



### City Commission

Mayor Tommy Ruzzano

Vice Mayor Arlene R. Schwartz

Antonio V. Arserio

Anthony N. Caggiano

Joanne Simone

### City Manager

Cale Curtis

### City Attorney

Janette M. Smith, Esq.

### City Clerk

Joseph J. Kavanagh

## REGULAR MEETING OF THE DEVELOPMENT REVIEW COMMITTEE VIRTUAL MEETING

<https://us02web.zoom.us/j/89911666910>

### MINUTES

**Tuesday, October 13, 2020**

**10:00 a.m.**

City of Margate

Municipal Building

### PRESENT:

Elizabeth Taschereau, Director of Development Services, attended in person

Andrew Pinney, Senior Planner, attended in person

Richard Nixon, Building Department Director, attended via Zoom

David Scholl, Fire Marshal, attended via Zoom

Curt Keyser, DEES Director, attended in person

Lt. Ashley McCarthy, Police Department, attended in person

### ALSO PRESENT:

Janette M. Smith, City Attorney, attended via Zoom

George "Rusty" Roberts, Attorney for the City of Margate

Kyle Teal, P.A., Agent for Margate Care for Heroes, LLC, attended via Zoom

Thomas Hall, Traffic Engineer for Applicant, attended via Zoom

Wes Blackman, AICP, CWB Associates, Urban Planner, attended via Zoom

Miriam Jimenez, Applicant, attended via Zoom

### ABSENT:

Mark Collins, Public Works Director

Cale Curtis, CRA Executive Director

The regular meeting of the Margate Development Review Committee (DRC) having been properly noticed, was called to order at 10:19 a.m. on Tuesday, October 13, 2020, in the City Commission Chambers at City Hall, 5790 Margate Boulevard, Margate, FL 33063. Melissa Miller read a statement pertaining to the City's virtual public meeting pursuant to the Sunshine Law and the Governor's Executive Orders followed by roll call of the board members.

### 1) APPROVAL OF MINUTES

1D2020-363

- 1A) APPROVAL OF MINUTES FROM THE DEVELOPMENT  
REVIEW COMMITTEE MEETING HELD ON JULY 28, 2020

### Development Services Department

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The minutes for the July 28, 2020 meeting were approved as written.

**2) NEW BUSINESS**

1D2020-338

- 2A) CONSIDERATION OF **REZONING** FROM MULTIPLE DWELLING (R-3) AND (R-1) DISTRICT TO COMMUNITY FACILITY (CF-1) ZONING DISTRICT.

**LOCATION:** 603 MELALEUCA DRIVE, MARGATE, FL 33063

**ZONING:** MULTIPLE DWELLING (R-3) AND (R-1) DISTRICT

**LEGAL DESCRIPTION:** LOTS 1, 2, AND 3, BLOCK 3, HAMMON HEIGHTS SECTION 2, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 34, PAGE 46, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

**PETITIONER:** ATTORNEY KYLE TEAL, AGENT FOR THE MARGATE CARE FOR HEROES, LLC

Andrew Pinney stated that the title should be amended to read property rezoning from (R-3) and (R-1) to (CF-1). *(This amendment is reflected in the above title description).*

Attorney Kyle Teal introduced himself along with Tom Hall, Traffic Engineer for the Project, Wes Blackman, Land Use Planning and Zoning, and Miryam Jimenez, property owner. Mr. Teal stated that he disagreed with Mr. Pinney's amendment regarding the title for the property as it was only zoned for (R-3) and not (R-1). He stated that it was his understanding that the more intense zoning designation subsumes the less intense zoning designation, which would make the entire property categorized as (R-3). Mr. Teal provided a brief review of the project and stated that the applicant was requesting rezoning of the property to (CF-1) in order to open a long-term care facility. He discussed the history of the request and discussed options.

Mr. Pinney explained the steps in the process, noting that following DRC review the item would go to the Planning and Zoning Board, then the City Commission for final decision.

Lt. Ashley McCarthy, Police Department – No Comments.

David Scholl, Fire Department – Mr. Scholl stated that if approved, the Fire Department would require the building to have fire sprinkler, fire alarm and stand-by generator.

Richard Nixon, Building Department – Mr. Nixon stated that if approved, the current building and any additions to the building would need to comply with the current edition of the Florida Building Code and have approval with all outside agencies for the use of the building.

Curt Keyser, DEES – Mr. Keyser stated that he had several comments. Mr. Keyser read from the City's Code of Ordinances, Section 31-37, Development presumed to have maximum

impact permitted. Mr. Keyser stated that the application was not submitted in compliance with the Code, specifically regarding traffic. He stated that the statement he received was not signed and submitted sealed by a P.E., and that the engineer identified on the submitted letter was since deceased, therefore the applicant would need to resubmit a letter signed and sealed by an engineer taking responsible charge of the work product who was qualified by license and by experience for traffic engineering. Mr. Keyser stated that the parking spaces indicated in the application were not accurate and specifically spoke about "daily trips". Mr. Keyser questioned the independent variable selected and instructed the traffic engineer to base the calculation on the maximum impact of the development. Mr. Keyser questioned the assumptions of the parking calculation and noted that it did not make sense based on staffing levels. He asked that more thorough staff definitions to be included in future revisions.

Mr. Keyser stated that the City has capacity to provide water and sewer. He stated adequate rights-of-way and easements for surface water management had not been made clear in the maximum impact condition. He asserted DEES staff was not able to calculate water/sewer impact fees with the information provided, as the maximum impact was unclear. The property currently has 10 ERCs, plus the laundry. Mr. Keyser noted that there was a survey, but no site plan submitted. He stated the survey provided did not accurately depict sidewalk connections and did not show sidewalks extending to the limits of the property or to provide handicap accessibility. He stated there also did not appear to be a handicap access aisle adjacent to the parking space. Mr. Keyser questioned the depiction and orientation of the trash enclosure.

Andrew Pinney, Development Services – Mr. Pinney stated that the application was for rezoning and therefore subject to the requirements set forth in the City's Code, Chapter 31. Mr. Pinney read his 17 comments verbatim from the departmental comments report (*departmental comments report is attached for reference*). Mr. Pinney stated that approval of the rezoning application would be a violation of the Florida Statute 163.3194:

*163.3194 Legal status of comprehensive plan*

*(1)(a) After a comprehensive plan, or element or portion thereof, has been adopted in conformity with this act, all development undertaken by, and all actions taken in regard to development orders by, governmental agencies in regard to land covered by such plan or element shall be consistent with such plan or element as adopted.*

Mr. Pinney asked if the Committee had any additional comments.

The Committee had no further comments.

Mr. Pinney asked if there were any questions of the Committee.

No questions were raised.

Mr. Pinney stated that with the outstanding issues and based on the Committee comments, the DRC would not approve this rezoning application. Mr. Pinney stated that the applicant could

move forward to Planning and Zoning and the City Commission as a next step, even with denial from the DRC.

Mr. Teal stated that he objected to the comments made by the Committee and believed, based on the documents submitted, that the application should move forward and be approved for rezoning by the DRC. Mr. Teal stated that he agreed that there was no need for City Commission approval when a use is approved as-of-right but noted that administrative approval would be required through a change of use application. He indicated that the applicant would get a building permit that said: "no work proposed." He noted a prior building permit was approved and disagreed that the property would have to come current with Florida Building Code provisions. Mr. Teal argued that staff did not interpret Section 31-37 correctly and referenced a site plan and business plan submitted.

Mr. Keyser stated that he did not receive a site plan and questioned whether a site plan was submitted.

Mr. Teal stated that the site plan is on file with the City's Building Department. He noted the plan being contemplated was the same plan they have had since 2015 and was enforced to the I-2 standards. He questioned the objectivity of staff involved in the project and related litigation.

Mr. Keyser stated that he has a survey but no site plan.

Mr. Teal offered to provide the site plan to the DRC.

Thomas Hall, traffic engineer for the applicant, stated that regarding trip generation, he had used the independent variable that had the best data supporting it. Mr. Keyser called attention to Section 31-35(2)(C) of the City Code, which requires that a traffic statement shall be prepared by a professional engineer. He then asked Mr. Hall if he was a professional engineer. Mr. Hall replied, "Absolutely not, the work was done under the review of Freddie Vargas."

Mr. Keyser stated that the traffic report was not signed and sealed. Mr. Hall stated that the report was digitally signed and sealed, as far as he was aware. Mr. Keyser showed the document and restated that the report that was provided was not delivered signed and sealed.

Mr. Teal indicated that the report was emailed. He stated that a hard copy could be provided and assured the committee that it was originally signed and sealed, but the information may not have transferred via email.

Mr. Hall stated that he had a contractual agreement with Carnahan, Proctor and Cross, and the firm has lots of P.E.s that regularly sign off on his work. Mr. Keyser responded that the traffic statement must comply with code and statutes, and then cautioned Mr. Hall to be careful about being party to plan stamping. Discussion ensued regarding the definition of plan stamping and the potential issues surrounding a supervising P.E. who had passed away.

Mr. Hall asserted that he had selected the independent variable that he did because there was the largest number of studies to support it. He stated that he would use any of the other independent variables requested but was not clear on the number of employees to be on site at any given, so used 24.

Mr. Keyser asked if the number of employees on site considered shift changes. Mr. Teal stated that there would be a maximum of 13 employees on site at any given time. Mr. Hall continued to explain his methodology and disagreed with the representations of parking demand made by members of staff.

Wes Blackman, urban planner for the applicant, asserted that this volume of comments would typically be given in advance and stated that the Committee was being disingenuous. He affirmed that a site plan had been submitted and stated that there are no physical changes planned for the building. He noted that if there were existing nonconformities, they could deal with through a variance process. Mr. Blackman stated that through the reasonable accommodation process the City had more power to place conditions than through as-of-right. He added that both tracks were being pursued. Mr. Blackman requested the Committee comments be supplied to him in writing, in order for them to be addressed.

Mr. Teal indicated that he would verify whether the site had a standby generator, and stated that the facility would have no visitors, which should be factored into an objective parking analysis. He stated that we could either review the Code and find a million reasons to deny the project or work together and do something good for the City and property. He then asked when he could be scheduled for a Planning and Zoning agenda.

Mr. Pinney described the public notice requirements of the applicant, which consist of a mailing and posting signs. He stated that the applicant could coordinate with staff to schedule a meeting.

The Committee recommended denial of the application.

## **GENERAL DISCUSSION**

There being no further business to discuss, the meeting was adjourned at 11:19 a.m.

Respectfully submitted,

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Liz Taschereau  
Director, Development Services Department

Date: \_\_\_\_\_