



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

Tuesday, January 3, 2017

7:00 PM

City of Margate
Municipal Building

City Commission

Mayor Tommy Ruzzano

Vice Mayor Arlene R. Schwartz

Anthony N. Caggiano

Lesla Peerman

Joanne Simone

City Manager

Douglas E. Smith

City Attorney

Douglas R. Gonzales

City Clerk

Joseph J. Kavanagh

PRESENT:

Todd E. Angier, Chair

Teresa DeCristofaro, Vice Chair

Phil Hylander

ALSO PRESENT:

Benjamin J. Ziskal, AICP, CECD, Director of Economic Development

Timothy Finn, Senior Planner

Andrew Pinney, Associate Planner

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, January 3, 2017. The Pledge of Allegiance was recited, followed by a roll call of the Board members.

1) **NEW BUSINESS**

1A) **PZ-01-17 CONSIDERATION OF AN ORDINANCE AMENDING SECTION 3.22 OF THE CODE OF ORDINANCES ALCOHOLIC BEVERAGES (VII)**

Timothy Finn, in conjunction with a PowerPoint presentation, explained that the ordinance was initiated by the Economic Development Department and it proposed revisions to Appendix A Zoning as follows:

- a) Deletion of alcoholic beverage districts and bank allocations;
- b) Amended distance restrictions for 1APS (beer package sales only) and 2APS (beer and wine package sales only);
- c) Amended the hours of sale of alcoholic beverages at establishment with either a 1 APS, 2APS, or 3APS classification within the City to 7:00AM to 12:00 midnight Sunday through Saturday;
- d) Addition of the definition of a minor

Economic Development Department

5790 Margate Boulevard, Margate, FL 33063 • Phone: (954) 935-5330 • Fax: (954) 935-5304

www.margatefl.com • edevdirector@margatefl.com

Mr. Finn provided some background information. He explained that the City was divided into five alcoholic beverage districts (A-E) which he pointed out on an alcohol beverage district map. He said the allocation of the various categories of alcoholic beverage licenses had been done in accordance with a schedule that showed the category of alcoholic beverage licenses allocated per district, noting that no approval would be granted that would allow licenses in excess of the number allocated per category or district. He gave an example of how a restaurant located across the street from another restaurant, but in a different district, could be denied an alcoholic beverage license if its district had reached full capacity of its alcoholic allocation. He pointed out how the deletion of the current alcoholic districts and the number of allocations would eliminate burdens on establishments that served alcohol, particularly consumption on premises.

Mr. Finn explained that Staff had received significant feedback over the past several years recommending the extension of hours of a business to 7:00 a.m. to 12:00 midnight on Sundays to sell alcoholic beverage for those holding the following license classifications: 1APS (beer packages sales only); 2APS (beer and wine package sales only); or 3APS (beer, wine and liquor package sales only). He pointed out that the inability for businesses to sell alcoholic beverages before noon on Sunday had resulted in their customers patronizing other establishments in neighboring cities to purchase their alcohol. Passage of the ordinance would keep that revenue in the City of Margate and bring the City into conformance with neighboring communities he said.

In addition, Mr. Finn advised that currently businesses with a 1APS, 2APS, or 3APS liquor license could not be located within 1,500 feet of each other. He said Staff recommended the restriction be lifted for businesses with either a 1APS or 2APS liquor license only. He said Staff had also added a definition of a minor and clarification of an adult under the Definitions section of the ordinance.

Mr. Finn provided the following analysis:

- 1) The proposed amendment was legally required to amend text language in the Code of Ordinances pertaining to alcoholic beverages.
- 2) The proposed amendment was consistent with the goals and objectives of the Comprehensive Plan.
- 3) The proposed amendment was consistent with the authority and purpose of the Code of Ordinances.
- 4) The proposed amendment furthered the orderly development of the City.
- 5) The proposed amendment improved the administration or execution of the development process in that it provided staff with clear and legally enforceable guidelines for reviewing and implementing alcohol ordinances.

Mr. Finn said Staff recommended that the Planning and Zoning Board approve the proposed ordinance.

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

MOTION: TO APPROVE

Mrs. DeCristofaro asked for a frame of reference for 1,500 feet. Mr. Ziskal responded that it was just over one-quarter of a mile. Mrs. DeCristofaro said she noticed a lot of items that restricted alcoholic beverages had been crossed out in the ordinance. She expressed a concern about the use of alcohol in the City's parks, for example, during baseball games. She asked if that would still be allowed. Mr. Ziskal said there was a separate section of the City Code that applied to the Parks and Recreation facilities and alcohol was a restriction. He said that section of the Code would not change with the proposed ordinance.

Mr. Angier asked how much revenue was being lost under the current hours for alcohol sales on Sunday. Mr. Finn said he did not have hard numbers, however, he said the department had received many complaints in the past few years about Walgreens or Winn-Dixie not being able to sell beer or wine on Sunday, particularly when there was a football game. He said our residents were forced to go to Coral Springs or Coconut Creek to purchase their alcohol. Mr. Ziskal said this item had come to Staff and the City Commission on two different occasions. He said a few years ago, residents complained about having to go to another city to purchase alcohol on Sunday mornings when making their plans for the day. He said a workshop was held and the City Commission decided to not change the hours of operation. In recent years, he said the retailers have been calling. Mr. Ziskal said he contacted the corporate beer buyer for Publix in preparation for this meeting. He said the representative was not able to quantify the exact dollar amount but he indicated that the Margate stores were underperforming compared to other stores. He said the representative told him that Sunday mornings were the busiest times for grocery shopping and they have seen the hours of alcohol sales as a deterrent for people grocery shopping in Margate on Sunday mornings. Mr. Ziskal said Staff's recommendation was that the City wanted to keep every dollar in Margate as opposed to having it go another city. Changing the ordinance would put Margate on a level playing field with adjacent cities and stop putting Margate retailers at a disadvantage he said.

ROLL CALL: Mrs. DeCristofaro, Yes; Mr. Hylander, Yes; Mrs. Yardley, Absent; Mr. Angier, Yes. The motion passed with a 3-0 vote.

- 1B) **PZ-02-17** CONSIDERATION OF AN **ORDINANCE** AMENDING APPENDIX A ZONING, AMENDING ARTICLE III GENERAL PROVISIONS; SECTION 3.23.3; AMENDING ARTICLE V ZONING DISTRICTS; SECTION 5.1, AMENDING ARTICLE XII COMMUNITY FACILITY CF-2 DISTRICT PROVIDING FOR NEW CONSERVATION (CON) DISTRICT; AMENDING ARTICLE XIII PROVIDING FOR NEW UTILITIES (U-1) DISTRICT; AMENDING ARTICLE XXVIII OPEN SPACE S-2 DISTRICT, SECTIONS 28.2 AND 28.3

Timothy Finn, in conjunction with a PowerPoint presentation, explained that the proposed text amendment was an Economic Development department initiated ordinance which included the following revisions:

- a) Deleted of Community Facility (CF-2) District within Article XII and the addition of a new Conservation (CON) District to Article XII.
- b) Added a new Utilities (U-1) District within Article XIII
- c) Amended Article XXVIII Open Space (S-2) District
- d) Updated Section 3.23.3 Wireless Communications Facilities to be consistent with new zoning district additions

- e) Updated Section 5.1 Classes and Symbols; being consistent with the new zoning districts additions and adds existing zoning districts PRC, PUD, RVRP, and M-1A.

Mr. Finn provided some background on the ordinance project. He explained that the Margate Zoning Map was controlled and based on the Future Land Use Map (FLUM) within the Comprehensive Plan. He said it was important to note that the land use regulations for the City of Margate, i.e., the Margate Code of Ordinances, were officially adopted six years before the Margate Master Plan, i.e., the Comprehensive Plan. As a result, he said there were inconsistencies between the two official documents. He explained that, throughout Margate history, rezonings had been approved on parcels across the City without the benefit of updating either the FLUM map and/or the Code of Ordinances and this had exacerbated inconsistencies between the two documents. Mr. Finn advised that Staff had currently identified 55 discrepancies between the Margate FLUM and Margate Zoning Map.

In response to the inconsistencies that existed, he explained that the Economic Development Department initiated a project to clear up the discrepancies through text amendments and rezonings to the Zoning Code, zoning map, and the FLUM. He noted that the FLUM amendments would need further time and analysis to obtain the necessary approvals from Broward County, the Florida Department of Economic Opportunity, and other state and regional agencies. He said the time frame for the cleanup project would be between six to twelve months. At the completion of the project, the Margate Code of Ordinances, the Margate FLUM, and the Margate Zoning Map would be compliant and compatible with one another.

Mr. Finn noted that the text amendment presented that night would be the first step in the rezoning project. He proceeded to show a series of 13 slides which he explained were examples of properties that Staff recommended for rezoning to new prospective zoning districts. He emphasized that the examples he would be showing were just examples and the actual items would come before the Board later in the year.

In Example 1, Mr. Finn showed a photo of a conservation area in Merrick Preserve and a picture of the FLUM map, noting that the only uses allowed were storm water retention areas and natural preserves. He showed the zoning map for the same parcel and noted that it was zoned B-2, Community Business district, for which some of the allowed uses included a bank, bar, church, grocery store, nightclub, pharmacy, restaurant, etc. He pointed out that the uses were not consistent with the FLUM zone which was the controlling use. He said it would be Staff's recommendation to rezone the parcel to Conservation (CON) District and he identified some of the various uses that would be allowed which included: passive outdoor recreational uses such as wildlife sanctuaries; nature centers and trails; structures used for flood control, drainage and water storage; and other uses that did not impair the natural environment and were not in conflict with applicable water management and wildlife protection policies of local, state, and federal agencies; and waterways.

In Example 2, Mr. Finn showed a photo of a FPL substation viewed from Firefighter's Park that was located next to a FPL easement. He said Staff would recommend having this parcel rezoned to the new Utilities (U-1) District. He said the FLUM had it zoned as Utilities and he specified the uses that were allowed. He advised that the Zoning map showed it zoned as Multiple Dwelling District (R-3) which was not compliant or compatible with the FLUM. He noted that the R-3 zoning allowed uses included single and multiple family dwelling, churches, playgrounds,

etc. He said it would be Staff's recommendation to rezone the parcel to the new Utilities (U-1) District and he specified the various uses and special exceptions that would be allowed.

In Example 3, Mr. Finn showed a photo of the FPL easement viewed from Firefighter's Park. He explained that in the controlling FLUM zone designation, the parcel was zoned as Open Space and the only allowable uses were open water areas, maintained open land areas, and parking lots that served an abutting primary use. Conversely, the Zoning map showed the parcel zoned as Multiple Family Dwelling District (R-3A) which included allowable uses for single and multiple family dwellings, churches, playgrounds, etc., that were not compatible with the FLUM and needed to be corrected. He said Staff's recommendation was to rezone the parcel to Open Space S-2 district which would allow such uses as a boat ramp, bridle, foot or bicycle path, picnic areas, open water areas, etc.

The next three slides that Mr. Finn showed focused on sections of the Code that would correlate with the new proposed zoning districts and provide for general housekeeping and clarity. Specifically, he explained the changes in the hierarchy order of zoning districts for the following Sections of the Code:

- Section 3.23.3 Wireless Communications Facilities, *Tower siting in certain zoning districts*
- Section 3.23.3(c) Wireless Communications Facilities, *Freestanding towers-conditional*
- Section 5.1 (Zoning Districts), *Classes and symbols*

Mr. Finn provided the following Staff analysis:

- 1) The proposed amendment was legally required to amend text language in the Code of Ordinances as it pertained to the addition of new zoning districts and the amendment of other sections of the Code that correlated to those new zoning districts.
- 2) The proposed amendment was consistent with the goals and objectives of the Comprehensive Plan.
- 3) The proposed amendment was consistent with the authority and purpose of the Code of Ordinances.
- 4) The proposed amendment furthered the orderly development of the City.
- 5) The proposed amendment improved the administration or execution of the development process in that it provided staff with a FLUM, Code of Ordinances, and Zoning Map that would be compliant and compatible with one another.

Mr. Finn said Staff recommended that the Planning and Zoning Board approve the proposed ordinance amending the aforementioned sections of the Code of Ordinances pertaining to the new zoning districts. He reiterated that this would be the first step in the overall rezoning project.

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

MOTION: TO APPROVE

Mr. Hylander asked who owned the parcels in question. Mr. Finn said the parcels noted were given as examples for the purpose of understanding the general direction and intent of the project. He said did not have the information at hand but that he recalled that they were all privately owned. Mr. Hylander asked how the proposed changes might affect the use, utility or

value of the properties. Mr. Finn responded that there would be no effect on what existed at the present. He said Staff was correcting inconsistencies.

Mr. Angier clarified that nothing was being rezoned at that time; rather, new zoning districts were being established for future rezoning. Mr. Finn agreed and advised that it was to help the Board understand and prepare them for what they would be seeing moving forward. He said they would see more details and analysis on each parcel when they came back before them.

Mrs. DeCristofaro referenced the Merrick Preserve discussion and asked which parcel was specifically being presented.

Mr. Ziskal provided a further explanation of the reason for the project. He explained that each parcel had two designations on it. The Future Land Use Map (FLUM) designation was part of the Comprehensive Plan approved by Tallahassee and was the legally binding map. He said the City created a Zoning Code and zoning map from the FLUM and by law the two were supposed to be compatible with one another. If conflicts existed between them, he said the FLUM was the legally binding map. Using the example of Merrick Preserve, he explained that it had a legally binding zoning designation of Conservation and it could not be built upon, even though it had a zoning designation of B-2 [Community Business District]. He said if someone were to come to the City and ask to build on that parcel, Staff would acknowledge that it was zoned B-2, however, they would advise that it had a Land Use Map designation of Conservation and advise that they could not build on it. He said in each of the examples given, Staff was amending the zoning designation to match the legally binding Land Use Map. He referenced the third example Mr. Finn gave regarding the FPL easement and advised that it had a Land Use Map designation of Utility but was zoned for residential. If someone wanted to building residential, he said they would be told that they could not do so. He explained that the intent was to create zoning code districts within the Code to which the parcels could be rezoned because the correct zoning designations did not exist and there were zoning incompatibilities across the City.

Mr. Ziskal explained how analyses that were done using the current data were misleading depending on what was being requested. He reiterated that the purpose of the ordinance was to create the districts first and then rezone the properties in the future.

Mr. Hylander asked about comments from the Development Review Committee (DRC) meeting minutes that related to potential conflicts. Mr. Ziskal explained that the comments were from the Engineering Department and that they were confused about the intent of the ordinance. He said Economic Development department staff met with Engineering staff subsequent to the DRC meeting and all of their comments or concerns were addressed or incorporated into the version of the ordinance presented that night. He said he believed they thought that new zoning designations were being created for other properties to allow for new utility projects as opposed to for the purpose of rezoning.

ROLL CALL: Mrs. DeCristofaro, Yes; Mr. Hylander, Yes; Mrs. Yardley, Absent; Mr. Angier, Yes. The motion passed with a 3-0 vote.

2) **GENERAL DISCUSSION**

Mrs. DeCristofaro wished everyone a happy new year. She said she thought the rezoning project was a good one and she looked forward to getting a lot of work done in the upcoming year.

Ben Ziskal advised that there would be meeting in February as there were several ordinances that were being heard at the Development Review Committee meeting the following week.

There being no further business, the meeting was adjourned at 7:48 p.m.

Respectfully submitted,

Prepared by Rita Rodi

Todd E, Angier, Chair