

March 8, 2021

RE: Development Review Committee (“DRC”) Review #5 on Marquesa Project (Development Services Comment 19)

I am writing on behalf of Alliance XVI, LLC (“Alliance”) in response to the DRC Development Services Comment 19 and Alliance’s compliance with the urban greenways requirements found within Section 9.7 of Article IX of the City of Margate’s (“City”) Code of Ordinances (“Code”).

The Marquesa Project is located at 5203 Coconut Creek Parkway (“Property”); the Property is zoned TOC-C. The urban greenways requirements are found within Section 9.7 of Article IX of the Code (“Section 9.7,” and “TOC-CC Article,” respectively), which Article relates specifically to TOC-CC zoned areas. While there is some mixed language throughout the TOC-CC Article which references requirements within TOC-G and TOC-C specifically, the TOC-CC Article is inconsistent.

It is Alliance’s position that the intention of Section 9.7 was to create standards solely for the TOC-CC zoned properties within the City, unless otherwise explicitly stated. If the City had intended to make the requirements in the TOC-CC Article applicable to all of the TOC zones, and not just the TOC-CC zone, the City could have done so. In fact, the City did this in Article VII (the TOC-C zone Article), Section 7.1:

Section 7.1. - Application of article.



This article is intended for all lands designated as Transit Oriented Corridor on the Margate Future Land Use Map. The regulations of this article shall apply in all TOC zoning districts.

TOC-C: Transit Oriented Corridor—Corridor;

TOC-G: Transit Oriented Corridor—Gateway;

TOC-CC: Transit Oriented Corridor—City Center.

After the effective date of this article, the building design and site design standards and any and all other land use and development requirements, standards, regulations, or other provisions set forth in this article shall apply to all new development and redevelopment within the TOC district. No permits for the development or redevelopment of a property designated as Transit Oriented Corridor on the Margate Future Land Use Map and designated as one (1) of the three (3) TOC zoning districts on the Regulating Plan Map provided herein shall hereafter be issued from the city until said properties have officially changed zoning designation on the City of Margate Zoning Map to one (1) of the three (3) applicable TOC zoning districts as identified on the Regulating Plan Map.

(Ord. No. 1500.560, § 1, 7-7-2010)

Moreover, when the City amended Section 9.7 in 2018 it removed the language that Section 9.7 applied “to all TOC development” – see the strikethrough language below showing the revisions made to the Code:

28 to read as follows¹:
29
30 **Section 9.7. - ~~Form-based code and~~ Specific design**
31 **~~standards.~~**
32
33 (A) ~~Intent. ~~Form-based code.~~~~ This article illustrates the
34 types of streets, buildings, heights, and mixes of uses
35 that create the desired "form" presented in the master
36 plan and TOC districts. ~~Form-based codes are particularly~~
37 ~~suited for this purpose and provide for the establishment~~
38 ~~of Guidelines for building design, site design, access,~~
39 ~~and other development components are standards that apply~~
40 ~~to all TOC development. This form-based code is transect-~~
41 ~~based with a corresponding regulating plan that~~
42 ~~prescribes the appropriate land uses, and project and~~
43 ~~site design principles relating to the appropriate form~~
44 ~~for the pedestrian orientation, streetscape, and public~~
45 ~~realm in the subject area.~~
46

Section 7.2 (in the TOC-C Article of the Code) provides that one of the purposes of the TOC-C zone is to “promote” the provision of urban greenways. There are no specific greenways requirements in the TOC-C Article.

The introduction to Section 9.7 provides that it is the intent of that Section to “illustrat[e]” the “desired form” presented in the master plan and TOC districts. Again, it does not state that Section 9.7 contains requirements for all of the TOC zones. See the introduction to Section 9.7 below:

Section 9.7. - Specific design standards.



(A) *Intent.* This article illustrates the types of streets, buildings, heights, and mixes of uses that create the desired "form" presented in the master plan and TOC districts. Guidelines for building design, site design, access, and other development components are transect-based with a corresponding regulating plan that prescribes the appropriate land uses, and project and site design principles relating to the appropriate form for the pedestrian orientation, streetscape, and public realm in the subject area.

In general, development along the corridor is able to maximize developable heights and developable volume by positioning buildings at the back of the public sidewalk. Parcels with less than two hundred (200) feet of lot depth will also find increased flexibility in achieving greater developable height and building volume while maintaining or increasing separation from adjacent residential properties located to the rear.

Based on the foregoing, it is Alliance's position that because Section 9.7 does not specifically reference its applicability to all of the TOC zones, or even to TOC-C specifically, the urban greenways requirements found therein are only applicable to TOC-CC zoned areas, and are merely a guide or suggestion as to the "desired form" for TOC-C zoned properties.

Very truly yours,

GREENSPOON MARDER LLP

/s/ Elizabeth Adler

Elizabeth Adler, Esq.