



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

Tuesday, October 4, 2016

7:00 PM

City of Margate
Municipal Building

City Commission

Mayor Tommy Ruzzano
Vice Mayor Joyce W. Bryan
Lesa Peerman
Joanne Simone
Frank B. Talerico

City Manager

Douglas E. Smith

City Attorney

Douglas R. Gonzales

City Clerk

Joseph J. Kavanagh

PRESENT:

Todd E. Angier, Chair
Anthony Caggiano, Vice Chair
Teresa DeCristofaro
Phil Hylander

ALSO PRESENT:

Benjamin J. Ziskal, AICP, CECD, Director of Economic Development
Andrew Pinney, Associate Planner
Mark Crompton, Community Sciences
Annie Demps, agent for Aztec RV Resort
Steven Wherry, Greenspoon Marder Law

ABSENT:

Catherine Yardley

The regular meeting of the Planning and Zoning Board of the City of Margate, having been properly noticed, was called to order by Chair Todd Angier at 7:00 p.m. on Tuesday, October 4, 2016. The Pledge of Allegiance was recited, followed by a roll call of the Board members.

1) **NEW BUSINESS**

- 1A) **PZ-05-16:** CONSIDERATION OF AN **ORDINANCE** TO AMEND THE MARGATE ZONING CODE, ARTICLE XVIII-RVRP RECREATIONAL VEHICLE RESORT PARK DISTRICT (RVRP) FOR PROHIBITED USES AND DESIGN STANDARDS

LOCATION: 1A SUNDIAL CIRCLE, MARGATE, FL

ZONING: RVRP

LEGAL DESCRIPTION: PALM BEACH FARMS, A PORTION OF BLOCK 95, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 2, PAGE 54, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

PETITIONER: ANNIE DEMPS, AGENT FOR AZTEC RV RESORT

Economic Development Department

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Andrew Pinney explained that Article XVIII of the Zoning Code was specific to the RVRP District (Recreational Vehicle Resort Park) and the City currently had only one property with the RVRP designation which was a 105-acre park on the south end of the City. He said the Park was a redevelopment of a mobile home park in 2009-2010 and a new chapter was adopted into the zoning code because it was a new use in the City. He explained that when the Code was adopted at that time, the vision for the Park included individual lots that had a RV parked next to a storage shed, and a centralized club house. As time went on and the park grew, he said tiki huts were added, followed by gazebos. He pointed out that this ordinance provided for the next step which would allow for habitable structures. When *decorative features* was added to the Code, he said it specified non-habitable to stress the temporary nature. He said the Park owners have now requested a text change to the Zoning Code and Land Use Amendment to allow for habitable structures.

Mrs. DeCristofaro made the following motion, seconded by Mr. Caggiano for discussion:

MOTION: TO APPROVE

Mrs. DeCristofaro asked the definition of habitable. Mr. Pinney responded that owners had been restricted from having both sleeping quarters and a kitchen in their gazebos. He explained how many of the owners had spent \$200,000 on their gazebos but they had to leave and go to their RV to sleep. He said the ordinance would allow them to retrofit the gazebos so they could sleep in them. Mrs. DeCristofaro asked if they would be required to have smoke detectors. Mr. Pinney said that every safety provision of the Florida Building Code for a habitable structure would apply for anything new or retrofitted.

Mr. Hylander asked (inaudible). Mr. Pinney responded that currently the Code allowed one bathroom not exceeding 140 square feet. If the ordinance was approved, he said that restriction would be eliminated and multiple bathrooms would be allowed on the lots. Mr. Hylander asked whether a bathroom was required for a habitable structure. Mr. Pinney said he thought so, however, he noted that he was not an expert on the Building Code.

Mr. Caggiano asked whether the change meant that a permanent structure could be erected next to their RV. Mr. Pinney clarified that they had been allowed to have permanent structures in the past but they could not be habitable with a kitchen, bathroom, and sleeping quarters under the same roof. He said that they were temporary residences.

Mrs. DeCristofaro asked if the structures could be rented when the owners were not there. Mr. Pinney deferred to a representative from Aztec RV Park.

Mark Crompton, Community Sciences, engineer for Aztec RV Park, said the habitable structures would still be considered temporary where owners could not stay for more than ten months, and the property could not be homesteaded, etc. He said Aztec wanted the Park to maintain a resort status.

Mrs. DeCristofaro asked if the area was like a time share. Mr. Crompton said it was not. She asked if the Park had formed a homeowners association (HOA) as required. Mr. Crompton said that a HOA had been formed when the park first opened. She asked who served on the Board. Mr. Crompton responded that it was a combination of Park and RV owners.

Ben Ziskal provided an overview and hierarchy of the various documents that pertained to the RV Park. He explained that the City's Comprehensive Plan was the document that regulated land within the State of Florida. He noted that the Board members would be seeing a modification to the Comprehensive Plan with the next agenda item. He said the Comprehensive Plan was the ultimate document which showed the State how the City divided up its land for commercial, residential, parks and recreation, industrial uses, etc. He said the Comprehensive Plan was approved by Tallahassee and every decision made on a daily basis had to fit that long-range plan.

The next document was the City's Zoning Code which he said was administered and amended at the local level; it did not require State approval. Rather, the Zoning Code was required to comply with the State approved Comprehensive Plan. He noted that the item before them was to change the City's zoning rules.

He explained that within the City Code, anyone who wished to form a RV park within the City must form a condominium association, have a set of rules and regulations, and adopt restrictive covenant that ensured the vision of the Comprehensive Plan and City Code were met. When the project was built, Mr. Ziskal explained that a developer's agreement had been signed between the City and the property owner to establish fire impact fees, voluntary contributions as far as taxes, rules and regulations for the length of stay and use of the property. He said there were specific provisions that did not allow the properties to be full-time homesteaded properties, as well as a specific restriction on living there year-round and putting students into the school system. He reiterated that they were vacation, temporary types of residential accommodations. He emphasized that none of those rules was changing; they would still need to follow the established agreement with the City. He said they also had a homeowners association and the rules and regulations that they [RV Park] set; however, the City enforced the developer's agreement and the Zoning Code which had to comply with the Comprehensive Plan. He said the ordinance being considered had been reviewed by himself and the City Attorney and they were not in conflict with any of the other established documents so there was no need to amend them.

Mr. Caggiano asked if ten months was considered a vacation period. Mr. Ziskal said the Park's owner mentioned it was something they regulated in their HOA documents. He said their HOA documents were not legally binding on the City. The City's regulations required that they were not permanent, homesteaded residences, and they did not put students into the school system.

Mrs. DeCristofaro said she read in their documents that they could have waterfalls in their landscaping; she asked what they meant. Mr. Pinney responded that waterfalls were included in the list of *decorative features* in the Zoning Code and it could mean a small fountain for the yard. She asked whether the HOA or the owner would put them in. Mr. Pinney said many of the lots in the Park were fee-simple individually owned.

Mr. Angier asked why the maximum height was 25 feet versus the original 11-1/2 feet. Mr. Pinney responded that the 11-1/2 feet was originally for the sheds which made sense in 2009 as they were meant to provide room for a golf cart and a ladder to service the RV. He said that sometime thereafter, more features were added including bathrooms and air conditioning and the Code was updated to change 'shed' to 'RV lot structure'. He said that the 25-foot limitation

was determined because the majority of the park's perimeter was surrounded by single family homes and they City did not want the height to be too tall.

Mr. Angier referenced Section 18.4 (A) and said that when one looked at everything that was struck out, tents were still there. He asked if the City wanted tents to be allowed. Mr. Pinney responded that Section 18.4 was for uses that were prohibited and sleeping in tents in the Park was still prohibited.

Mr. Angier asked if the reason for eliminating the restrictions on the gazebos was because they wanted to change them into habitable structures. Mr. Pinney responded that it was that and also that some lot owners wanted to build more than one bathroom. He said some of the gazebos had a house-like appearance but they had been limited by the current Code; for example, they could only have one set of French doors not more than six feet wide on the perimeter. He commented that this was the next evolution in the Park.

Mr. Caggiano commented that it was a RV place but this would allow owners to potentially build a 2,000 square foot permanent, habitable building next to them.

Mr. Crompton said that it would be limited by the Broward County permit for drainage. He said they had a specific amount of building square footage that had been approved by the County that was allowable and it was broken up into three basins which got distributed by each lot. He said there was not enough allowable building square footage to allow for 2,000 square foot buildings. He said, for example, an owner with a 2,000 square foot gazebo today who wanted to make it habitable would only be able to enclose whatever amount that lot allowed. He said they might end up with 1,000 square feet open and 800 square feet that they would be allowed to close.

ROLL CALL: Mrs. DeCristofaro, Yes; Mr. Hylander, Yes; Mrs. Yardley, Absent; Mr. Caggiano, No; Mr. Angier, Yes. The motion passed with a 3-1 vote.

- 1B) **PZ-06-16:** CONSIDERATION OF AN **ORDINANCE** TO REVISE THE COMPREHENSIVE PLAN OF THE CITY OF MARGATE, APPENDIX B, AMENDING ELEMENT I FUTURE LAND USE IN ORDER TO PERMIT HABITABLE STRUCTURES WITHIN RECREATIONAL VEHICLE RESORT PARKS

LOCATION: 1A SUNDIAL CIRCLE, MARGATE, FL

ZONING: RVRP

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PETITIONER: ANNIE DEMPS, AGENT FOR AZTEC RV RESORT

Andrew Pinney explained that this ordinance piggy-backed the one previously discussed. He said it had to be broken into a second ordinance because amendments to the Comprehensive Plan took a different track than those made to the Zoning Code. He noted that the Comprehensive Plan was reviewed by County, regional, and State agencies. He explained that once the ordinance went through the first reading by the City Commission, it was transmitted to

the county, regional, and state agencies. Conversely, he said ordinances amending the Zoning Code could move on directly to the second reading by the City Commission. He said the same discussion that had just taken place on the previous item about adding habitable structures to the RV Park applied to this item.

Mrs. DeCristofaro made the following motion, seconded for discussion by Mr. Hylander:

MOTION: TO APPROVE

Mr. Hylander commented that it was pretty straight forward.

Mr. Caggiano agreed that it piggy-backed on the first ordinance.

Mr. Angier thanked Mr. Pinney for explaining the reason there were two ordinances.

ROLL CALL: Mrs. DeCristofaro, Yes; Mr. Hylander, Yes; Mrs. Yardley, Absent; Mr. Caggiano, No; Mr. Angier, Yes. The motion passed with a 3-1 vote.

- 1C) **PZ-07-16:** CONSIDERATION OF AN **ORDINANCE** TO AMEND THE MARGATE ZONING CODE, ARTICLE III GENERAL PROVISIONS, SECTION 3.24 OUTDOOR EVENTS TO EXCLUDE FIREWORKS OR SPARKLER SALES FROM THE EXCEPTIONS PROVIDED BY THE ORDINANCE.

Andrew Pinney provided background information on the item. He explained that the Code provided an exception for those outdoor events that were deemed to be charitable or benefiting a non-profit organization. He said when once the charitable event was approved by the Development Review Committee (DRC) the first time, the same event could be repeated at the same property every year with a letter approval instead of reappearing before DRC again. He said this ordinance particularly addressed sparkler and firework sales. He said there was discussion by the City Commission in June or July about firework sales. He said the subject ordinance was the result of that discussion; its purpose was to remove the exception for sparkler/firework sales and require they [charitable and non-profit organizations] appear before DRC for every event. He said there were currently three charitable sparkler/firework sales in the City. This change would require each of the three organizations to appear before DRC twice a year.

Mrs. DeCristofaro asked the reason for this ordinance. She questioned why they should be required to go before the DRC again and commented that it was redundant.

Mr. Caggiano made the following motion, seconded for discussion by Mrs. DeCristofaro:

MOTION: TO APPROVE

Mr. Hylander said he was currently involved in a request with the Kiwanis seeking DRC approval; he asked if there was a possible conflict.

Ben Ziskal responded that it was not a conflict because this particular provision was specifically for fireworks and it was for all fireworks throughout the entire City. He said with the exception of fireworks, every other charitable organization and outdoor event was treated the same.

Mr. Hylander said he was not at the City Commission meeting where it was discussed and it was his understanding that they wanted an outright ban on the sale of fireworks. He asked why DRC was being involved because if firework sales were banned in the City, it would not be allowed at all.

Mr. Angier explained that the discussion was about the renewal process. He said the only thing he felt this ordinance accomplished was to make it more difficult for the organizations and more time consuming for the DRC. He said the checks and balances were already in place and an event could be denied if it was determined that they abused their rights and privileges.

Mr. Pinney pointed out that the exception described in Section 3.24(C) was actually a two-part exception: first, they [charitable and non-profit organizations] did not need to go before DRC for every event; second, DRC fees were waived. He said if they were no longer part of the exception, they would be also required to pay DRC fees.

ROLL CALL: Mrs. DeCristofaro, No; Mr. Hylander, No; Mrs. Yardley, Absent; Mr. Caggiano, No; Mr. Angier, No. The motion failed with a 0-4 vote.

- 1D) **PZ-08-16:** CONSIDERATION OF AN **ORDINANCE** TO INCLUDE THE TERMS "AUTOMOBILE DEALERSHIP" AND "VEHICLE SALES AGENCY" AND TO AMEND THE PERMITTED USES OF SUCH IN ZONING DISTRICTS DESIGNATED TOC-CC, TOC-G, B-3, AND M-1.

Andrew Pinney provided an overview. He explained that historically there has been one broad use-Automobile Sales Agency-for every type of car dealership, regardless of whether they sold new cars, used cars, RV's, commercial vehicles, etc. He said in the early 1990's, it was a *permitted use* along State Road 7 in the B-3 district and in the M-1 district. In 1996 when the CRA was formed and a redevelopment vision was adopted, the City decided it wanted some of the auto uses off of State Road 7 and Automobile Sales Agency became a Special Exception that required City Commission approval. He said Automobile Sales Agency was still a broad use with no criteria or limitations on what could be sold.

Mr. Pinney said this ordinance introduced a new use-Automobile Dealership-which was very specific in that they had to be licensed to sell a brand of new cars, such as some of the current ones in the City including JM Lexus, the Lincoln-Volvo dealership, and the Ford dealership. He said the ordinance also provided an acreage requirement and allowed used vehicles such as trade-ins as an accessory use; however, the primary use that would set them apart from the other use in the Code was that they could sell new cars. He said this ordinance would introduce Automobile Dealership as a permitted use on State Road 7 in the Transit Oriented Corridor (TOC and TOC-G) zoning districts; it would not be permitted in the City Center (TOC-CC). He noted the ordinance also had an acreage requirement of at least three acres.

Mrs. DeCristofaro made the following motion, seconded for discussion by Mr. Caggiano:

MOTION: TO APPROVE

Mrs. DeCristofaro asked what affect it would have the current used car lots on State Road 7. Mr. Pinney said nothing changed for the existing car lots or for a prospective used car lots. He said the use-Vehicle Sales Agency-was also being added and would be treated the same as Automobile Sales Agency had been in the past.

Mr. Caggiano asked if a current small used car dealer decided it wanted to sell its business, could they sell it to another party doing a similar business. Mr. Pinney said they absolutely could and if they wanted to expand, they could go before the City Commission to have their Special Exception renewed. He reiterated that nothing changed for the existing car lots or the way a new application for a used car dealership would be treated.

Mr. Caggiano commented that it appeared that unless one could afford to buy three acres of land, they would be shut out unless they purchased someone else's business. Mr. Pinney disagreed and stated that the ordinance would apply only to new car dealerships and they typically had the capital to purchase the needed land. He said it might be an issue for the small guys but they did not have the acreage requirement.

Mr. Caggiano asked the point of the ordinance. Mr. Pinney said the City wanted to invite new car dealers to the City. He said JM Lexus was growing so rapidly that they were having difficulty in their current space so they were looking for alternate sites. Rather than pushing them to Coconut Creek, he said this ordinance would invite them and others to look at State Road 7. Mr. Hylander asked whether they could move to a location on State Road 7 now if they found one big enough. Mr. Pinney explained that it would be considered a Special Exception and there would be many limitations. The ordinance, he said, would eliminate the red tape and invite that type of use on State Road 7.

Ben Ziskal provided a historic perspective. He spoke about the forward direction of the City with it moving toward a more urban realm and away from buildings pushed to the rear of the shopping centers with a focus on automobiles. He explained that the City had adopted the Transit Oriented Corridor (TOC) and new land development regulations that limited the amount of investment that a non-conforming use or building could make to its existing structure.

He spoke about a situation that had previously occurred with the Wendy's restaurant on Atlantic Boulevard and State Road 7. He said years ago an individual purchased the property and when the owner came to the City, he wanted to make a significant investment that included expanding the footprint of the building, changing some of the walls, and enhancing the drive aisles to make it function more efficiently. He said that because it had been built under the 'suburban' code, in order to make the type of changes they wanted, they would have had to tear the whole building down, rebuild it as two stories and bring the entire building up to the corner. He said they got half way. The owner spent over \$4 million dollars and made it one of the nicest Wendy's in northwest Broward County. Even though the owner wanted to do a bigger project, he said the Code forced him to stay within the existing envelope of his building. He said that if there had been a provision that allowed him to invest in the property and have a deviation from the Code, he may not have had to fit within the envelope.

Mr. Ziskal said the intent was not to put companies out of business, but the vision was not to have State Road 7 be all small used car lots. During the development in the 1970's and 1980's, he said there were a lot of gasoline stations, used car lots, and auto repair shops. As the City grew to 57,000 people, the City wanted its own identity and it wanted to eliminate some of the auto uses and make Atlantic Boulevard and State Road 7 more viable.

Mr. Ziskal said the way the Codes had been written for auto uses essentially forced the auto dealerships to do the same thing that Wendy did. He said they were stuck in the building and the envelope they were in and they were limited to the amount of investment they could make on their property to 25 percent of the value of their property. He said by allowing new Auto Sales Agencies as *permitted uses* through this new ordinance, it allowed them to invest in their properties and to expand their buildings. He referenced the example of JM Lexus. He said the City knew where it wanted to go but the Code sometimes prevented the big businesses from investing. He said the proposed change to the Code would allow the big, new car dealerships to stay in the City and it would encourage and allow them to invest in their properties. He said bringing a dealership with the rights to sell merchandise of a major auto name would be an economic benefit to the City.

Mr. Caggiano thanked Mr. Ziskal for his explanation. He asked about the limitation of a Vehicle Sales Agency not being permitted within 100 feet of residential as shown on page 7 item(u). Mr. Pinney said that same restriction was in the current code under Automobile Sales Agency.

Mr. Hylander asked what the potential downside would be of approving the change. Mr. Ziskal said that hypothetically the Code changes could allow a multitude of new car dealerships to come into Margate, but as soon as the City saw two or three of them coming in, the Code would be changed to prevent proliferation. He said that would be the worst case scenario. The ultimate negative would be that the City got so much investment in new auto dealerships that Atlantic Boulevard or State Road 7 changed to become an auto mall and the City did not get the restaurant or shops that it desired. He said it was unlikely that many dealerships could accumulate enough land to equal three acres and turn them into big new car dealerships. He said there were some viable sites that were currently over three acres that might work and some of them were not on Atlantic Boulevard or State Road 7.

Mr. Hylander asked about the property under development on Banks Road. Mr. Pinney responded that it would be a new car auto prep site; there would not be able sales. Mr. Hylander asked if the change in the Code would no longer make it a Special Exception and allow it to be used for a dealership. Mr. Pinney responded that the site was approved under Automobile Storage as an industrial use, and was not near TOC-C or TOC-G districts.

ROLL CALL: Mrs. DeCristofaro, Yes; Mr. Hylander, Yes; Mrs. Yardley, Absent; Mr. Caggiano, Yes; Mr. Angier, Yes. The motion passed with a 4-0 vote.

2) **GENERAL DISCUSSION**

Ben Ziskal provided the Board with a brief update on items that had previously come before them.

-Rezoning of properties for Fellowship Living. One of the outstanding items was the receipt of a letter from one of the property owners. He advised that the letter had been received and the rezoning was proceeding to the City Commission.

-An ordinance to place a six-month moratorium on massage parlors would be going before the City Commission on October 5, 2016. If passed, the Staff would have six months to find a way to regulate those types of businesses. He said the Board could expect to see an ordinance that either limited the districts they could be in, placed a distance separation between such establishments, made them an accessory to a beauty school or similar, or placed size requirements on them.

Mr. Ziskal introduced Timothy Finn, as the new Senior Planner in Economic Development.

Mr. Caggiano commented that the six-month moratorium that had been placed on charter schools was getting close to the end of the six-month period. He asked if there were any changes in the rules or standards. Mr. Ziskal responded that nothing substantial had been done to affect the City's operations. He said a State law had been passed that changed the way charter school operators must provide data to the sponsoring agency and there was a number of different financial documents that must be presented in order to obtain a charter. He said one of the City's concerns was that there was limited oversight by either the school districts or the State Department of Education. Now the providers were required to show their experience working with other charter schools including how many they had owned and operated, and it also required that they show financials through the construction process. He said the City was aware that the time limit was coming up soon.

Mrs. DeCristofaro asked about the status of the Parks and Recreation grants. Mr. Ziskal said he had not heard the final determination on them but he would look into it.

There being no further business, the meeting was adjourned at 7:53 p.m.

Respectfully submitted,

Prepared by Rita Rodi

Todd E. Angier, Chair