

**City Commission**

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August 6, 2020

Margate Cares for Heroes
c/o Kyle B. Teal, ESQ.
One Biscayne Tower
Two South Biscayne Blvd.
Suite 1500
Miami, FL 33131-1822

Sent via certified mail: 7013 2630 0000 3377 8947

Dear Attorney Teal,

On June 8, 2020, a reasonable accommodation request was submitted by you on behalf of your client, Margate Cares for Heroes, LLC, for a facility located at 603 Melaleuca Drive, Margate, Florida 33063 ("Property"). Upon receipt of the request, it was forwarded to the Development Services Department ("Department") for review. The Department provided a written analysis of the application which was provided to the applicant. On July 21, 2020, the applicant submitted a substantial amount of additional documentation for my consideration. During the evening of July 21st, the City of Margate held a public hearing for a reasonable accommodation. During the public hearing, I prepared by reviewing the background material, listened intently to the 30-minute presentation from the applicant which included witnesses and a request to consider the additional documentation submitted as a supplement the original application submitted. During the 90-minute public hearing, the public was invited to comment and comments were received.

The applicant's principal previously submitted a business plan for a veteran's treatment facility with applications for a Local Business Tax Receipt (LBTR) in June 2019, May 2020 and June 2020 and the zoning change application in June 2020. Essentially the same plan was submitted prior to the hearing scheduled by Ms. Jimenez. Therein, it was proposed that the use be a Veterans Inpatient Residential Treatment facility licensed by the Agency for Health Care Administration (AHCA) and the Department of Children and Families (DCF). Moreover, the Reasonable Accommodation Request includes a proposed zoning approval letter for licensure by both state agencies.

The business plan indicates that medical treatment will be provided to patients occupying 36 beds (18 rooms with up to 2 beds per room) and will employ 49 persons to provide the inpatient medical services. The

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total occupant load on the renovation plans previously submitted was 104. The site plan submitted shows only 21 parking spaces on the premises plus one handicapped space. The previously submitted applications for an LBTR were rejected since the proposed use was not permitted in the R-3 residential zone.

On June 2, 2020, the applicant submitted an application to change the zoning for this specific property from R-3 to CF-1, the latter of which provides for medical uses, including a medical detoxification facility as a permitted use. This application is pending.

Before the City may grant a reasonable accommodation, an applicant must demonstrate the following: the applicant has a qualifying disability; the accommodation is reasonable; and the accommodation is necessary.

When the request is related to housing for a disabled individual, the Federal Fair Housing Amendments, (FFHA) provides that a reasonable accommodation may be necessary to provide a disabled individual an equal opportunity to enjoy the housing of their choice. The documentation presented and the statements made at the hearing do not establish that it is reasonable or necessary for the specific siting of a medical treatment facility of this scope at this location. Applicant has not provided any evidence as to why a 36-bed capacity is necessary to the accommodation, nor whether this capacity offers any meaningful benefit to the treatment being offered to the disabled residents. Indeed, what is proposed does not appear to be a dwelling as envisioned in FFHA.

Moreover, the accommodation is only to provide an equal opportunity to a handicapped person, it does not allow for any special privileges or benefits that are not afforded to other individuals similarly situated. Here, such an approval of this request would provide this property owner with a special benefit since no other R-3 zoned property in the City would have the benefit of a medical use facility of this size and scope.

Additionally, the request may be denied if the accommodation requested amounts to a "fundamental alteration" of the zoning program. The subject property is located within the Multiple Dwelling R-3 zoning district. This is a residential zoning district. Permissible uses of this zoning district are either uniquely residential in nature, or determined by local elected officials to be both complementary and compatible with residential uses.

There are no special exception uses allowed under the current code regulating the R-3 zoning district, which is the code in effect on the date of the application. The previous special exception use granted for this property in 2015 was for an Assisted Living Facility that was not a medical use. This was confirmed in the lawsuit brought by the applicant's principal against the City. The permitted uses of the R-3 zoning district do not include any medical or quasi-medical uses; such medical uses are permitted in other zoning districts of the City, including but not limited to CF-1. This is corroborated by the applicant's concurrent application for a zoning change to CF-1 for this property.

Another significant factor regarding this requested change of use would be the traffic and parking congestion produced by the proposed use. As noted above, the applicant

proposes 49 employees and potentially 36 patients who are allowed visitors and who are allowed to leave the facility. Thus, the patients may have their own vehicles at the facility. With only 21 parking spaces and one handicapped space, it is clear that the insufficient parking spaces will lead to on-street parking in the neighborhood and cause increased traffic congestion on residential streets.

Thus, the proposed use is incompatible with the surrounding land use in this zoning district and would constitute a fundamental alteration of the zoning plan.

For the reasons set forth above, and those set forth in the presentation of the Department, and under applicable federal law, I hereby deny the request for a reasonable accommodation to grant approval for an inpatient, residential medical treatment facility to be licensed by AHCA and DCF for medical treatment of PTSD and substance abuse addiction.

Under Section 3.30 of the Margate City Code, an appeal of this decision may be made to the Margate City Commission, if a notice of appeal is lodged within 30 days of the date this decision is mailed to the applicant.

Sincerely,



Cale Curtis
City Manager

Cc: City Attorney
Miryam Jimenez