



**REGULAR MEETING OF
THE PLANNING AND ZONING BOARD
MINUTES**

Tuesday, May 7, 2019

7:00 PM

City of Margate
Municipal Building

PRESENT:

Richard Zucchini, Chair
Rob Reiner
Juli Van Der Meulen
Donald Fritz

ABSENT:

Todd Angier

ALSO PRESENT:

Chris Saunders, Interim City Attorney, Weiss Serota Helfman Cole & Bierman, P.L.
Robert Massarelli, AICP, Director Development Services
Andrew Pinney, Senior Planner
Alexia Howald, Associate Planner

The regular meeting of the Planning and Zoning Board of the City of Margate, having been properly noticed, was called to order by Chair Richard Zucchini at 7:00 p.m. on Tuesday, May 7, 2018. A roll call of the Board members was done followed by the Pledge of Allegiance.

1) **APPROVAL OF MINUTES**

ID 2019-168

1A) **APPROVAL OF MINUTES FROM THE PLANNING AND ZONING MEETING ON
DECEMBER 4, 2018 AND JANUARY 8, 2019**

Mr. Reiner made the following motion, seconded by Mr. Fritz:

MOTION: APPROVED AS WRITTEN

ROLL CALL: Mr. Fritz, Yes; Mr. Van Der Meulen, Yes; Mr. Reiner, Yes;
Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

Development Services Department

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City Commission

Mayor Anthony N. Caggiano
Vice Mayor Tommy Ruzzano
Antonio V. Arserio
Arlene R. Schwartz
Joanne Simone

City Manager

Samuel A. May

Interim City Attorney

Weiss Serota Helfman
Cole & Bierman, P.L.

City Clerk

Joseph J. Kavanagh

2. NEW BUSINESS

ID 2019-103

2A) CONSIDERATION OF A **PLAT NOTE AMENDMENT** FOR CELEBRATION POINTE

Andrew Pinney, Senior Planner gave a PowerPoint Presentation on the which explained the purpose of the application. He then gave a brief history of the property and a description of the plat note amendment to lower the number of townhomes. Mr. Pinney reviewed the criteria and gave the staff recommendation of approval.

Steven Wherry, petitioner of behalf of Lennar Homes. He went on to explain the commitment from Lennar to return these unused units back to the City, so that the City can use them as they see fit. Mr. Zucchini asked what the reason for the reduction was. Mr. Wherry replied that as a part of the PUD Amendment, adjustments were made to the site plan and in turn the unit count changed.

Mr. Reiner made the following motion, seconded by Ms. Van Der Meulen:

MOTION: TO APPROVE THE PLAT NOTE AMENDMENT FOR CELEBRATION POINT AS WRITTEN.

ROLL CALL: Mr. Fritz, Yes; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

ID 2019-185

2B) CONSIDERATION FOR A **SPECIAL EXCEPTION** USE FOR THE NEW CULVER'S RESTAURANT

Andrew Pinney, Senior Planner, introduced himself and explained the process of the Special Exception to the Board. He referenced the 2017 ordinance that introduced the Planning and Zoning Board to review the application and to provide recommendation to the City Commission. He then read from Section 31.54 (e): "The planning and zoning board shall conduct a public hearing in which they discuss the DRC report and the project proposal, prior to making a recommendation concerning the project to the city commission. If the planning and zoning board determines that the proposed use is in compliance with general standards of review, use regulations, and development standards of this Code, then they shall recommend approval of the special exception to the city commission, with or without conditions, as determined appropriate. If the planning and zoning board finds that the proposed special exception is not in compliance, they shall recommend denial of the application. The planning and zoning board may continue the matter until any additional information or studies requested have been completed and offered in testimony."

ALL THOSE SPEAKING ON THE ITEM WERE DULY SWORN.

Mr. Pinney continued his presentation by detailing the application for new construction of a 4,443 square foot Culver's Restaurant with a drive-through lane, located in the TOC-G Gateway zoning district. He then highlighted the review criteria and concluded with staff recommendation of conditional approval. The conditional approval would be as follows: all conditions imposed by the Development Review Committee and the addition of a solid roof covering the outdoor dining area on the east side of the restaurant.

Mr. Zucchini asked staff about the required parking versus the parking that was supplied. Mr. Pinney responded by reading from the staff report which gives the required parking as 60 parking spaces and the parking provided by the applicant which is 74 parking spaces. Mr. Zucchini then asked about the requirements for landscaping the islands in the parking lot? Mr. Pinney responded that the code requires parking lot or interior landscaping, he then proceeded to show the board the slide with the required landscape. Mr. Zucchini asked in regards to the flooding issues and how that has been resolved. Mr. Pinney responded that it was the neighboring property that suffered the flooding; however, they are now undergoing improvements to handle the excess drainage. He explained that this project will utilize underground storage vaults for the drainage.

Mr. Steve Wherry introduced himself and spoke on behalf of Medalist Restaurant Group. He stated that this will be the first Culver's Restaurant location which will be built in Broward County. He mentioned the special exception criteria and the suggested condition for covered outdoor seating on the east side. He explained in detail the challenges with the drainage that they have had to deal with while developing this project. Mr. Wherry discussed the outdoor seating area, stating that it was designed and proposed to include a seating area with tables and umbrellas. Mr. Zucchini asked if there will be an exit door on the east side? Mr. Wherry responded that there is not a door there; however, the closest door is a service door only. He explained that the main customer access doors are on the north and south sides of the building. He said that most of the customers will come by car or sit inside the restaurant to dine. He said that staff suggestions were presented to Culver's inside architect's and the feedback was that it was not consistent with Culver's expectations for their restaurants and for visibility of signage. Mr. Wherry then asked that this not be included in the recommendation. He then went on to discuss the future phase, explaining that it will be sold off as a separate site for general retail that will fit within the use category.

Mr. Fritz made the following motion, seconded by Mr. Reiner:

MOTION: TO APPROVE THE SPECIAL EXCEPTION USE FOR THE NEW CULVER'S RESTAURANT

Mr. Andrew Pinney clarified that staff is recommending approval with two conditions, to comply with all the DRC comments and the covered patio. Mr. Steve Wherry stated that he did not have an issue with the DRC comments, however he requests to not include the covered outdoor storage; clarifying that the seating would be with umbrellas and not a fixed roof.

Public Discussion:

Manny Lugo, 1129 E. River Drive, commented on attending a presentation by Broward County Environmental, who gave the impression that the water table is rising. He questioned the storage tanks and what will be done when the tanks fill up? Mr. Bill Pfeffer, Bowman Consulting, introduced himself and responded to Mr. Lugo's question. He said that they have been working closely with Broward County to evaluate both the current and the future conditions. Mr. Pfeffer said that the main elements affecting the existing drainage is the rising water table, explaining what was found on site. He said that they are piping a connection directly to a canal which is tied to the County's drainage system and will be coastal. Mr. Pfeffer said that the tanks will continually discharge when rain events occur.

Tommy Ruzzano, 116 East Palm Drive, commented on the outdoor dining, stating that he believes the tables with the umbrellas is an awesome idea.

Arlene Schwartz, 7800 NW 1st Street, had two questions for the petitioner: How far back from Copans Road will the building be located, and why the need for outdoor seating if there is no access point, which could be an issue of security? Mr. Wherry responded that the setback from Copans Road is approximately eighty (80) feet. He then stated that there will be surveillance around the entire site, and not all customers will use the outdoor seating but some may use it.

Mr. Zucchini entertained an amendment to the motion to comply with DRC conditions.

Mr. Reiner made the following amendment, seconded by Ms. Van Der Meulen:

AMENDMENT: TO APPROVE THE SPECIAL EXCEPTION USE FOR THE NEW CULVER'S RESTAURANT TO COMPLY WITH DRC CONDITIONS.

**ROLL CALL
ON THE**

AMENDMENT: Mr. Fritz, Yes; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

**ROLL CALL
ON THE MOTION**

AS AMENDED: Mr. Fritz, Yes; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

ID 2019-186

2C) CONSIDERATION OF A **SUBDIVISION RESURVEY** OF A PORTION OF "MARGATE PLAZA NO.1" FOR THE NEW GATEWAY MEDICAL BUILDING

Alexia Howald, Associate Planner, gave a PowerPoint Presentation explaining the subdivision resurvey for the new Gateway Medical Building at Penn Dutch Plaza. She explained the site location, proposed subdivision resurvey, compliance, consistency, and compatibility. She then gave the staff recommendation to approve with the following condition: that a utility

easement for a force main that is 12-feet wide at east and west access between the parking lots. She then explained that the Department of Environmental and Engineering Services will require a utility easement at the property for the condition of approval.

Mr. Zucchini asked for clarification that the Board is just looking at the subdivision resurvey. Ms. Howald responded yes, explaining that in order for the site plan to move forward the subdivision resurvey has to be approved to accommodate the proposed building. Mr. Zucchini then asked if the

existing parking lot from the Penn Dutch Plaza will affect the rest of the plaza, in particular the stores on the south end? Mr. Massarelli responded that there is adequate parking in the Penn Dutch Plaza for this change. Mr. Zucchini then asked if the landscaping or the photometric would affect the rest of the plaza? Mr. Massarelli responded that there are no proposed changes to use or occupancy in the Penn Dutch Plaza, therefore, those issues will not trigger a change of occupancy.

Mr. Anthony Brunetti, introduced himself and spoke on behalf of the developer of the building. He stated that there is already documentation of an existing force main just north of the property line, and said that they are currently in discussions with the owner of that property to record that force main. He requested approval on the condition of recording the force main. Mr. Massarelli stated that because it has not occurred the condition can be changed slightly to state "in the event the northern area easement is not dedicated" which will require dedication of the easement as shown on this map, making it conditional. Mr. Zucchini asked for clarification on the wording. Ms. Howald responded to make the condition to have the force main on the side of the adjoining property recorded, which will satisfy the utility easements on the property. Mr. Zucchini asked if there was a pass-thru at that location? Mr. Massarelli responded that the east side of the property will be connected to the existing doctor's office. He then gave advantages of the proposed force main. He said that there is enough flexibility to make it a condition that in the event that the easement on the adjacent property that is parallel to the northern end of this is not granted, then the easement as showing will be required.

Ms. Arlene Schwartz, City Commissioner worded the motion for the board, stating to except the condition unless a cross access agreement is signed between the petitioner and the current owner. Mr. Massarelli stated that there is already a cross access easement across the property, he said that this is a utility issue. Commissioner Schwartz clarified the wording saying unless a utility easement is granted from the owner.

Mr. Reiner made the following motion, seconded by Ms. Van Der Meulen:

MOTION: TO APPROVE THE SUBDIVISION RESURVEY WITH THE CONDITION THAT UNLESS AN EASEMENT IS GRANTED ON THE ADJACENT PROPERTY JUST NORTH OF THE PROJECT.

ROLL CALL: Mr. Fritz, Yes; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

ID 2019-204

2D) CONSIDERATION OF A **SUBDIVISION RESURVEY** FOR THE NEW CULVER'S RESTAURANT

Alexia Howald, Associate Planner, gave a PowerPoint Presentation explaining the subdivision resurvey for the new Culver's Restaurant. She explained the site location, proposed subdivision resurvey, compliance, consistency, and compatibility. She then gave the staff recommendation to approve.

Steve Wherry, introduced himself and addressed the board in regards to this property. He said that with approval of this application his client will then be able to close on the property as part of the overall strategy to get the Culver's Restaurant established.

Margaret Bartels, 7200 NW 24th Court, expressed her concern with the traffic at the corner of 55th Avenue and Copans Road. Mr. Massarelli addressed the issue stating that a traffic study was provided with the special exception in which it did not show a significant increase in problems along Copans Road. Mr. Wherry responded by explaining the level of service which was provided in the traffic study.

Mr. Reiner made the following motion, seconded by Mr. Fritz:

MOTION: TO APPROVE THE SUBDIVISION RESURVEY.

ROLL CALL: Mr. Fritz, Yes; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

ID 2019-220

2E) PLANNER'S CODE OF ETHICS

Robert Massarelli, Director of Development Services gave a PowerPoint Presentation reviewing the American Institute of Certified Planner's Code of Ethics and Professional Conduct. He discussed the following five sections of the code, focusing on the first two sections: Principles to Which We Aspire, Rules of Conduct, Advisory Opinions, Adjudication of Complaints of Misconduct, and Discipline of Members.

ID 2019-235

2F) COMMERCIAL REDEVELOPMENT APPROVAL PROCESS

Mr. Robert Massarelli, Director of Development Services, explained to the Board that this item was added to the agenda at the direction of the City Commission, stating that the memo provided in the back up was some quick ideas that he put together on this item. He recommends delaying any final action on this item due to pending legislation. Mr. Massarelli then referred to House Bill 7103 which is currently on the Governor's desk for his consideration. He went on to give examples of some of the changes of this Bill, including certain requirements in Chapter 163. In short, he explained that every development order since the beginning of the

City, will have to be in the Comprehensive Plan. Mr. Massarelli stated that he has spoken with the City Attorney and since this is new legislation they will need to figure out what this means. He said that the significance of this will be that all new development orders will now have to become part of the Comprehensive Plan, and if this is done after the City adopts a new plan, we will then have to go through an adoption process of amending the Comprehensive Plan. He stated that this is a long complicated process and could add months to the approval process. Mr. Massarelli also mentioned that this will also affect the Land Development and Zoning Code which will require all the old development orders incorporated into the code. He said that the City will have to be in compliance with this law when changing the Land Development Code. He explained that the Governor has fifteen (15) days to veto this Bill. Mr. Massarelli recommends that the Board start the discussion of what the City is trying to achieve. He gave an example of when someone new comes into an existing shopping center, does the City want upgrades or accept the current conditions, as well as looking at parking and/or shared parking; knowing what are they trying to accomplish. He feels that there is benefit to starting the discussion on what they are looking to achieve. He states that because if this law he recommends using caution until they receive direction from the City Attorney on how to proceed.

Mr. Zucchini commented that what he doesn't want to happen is to put the onus of reevaluating shopping plazas on the shoulders of tenants, and that it should be the owner's responsibility. He also said that he is not looking to create obstacles of having all the parking lots upgraded.

Mr. Massarelli stated that this brings up an important discussion whether it is the landlord or the tenant. He went on to explain the economic development side, stating that staff has begun meeting with shopping center owners on a monthly basis. He said that most of the City's shopping center owners are not owned by well financed investment groups, they are small time business men and women. He believes that by saying the shopping center owners have to make the improvements, there will be pushback and will have an impact on them.

Mr. Zucchini wanted for clarification on mixed-use vs. mixed-uses, asking if there is a difference in the definition. He said that he believes that mixed-use is a combination of residential and commercial and mixed-uses would be a commercial plaza with tenants that have different uses but still within that commercial use. Mr. Massarelli said that mixed-use does not only mean commercial and residential but could also mean a different combination of commercial, institutional, and/or religious; saying that this could be something that the code could look at and be clearly defined. Discussion ensued.

Mr. Zucchini said he would advise the Commission to remove the change of occupancy group, and that once a change of occupancy has been triggered to put the onus on the owner of the shopping center to be responsible to provide photometric and landscape plans.

Mr. Andrew Pinney, Senior Planner clarified the existing process in the City, stating that a change of occupancy application is not the case when making parking lot improvements, it only happens when a site is being redeveloped or when a greenfield is developed. He said that when there is an existing plaza and it is undergoing a change of occupancy the landscape review has to do with plant material only; the only time there is new landscape required for a change of occupancy is for the three-foot landscape buffer surrounding a dumpster enclosure. Mr. Zucchini asked if the landscape review falls on the responsibility of the shopping center owner or on the tenant? Mr. Pinney said that the code does not identify who is responsible for making the improvements, and that it has always been a private negotiation between the

tenant and the landlord. Mr. Reiner stated that the requirements may be unreasonable and that the burden has been put on the new businesses, and that everything should be reviewed on a one on one basis. Mr. Chris Saunders, City Attorney stated that from a legal perspective there are certain protections in place when treating property owners, the same or differently, this could be a potential liability and he advises to proceed with caution. Mr. Pinney gave a brief history of how Code enforced commercial property and how the code changed according to different triggering events, such as new development, modification to properties, and change of occupancy or use.

Public Comment:

Mr. Armand Daiguillon, Paradigm Cinemas, 711 NW 71st Avenue, Plantation Florida, addressed both Mr. Robert Massarelli and Mr. Andrew Pinney. He stated that when he asked staff questions in regards to landscape plans, Mr. Massarelli and Mr. Pinney's answers contradicted each other. Mr. Zucchini clarified for Mr. Daiguillon in regards to a change of occupancy triggering bringing up property to the new code, in addition to changes in parking and medians. Mr. Daiguillon also questioned the proposed code changes, stating that they have already been reviewed by the City Commission, in which they have essentially approved the spirit of them, and that he was sent here by the Commission to discuss these code changes. He then said that tonight is for discussion and recommendation.

Mr. Chris Saunders, City Attorney commented on code changes for land development regulations, stating that the Planning and Zoning Board will have to approve code changes before the City Commission or take recommendation from the Planning and Zoning Board and make their own decision. He then said that to be clear for public comment, he is not privy to any Commission communication that may have happened with the member of the public, however the code changes will need to go before the Planning and Zoning Board first, prior to City Commission approval. Mr. Saunders stated that in regards to the Bill that may potentially become State Law, he would request that any recommendation be contingent upon the City Attorney's office to discuss a procedure for implementation.

Mr. Massarelli responded to Mr. Daiguillon's inquiry, stating that he admits both he and Mr. Pinney have opposite views, saying that one of his roles as director is the interpretation of the code. He went on to read from the code of ordinances as an example of his interpretation of the code. Discussion ensued.

Mr. Massarelli suggested looking at the process and creating a workflow within the code.

The following motion was made by Ms. Van Der Meulen, seconded by Mr. Reiner:

MOTION: RECOMMENDATION TO THE CITY COMMISSION TO ADDRESS MODIFICATIONS FOR THE COMMERCIAL REDEVELOPMENT APPROVAL PROCESS AS FIRST PRIORITY TO THE DEVELOPMENT SERVICES DEPARTMENT IN DEFERENCE TO THE DESIGN STANDARDS.

Public discussion:

Ms. Kathy Anderson-Turchin, Carolina Springs Shopping Plaza, 7804 -8092 W. Sample Road, asked about her application for a CRA Grant and how the pending legislation could affect it? Mr. Saunders addressed this by stating that they will need time to review the implications as it

relates to the potential code changes. Ms. Turchin then expressed her concern with change of occupancy and raising rent prices for tenants.

ROLL CALL: Mr. Fritz, Yes; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

Mr. Zucchini asked for guidance in making a motion to place the hones for upgrades of a shopping plaza on the plaza owner. Mr. Saunders asked for clarification due to the fact that there is no application requesting this change. Mr. Massarelli asked the Chair to restate the motion. Mr. Zucchini reworded it as a recommendation to the City Commission to consider that a code upgrade triggers the responsibility of the property owner and not the tenant. Mr. Massarelli asked if the intent is to consider amending the land development code to reflect this. Mr. Zucchini answered that it would be whatever they would amend. Mr. Massarelli stated that staff strongly recommends against this until after the pending legislation. Discussion ensued.

3) **DIRECTOR'S REPORT**

Mr. Robert Massarelli, Director of Development Services, updated the Board on next month's presentations and the finalization of the schedule for the upcoming public workshops. He stated that staff will be working on the revisions to the zoning ordinance code and the hiring of a consultant to assist with that scope of work.

4) **GENERAL DISCUSSION**

Mr. Reiner commented on the requirements of new businesses coming into the city.

Mr. Massarelli, mentioned changing upcoming meeting dates.

Mr. Zucchini asked for consensus to change the upcoming meetings to the following dates: June 3rd, July 16th, and August 13th, 2019. All members of the board agreed to the new meeting dates.

There being no further business, the meeting was adjourned at 10:03 p.m.

Respectfully submitted,

Prepared by Melissa M. Miller

Richard Zucchini, Chair