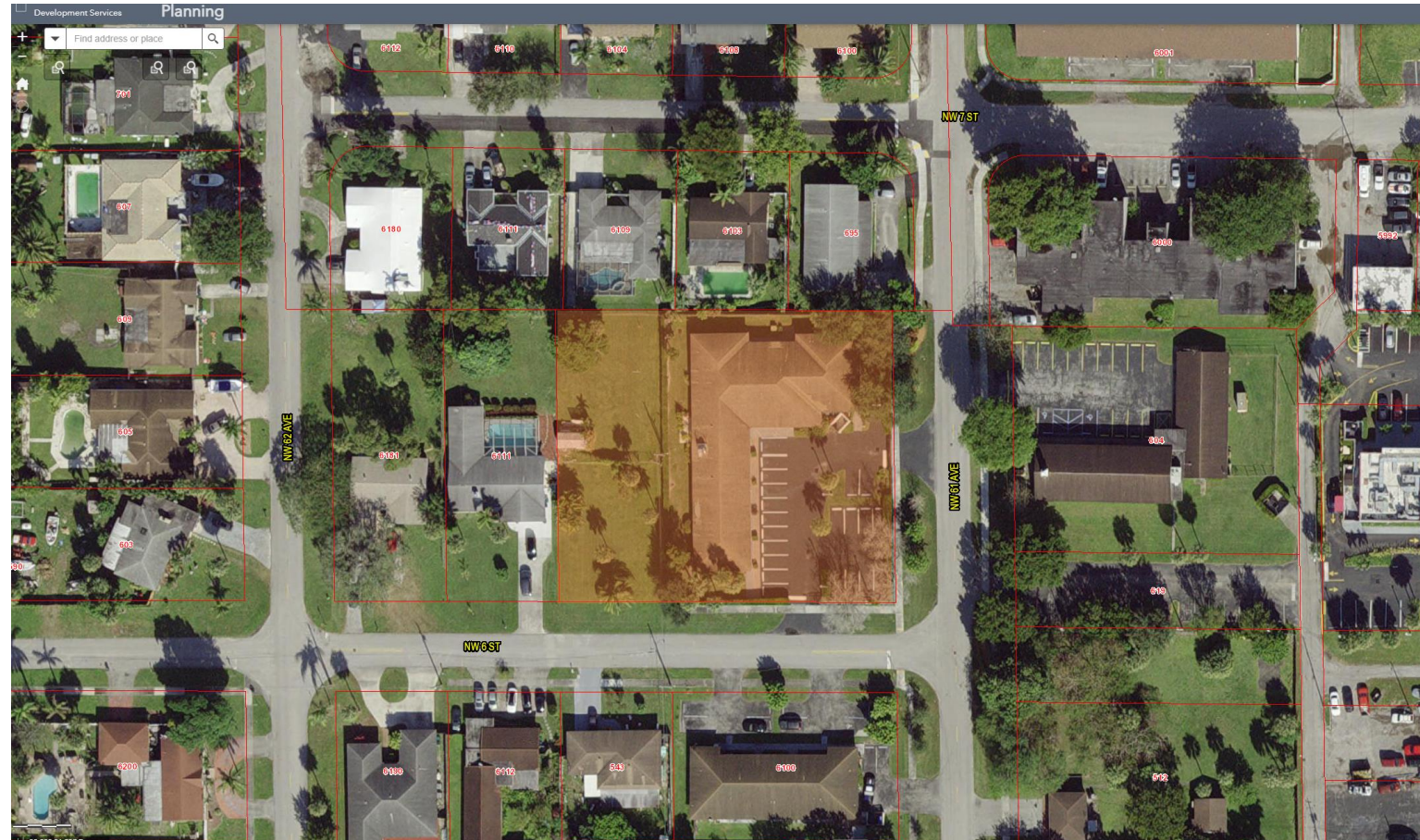
CF-1 Uses By Right

- ~~House of worship and school on the same plot~~
- Hospitals, detoxification facilities, and long-term care facilities
- ~~Municipal buildings, fire stations, playgrounds, etc.~~

I-2 Uses (2014 FBC)

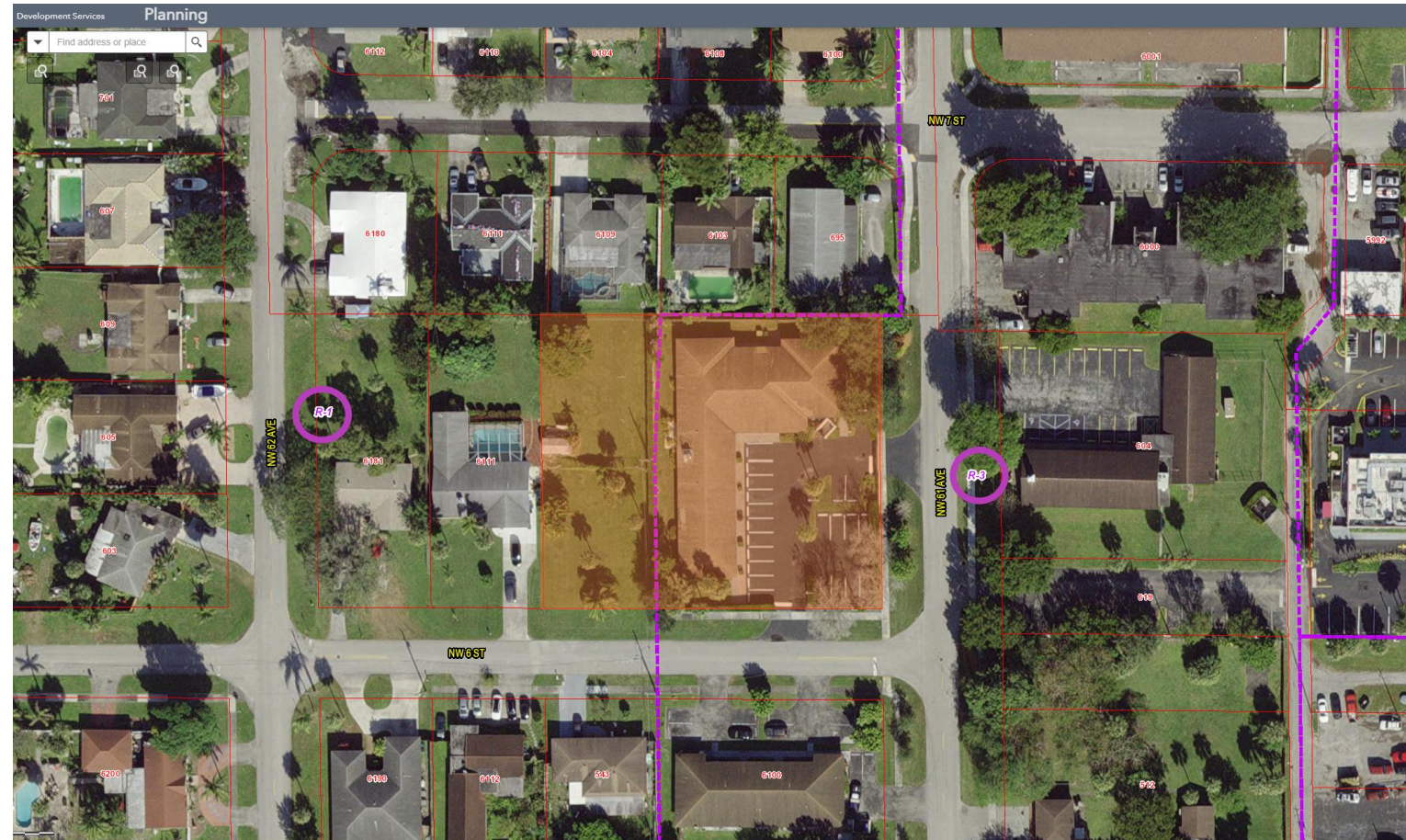
- ~~Foster Care Facilities~~
- Detoxification Facilities
- Hospitals
- Nursing Homes
- Psychiatric hospitals

LOCATION MAP



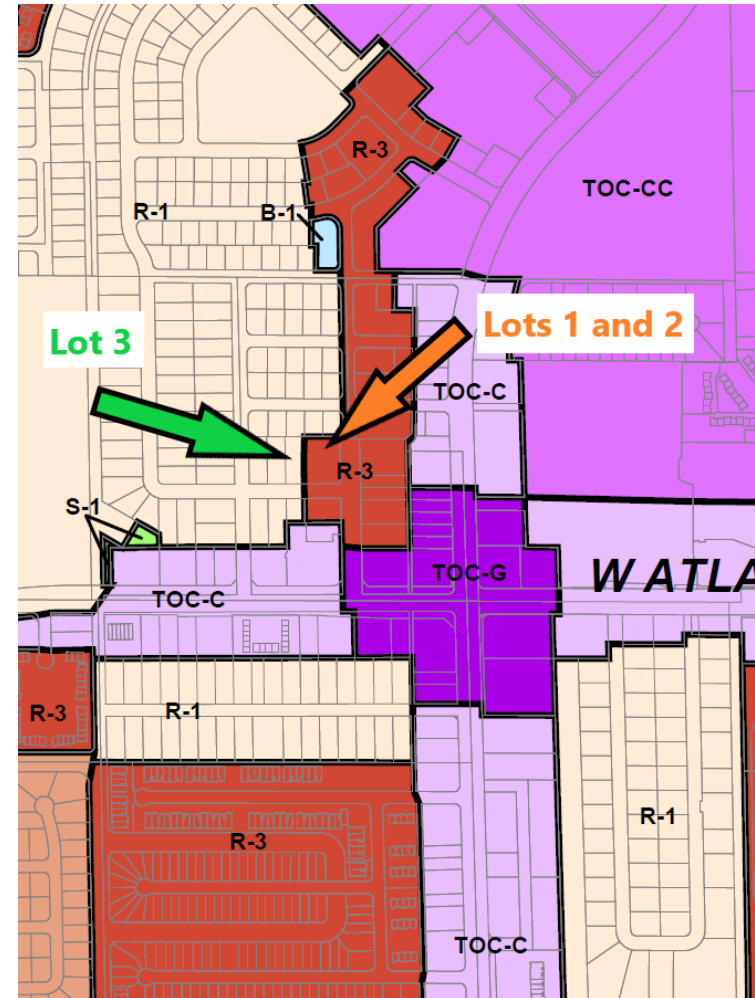


LOCATION MAP - ZONING





MARGATE ZONING MAP



PROPERTY HISTORY

- 2002 – 2004 – Property redeveloped to 10-unit apartment building (lots 1 & 2) by former owners.
- 2014 – Application for special exception use to permit group care facility (ILF).
- 2014 – Application for variance from distance separation for group care facilities.
- January 21, 2015 – The City Commission approved, in Resolution No 15-010, the special exception use as a group care facility for an independent living facility with a voluntarily proffered condition that the facility would not be operated as a drug rehabilitation center.
- May 2015 – Submitted building permit application to convert the 10-unit apartment building to a group care facility. The building plans and included features that were much more medically intense than what is appropriate for an independent living facility or assisted living facility. The application was rejected by zoning staff on June 10, 2015.

PROPERTY HISTORY

- June 1, 2015 – Applicant indicated, in a published article, intent to operate a detoxification facility.
- July 2015 – Applicant revised building permit plans and voluntarily submitted sworn affidavit stating Applicant would not operate a detox facility from Property -> zoning approval granted.
- March 2017 – Local Business Tax Receipt (“LBTR”) application to operate a “medical assisted detox” was denied.
- October 2017 – Certificate of Occupancy (“CO”) with restriction to operate as approved by Resolution No. 15-010 was issued.
- September 2017 – Applicant filed a lawsuit against the City alleging, among other claims, they had vested rights to operate a medical use/detoxification facility.

PROPERTY HISTORY

- September 2018 – Summary Judgment dismissing Applicant’s complaint with prejudice.
- June 2019 –LBTR application to operate a business referencing Resolution No. 15-010, however, the supporting documentation regarding the proposed business was inconsistent with the permitted use.
- September 2019 – Applicant acquired Lot 3, as reflected in the included location map.
- May 2020 – LBTR application to operate a “halfway house” was denied.
- May 2020 – LBTR application to operate a “veterans residential treatment facility” was denied.
- June 2020 – Reasonable Accommodation application to operate a community residential treatment facility to treat veterans suffering from post-traumatic stress and substance abuse disorders and mental health issues was denied by the City Manager, the City Commission upheld the denial in November 2020.

PROPERTY HISTORY

- June 2020 – Applicant submitted an application to rezone, a site plan application was not included, from Multiple Dwelling R-3 and One-Family R-1 to Community Facility CF-1.
- September 2020 – LBTR application to operate a Community Residential Home, type 2 to open a community base Residential Treatment Facility and dual diagnosis for various eating disorders was denied.
- October 2020 - The DRC recommended denial of the rezoning request.
- Fall 2020 – Applicant petitioned Broward County to remove the use restriction on the CO, the request was denied.
- January 2021 – Application for a LBTR to operate recovery residence for group housing was submitted and eventually withdrawn.
- June 1, 2021 – P&Z Board recommended approval of the rezoning request.

CITY PROCESS

- City of Margate Code Chapter 31, Article III implements development review requirements for all development permits which includes applications for rezoning.
 - ❖ **Development Review Committee (“DRC”)** reviews all development permit applications and submits report to the Planning & Zoning Board.
 - ❖ **Planning & Zoning Board (“P&Z Board”)** reviews proposed zoning changes and submits a recommendation to the City Commission.
 - ❖ **City Commission** approves or denies development permit applications based upon substantial competent evidence.

- Application → DRC → P&Z Board → City Commission

DEVELOPMENT REVIEW CRITERIA

- **Prior to approval of a development permit, a determination shall be made based upon whether adequate services will be available to serve the needs of the proposed development. *Margate Code Sec. 31-35***
- **Specifically, a zoning change on platted land shall be conditioned on a determination by the City Commission that the services are available to serve the development permitted in the proposed zoning district. This determination is made with the approval of the DRC report reflecting adequacy of services. *Margate Code Sec. 31-36.***

DEVELOPMENT REVIEW CRITERIA

- A proposed development shall be presumed to have the maximum impact permitted under the applicable land development regulations and Comprehensive Plan. *If a site plan is submitted it may be used as a basis to assess the maximum impact of the development. Margate Code Section 31-37*
- ❖ *A site plan was not submitted, accordingly, the maximum impact permitted was the basis of the analysis. In addition to Code requirement, there is a wide variable of intensity of the proposed uses and it is in the best interests of the City to presume the maximum impact of the development.*

DEVELOPMENT REVIEW COMMITTEE

- **Availability of adequate services for a proposed development is determined by the DRC review and reports. DRC shall review and report on adequacy of rezoning application and compliance with all applicable laws, regulations, City Comprehensive Plan, and Zoning Code requirements. *Margate Code Sections 31-34 and 31-35.***

DRC REVIEW CRITERIA

- **Development Services** reviews consistency with Comprehensive Plan and conforms with Zoning Code.
- **Environmental & Engineering Services (“DEES”)** reviews availability of potable water service, wastewater treatment and disposal service, traffic generated by proposed development, adequacy of rights-of-way and easements for surface water management, engineering design for streets, sidewalks, public places, water distribution and wastewater collection.
- **Fire Department** reviews compliance with hydrants, water distribution system, driving lanes, trafficways, emergency vehicle access, NFPA codes and standards, and ability to protect life and property of proposed development.
- **Building Official** reviews conformance with building code and finished floor elevation requirements.
- **Public Works** reviews potential impacts to existing infrastructure for roadways, sidewalks, stormwater utilities and canal system.
- **Police Department** evaluates public safety issues.
- **Community Redevelopment Agency (“CRA”)** evaluates consistency with the Community Redevelopment Plan.

DEVELOPMENT SERVICES

- **Consistency with Margate Comprehensive Plan (“MCP”) – The proposed rezoning is not consistent with the MCP based upon the following:**
 - ❖ *Required review of transitional design elements to ensure compatibility will not occur prior to creating a new category of uses permitted by right.*
 - ❖ *Identification of the cumulative impacts of proposed development on services and facilities is not able to be determined.*
 - ❖ *DRC has not made a determination that adequate services will be available to serve the needs of the proposed development.*

DEVELOPMENT SERVICES

Comprehensive Plan

- In order to minimize impacts between incompatible uses the minimum measures implemented shall be the code regulations for landscape buffers and setback requirements. *Margate Comprehensive Plan Policy 2.3 of Element I – Future Land Use*

DEVELOPMENT SERVICES – MARGATE COMPREHENSIVE PLAN

➤ Comprehensive Plan

❖ **Policy prohibition of rezoning's that allow incompatible uses to locate adjacent to residential uses. *MCP Policies 4.1 and 7.2 of Element I Future Land Use***

- *The MCH proposal generates more than 4x the amount of traffic of the prior apartment use*
- *The MCH proposal is deficient of required off-street parking*
- *Subject Property lacks required buffers*
- *Subject Property does not conform to minimum required setbacks*
- *The MCH use is a 24 hour operation and is contiguous to 5 single family homes*

DEVELOPMENT SERVICES-MARGATE COMPREHENSIVE PLAN

- Request is not similarly situated to other CF-1 zoning districts
 - ❖ Subject Property is located on local road, all other CF-1 districts in Margate are located on roads classified as either Collector or Arterial

Compatibility

➤ Traffic

❖ Traffic Statement #4:

- Prior apartments: 37 vehicle trips per day
- Proposed MCH: 144 trips per day (+107)

❖ CF-1 Maximum Impact: 43,675 sqft (uses permitted by right)

- Hospital: 468 vehicle trips per day
- Government Office: 987 vehicle trips per day
 - ITE 10th Ed.

❖ Traffic statement #4 agrees max capacity of local road is less than 400 trips per day

- Would be the **only** CF-1 property located on a local road

DEVELOPMENT SERVICES – MARGATE ZONING CODE

- **Conformity with the Margate Code – The proposed rezoning does not conform with the Code based upon the following:**
 - ❖ Notwithstanding the maximum impact analysis, the current building does not conform with Code requirements for off-street parking, vehicle reservoir areas, street paving and sidewalks, landscaping, fencing, setbacks, traffic, landscape buffer
- **Using the maximum impact analysis the proposed rezoning permits a facility which exaggerates incompatibility.**

DEVELOPMENT SERVICES – MARGATE ZONING CODE

➤ Setback Requirements:

Property Line	Required	Provided	Deficiency
East Property Line	35ft	25.14ft	9.86ft
North Property Line	40ft	14.59ft	25.41ft
West Property Line	40ft	2.5ft	37.5ft



DEVELOPMENT SERVICES – MARGATE CODE

BUFFER	REQUIREMENT	PROVIDED	DEFICIENCY
Landscape Buffer R-O-W Melaleacua Drive (Lots 1 & 2)	10ft	5-6ft	5-4ft
Landscape Buffer R- O-W Alan Rd (Lot 1)	10ft	4ft	6ft
Landscape Buffer R- O-W Alan Rd (Lot 3)	10ft	0ft	10ft
Landscape Buffer & Masonry Wall West & North Property Line	15ft Landscape Buffer 6ft Masonry Wall	0 No Masonry Wall	15ft No Wall

DEVELOPMENT SERVICES – MARGATE ZONING CODE

MZC	REQUIREMENT	PROVIDED	DEFICIENCY
Off Street Parking	43 (57)	22	21 (35)
Vehicle Reservoir	3	0	3
Public Sidewalk: Melaleuca Drive	Adjacent to public r-o-w	Along Lots 1 & 2	0
Public Sidewalk: Alan Road	Adjacent to public r-o-w	Along Lot 1	75ft missing along Lot 3

DEPARTMENT OF ENVIRONMENTAL & ENGINEERING SERVICES

- Staff analysis requires plan, model, or study of the site reflecting maximum impact conditions, none was provided. Staff is unable to make necessary findings related to drainage and traffic. *Staff requested the maximum impact conditions study on October 13, 2020 and 2 times thereafter.
- Public sidewalk must be extended along south property line
- ADA requirements for route from public right-of-way and number of handicap accessible parking spaces and aisle are inadequate.
- Survey submitted was inaccurate as to the location and route of public sidewalk.

FIRE DEPARTMENT & BUILDING DEPARTMENT

- Fire Department
 - ❖ Proposed zoning requires a fire alarm, fire sprinkler and standby generator.

- Building Department
 - ❖ There are no comments regarding the rezoning. Indicated the existing building was developed although it did not meet the approved zoning.

POLICE DEPARTMENT, PUBLIC WORKS & CRA

- Police
 - ❖ No comment
- Public Works
 - ❖ No comment
- CRA
 - ❖ Did not respond, lack of staffing

DRC RECOMMENDATION – October 13, 2020

- DEES unable to make specific findings (surface water and traffic)
- Development Services found several nonconformities with Code and inconsistencies with the Comprehensive Plan
- Fire Department requires specific improvements
- Building Official has no comments on rezoning however, building was developed for a use that did not meet approved zoning.
- DRC recommended **denial**

- DRC recommends denial of the development permit based on an inability to determine that adequate services will be available to serve the needs of the requested rezoning.
- The Planning and Zoning Board recommended approval with a vote of 3-1 on June 1, 2021
- Staff recommends denial in accordance with the Code requirement that zoning changes on platted land shall be approved upon a determination that services are available to serve the development based upon a DRC report reflecting the adequacy of services.