

Redevelopment Approval Process: Threshold Approach

Request

The Planning and Zoning Board requested the staff to evaluate the following criteria to trigger a review of a site plan's lighting, landscape, irrigation, and parking standards for code compliance: 30% change of occupancy in terms of square feet and/or 25% increase in additional parking requirements including loading zones and stacking in drive-up lanes and/or ___ years since the original approval.

Evaluation

In this evaluation the terms "shopping center" and "shopping plaza" are used. These are not in the current City Code. The staff is considering the incorporation of such terms in future amendments to the City's Code to distinguish between a large, multi-tenant shopping center with a smaller, maybe less than ten tenant shopping plaza.

Change of occupancy

The occupancy classification is a building code matter, unrelated to the zoning code. There is not a correlation between the occupancy classification and uses identified in the zoning code. It is not clear why occupancy classification is used. It appears that the purpose was to consolidate the almost three hundred permitted uses in the zoning code to a more manageable number. The occupancy classification often depends on the specific situation. Since occupancy classification is under the purview of the Building Official, that person is ultimately responsible for making the decision as to what application represents a change in occupancy.

Not all changes of occupancy are the same. For example, a change of occupancy from mercantile (retail) to assembly will probably require an increase in parking requirements yet a change from assembly to mercantile results in a reduction of parking requirements. A change to the hazardous classification has greater and totally different implications than one that involves a change to the daycare classification.

Not all commercial activities occur in a shopping center or shopping plaza. Recently we processed an application for daycare to be located in an old veterinarian office, a change of use. This is a single use on the property. In the future, if someone was to propose changing the use from daycare to business (an office), they would immediately exceed the 30% threshold and therefore would be required to update everything. The intent of reducing the number of times someone would have to update everything would not be achieved. This would apply to 2 and 3 unit developments where each unit had equal square footage.

Parking spaces

Uses are group together into a series of parking categories. Each category has a required number of parking spaces. This can be by X space per Y square feet, X spaces per Y seats, or X spaces per Y employees, just to name a few examples.

While parking requirements are based on a specific parking categories, in a shopping center or shopping plaza the parking requirements and the available parking is the sum total of all the uses in the center or plaza. When compliance with the parking requirements are evaluated for a

new or proposed use, the entire parking supply and demand for the center or plaza is considered. A change of parking category in one unit impacts the entire center.

Section 33.1. - Off-street parking required, provides how and when off-street parking is to be provided. With the exception of sub-section (G) which was added in 2000, these standards have been in place since 1969. The requirements are:

- (A) Every building, use or structure, instituted or erected after the effective date of this ordinance shall be provided with off-street parking facilities in accordance with the provisions of this article for the use of occupants, employees, visitors or patrons.
- (B) Such off-street parking facilities shall be maintained and continued as an accessory use as long as the main use is continued.
- (C) Where a building existed at the effective date of this ordinance such building may be modernized, altered or repaired, provided there is no increase in floor area or capacity and there is no change of occupancy, without providing additional off-street parking facilities.
- (D) Where a building or use, which existed at the effective date of this ordinance, is enlarged in floor area, volume, capacity, or space occupied, off-street parking facilities as specified herein shall be provided for the additional floor area, volume, capacity or space so created or occupied.
- (E) Where a building or use which existed at the effective date of this ordinance is changed in use or occupancy, additional off-street parking facilities shall be provided to the extent that the off-street parking required by this ordinance for the new use or occupancy exceeds the off-street parking which would have been required for the previous use or occupancy had the regulations of this article been applicable thereto. For the purposes of this section, a change of use or occupancy shall mean a change from one category of off-street parking requirements to another such category under Section 33.3.
- (F) It shall be unlawful for an owner or operator of any building, structure or use affected by this article to discontinue, change or dispense with, or to cause the discontinuance or reduction of the required parking facilities apart from the discontinuance, sale or transfer of such structure or use, without establishing alternative vehicle parking facilities which meet the requirements of this article. It shall be unlawful for any person, firm, or corporation to utilize such building, structure or use without providing the off-street parking facilities to meet the requirements of and be in compliance with this article.
- (G) It shall be unlawful for an owner or operator of any building, structure or use, other than of residential use, to permit or allow the parking of motor vehicles on any area that is not specifically designated and approved for parking by the City of Margate for such purpose.

It is important to note that in sub-section (E), that “for the purposes of this section, a change of use or occupancy shall mean a change from one category of off-street parking requirements to another such category”. If the term “use” or “occupancy” is used in this section, the code is actually talking about the parking categories.

To accomplish this proposed approach, Section 33.1 would either need to be eliminated or a variance given for each case where there was not adequate parking. Since the need for the variance is the result of the City's regulations, this is an undesirable situation. Good practice would anticipate such a problem and structure the code to minimize the need for a variance.

Section 33.2. - Location, character and size, sub-section (F), adopted in 1981, provides:

(F) A plan shall be submitted with every application for a building permit for any use or structure required to provide off-street parking under this article, which plan shall clearly and accurately designate the required parking spaces, drainage, lighting, access aisles, driveways, and relation to the uses or structures these off-street parking facilities are intended to serve. Such facilities shall be arranged for the convenient access and safety of pedestrians and vehicles.

To accomplish this proposed approach, Section 33.2 would need to be eliminated.

Loading zone

The direction from the Board was that parking, loading zones, and staking in drive-up loads would be cumulative toward the 25% threshold. Parking requirements are a number of spaces plus the associated drive aisles. A loading zoning is a required area 12 feet wide by 45 feet long with 14½ foot vertical clearance. Stacking is a required 10 feet wide by 20 feet long area. They cannot be added together to get a cumulative amount.

Proper location and design of loading zones are important to maintain efficient vehicular circulation and public safety. With increased use of "order on line and pick-up at the store" and delivery services such as Uber Eats shopping, loading zones for cars and similar vehicles need to be considered as part of the loading zone issue.

Stacking

As described above, Parking requirements are a number of spaces plus the associated drive aisles. A loading zoning is a required area 12 feet wide by 45 feet long with 14½ foot vertical clearance. Stacking is a required 10 feet wide by 20 feet long area. They cannot be added together to get a cumulative amount.

We currently have situations in the City where there is inadequate stacking. This results in cars backing into drive aisles creating inefficient traffic flow and unsafe conditions.

Time trigger

Historically and currently, there is not a requirement for shopping centers and shopping plazas to update their site plans after a period of time. The staff is not aware of any law or provision that allows the City to modify an approved site plan to add a new condition of approval.

The one possibility is to adopt an ordinance that sets a time in the future for site plans to be resubmitted showing compliance with the City's Code. The period of time would be based on an amortization of the costs and expected benefits of the existing plan. Due to the diversity of the sizes and age of shopping centers and plazas within the city, it would be quite difficult to determine what is a reasonable time frame for each. A detailed study may be required to justify the schedule adopted.

Other considerations

The city does not currently maintain a database, either a hard copy or electronically, on historic changes in use, occupancy, or parking category for every shopping center or shopping plaza in the City. It is done on a case by case basis when there is a proposed change of use. (A proposed change of use will trigger an evaluation to determine if it results in a change of occupancy or parking category.) Such a database could be created but it will be difficult to maintain. For example, a proposed new use may be approved, but, for whatever reasons, the applicant decides not to proceed. At what point is the databased updated, at the time of approval or when applicant gets their certificate of occupancy from the Building Department.

When a business closes, is the database updated to reduce the parking demand? Or is the parking for that unit grandfathered in the database?

Another consideration is handicapped parking requirements. Such spaces are based on the number of total spaces provided. Should the calculations for handicapped space be based on what is physically available in the shopping center or plaza? Or is it based on the number of spaces required by the current tenant parking category requirements?