



### City Commission

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## REGULAR MEETING OF THE DEVELOPMENT REVIEW COMMITTEE <https://us02web.zoom.us/j/86941018454> MINUTES

**Tuesday, April 23, 2024**

**10:00 a.m.**

City of Margate  
5790 Margate Boulevard  
Margate, FL 33063

### PRESENT:

Elizabeth Taschereau, Director of Development Services  
Andrew Pinney, AICP, Senior Planner  
David Scholl, Fire Marshal  
Richard Nixon, Director, Building/Code Services  
Randy Daniel, Assistant Director, DEES  
Gio Batista, P.E., C.G.C., Director, Public Works  
Todd Schepers, Chief Electrical Inspector, Building Department

### ALSO PRESENT:

Jeffrey Schnars, P.E., President, Schars Engineering Corp.  
Michael Fimiani, President, Fimiani Development Corp.  
Amanda Martinez, President, Martinez Planning Associates, LLC (via Zoom)

The regular meeting of the Margate Development Review Committee (DRC), having been properly noticed, was called to order at 10:01 a.m. on Tuesday, April 23, 2024, at the City of Margate Commission Chambers, 5790 Margate Boulevard, Margate, FL 33063.

### NEW BUSINESS

- A) *ID2024-136*  
**DRC NO. 23-00400065** CONSIDERATION OF A SUBDIVISION  
RESURVEY FOR NOVE OF MARGATE  
**LOCATION:** 7870 MARGATE BOULEVARD  
**ZONING:** S-1 RECREATIONAL AND R-3A MULTIPLE DWELLING  
**LEGAL DESCRIPTION:** PARCEL 3, "ORIOLE GOLF AND  
TENNIS CLUB SECTION TWO," ACCORDING TO THE PLAT  
THEREOF, AS RECORDED IN PLAT BOOK 78, PAGE 21, OF  
THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA  
TOGETHER WITH A PORTION OF PARCEL 4 OF SAID PLAT,

### Development Services Department

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“ORIOLE GOLF AND TENNIS CLUB SECTION TWO,” ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 78, PAGE 21, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

**PETITIONER:** MATTHEW H. SCOTT, ESQ., GREENSPOON MARDER, LLP, AGENT FOR MICHAEL FIMIANI, FIMIANI DEVELOPMENT CORPORATION

Andrew Pinney, AICP, Senior Planner, introduced the item and advised that comments were published on the agenda. He invited any additional comments or corrections from staff.

Mr. Pinney pointed out that the School Capacity Availability Determination (SCAD) letter from Broward County Public Schools had expired on April 17, 2024. He noted the letter is critical for the site plan and should be updated for the public hearings.

Gio Batista, P.E., C.G.C., Director of Public Works, highlighted a conversation among staff as to whether there was a need at some point to add an access easement from the right-of-way of Margate Boulevard onto the property to allow staff to maintain the canal system that is beyond the property lakes. He stated staff could use whatever easement was allowed from the right-of-way onto the property.

Mr. Pinney asked if the applicant had questions or needed clarification regarding any of the comments.

Jeffrey Schnars, P.E., President, Schars Engineering Corp., shared a draft response to facilitate his review of the comments. He highlighted Engineering reference 28, as follows:

*The existing drainage/flowage easement is in use cannot be vacated until a replacement easement has been approved by FEMA, constructed, and commissioned for use.*

Mr. Schnars stated this comment gets into the abandonment procedure the applicant is going through for the existing drainage easement. He commented that this process has not progressed as the City has to sign it before it can go to Broward County. He advised that Amanda Martinez had conversations with the County regarding similar situations and was told it is common for the new easement to be recorded prior to the existing easement being abandoned, and the applicant is not opposed to that. He noted the County had also said the applicant could grant an easement over the existing channel that the City could hold in escrow until such time as the new channel is constructed and approved. He stated this would help the project to continue to move forward.

Randy Daniel, DEES Assistant Director, expressed concern that the proposal has not met any of the FEMA requirements. He asked if FEMA has looked at it, or if this was simply someone saying this was a potential location for the current flowage easement. He stated FEMA vetting the new or realigned channel was critical for moving forward. He noted something could be worked out with dedicating the easement in escrow, but the question was what easement should be dedicated and under what authority.

Mr. Schnars stated there is an existing 30-foot flowage/drainage easement which the applicant is proposing to relocate to the new waterway location.

Mr. Daniel asked whether that relocation was within the existing 30-foot easement. Mr. Schnars clarified that the 30-foot easement would be relocated to the location of the new waterway.

Mr. Daniel asked if that new location had been seen by FEMA. Mr. Schnars advised that it had not been submitted to FEMA yet. He stated the consultant has started preparation of the analysis, and the only thing heard so far is that preliminary analysis looks positive. He commented that additional survey information which had been requested would be completed this week and noted the plan was to also provide the analysis to the City once it is complete.

Mr. Daniel stated the easement could not be put anywhere and have it work as the original 30-foot easement is working. He noted the community is draining well in a flooding event, and staff wants that to continue, hence the concern that any relocation of the flowage easement is done in such a manner that it will continue to allow properties to drain properly and not create any flooding issues where none currently exist. He stated the only authority to give him a level of comfort that will be the case is FEMA. Mr. Daniel advised that FEMA had been a subject of discussion for over a year, and it had been postponed and put off. He stated now it is a requirement from the City notwithstanding wanting it to move forward, and the parties appear to be at a deadlock.

Mr. Schnars confirmed that the applicant would like to move forward with all the public approvals and hearings and is offering a way to do so. He stated all of this would certainly be done before any engineering permits or construction permits are issued. He asserted this had been what the applicant agreed to as part of the site plan approval process.

Mr. Daniel stated he understood that, and the reviews would be provided at the permitting stage. He asked about engagement with FEMA, and how long it would be before FEMA granted conditional approval. Mr. Schnars advised that he did not have a time frame. He stated the analysis has not yet been submitted and reiterated that the consultant is working on the study. He noted as soon as the requested information is provided to the consultant, the study will be finalized and submitted to FEMA. He stated he hoped that would be done in the next month.

Mr. Schnars advised that they could provide an easement over the existing channel if that were the desire of staff, or in another location, to be held in Escrow so the City does not lose anything it currently has. He asserted nothing would happen in the field until the construction permits are in place and the construction permits would not be granted until the FEMA analysis is done and approved, and all the other permits have been issued.

Mr. Daniel stated it was not where he wants the easement, but where the easement will work. He asked the applicant to send him a written update as to where the process is with FEMA and some potential timelines for the FEMA response. He advised that upon review of that information, staff will provide an answer as to how to proceed. Mr. Schnars stated he would get a timeline from the

consultant including the expected submittal dates, review times, the number of reviews expected, and ultimately how long until approval.

Mr. Daniel clarified the request includes to vacate the current easement. Mr. Schnars confirmed that the request had been submitted as part of another application process.

Mr. Daniel asked how it would work legally to vacate an easement to a channel that is in use. He stated he was not comfortable with that. Mr. Schnars stated they would provide an easement over the existing easement to be held in escrow, and if something ever goes wrong or the project does not proceed, that easement can then be recorded so the City has what it has now.

Mr. Batista inquired as to the alternative options which would not impact the City if FEMA does not accept the application for any reason. Mr. Schnars stated there would have to be adjustments made, depending on the issue. He noted it could be a site plan change.

Mr. Batista clarified that a site plan change would happen regardless of whether the application was permitted to proceed at this time. Mr. Schnars confirmed that was correct.

Mr. Pinney advised that Ms. Martinez had reached out to Broward County and forwarded an email confirmation from Broward County Senior Planner Diego Penaloza, who said that even though this easement was platted on the Oriole Golf and Tennis Club Section Two in 1972, and then a redundant easement filed in 1994, Broward County is not going to require a plat amendment to abandon the plat easement from 1972.

Ms. Martinez stated she had spoken with Mr. Penaloza, and he ran it by the County Attorney and was advised that the process the applicant would be going through with the County was to vacate and release the easement.

Mr. Batista commented that meant the City would maintain the easement which was issued by resolution. Mr. Pinney clarified that Mr. Schnars was offering a new easement the City would hold in case the project does not go through and the old easements are already released. He stated that in that instance the new easement would be brought to the City Commission for a resolution to accept it and then submitted to Broward County for recording.

Elizabeth Taschereau, Director of Development Services, pointed out the Board had been revisiting the same item repeatedly, and suggested a conference call with the City Attorney and the applicant's counsel, Matthew H. Scott, to resolve and move the item forward either way.

Mr. Schnars reviewed Engineering reference 28, as follows:

*The existing channel appears to be between 30 and 70 feet wide. Provide a canal dedication that is a minimum of 60 feet wide.*

Mr. Schnars stated the subdivision plan was intended to describe geometrically what is on the site plan. He advised there is not a 60-foot canal dedication on the site plan, so that is not what is reflected on the subdivision plan. He noted the last page of the engineering plan was an exhibit to show how the proposed plan compares to what is existing, and distributed copies of the exhibit. Mr. Schnars stated there was a 60-foot canal dedication on the property on the original plat to the east of 79<sup>th</sup> Street, but this section only had a 30-foot easement granted. He commented on Code changes and clarified that it was never the intention to dedicate a canal to the City on this property. He stated they were simply improving the channel that existed.

Mr. Pinney advised that he had a similar comment on reference 24, where he also provided the specific Code language, as follows:

*"The minimum width of a canal dedication shall be 60 feet. Canal and water area improvements shall conform to any requirements set forth under authority of the local drainage district. Should a continuous retaining wall be required, it shall be constructed along both sides of the canal concurrently with the excavation of the canal in accordance with the specifications of Section 11-17." Sec. 40.403(D)2, Code of the City of Margate.*

Mr. Pinney stated he thought the issue came down to labels on the subdivision plan. He commented that referencing the original plans in 1972 that call it a drainage and flowage easement would resolve the comments. Mr. Daniel agreed.

Mr. Pinney commented that he appreciated the attention to detail, but there was a lot of duplication. He noted a public drainage easement is on the dedication section, but on sheets three (3) through six (6), there is a regular drainage easement without the word "public."

Mr. Schnars advised that they had distinguished between a drainage easement, which is meant to be private and maintained by the Homeowners Association (HOA), and the public drainage easements, which are accepting drainage from adjacent properties flowing through the subdivision. He noted there are two (2) locations with pipe locations.

Mr. Pinney stated that distinction does not appear in the dedication section of the subdivision.

Mr. Schnars asked whether the dedications reflected on the plat when filed are legal easements, or if they have to be recorded by a separate instrument.

Mr. Pinney advised that either of those options were viable. He stated in the City Code, where a property is not required to plat but is required to undergo subdivision resurvey, the criteria is exact the same language. He noted a subdivision resurvey does not go through the County review process, but the applicant is still dedicating it, there are still signatures from the owner, and it still goes before the City Commission for acceptance.

Mr. Schnars commented that if it is a legal easement formed by the recorded subdivision plan, then additional dedication language was needed, and that had not been clear to him.

Mr. Pinney advised that they should include successors and heirs, as projects change names. Mr. Schnars suggested this topic be part of the discussion between the attorneys.

Mr. Pinney pointed out the applicant had gone into detail for the utility easement, but he was not sure if they should get into the specific technology, as technology can change over time and make the easement useless. He recommended the language stop after "as defined in Florida law." Mr. Schnars stated it was standard language seen in other places, as he did not have good examples of a recent subdivision plan. He noted he understood the statement and would take another look.

Mr. Daniel asked for clarification on the exhibit Mr. Schnars had distributed, and whether the blue line could be extended to include the inflow to the lake. Mr. Schnars advised the blue line was not the easement being dedicated, but the new edge of water. He stated that was not proposed as an easement to the City, but a relocation of the 30-foot flowage and drainage easement.

Mr. Daniel clarified that what he was seeing was that the new proposed easement encompasses the old easement. Mr. Schnars advised that in this plan, the two (2) colors are reflecting existing edge of water and proposed edge of water, not the easement.

Mr. Daniel stated the comment would be to extend the blue line to the outfall at Margate Boulevard. Mr. Schnars responded that he was not proposing the document, it was simply an exhibit on the engineering plan which shows the edge of water, not the easement limits or where the pipe connection is.

Mr. Schnars reviewed Engineering reference 30, as follows:

*Provide a maintenance easement of twenty feet along each side of the canal dedication.*

Mr. Schnars stated a 20-foot maintenance easement was being provided on the applicant's side, but they cannot provide a maintenance easement on the other side, as it is not their property. Mr. Daniel advised that he understood. He stated comments 31 and 34 were subsequently resolved.

Mr. Schnars commented that they were adding a fire access road to the resurvey to resolve comment 33. He reviewed information only Planning references 12, 13, and 14, as follows:

*Comment 12: Prior to City Commission provide pavement and drainage plan approval.*

*Comment 13: Prior to City Commission provide Drainage District approval.*

*Comment 14: Prior to City Commission provide utility plan approval.*

Mr. Schnars stated the applicant would ultimately like the subdivision resurvey to be on the same City Commission agenda as the land use plan. He proposed the items as condition of approval. Mr. Pinney explained the new Code does provide for some conditional approvals on some of the requirements, but he would need to review what could be conditional and what must be done up front. He stated for anything required before the hearing, he recommends getting it to staff ahead of time for a staff review. He agreed staff are trying to get the applications all on one (1) agenda.

Mr. Schnars reviewed information only Planning reference 21, as follows:

*Subdivision does not depict all existing water courses and canals.*

Mr. Schnars stated the subdivision had been intended to show the proposed, and asked if that was acceptable.

Mr. Pinney responded that the Code requirement was that it depict all of the existing water courses and easements. He stated a label or footnote could be added to show they would be abandoned or released as appropriate, but they should be shown. He called the applicant's attention to a filing from 1982 and provided a copy. Mr. Schnars stated he would review.

Mr. Schnars advised that he would like to see the subdivision plan as a clean version. He asked if the existing waterways that are going away could be shown on a separate sheet provided as part of the plan. Mr. Pinney suggested the applicant send him the concept before resubmittal so he could review.

Mr. Pinney asked the Committee for any further comments or questions.

Mr. Daniel thanked the applicant for accepting the recommendation to name roads. He stated the addresses included should call out the road names within the subdivision to reduce confusion.

Mr. Pinney pointed out the lot numbers would not be the addresses. He noted addresses typically have odd numbers on one (1) side and even numbers on the other, while lots go in sequence.

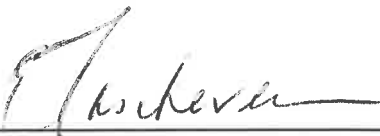
Mr. Daniel clarified that once the plan is official, addresses will be assigned based on the neighboring communities, but the critical thing was that they were labeled.

Mr. Pinney stated the recommendation of the DRC was for resubmittal with corrections prior to proceeding to the Planning and Zoning Board.

## GENERAL DISCUSSION

Mr. Pinney called for general discussion. There being no further business to discuss, the meeting was adjourned at 10:34 a.m.

Respectfully submitted,



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Elizabeth Taschereau, Director of Development Services