



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

Tuesday, June 6, 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

Interim City Manager

Samuel A. May

City Attorney

Douglas R. Gonzales

City Clerk

Joseph J. Kavanagh

PRESENT:

Todd E. Angier, Chair
Phil Hylander, Vice Chair
Antonio Arserio
August Mangeney
Richard Zucchini

ALSO PRESENT:

Douglas Gonzalez, City Attorney
Benjamin J. Ziskal, AICP, CECD, Director of Economic Development
Timothy Finn, Senior Planner
Andrew Pinney, Associate Planner
Cotter Christian, Margate Community Redevelopment Agency
Steven Wherry, Greenspoon Marder Law
Dennis Mele, Greenspoon Marder Law
Jay Huebner, HSQ Group, Inc.

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, June 6, 2017. The Pledge of Allegiance was recited, followed by a roll call of the Board members.

- 1A) APPROVAL OF THE MINUTES FROM THE PLANNING AND ZONING BOARD MEETING ON MAY 2, 2017

Mr. Arserio made the following motion, seconded by Mr. Hylander:

MOTION: TO APPROVE THE MEETING MINUTES FOR BOTH MAY 2, 2017 AND APRIL 4, 2017

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes; Mr. Hylander, Yes; Mr. Angier, Yes. The motion passed with a 5-0 vote.

Economic Development Department

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- 1B) APPROVAL OF THE MINUTES FROM THE PLANNING AND ZONING BOARD MEETING ON APRIL 4, 2017.

(The minutes were approved under item 1A above)

2) **NEW BUSINESS**

- 2A) **PZ-10-17** CONSIDERATION OF AN ORDINANCE TO PROVIDE UPDATED SPECIAL EXCEPTION CRITERIA AND PUBLIC NOTICE REQUIREMENTS
PETITIONER: CITY OF MARGATE, ECONOMIC DEVELOPMENT DEPARTMENT

Timothy Finn led with a PowerPoint presentation. He explained that the item was a text amendment to the Code of Ordinances to update the Special Exception criteria and Public Notice requirements. He said staff recommended the Board approve the proposed revisions which included:

- Creation of Article 6-Quasi-Judicial Proceedings in Chapter 31 Code of the City of Margate, specifically Section 31-54 Special Exceptions and Section 31-55 Public Notice;
- Revision of code references throughout the Code being consistent with the new code sections 31-54 and 31-55 in Chapter 31
- Deletion of Sections 22.9 through 22.13 within Article 22 Community Business B-2 District
- Deletion of "special exception" references within the Code of the City of Margate which included Chapters 2 and 11 and Articles 31 and 39.

He read the ten condensed, proposed Special Exception criteria which included:

1. Consistency with the Margate Comprehensive Plan and the Margate Code of Ordinances
2. Not detrimental to or endanger the public health, safety, or general welfare
3. Genuine need for the use is present in the City; avoid creating an excessive proliferation
4. Compatible with existing natural environment and community character
5. Utilities, roadway capacity, drainage, and other necessary public facilities, including police, fire and emergency services
6. Adequate ingress and egress, for both vehicles and pedestrians
7. Adequate parking areas and off street truck loading spaces
8. Shall not impede the development of surrounding properties
9. Minimize adverse effects, including visual impacts, of the proposed use on adjacent property
10. Best interest of the City

He showed a slide of a Public Notice sign and explained that the sign would be six-feet tall with dimensions of four-feet by eight-feet with a picture illustration. He said the development applications that would use this sign included: new developments; redevelopments; major renovations of existing structures; façade changes; changes of use; special exceptions; conditional uses; or, new construction of a building.

He showed a second slide of a Public Notice sign and explained that the sign would be six-feet tall with dimensions of four-feet by four-feet without a picture. He said the development applications that would use this sign included: variances; administrative appeals; plat or plat amendments; rezonings; Land Use Map Amendments; or, minor modification to an existing structure.

Mr. Finn explained that another facet to the ordinance was that the applicant would be responsible for mailing public notices to all real property owners within a 500-foot radius of the subject property 14 days prior to the scheduled hearing. He said the requirement would apply to the following applications: variances; special exceptions; conditional uses; administrative appeals; plat or plat amendments; rezonings; telecommunications site development; and, Land Use Map amendments.

Mr. Finn advised that the following five standards for reviewing the proposed amendments to the text of the Code of Ordinances were considered:

1. *The proposed amendment is legally required.* Revisions, corrections, and/or deletions of any outdated references within the Code of Ordinances must be done by ordinance.
2. *The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.* Yes.
3. *The proposed amendment is consistent with the authority and purpose of the Code of Ordinances.* Yes.
4. *The proposed amendment furthers the orderly development of the City.* Yes.
5. *The proposed amendment improves the administration or execution of the development process.* The ordinance provides updates to reflect current and updated special exception criteria, public notice sign requirements, and legal notification letter requirements.

Mr. Finn said that staff recommended that the Planning and Zoning Board approve the proposed ordinance, revising and updating the City's special exception criteria, public notice requirements, and legal notification letter requirements.

Mr. Arserio asked whether the ordinance defined minor and major renovations. Mr. Finn said that an example of a minor revision would be a restaurant increasing its square footage by 100-200 square feet, while a major renovation would be a new structure or the addition of another building to an existing project.

Mr. Arserio asked who would ensure the mailings were sent within 14 days. Mr. Finn said the Economic Development staff would keep on top of the applicant and check to make sure the sign was correctly installed.

Mr. Hylander asked whether this ordinance was being aimed at a particular type of business and he referenced verbiage in the minutes from the Development Review Committee (DRC) meeting of May 9, 2017.

Ben Ziskal provided a historical perspective on special exceptions. He explained that the City was divided in different zoning districts, and within the commercial zoning districts specifically, there was a list of different allowable uses. He said there were three types of uses that a business could fall into: permitted or allowable use; prohibited use; or special exception use. He said the special exception uses were site specific and were a snapshot in time of the property and the use that was being proposed. He said particular uses were allowed on certain properties if they met certain criteria. He said the Code of Ordinances currently had a list of criteria, but staff and the City Commission have determined in recent years that the criterion needed to be revised to improve the review process so that when businesses were being

considered, decisions could be made on whether a particular use at a particular site was in the best interest of the City. He said the current list of criteria might as well be called permitted uses because there was nothing in it to review those site specific uses and make a determination. He said the intent would be to provide a different list of criteria that would look at the need of a particular use in the City and a saturation point or point of proliferation. In response to Mr. Hylander's DRC comment, he said in those cases where a neighboring city had reached saturation or had outlawed a particular use, and the businesses started to look to Margate, if the City did not have criteria that allowed it to determine a point of proliferation, the City would have no way to stop them. He said the intent was to foster the orderly development of the City by getting those businesses that it needed but not becoming a catch-all for other uses that other cities prohibited.

Mr. Hylander commented that most of the special exception uses in the past two years had been for drive-thrus at fast food restaurants or banks, or gas stations; he asked how this ordinance would affect those uses. Mr. Ziskal responded that the uses would not change; rather, it would look at the criteria on which the businesses were reviewed.

Mr. Arserio, following up on a previous question he asked of Mr. Finn, asked whether the distinction between major versus minor revisions would be discretionary since it was not described in the proposed ordinance. He suggested that criteria be added which described major renovations. Mr. Ziskal said that language could be added. He explained that there was currently a threshold for redevelopment or renovations that required the applicant to go directly to permitting or through the Development Review Committee process, noting that the intent was to provide public notice if something significant was changing. Mr. Arserio suggested listing obvious major renovations for clarity.

Mr. Ziskal referenced and read page 7, subsection 2 of the proposed ordinance; he indicated that the language could be strengthened, noting that the ordinance referred to special exceptions. He spoke about the Dandee Donuts/Blossman Gas/ATM project as an example.

Mr. Angier expressed a concern about it becoming discretionary and limiting the types of businesses that could come into the City. He said he was in favor of moratoriums that had been placed on the types of businesses that were in excess, but he did not think Economic Development should be able to decide whether there were too many of any one type of business in the City. He said Economic Development should make the City Commission aware of those situations. He said he was in favor of the free market. Mr. Ziskal responded that special exceptions required City Commission approval and the criteria that was being discussed was the criteria they would use to consider them. He said Economic Development staff typically presented special exceptions to the City Commission and made a recommendation based on the ten criteria. He reiterated that the approval of a special exception for a particular business on a particular site at that particular time may or may not be favorable based on the goals and objectives and policies of the development of the City. He explained that special exceptions were the middle ground of uses that required staff to look at each specific proposal at that specific time and make a recommendation for approval or denial. Mr. Ziskal said the criteria were needed for the City Commission to legally make their decision.

Mr. Mangeney made the following motion, seconded by Mr. Zucchini:

MOTION: SO MOVE TO APPROVE

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes; Mr. Hylander, Yes; Mr. Angier, Yes. The motion passed with a 5-0 vote.

2B) **PZ-11-17** CONSIDERATION OF AN **ORDINANCE** TO PROVIDE REGULATIONS AND PROCEDURES TO REVIEW TEMPORARY USE PERMITS

PETITIONER: CITY OF MARGATE, ECONOMIC DEVELOPMENT DEPARTMENT

Timothy Finn advised that this ordinance had been initiated by the Economic Development Department. He proceeded with a PowerPoint presentation; he showed a slide and read the following proposed revisions:

- Deletion of Outdoor Events within Section 3.24 and the addition of Temporary Use Permits to Section 3.24
- Deletion of Section 3.31 Walkway Sales
- Amendment of Section 3.22 Alcoholic Beverages to include temporary uses
- Deletion of "promotional events" references within Section 7.3-TOC-C Corridor, Permitted Uses; Section 8.4 – TOC-G Gateway, Permitted Uses; Section 9.5 –TOC-CC City Center, Permitted Uses; Section 22.3-Community Business B-2 District, Permitted Uses; Section 22.13 Walkway Sales; Section 23.3.-Liberal Business B-3 District, Permitted Uses; and, Section 24.3-Light Industrial M-1 District, Permitted Uses.

He provided some background and explained that all outdoor events were required to appear before the Development Review Committee (DRC) for approval; however, the smaller events had been burdened by the extra review time and fees associated with the requirement. He said the new Temporary Use Permit (TUP) process would eliminate the requirement for smaller outdoor events to appear before the DRC. He advised that larger events that were not operated by the City or the CRA and held on non-City owned property that had 500 or more attendees would require City Commission approval. He said small events would require submittal 30 days prior to the event and larger events would require 90 days.

Mr. Finn advised that the following five standards for reviewing the proposed amendments to the text of the Code of Ordinances were considered:

1. *The proposed amendment is legally required.* The proposed amendment must be done by ordinance.
2. *The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.* Yes.
3. *The proposed amendment is consistent with the authority and purpose of the Code of Ordinances.* Yes.
4. *The proposed amendment furthers the orderly development of the City.* Yes.
5. *The proposed amendment improves the administration or execution of the development process.* This amendment provided staff with clear and legally enforceable guidelines for reviewing TUP's with the City. Furthermore, this amendment did not require smaller events to be heard before the DRC, thereby eliminating the review process for applicants.

Mr. Finn stated that staff recommended that the Planning and Zoning Board approve the proposed ordinance, revising regulations and processes pertaining to special events and outdoor events via the Temporary Use Permit (TUP) process throughout the City.

Mr. Hylander asked whether there would be a threshold for smaller events. Mr. Finn referenced the ordinance and advised that smaller events would include temporary sales offices and model homes; seasonal sales lots offering products such as Christmas trees, pumpkins, flowers, provided that no TUP shall be issued for sales within public right-of-way, and firework sales shall be subject to Margate Fire Rescue and Police Department approval; walkway and parking lot sales by establishments having a City-issued local business tax receipt; mobile food truck sales by properly licensed and inspected businesses as part of a special event; farmers' markets; community garage sales; promotional events for business and community facilities having a City-issued local business tax receipt and fewer than 500 attendees at any given time; and, block parties in residential neighborhoods.

Mr. Hylander commented that block parties brought a sense of community and they should be encouraged and allowed to happen with a phone call to the police and fire departments the day thereof, without any permit requirements.

Discussion ensued about whether permits should be required. Mr. Hylander commented that permits had not been required in the past, just notification. Mr. Arserio agreed and suggested allowing block parties with just a phone call if expected attendance was 200 people or less. He said it could be a safety issue if the attendance exceeded a certain number. Mr. Hylander commented that block parties were typically 30-50 people.

Ben Ziskal commented that he was not aware of any problems, and he deferred to the police and fire departments. He explained that as a recommending board, they could make an amendment and it would be added to the ordinance when it went to the City Commission.

There was additional discussion about the definition and size of block parties and how to determine attendance at a block party. Mr. Hylander commented that a typical block was 15-20 houses each with a couple of people.

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

MOTION: TO AMEND THE ORDINANCE TO ALLOW BLOCK PARTIES WITH 75 PEOPLE OR LESS WITH NOTIFICATION TO THE POLICE AND FIRE DEPARTMENTS AND NO PERMITTING OR REVIEW PROCESS.

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, No; Mr. Zucchini, Yes; Mr. Hylander, Yes; Mr. Angier, Yes. The motion passed with a 4-1 vote.

Mr. Arserio asked Attorney Gonzalez whether the City Commission had approved the moratorium on carnivals. Attorney Gonzalez responded that carnivals were no longer allowed at the City Center site due to the development plan that was in progress. Mr. Ziskal said he thought there was a moratorium put in place City-wide for a limited amount of time, i.e., a six-month period but he would need to double check. Mr. Arserio asked whether the special

exception would trump the moratorium. Attorney Gonzalez responded that special exceptions could not be obtained if there was a moratorium in effect.

Mr. Arserio questioned whether farmers' markets should be considered small events as some of them could be quite large events. He commented that farmers' markets were typically repetitive events and it could be cumbersome on the event organizers if they remained in the small event category because they would be required to get a TUP every 30 days.

Mr. Ziskal explained the currently the Code required that any event outdoors, large or small, that took place on a commercial property had to appear before the DRC. He gave an egregious example of a car dealership that wanted to hold an ice cream social in their parking lot for their patrons and how they were required to get approval from DRC. He said part of the intent of the ordinance was to change the committee review of a small event to that of an administrative review whereby the same departments would review the proposed event using the same criteria as in the past; the formal public hearing would no longer be required. He said the decision to include a farmers' market as a small event was based on the potential outfall of what could happen at a farmers' market versus the number of patrons. He said the threshold for larger events such as carnivals, music festivals, etc., was drawn so that they would not receive administrative approval; rather, they would require full City Commission approval.

Mr. Angier commented that the intent was to reduce the burden on the businesses and City staff categorized small events based on its past experience.

Mr. Zucchini asked whether the list of small events read by Mr. Finn was an exhaustive list or if other special events could be added. Mr. Finn responded that staff had looked at neighboring cities and incorporated many of their uses. He said the event would need to fall into one of the categories listed in the ordinance.

Mr. Zucchini asked where a religious event would fall. Mr. Finn responded that it would depend on the size of the event, i.e., large or small, based on the information provided at the time of application. Mr. Zucchini asked if a permit would be required for a demonstration. Mr. Finn said a permit would be required if they had a large tent.

Mr. Ziskal said the event would be reviewed based on what was being planned, noting that a religious organization could have a garage sale for example. In regards to a prayer vigil, Attorney Gonzalez said it would be up to the City's discretion to determine whether a permit was needed taking into consideration any impacts that might require law enforcement or other services needed to provide a safe environment. Mr. Ziskal said that was not specifically mentioned in the ordinance. Mr. Zucchini said he would like to specifically exclude religious events so that it would not be open to interpretation of whether or not one religion was being discriminated against over another. He said he wanted both administrative and City Commission approval to be required. Mr. Ziskal advised that a religious organization could not be regulated differently than another organization to gather under the Religious Land Use and Institutionalized Persons Act. He said if a certain group was allowed to gather, than religious groups needed to be allowed to gather in the same manner. He said the question became how the City wanted to treat a group who wanted to organize a formal gathering on commercial property, such as a group gathering to remember a loved one or to hold a prayer vigil. Mr. Arserio asked about a gathering on church property. Mr. Mangeney commented that a church

was a corporation organized under a 501c3 and they needed to be treated like any other business and the term *religious institution* should not appear in the Code. Mr. Zucchini said he did object to religious events being held on church property; he objected to having religious events on City, public, or other commercial property without requiring a permit or being approved by the City Commission.

Mr. Zucchini made the following amendment, seconded by Mr. Arserio for discussion:

AMENDMENT: TO EXCLUDE RELIGIOUS EVENTS NOT HELD ON THEIR OWN
PROPERTY FROM THE SPECIAL EXCEPTION PROCESS

Mr. Arserio asked for clarification because he said it sounded like religious organizations would be required to go through a different process than other organizations. Mr. Zucchini responded that all religious events not held on their own property would need to go through the approval process; he said it would not discriminate one religion over another. Mr. Arserio said the issue was that religion as a whole was being discriminated against. Attorney Gonzalez agreed. Mr. Ziskal said it would need to be written that all gatherings, whether political, religious, or whatever, would need to be treated similarly. Mr. Manganey commented that it would be a violation of the First Amendment to the Constitution if non-religious corporations were being favored over religious corporations. Mr. Zucchini said it would not a violation; they would be required to go through the normal permit process. Mr. Manganey responded that it would be because other corporations were not being required to do it. Attorney Gonzalez said Mr. Manganey was correct in that one type of entity could not be treated differently than others. He said it would be singling out religious institutions that wanted to have an event on property other than their own and he would not recommend it. Mr. Hylander said it could be for any corporation that would have an event on property other than their own which Attorney Gonzalez said would be more palatable if it were required of every entity across the board, but it would change the purpose of the proposed ordinance.

Discussion ensued about how every organization would then go through the approval process with smaller events having to get a permit without having to go through the DRC while larger events would need to go before the DRC. Mr. Ziskal said the question became whether City Commission approval would be required when an organization, religious, political or social, chose to gather on any property that was not City owned and anticipated 500 or more attendees at any one time. He asked if language should be added that any political, religious or social gathering of less than 500 people would require administrative approval or did they want City Commission approval as well. He said Mr. Zucchini pointed out a small loop hole in the ordinance for the category of gatherings that was not being covered. Mr. Zucchini said the difference was that one was being done for commercial events while the other was being done for non-commercial events which Mr. Ziskal said was a better way to describe the organizations.

Mr. Zucchini amended his amendment, seconded by Mr. Hylander:

AMENDMENT: TO EXCLUDE NON-COMMERCIAL EVENTS FROM THE
EXCLUSIONS

Attorney Gonzalez said that it would effectively negate the purpose of the ordinance change which was intended to allow for certain types of events to not have to go through the process.

There was a brief discussion about how events that were held for non-profit organizations such for Christmas tree sales, or girl scouts or boy scouts might be affected. Mr. Ziskal pointed out that the threshold was currently at 500 people where larger than 500 people would go to the City Commission. He asked how groups under 500 should be treated. He indicated that the threshold of 500 was a recommendation by the police department.

Mr. Angier commented that the intent was to streamline and simplify the process but it was being made more complicated. Mr. Angier concurred and suggested that the Board go with the amended wording, noting that it could be changed in the future if needed.

Attorney Gonzalez asked the Board to not focus on religious events but rather consider non-commercial type events.

**ROLL CALL
ON THE**

AMENDMENT:

Mr. Arserio, No; Mr. Mangeney, No; Mr. Zucchini, Yes; Mr. Hylander, Yes; Mr. Angier, No. The amendment failed with a 2-3 vote.

Mr. Mangeney referenced Section B on page 6 which stated that all tax-exempt organizations did not have to pay the fee, and said that it was great for every tax-exempt organization except those organized under 501c4 because they were allowed to do lobbying activity. He said a corporation with a 501c4 organized plenty of people and he thought they should have to pay the permit fee if such exclusion were allowed. Attorney Gonzalez said that it could be done.

Mr. Mangeney made the following amendment, seconded by Mr. Arserio:

AMENDMENT:

TO AMEND PAGE 6, SECTION B SO TAX-EXEMPT ORGANIZATIONS WOULD NOT HAVE TO PAY THE PERMIT FEE EXCEPT FOR THOSE ORGANIZED UNDER 501C4.

Mr. Arserio asked for an example of a 501c4. Mr. Mangeney responded that a 501c4 was usually in conjunction with a political action committee. He said they could not do partisan political activity but they were allowed to do issue advocacy. He said they were not political organizations but most political organizations and corporations had one.

**ROLL CALL
ON THE**

AMENDMENT:

Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes; Mr. Hylander, Yes; Mr. Angier, Yes. The amendment passed with a 5-0 vote.

Chad Dangervil, 1895 Vista Way, suggested that they reduce the number from 500 to 250 people.

Mr. Mangeney made the following motion, seconded by Mr. Arserio:

MOTION: SO MOVE TO APPROVE

**ROLL CALL ON
THE ORIGINAL
MOTION**

AS AMENDED: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes; Mr. Hylander, Yes; Mr. Angier, Yes. The motion as amended passed with a 5-0 vote.

2C) **PZ-12-17** CONSIDERATION OF AN ORDINANCE TO PROVIDE UPDATED REGULATIONS FOR WALKWAY CAFES

PETITIONER: CITY OF MARGATE, DEPARTMENT OF ECONOMIC DEVELOPMENT

Timothy Finn led with a PowerPoint presentation; he showed a slide and read the following proposed revisions of the text amendment:

- To increase the allowable square footage from 400 square foot to 1,000 square foot within the listed sections of the Margate Code, Appendix A: Section 7.3-TOC-C Corridor, Permitted Uses; Section 8.4-TOC-G Gateway, Permitted uses; Section 9.5-TOC-CC City Center, Permitted Uses; Section 21.3 Permitted Uses-Neighborhood Business B-1 District; Section 22.13 Walkway Sales; Section 23.3 Permitted Uses-Liberal Business B-3 District; Section 24.3 Permitted Uses-Light Industrial M-1 District
- Addition of audio/visual devices (televisions) in walkway cafes
- Addition of advertising signs and logos on umbrellas in walkway cafes

Mr. Finn explained that City staff had received feedback from business owners recommending that the square footage for walkway cafes be increased and that the increase would make the businesses more profitable. He said staff recommended an increase in the overall square footage of walkway cafes from 400 square foot to 1,000 square foot. Additionally, he said the business owners would have the option of installing televisions and music speakers within their walkway cafes and have the option of advertising signs and logos on umbrellas.

Mr. Finn the five following standards for reviewing proposed amendments to the text of the Code of Ordinances were considered:

1. *The proposed amendment is legally required.* The proposed amendment must be done by ordinance.
2. *The proposed amendment is consistent with the goals and objectives of the Comprehensive Plan.* Yes.
3. *The proposed amendment is consistent with the authority and purpose of the Code of Ordinances.* Yes.
4. *The proposed amendment furthers the orderly development of the City.* Yes.
5. *The proposed amendment improves the administration or execution of the development process.* This amendment provides staff with clear and legally enforceable guidelines for reviewing walkway cafes within the City.

Mr. Finn stated that staff recommended that the Planning and Zoning Board approve the proposed ordinance amending the above noted sections of the Code regarding walkway cafes.

Mr. Zucchini asked if there was a City ordinance that restricted the decibel levels on outdoor music. Ben Ziskal responded that there was a noise ordinance and a specific decibel level for commercial properties and a provision that the noise could not be heard from the adjacent public right-of-way which he said was monitored by the police department. He said residential, commercial, and industrial all had different levels of sound and certain hours where a higher noise level was permitted.

Mr. Zucchini asked if there was anything in the Code that restricted non-patrons from sitting in a businesses' outdoor seating area. Mr. Ziskal responded that it would be regulated by the business and the property owner or landlord rather than the Code.

Mr. Arserio commented on the future downtown development and he asked if the ordinance would apply to businesses in a mixed-use development with residential; specifically, whether a business would be allowed to have a larger outside café. Mr. Ziskal responded that the intent would not be to prohibit businesses in a mixed-use district.

Mr. Manganey referenced a paragraph in the ordinance on page 4, line 26, that had been stricken about not blocking a sidewalk, and he asked whether people would be able to pass without having to walk in the street. Mr. Ziskal responded that the intent was to allow someone to create a physical barrier, like a small fence, on private sidewalks only. He said public sidewalks could not be blocked and they would also need to be ADA compliant. He referenced a section on page 3 of the ordinance which read, "The walkway café dining area shall be located adjacent to the primary business and must have a minimum four-foot clear passage."

Mr. Hylander commented on the success of downtown Delray and Las Olas Boulevard as examples of sound regulations. Mr. Ziskal agreed they were good examples and said that they represented Margate's intent for the proposed changes.

Mr. Arserio asked whether the extensions would be permanent or closed up nightly, noting that the property appraiser could reassess them if permanent. Mr. Ziskal said the intent was that they would be permanent, and he gave Jasmine Thai and Annemarie's Pizza as recent examples of permanent outdoor seating areas. He said it would be up to the business as to whether they brought their furniture in at night, and they could be assessed higher.

Mr. Angier referenced page 3, section 2, of the ordinance where it indicated that walkway cafes under 1,000 square feet would not require any additional parking. He commented that the additional seating should result in an increase in business which should place a greater demand on parking. He noted that the business had to provide a certain amount of parking as part of their original site plan and an expansion could result in insufficient parking. Mr. Arserio agreed and commented that a tenant in a shopping center would not have the ability to create more parking. Mr. Ziskal responded that it was under the purview of the Board to decide whether they wished to amend the ordinance to require additional parking. He said the intent of the ordinance was based on feedback from the business community. Mr. Angier said he did not wish to do so; he said he agreed with Mr. Hylander that the proposed ordinance was overdue.

Mr. Zucchini made the following motion, seconded by Mr. Hylander:

MOTION: SO MOVE TO APPROVE

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes, Mr. Hylander, Yes; Mr. Angier, Yes. The motion passed with a 5-0 vote.

2D) **PZ-13-17** CONSIDERATION OF AN AMENDMENT TO AN EXISTING PLANNED UNIT DEVELOPMENT

LOCATION: 2850 NORTH STATE ROAD 7

ZONING: PLANNED UNIT DEVELOPMENT (PUD)

LEGAL DESCRIPTION: A PORTION OF TRACK "A" OF "CELEBRATION POINTE" ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 178, PAGE 68, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

PETITIONER: JAY HUEBNER, HSQ GROUP, INC.

Timothy Finn led with a PowerPoint presentation. He provided the following background on the project:

- The Celebration Point Planned Unit Development (PUD) was previously approved for 580 garden apartments. 282 of the units had been built on the northern half of the project known as Phase 1.
- Phase 2 had 252 dwelling units available with an additional 46 vested dwelling units; a total of 298 units.
- At Phase 2, the previous property owner sold the property to Lennar Homes who was requesting to amend the existing PUD from 298 garden apartments to 160 fee-simple townhomes, resulting in a 46.3 percent reduction in residential density.

Mr. Finn showed slides of the site plan and two elevations: Chateau theme, and Fresno theme. He read the ten standards for reviewing proposed PUD amendments:

1. *A proposed change in the boundary of the PUD.* There was no proposed change.
2. *A proposed increase in the total number of dwelling units or intensity of land use or height of buildings within the development.* There would be a decrease of 92 units. There would not be an increase in the intensity of land or the height of the buildings.
3. *A proposed decreased in preservation, conservation, recreation or open space areas within the development.* No. The amendment provided for an increase of 1.26 acres of open space.
4. *A proposed increase in the size of the areas used for non-residential uses, to include institutional, commercial and industrial land uses (excluding preservation, conservation or open spaces), or a proposed relocation of nonresidential land uses.* Not applicable. The PUD project was entirely residential.
5. *A substantial increase in the impacts of the development which may include, but are not limited to, increases in traffic generation; changes in traffic circulation; or impacts on other public facilities.* The amendment represented a 28.3 percent trip reduction.
6. *A change that will result in a requirement for increased stormwater retention, or will otherwise increase stormwater discharges.* No.
7. *A change that will bring about a relationship to an abutting land use that would be incompatible with an adjacent land use.* No.

8. *Any modification to the PUD master plan or PUD document or amendment to a PUD ordinance which is inconsistent with the Future Land Use Element or other element of the Growth Management Plan or which modification would increase the density or intensity of the permitted land uses.* The land use allowed for a maximum density of 580 dwellings units. This amendment provided 442 units for Phase 1 and 2 combined which was a 23.7 percent reduction in residential density from its highest approval.
9. *The proposed change is to a PUD district designated as a development of regional impact (DRI).* Not applicable; the amendment was not part of a DRI.
10. *A change that will increase the amount of required parking for the development.* Code required 2.2 parking spaces per dwelling unit of any multi-family development. The previously approved Phase 2 portion of the PUD consisted of 298 garden apartments and provided 559 parking spaces. This proposal consisted of 160 townhomes and provided 509 parking spaces. This represented an increase in provided parking from 2.2 spaces per dwelling unit to 3.1 per dwelling unit, surpassing the City's codified parking requirement.

Mr. Finn said Staff recommended that the Planning and Zoning Board approve the proposed ordinance which amended the existing PUD on the south half of the project, referred to as Celebration Pointe South or Phase 2, from 298 garden apartments to 160 townhomes.

Steven Wherry, on behalf of Lennar Homes, explained that they were requesting an amendment to a previously approved PUD. He said they were activating the southern portion of the Celebration Pointe site. He said benefits to the City included a reduction in the density of the product, units with increased square footage, higher property values resulting in increased tax receipts, as well as income from permitting and impact fees.

Mr. Arserio asked about the amount of open green space or common area that would remain. Mr. Wherry responded that fenced areas were not counted in the overall open space calculation. He said they applied a number of factors in determining green space but that there would be 4.3 acres overall of open space which was an increase over the current 3.04 acres that had been previously approved. Mr. Arserio asked if they could decide to build on the additional open space in the future. Mr. Wherry said they could not do so unilaterally; they would need to go through another amendment process in order to make any additional changes to the site.

Mr. Arserio asked whether the 3.2 parking spaces per unit counted the garage. Mr. Wherry responded that the garage was included. He said normally Code did not allow garage spaces to be counted, but the approved PUD included a variance that allowed the counting of garage spaces for parking spaces. He said there was a requirement incorporated into the PUD that would be carried through into the homeowner association (HOA) documents that would require the residents to use the garage spaces for parking and not for storage. He spoke about how the ratio of units to parking spaces was currently 2.2, as per Code, and that this proposed change would increase it to 3.2 parking spaces per unit.

Mr. Arserio asked Mr. Wherry whether their docs (HOA) would specifically require owners to park in their garages. Mr. Wherry responded that they would require it. Mr. Arserio asked whether the garages were for one or two cars. Mr. Wherry responded that they were mostly

one-car garages with driveway space as well. He said it was customary in Lennar communities where there were "for sale" units for people to follow the rules.

Mr. Hylander commented that having a rule in the HOA documents was not enforceable or workable based on his experience. He commented how parking requirements for building complexes have steadily decreased since the 1970's, and that while the petitioner was meeting Code, the Code needed to be amended. He said the mentality of the Transit Oriented Corridor (TOC) and the Metropolitan Planning Organization (MPO) was to squeeze people out of their cars. Mr. Wherry agreed that it was difficult to rely on rules to enforce parking. He said in addition to the rules, they also had the ability to ticket people or to tow cars. He noted, however, that with "for sale" units, there was some pride of ownership and the possibility of some shame for those who did not abide by the rules; he said most people would follow the rules. He commented that they were substantially exceeding the Code requirement for this property.

Ben Ziskal clarified that Celebration Pointe was not located within the Transit Oriented Corridor (TOC) zoning district; Toscana was in the TOC and it had a lower ratio as it was built on a property that required 1.5 parking spaces. He said Celebration Pointe was exceeding a different and higher requirement at 2.2 parking spaces.

Mr. Wherry explained that a typical bedroom mix got factored in to determine the multi-family standard of 2.2 spaces for multi-family developments.

Mr. Arserio asked whether there would still be adequate parking if the garages were not counted. Mr. Wherry said they looked at that and they would meet, not exceed, the Code requirements.

Mr. Manganey said he thought it was great.

John Yakovich, Applegreen Condos, commented that the garages would not be used. He recommended that the number of parking spaces not be reduced. He said there would be investors and some units with five to eight single adults living there and units with five to seven cars. He said cutting parking spaces would be a big mistake.

Mr. Angier asked Mr. Wherry to clarify the parking calculations. Mr. Wherry explained that under the existing, approved PUD, there were 559 parking spaces for 252 units which equaled 2.2 spaces per unit. He said under the proposed amendment, there would be 509 parking spaces for 160 units which equaled 3.2 parking spaces per unit, or an increase of one parking space per unit.

Mr. Ziskal pointed out that, unlike an apartment complex, parking spaces were not assigned to each unit. He said these were fee-simple townhomes and each unit had a one-car garage and a double driveway, very similar to the single family homes in the City. He said an alternative to add more parking was to require townhomes to have a two-car garage which still might not be used, or to have a triple driveway which no other City required.

A back and forth discussion ensued between Mr. Arserio and Mr. Wherry concerning the availability and regulation of additional guest parking. Mr. Arserio asked about the amount and

location of the guest parking. He also asked whether there would be a limit on the number of vehicles allowed per unit and whether residents could utilize the guest parking spots. Additionally, he asked if the developer's doc would limit the number of cars that each unit could have assigned for parking. Mr. Wherry responded that there were 29 guest parking spaces and he pointed out four or five locations on the site plan. He said that the PUD document limited the number the number of cars that could be on-site. He said it would up to the HOA to regulate residents using guest parking for their vehicles. As for the developer's docs limiting the number of cars a resident could park, he said it could be looked into as a possibility. He indicated that a draft of the HOA docs would be reviewed by the City Attorney before they were implemented. He mentioned the issuance of stickers for resident's cars as one measure that could be taken. Mr. Wherry said the parking situation would be self-policing in that resident's would not park on their neighbor's property without approval. Mr. Arserio asked whether, down the road, the Board or the City Commission would be able to require them to limit the number of cars parked per unit.

Mr. Zucchini interjected that the developer had significantly exceeded what the Code required and, while the Board might not be happy with the Code's requirements, the Board should not hold the developer accountable for it. He said it should be handled as a separate issue.

Mr. Manganey made the following motion, seconded by Mr. Zucchini:

MOTION: SO MOVE TO APPROVE

ROLL CALL: Mr. Arserio, Yes; Mr. Manganey, Yes; Mr. Zucchini, Yes, Mr. Hylander, Yes; Mr. Angier, Yes. The motion passed with a 5-0 vote.

3) **GENERAL DISCUSSION**

Mr. Zucchini commented that the discussion that evening highlighted the issue of the City's parking code requirements being inadequate and that 2.2 parking spaces per unit underserved in the South Florida market. He suggested the Code be reviewed to allow a minimum of two per unit or one per bedroom.

Mr. Angier agreed and noted that while the petitioner exceeded the requirements in their plans, he thought there would be a problem with parking.

Attorney Gonzalez commented that the issue was something the City Commission was aware of and staff would be looking into.

Mr. Manganey said that he realized that he had not previously thanked the City Commission for his appointment to the Board and he extended his thanks to them.

Mr. Arserio commented that Lennar had done a great job with this project, but he strongly recommended that the City look to increase the parking requirements.

Ben Ziskal advised that the July Board meeting, originally scheduled for July 4th, was moved to July 11, 2017. He said the Margate CRA was also scheduled to meet on July 11th at 7:00 p.m.

He said staff's recommendation was to move the Planning and Zoning Board meeting to 6:00PM, noting that there was one ordinance scheduled. Another alternative was to choose a different night he said.

Mr. Angier asked the Board for their consensus. All members were in agreement as long as there were no more than two items on the agenda.

There being no further business, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Prepared by Rita Rodi

Todd E. Angier, Chair

DRAFT

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