



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

Tuesday, December 6, 2016

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
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, December 6, 2016. The Pledge of Allegiance was recited, followed by a roll call of the Board members.

- 1) APPROVAL OF THE MINUTES FROM THE NOVEMBER 1, 2016 PLANNING AND ZONING BOARD MEETING.

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

MOTION: SO MOVE TO APPROVE THE MINUTES AS WRITTEN

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

- 2) NEW BUSINESS

- 2A) **PZ-10-2016** CONSIDERATION OF AN **ORDINANCE** TO AMEND THE MARGATE ZONING CODE, ARTICLE XI COMMUNITY FACILITY CF-1 DISTRICT, SECTIONS 11.4 HEIGHT AND 11.5 LOT COVERAGE

Economic Development Department

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www.margatefl.com • edevdirector@margatefl.com

LOCATION: 2801 NORTH STATE ROAD 7

ZONING: COMMUNITY FACILITY (CF-1)-corrected zoning

LEGAL DESCRIPTION: COLONIAL PARK, PARCEL "A", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 115, PAGE 14, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

PETITIONER: CHRIS AKERS, LITTLEJOHN, AN S&ME COMPANY

Andrew Pinney, as a Point of Information, noted that the Zoning shown for the subject property was incorrect on the meeting agenda and that it should be Community Facility (CF-1) instead of Transit Oriented Corridor (TOC).

Mr. Pinney explained that the ordinance was specific to the CF-1 Community Facility zoning district and for current and future improvements being made to the Northwest Medical Center. He said the changes being made applied to the limited height and lot coverage that could be built in a CF-1 property. He said the ordinance provided for an exception for large regional style hospitals such as Northwest Medical Center. He said the exception applied to hospitals with more than 200 beds for overnight patient treatment located on a campus of at least 20 acres. The ordinance would exempt the hospital from any height and lot coverage limitations he said.

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

MOTION: TO DISCUSS

Mrs. DeCristofaro asked if there would be a height limit to which they could build. Mr. Pinney responded that the ordinance would provide a general exemption; it did not provide a ceiling but if the Board wanted one, they could direct Staff to include a ceiling height. Mrs. DeCristofaro said she understood that they could only go up because of the limited size of the property but she did not want it go to eight or ten stories. She expressed a concern about the parking situation.

Mr. Angier stated that it was his understanding that they would need to increase their parking if they expanded. Mr. Pinney said he was correct. He said it was an expansion project and they were proposing a tower addition to the main building and the construction of a second parking garage on the campus.

Mr. Hylander asked about the proposed tower. Mr. Pinney explained that the tower addition would not go any higher than the existing building which was six stories; it would fill in the existing building by getting wider.

Mr. Hylander asked if the Fire Department had the capability to handle the six stories. Mr. Pinney said the building had been six stories for years. Mr. Angier commented that the minutes from the Development Review Committee did not indicate any negative comments from the Fire Department.

Mr. Angier asked why there would be restrictions on other facilities if none was going to be placed on the hospital. He said it seemed like we were playing favorites. Mr. Pinney responded that the Zoning Code and Comprehensive Plan were written to provide for the health, safety and welfare of the community and this provider was doing that. He said we [City] did not want

to stifle a regional health provider. Mr. Angier agreed and said that he would not want to stifle the growth of any other business either. He explained that the City of Margate was mostly built out. He noted that there were only a few parcels of property 20 acres or larger that could be developed and that most of the CF-1 properties were in neighborhoods where it would not be appropriate to develop a building of eight or ten stories. However, he explained that the subject property was on State Road 7 and was surrounded by the TOC zoning which allowed for urban in-fill development and was a much more appropriate location.

Mr. Angier asked why all facilities could not have the same amount of lot coverage instead of allowing the hospital a greater amount than other facilities. Mr. Pinney explained that this particular facility was reaching its development maturity and it had the only structured parking in the City and they were going to build a second parking garage. He pointed out that the parking garages consumed part of their lot coverage. He said their size and need for structured parking made them different from a private school that would never provide structured parking. Though both were Community Facilities, he said a hospital was a different animal that should be treated a little differently. Mr. Angier, using the example of the church on N.W. 66th Avenue, asked whether they would be treated the same if they grew and wanted to expand. Mr. Pinney explained that the church was a different operation. He noted that it was not on a 20-acre campus and it was located in a single family district. He said it would be more appropriate to limit the height and buildable density.

Mrs. DeCristofaro asked whether MD Now would be allowed to increase their height. Mr. Pinney said they were in a different zoning district but they would be allowed to build up to six stories.

Mr. Hylander asked if the subject ordinance would apply to any other parcel in the City. Mr. Pinney said there was no other existing property because it would have to have CF-1 zoning, be at least 20 acres, and have a hospital with at least 200 beds.

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

MOTION: TO APPROVE

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

2B) **PZ-11-2016** CONSIDERATION OF AN **ORDINANCE** TO PROVIDE REGULATIONS FOR NEW PUBLIC OR PRIVATE ELEMENTARY, MIDDLE, AND HIGH SCHOOLS.

Andrew Pinney explained that the moratorium for new charter schools that the City had put in place six months ago had ended. During the past six months, he said City staff researched other cities regulations and evaluated the operational characteristics of new schools to put together the subject ordinance. He said the ordinance combined and treated public and private schools the same and it applied to elementary, middle, and high schools. He said the ordinance would make charter schools a Special Exception use in those districts where it was permitted and the City Commission would have to approve any new charter schools. He said that previously it was a Permitted Use that did not have to go before the City Commission. He said there were also some new restrictions put in place prior to opening a new charter school among which was that the property could not be located on an arterial roadway. He referenced a map

in the meeting back-up explained the role of the Broward County Metropolitan Planning Organization, a regional organization that directed federal funding into transportation improvements, which included providing roadway plans, road widths, and anticipated traffic. He explained that arterial roads were broad roads with high traffic counts and local roads were narrower with lower traffic counts. By not allowing new charter schools (elementary, middle or high school) on arterial roadways would help maintain a level of service for transportation as required by the Comprehensive Plan he said.

Mr. Hylander questioned whether schools could ever be on State Road 7, Atlantic Boulevard, or Royal Palm Boulevard. Mr. Pinney responded that new elementary, middle, and high schools would not be permitted along those roads under the new ordinance. He commented that schools zones slowed traffic to 15 miles per hour and there were large numbers of parent drop-off and pick-up that created additional congestion on the main arterial roads. Their location would be better suited in a neighborhood where the level of service on the roads we maintained would not be affected he said.

Mr. Pinney said another criterion was that the school would need to be located in a free-standing single use structure on a property that was at least three acres. The rationale was to avoid having schools open up in the middle of a commercial district or next to a bar or other business use that was not in the best interest of the children.

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

MOTION: TO APPROVE

Mr. Hylander asked if the ordinance would apply to daycare facilities like Fantasy Station or La Petite Academy that offered VPK and daycare as well as after school care. He said it would not apply to daycare facilities because they were was a separate use in the zoning code and treated differently in the building code as well. Mr. Pinney responded that it did not apply to colleges or trade schools. He said Fantasy Station recently opened a private school but it would not be affected as it was approved prior to the ordinance. Mr. Hylander asked if Fantasy Station could close and open anew if they sold their business. Mr. Pinney said they could do so under Article 31 which allowed for a change of ownership, tenancy, management, etc., provided there was not more than a six month lapse. He said if it was vacant beyond six months, they would not be able to reopen a school on that site. Mr. Hylander commented that there were quite a few private schools like Fantasy Station that were on arterial roads and not on three acre parcels. Mr. Hylander said it seemed that the ordinance was squeezing out a lot of potential properties or uses with the single use structure that had been allowed in the past. Mr. Pinney said some of those uses had affected the transportation level of services and the commercial corridors; it was what motivated the City to put new regulations in place to ensure that schools were located in appropriate places in the City.

Mr. Angier commented that the additional restrictions were to ensure that opening a new school would be taken very seriously. Mr. Pinney concurred and noted that the fourth restriction underscored that point. He said the City had received a handful of last minute charter school applications where they had not left adequate time to get approvals, do the build-out, and open prior to the first day of school. He said the fourth restriction required that the applicant submit an application nine months prior to the start of the school year.

Mr. Angier asked for clarification on item two which stated that charter schools could be an accessory use if located within certain existing facilities as identified in the ordinance. He asked the reason that it was included in the ordinance. Mr. Pinney responded that such language was often included in the Code to assist staff in the application review process. He said the list of uses was copied from Florida State Statute 1002.33 (18)(c). He said the State required that we approve the charter schools with no zoning issues if they co-located in those facilities. Mr. Angier asked if the City saw those exceptions as a conflict to what the City was trying to accomplish. Mr. Pinney responded that there was a bit of a conflict but it was put in place by the State Legislature.

Mr. Hylander asked for the reasoning behind the requirement for a free-standing building and he questioned why a school could not be part of a shopping center. Mr. Pinney explained the regulation was borrowed from another city and Margate found it also applied to its properties. He said allowing schools in shopping centers had an impact on the commercial corridors. He noted that the opening of the two charter schools on Coconut Creek Parkway caused the loss of a few tenants within the shopping center, notably a restaurant that had to relinquish its liquor license in order to permit Sun Ed in the building. He said the restaurant closed shortly thereafter. He cited another example of a gun shop across the street that was required to close in order for the charter schools to move in. Both were retail commercial uses that belonged on the City's commercial corridors he noted.

Mr. Hylander commented that those were matters between the landlord and the tenants which should not involve the City. Mr. Angier said the intent of the additional restrictions was to ensure that someone would be very serious about opening a new school. He said it was a good approach because too many charter schools had opened up without being prepared. Mr. Hylander said he did not disagree; he said he didn't think zoning was the way to go about it. He said there should be stronger regulations whereby the charter school should be required to have a certain amount of money behind them to get them through the school year. Mr. Pinney said Mr. Hylander made a good point. He said the State created the framework for the regulations but it was up to the cities to fill in the gaps and provide additional regulation to further strengthen the framework to filter out the serious from the non-serious school operators.

Mr. Hylander said he was not sold on it. He asked how many current charter schools in the City would pass muster. Mr. Pinney said there were a few; specifically, one at 6101 N.W. 31st Street, Rise Academy, and Broward Math and Science. Mr. Hylander asked if there were any other places a school could possibly open in the City. Mr. Pinney referenced the map and said it showed there were possible sites to open a school. He said if there was already a school at one of the possible sites, the City would have done its job by allowing the use into the City.

Mr. Pinney spoke about the third regulation which was that a traffic study must be provided by a licensed engineer for the school's drop-off and pick-up areas. He noted that many of the older schools were built without adequate stacking and capacity for today's needs.

In addition to adding the use as a Special Exception, Mr. Pinney said there was also some housekeeping done to the alcohol section which provides minimum separation between uses.

ROLL CALL: Mrs. DeCristofaro, Yes; Mr. Hylander, No; Mrs. Yardley, Absent; Mr. Angier, Yes. The motion passed with a 2-1 vote.

3) **GENERAL DISCUSSION**

Ben Ziskal provided updates on old business. In addition to the moratorium the Board previously passed for the charter schools, he said the two other moratoriums they also reviewed, i.e., massage establishment uses and medical marijuana, were both passed by the City Commission and were in effect. Like the charter school moratorium, he said staff had six months to bring the Board back permanent changes to the Code for massage use.

He said a moratorium was passed for the medical marijuana pending what was going to happen in the November election. Since medical marijuana passed, he said the State Legislature was now charged with setting the parameters of what a municipality could and could not regulate for the medical marijuana uses. He said the City expected to receive guidance from the State in about eight to nine months from when the moratorium was passed. He said he anticipated that an extension would be requested once it got closer to the six month time period. He said while the standard time frame on a moratorium was six months, if there was a reason to extend it as in this case, then there would not be any legal repercussions.

As a follow-up to an item Mr. Hylander brought up a previous meeting regarding the City's dumpster enclosure regulation, he said he spoke with Mr. Hylander about it but wanted to explain it for the other Board members. He passed out a copy of the existing Code provision. He referenced the second paragraph in Section 23.9, read it aloud, and said it was the section to which Mr. Hylander had referred. He explained that the Code was changed on an ongoing basis and often times the rules that applied when a property was first developed could substantially change over time. He said many times a property might be found to not meet the current Code but it was deemed legal until such time as they made substantial changes which would then require that the property be brought up to comply with the current Code. He said the three substantial changes to a use or development of a property that would require a property be brought up to Code were: a site plan approval or amendment; a change of occupancy group; or a special exception.

He said Mr. Hylander was correct and that the Code used to read differently. During the recession, he said the City Commission passed some ordinances to grant relief, and this was one of the sections that had changed. He explained that lighting standards, landscaping standards, parking lot design standards were the type of improvements that required substantial investment by a developer, and met the threshold whereby the City would determine that both the inside and the outdoor of a property would need to comply with the Code.

Mr. Ziskal commented that Board had recently heard a petition for an update to the Transit Oriented Corridor (TOC) which was for adjustment to some of the square footage allowed in different types of uses, as well as the number of residential units allowed in the TOC district. He reported that the State had given preliminary approval and the Broward County Planning Council gave its final recommendation of approval on December 1, 2016. He said he expected

that that item would come before the City Commission on January 18, 2017, and, if passed, it could be scheduled for the County Commission in February.

He referenced a handout of the 2017 meeting schedule. He asked them to be aware of schedule conflicts in July and August. He said once we got closer, we could determine which day or dates would work best. Mr. Hylander asked about the possibility of holding the meetings at 6:00 p.m. for those dates. Mr. Ziskal said we could look at that too as we got closer in.

Mr. Ziskal spoke about the vacancy on the Board that existed because Anthony Caggiano had been elected to the City Commission and was required to resign from the Planning and Zoning Board. He explained that the Board members were appointed to one year terms that ran from April through March. He said through his conversations with the City Attorney, they realized it was in the best interest to leave it vacant for the next three months since the process would realistically take two to three months to have a new Board member appointed. He said they conferred with Commissioner Schwartz who would appoint that vacant seat and she agreed to wait until March. Mr. Ziskal pointed out that Mr. Caggiano was the Vice Chair and a new Vice Chair would be needed in the event the Chair was not available for a meeting. He asked the Board to nominate a Vice Chair. Mr. Hylander made the following motion, seconded by Mr. Angier:

MOTION: TO NOMINATE TERESA DECRISTOFARO AS VICE CHAIR

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

Mr. Ziskal explained that Mr. Caggiano was also the appointee for the Planning and Zoning Board's Affordable Housing Advisory Committee. He said the State Statute required that the Affordable Housing Advisory Committee have a member of the Planning and Zoning Board as one of its representatives. He said the Affordable Housing Advisory Committee was the only board in the City that specified who must fill the roll. That appointment he said was the only appointment that was exempt to the rule that a member could only serve on one board. The Planning and Zoning Board needed to appoint another Board member to fulfill the statutory obligation. He said the Affordable Housing Advisory Committee met once every three years to review affordable housing policies, grant administration, and the housing element of the City's Comprehensive Plan.

Mr. Angier asked the date of the next meeting. Mr. Ziskal said the date had not been set but it typically met in the summer, at an evening meeting; he would need check whether it would be in 2017 or 2018.

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

MOTION: TO NOMINATE TODD ANGIER TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE

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

Mr. Ziskal advised that there would be meetings in January and February.

Mrs. DeCristofaro asked if there had been any movement on the downtown area. Mr. Angier commented that Mr. Ziskal's update [Transit Oriented Corridor] would directly impact the downtown as it related to the number of available residential units. Mr. Ziskal said the answer had two parts. He explained that the long range vision was to have enough residential units in a pool of available units in order to build the downtown and to have additional units for the rest of the Corridor; the City did not have enough units in which to do that. He said there were available units that the City had that could be used to build throughout different areas of the City. He explained that the City had two flex and reserve zones that divided the City north to south and each area had an available pool of units that could be built. In addition, the City also had an available pool of residential units in the 1,200 acres of the Transit Oriented Corridor (TOC). He explained that there was a miscalculation in the number of residential units that existed when the TOC was adopted, and there was also a situation with overcrowding at the Atlantic West elementary school. At the time, he said the number was reduced to meet the education capacity. The amendment was to add in the number of residential units the City envisioned it would need to facilitate both the City Center and additional residential units throughout the Corridor.

Mrs. DeCristofaro asked what effect Toscana and Celebration Pointe had on the number of available residential units. Mr. Ziskal said they had already been factored in and accounted for. She asked if the TOC still had the same number of roughly 900 units available. Mr. Ziskal explained that the number of TOC units was less than that but the City had reserve units and flex units that could be substituted. He explained that what was done through the amendment helped the City cut through the red tape so that there would not be the lengthy process in the future should the City have viable development.

In regards to the CRA-owned property, Mr. Ziskal said there was a contract in effect with a developer and there were negotiations underway between the CRA and the developer. He said a new developer would not be solicited because we [City/CRA] were under contract with another developer.

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

Respectfully submitted,

Prepared by Rita Rodi

Todd E. Angier, Chair