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REGULAR MEETING OF THE DEVELOPMENT REVIEW COMMITTEE VIRTUAL MEETING <https://us02web.zoom.us/j/83763370627> MINUTES

Tuesday, November 23, 2021

10:00 a.m.

City of Margate
Municipal Building

PRESENT:

Elizabeth Taschereau, Director of Development Services
Andrew Pinney, AICP, Senior Planner
Alexia Howald, Associate Planner
Mark Collins, Public Works Director
Richard Nixon, Building Department Director (via Zoom)
David Scholl, Fire Code Official
Randy L. Daniel, DEES Assistant Director
Sgt. Paul Frankenhauser, Police Department

ALSO PRESENT:

Matthew Scott, Dunay, Miskel, & Backman, LLP
Liam Sargent, Kimley-Horn & Associates

ABSENT:

Cale Curtis, CRA Executive Director

The regular meeting of the Margate Development Review Committee (DRC) having been properly noticed, was called to order at 10:13 a.m. on Tuesday, November 23, 2021, in the City Commission Chambers at City Hall, 5790 Margate Boulevard, Margate, FL 33063.

Andrew Pinney, Senior Planner, noted the agenda was published with an error. He stated public comment would not be read into the record at this meeting, but there would be ample opportunity later in the process for public comment on the application at the Planning & Zoning Board (P&Z) and at the City Commission. He noted that DRC holds public meetings, but not public hearings.

Development Services Department

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NEW BUSINESS

A) 1D2021-481

CONSIDERATION OF A LAND USE PLAN AMENDMENT APPLICATION FOR SPRINGDALE VILLAGE TO AMEND THE LAND USE DESIGNATION FROM COMMERCIAL RECREATION TO R(10) RESIDENTIAL, INCLUDING A TEXT AMENDMENT TO ALLOW FOR SAME.

LOCATION: 7870 MARGATE BOULEVARD

ZONING: RECREATIONAL DISTRICT (S-1)

LEGAL DESCRIPTION: PARCEL 3 OF "ORIOLE GOLF & TENNIS CLUB SECTION TWO", TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 78, PAGE 21 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA

PETITIONER: HOPE CALHOUN, DUNAY, MISKEL, BACKMAN, LLP AND MARK RICKARDS, KIMLEY-HORN & ASSOCIATES, INC., AGENTS FOR MICHAEL FIMIANI, MARGATE EXECUTIVE GOLF COURSE, LLC.

Andrew Pinney, Senior Planner, introduced the item and explained the process to be followed. He stated staff comments were posted online and were attached to the agenda for reference. He asked if staff had any additional comments or corrections. Hearing none, he asked the applicant if they needed any clarifications or had questions regarding the comments.

Attorney Matthew Scott, Dunay, Miskel, & Backman, LLP, and Liam Sargent, Kimley-Horn & Associates, introduced themselves and explained they were standing in for the applicants.

Attorney Scott provided a brief background on the application. He noted some of his questions on the comments pertained to the level of specificity being sought in the application for the Land Use Plan Amendment. He stated as it was not a Site Plan process, some of the staff comments seemed to be asking for specificity which it was his experience would not be provided at this stage. Attorney Scott referenced the Engineering comments regarding traffic analysis not including the number of units contemplated and stated there were approximately 50 units within the dash line area of the plan existing, and the Land Use Plan Amendment would allow for an increase of 150. He noted the Development comments also referenced the traffic study and stated the units were not being analyzed correctly. He asserted there may be a traffic study required when there was a Site Plan, but at this point they would not need to study units already contemplated in the dash line area. He stated the traffic issue appeared to be a sticking point and asked for clarification.

Randy Daniel, Assistant DEES Director, asked whether he was correct in believing the rationale was that the developer wanted to construct 200 new townhouses. Attorney Scott responded that was not what was being considered. He stated what was being considered was a change to the land use, and that land use would overlay onto the property a certain density potential. He asserted this was not a request to approve 200 townhomes.

Mr. Daniel stated when he did the review, he looked at an application that stated they wanted to build 200 new homes, but there were 50 already in the dashed line. He explained his position was

that if they were analyzing a project that has 200 new townhouses, even though 50 are already allowed, and the applicant is seeking to not only change from open space to residential but to increase the density, the total impact of what was proposed versus what is there now had to be looked at.

Mr. Daniel stated what is there now is 742 units, and if they are going to add 200 units, the applicant needs to analyze the impact of 200 units, notwithstanding what is already allowed. He asserted this needed to include traffic impact of the full number of units, water consumption, and the demand on all other infrastructure. He added that this was why he had made the comment, and stated he felt it was reasonable. He reiterated what exists now is a golf course, and while 50 homes were theoretically allowed, that was not what was envisioned when putting infrastructure in place. Mr. Daniel stated the water line and sanitary sewer collection system serving the area would need to be analyzed to make sure it could support the full number of homes the developer wants to build, which is 200.

Attorney Scott stated he understood the rationale, but the issue he was trying to sift through was that a Land Use Plan Amendment is not an application to build homes. He asserted the Land Use Plan Amendment was a necessary first step when the current land use designation does not allow for what you want to do. Attorney Scott stated if the Land Use Amendment were approved, the applicant would not be able to build the townhomes, as they would still have to process a Site Plan and Rezoning through the City Commission. He stated at that point in the process, the applicant would be required to analyze the full impact of the site plan, including civil impacts such as water, wastewater, and access.

Attorney Scott explained he was hoping to work out the differentiation between a Land Use Plan Amendment and a Site Plan application. He noted he was not saying there would not be a time when the applicant must provide evidence and documents such as traffic studies and an analysis of the site but imposing that on the Land Use Amendment process was respectfully not fair to the applicant. Attorney Scott stated they were looking to have a discussion regarding the process to implement. He noted an example was a comment on the Rezoning application related to the lack of provided access easements. He questioned why access easements would be provided with a Land Use Plan Amendment. He stated the process of creating an access easement would require a binding restriction on the title when there is not yet a site plan in place and no application for a site plan before the City. He asserted this issue was a source of confusion between the applicant, the consultants, and the City review.

Mr. Pinney stated there was lack of coordination between the narrative provided and the exhibits. He explained the narrative discussed "residential units," but the exhibits specifically referenced townhouses, and the noise study contemplated condominium units. He asserted it would benefit the applicant to present a uniform concept moving forward. Continuing, Mr. Pinney clarified the area being discussed was one (1) of four (4) dashed line areas within the City. He stated this area was approximately 104 acres with boundaries of Margate Boulevard to the north, 76th Avenue to the east, Atlantic Boulevard to the south, and the City boundary to the west, and within that entire dashed line area, the map currently states an average density of 7.6 units per acre can not be

exceeded. He explained when analyzing that entire dashed line area, 792 units would be allowed and about 742 have been built as of today. He noted that would leave approximately 50 units.

Mr. Pinney stated the City has policies which allow the densities within a dashed line area to be rearranged, provided you do not decrease recreational space or increase commercial space. He explained the map amendment also includes a text amendment to modify the policy to allow what the applicant is requesting. Mr. Pinney stated staff is all trying to review it to make sure that it is fully vetted before it goes on to the higher Boards. He explained staff wants to look at all the possible scenarios. He asserted it may help during the plan review process if more time and analysis was spent saying what is on the ground now, the units vested in that dashed line area, and the additional units the applicant is proposing, including showing the impact of the units already on the map and the extra 150 requested. He stated he knew this was not typical but dealing with dashed line areas was not a typical situation.

Attorney Scott acknowledged it was messy to figure out what to do when dealing with every City with dashed line areas. He stated it was like a big master plan that creates challenges, unlike a traditional plan with designations.

Mr. Daniel stated a fundamental premise for any development is to establish its feasibility. He asked how one establishes feasibility of a project without looking at the things brought up. He noted he understood the application was a Land Use Plan Amendment, but if the next step would be to try to develop the property, the applicant would need to understand if the project can go forward based on the City's ability to service the project. Mr. Daniel asserted it was important and necessary to establish some of these fundamental development criteria so it is understood that when the application goes to the next level, staff will not ask for something that would have stopped the money being spent on the design if it had been asked earlier. He stated that was the basis and rationale for him bringing these things up now, as aside from those items there was no other basis for him to approve or reject the application as an engineer.

Attorney Scott stated he understood and acknowledged it was a confusing type of request, however a Land Use Plan Amendment is less about whether a project can be done and whether there is sufficient capacity in the City for the maximum development potential if the land use is approved. He asserted it is not so much a question of how you are going to provide for drainage, water, but whether there is sufficient water in the City such that 150 more units, which would take it to the 200 maximum potential, could be serviced. Attorney Scott argued discussion about where to move the canals was not appropriate in the Land Use Plan Amendment. He stated the Land Use Plan Amendment process is whether any sort of drainage could be addressed in the site plan process.

Attorney Scott acknowledged there were items within the application to clean up, such as referring to things correctly and ensuring consistency. He stated there was a feeling on the part of the applicant that the City is requesting things which are putting the cart before the horse. He asserted an example would be the comment stating the applicant must provide for more access points for emergency services. He asserted that never in his career had he done a Land Use Plan Amendment that required the applicant show access. He reiterated the Land Use Plan Amendment is for the

underlying land use, so to make the applicant go through the exercise of showing access was putting the cart before the horse. He asserted it was something that would have to be addressed with the site plan but making them show it now in essence turns it into a planned development, and they are not proposing a planned development.

Attorney Scott stated another thing that makes the point the applicant is struggling with is that if the Land Use Amendment and Zoning are approved, that would allow development via Site Plan Approval of anything the City's Code allows in those land use and zoning designations. He argued it would not bind the applicant to a concept. He stated it would not bind them to 200 townhouses or five (5) single-family homes, those would be the things on the menu of options. He noted how to address this was the struggle the applicant's team was having as they move forward.

Attorney Scott stated the noise study was another item the applicant had a question about. He noted confusion about the noise study in the Engineering comments and asked for direction on how to modify the submission to address the comment.

Mr. Daniel responded that in his opinion, the noise study did not really address anything. He read Engineering comment G as follows:

G. NOISE

The purpose of the Noise report is unclear, as it analyses the current noise condition and makes no attempt to simulate the noise from the proposed development.

Please provide an explanation as to what is the objective of the noise study.

Mr. Pinney interjected that the Land Use Plan Application tells the applicant to provide a (noise study) noting it was out of Chapter 33 of the City Code. He stated before converting land to residential, they want a noise study where habitation is to occur to make sure it is at a noise level acceptable for residential use. He explained it was not to predict future noise levels, but to see where it is at today, to see if it is suitable for residential development.

Mr. Daniel stated he could strike the comment in light of Mr. Pinney's explanation.

Mr. Pinney added that he would also like to address some of Attorney Scott's comments regarding the multiple point access. He stated that request was backed up by Comprehensive Plan policy about tying into the existing neighborhoods and things like that. He noted he did not have the exact policy number in front of him, but as far as Development Services was concerned, the basis was being able to blend into the existing neighborhood.

Continuing, Mr. Pinney addressed Attorney Scott's comments regarding going too deep into the drainage and roadway analysis. He stated he thought that was pertinent information for the policymakers of the City, including the City Commission and P&Z board members. Mr. Pinney

asserted if they are going to approve a concept for up to 10 units per acre, they should be aware of what needs to be done in order to make that happen. He noted the widening of a canal or road as examples. He stated if it is a future development, the policymakers want to see what kind of impact it will have on the City. He argued it was not premature in the analysis, as it was pertinent for the decision.

Mr. Daniel added that drainage is a critical parameter to deal with. He stated the existing land has a drainage channel straight down the middle into a lake that empties into the C-14. He noted in addition, it drains properties north of Margate Boulevard, so any kind of reconfiguration or realignment of that water course would potentially affect upstream properties which depend on the channel to drain in the time of a rain event. Mr. Daniel asserted this was fundamental. He stated it has to be realigned, and the plans he saw showed the houses being built over the existing channel. He noted the second submission showed the channel realigned to the west but included no detailed analysis as to whether it would work. He stated he saw it converted to 30-inch culvert but was not sure if that would work. He asserted at this point he is not sure how an existing open channel can be substituted by a 30-inch culvert or whether that made engineering sense. He stated this issue was something the applicants needed to really drill down into.

Mr. Sargent asked for clarification on Comprehensive Plan requirements, specifically the comment that when transitioning a golf course to residential there needed to be a replacement of open space. He stated the comments mentioned the requirement stands because golf courses are approved with some sort of master plan guiding principle in mind which allocates a certain amount of recreation open space or amenity golf course space. Mr. Sargent stated the applicant's team had reached out and received confirmation there was no existing plan. He asked if there was something older the team was missing.

Mr. Pinney responded that he could not confirm that there is a master plan, but stated he suspects it had something to do with the way the request was worded. He asked if Mr. Sargent had personally spoken with anyone in the City Clerk's office.

Mr. Sargent stated they sent the request to Alexia Howald, Associate Planner, and she referred them to another department which handles documentation. He explained that staff person said they looked up the parcel and there was no information to back up the comment. He stated it may be a confusion of words, but if there was a requirement to analyze a preapproved master plan, the applicant would at least like to see it.

Attorney Scott clarified that the Clerk responded that they had searched the records and there was no master plan.

Mr. Pinney stated he thought the issue was based on the way the request was worded. He noted they had given the golf course address, and it may not have been filed under that address at the time of development.

Attorney Scott stated they would work on that again. He stated he appreciated the detail of the comments and did not believe the applicant had any further questions to clarify.

Mr. Pinney explained the overall process for the Land Use Plan Amendment was DRC, followed by public hearings at P&Z, a transmittal hearing before the City Commission, transmittal, return for adoption, and finally recertification by County Planning Council. He stated they are at step one (1) of a very long process. He stated in this type of application, the DRC serves as a recommending body. He asked whether the applicant wanted to proceed with the application as it is or revise and resubmit.

Attorney Scott stated they wanted to proceed.

Mr. Pinney stated they could discuss P&Z meeting dates following the meeting. He asked for confirmation the application would proceed as is.

Attorney Scott stated given his experience with the City, he knew there were certain things it was important for the applicant to clarify. He noted in response to some of the comments related to discrepancies and inconsistencies or typos, the applicant would look to clean up as they proceed. He stated understanding the DRC is unlikely to give a positive recommendation, the applicant would look to clean up the application and follow up, irrespective of the Board's recommendation, and then move forward with what the client is considering at this moment.

Mr. Pinney stated if it was a minor typo or that type of correction he had no objection, but if it gets into substantive changes, new reports, or things like that, the DRC members would need an opportunity to look at it.

Attorney Scott responded that he understood. He stated if there were things the team had done wrong, such as the traffic study calling it a townhome and another place calling it a home, or using the wrong acreage, he would view that as clean up. He asserted they would look to get that cleaned up to decrease the messiness. Attorney Scott stated the concern with coming before the DRC again was honestly that it would engender an additional 60-90 days because the Board is very busy, and it is a complicated project. He noted that setback was a genuine concern from the owner, so their preference would be to try to clean it up without changing the analysis items or modifying the request.

Mr. Pinney reiterated that if it was not substantive, he did not have a problem with it. He noted there were some fundamental issues with the traffic study that staff had big problems with. He stated addressing the issues would require more than switching one (1) or two (2) terms.

Attorney Scott stated for better or worse, and not getting into whether the DRC should agree with it, they would not be changing that analysis, assuming the application is moving forward as he believes his client would request.

Mr. Pinney explained based on what was in front of them today, he believed the DRC would recommend denial of the application. He called for any comment from the Board, and hearing none, stated the DRC recommends denial of the Land Use Plan Amendment application.

- B) 1D2021-482
CONSIDERATION OF A REZONING FROM RECREATIONAL (S-1) TO MULTIPLE DWELLING (R-3) ZONING DISTRICT FOR SPRINGDALE VILLAGE
LOCATION: 7870 MARGATE BOULEVARD
ZONING: RECREATIONAL DISTRICT (S-1)
LEGAL DESCRIPTION: PARCEL 3 OF "ORIOLE GOLF & TENNIS CLUB SECTION TWO", TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 78, PAGE 21 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA
PETITIONER: HOPE CALHOUN – DUNAY, MISKEL, BACKMAN, LLP AND MARK RICKARDS, KIMLEY-HORN & ASSOCIATES, INC., AGENTS FOR MICHAEL FIMIANI, MARGATE EXECUTIVE GOLF COURSE, LLC.

Mr. Pinney introduced the item and asked if staff had any additional comments or corrections to the comments as published with the agenda. Hearing none, he asked the applicant if they needed any clarifications or had questions.

Mr. Sargent asked for clarification regarding traffic. He stated there was some concern with moving to P&Z and keeping the analysis the same with small changes. He noted some confusion regarding the baseline traffic information the applicant was using, and read Trafficways Comment one (1) into the record as follows:

1. *Provide source for the statement that "The requirement is to demonstrate that the proposed change in land use does not contribute external trips in excess of 3.0% of a failing roadway's maximum service volume."*

Mr. Sargent asserted the applicant had provided in the past that the source was a Broward County standard.

Mr. Pinney asked if the Code section or Statute had been cited.

Mr. Sargent stated the applicant's previous response indicated there is a Code section from Broward County that indicates that three (3) percent is the typical number they would use. He noted they have used it in any previous traffic analyses throughout Broward County. He asserted it was similar to how the application was set up in the preamble, and read a selection of the preamble into the record as follows:

- The Traffic study that was supplied with the Springdale Village Report suggests that 7.8% of residents in the new development will choose to walk or use public transit. This percentage is based on the national average and there is no evidence that this percentage is applicable to Margate, nor that it could be used as a design parameter.*

Mr. Sargent argued there was no evidence this percentage is applicable to Margate, except that they have used it in every Broward County traffic analysis for the past 30 years. He stated there is concern the traffic was not fairly analyzed, especially given that this is a Rezoning. He asserted that would be the applicant's response, that they had met a number of these and have the Code sections to back it up, so they do not know why it keeps coming up as a concern.

Mr. Pinney stated he does recommend if it is a Broward County standard, that the applicant cite the Code chapter and section specifically so that staff can take a look at it. He asserted if it is preemptive, the Board will probably adjust some of its comments, but if it is not, the comment may stick. Mr. Pinney noted the other thing to consider is that the Traffic Engineer, for his basis of estimated trip generations, cited the ITE Trip Generation Manual. He stated he does not know that the ITE manual allows for a trip reduction and asked if it was stated anywhere specifically. He explained he had read the manual as cited and did not see any indicators where additional trip reduction would be allowable in the projections.

Mr. Sargent stated he had not read through it but would defer to the Traffic Engineer if he were present.

Mr. Pinney pointed out this was the second time asking for the information, so it was an issue.

Attorney Scott stated they would work on that.

Mr. Sargent noted that was all he had on traffic, but stated staff would probably see similar responses, because they had been provided two (2) submittals in a row. He stated the applicant would clarify the exact Code section for review. He stated existing 2019 peak hour condition level of service analysis was the most recent available, and they had said that before.

Mr. Pinney stated the scope of the traffic analysis was also not consistent with the Comprehensive Plan policy. He explained the policy states when looking for a residential Land Use Amendment, it is a 1.5-mile radius, all traffic segments, links, and intersections, and that was not done in the traffic report. He noted again, if the applicant wants to move forward, they are welcome to.

Mr. Sargent stated they would request a review of the Code section to make sure it was accurate, and the application meets that standard.

Mr. Daniel asserted he takes issue with the applicant stating the traffic review was not done fairly. He stated they did their due diligence, and referenced Margate Code section 31, which requires the applicant to use the maximum impact of a development. He asserted when the applicant uses a 7.8 percent, he understood it was not arbitrary but was the national average, it did not reflect the maximum impact, and he was suggesting that small number of residents who would choose to use public transportation be disregarded. Mr. Daniel stated there is evidence that suggests there is a long path to get to a bus stop, and while he did not get into that in detail in the comments, that is another issue. He explained his comment had to do with trying to understand the maximum impact

of a 200 house or townhouse development on the City of Margate, and therefore the 7.8 percent should be ignored to establish the maximum.

Mr. Daniel stated the Traffic Engineer came up with 95 additional trips, which staff felt was not correct.

Mr. Sargent argued that as a residential development, the trips are naturally lower. He stated people are traveling at different times of the day, and they are not seeing multiple trips throughout the day.

Mr. Daniel stated if the Traffic Engineer was present, they probably could have had a more meaningful conversation, but unfortunately, he was not. He noted staff calculations show 919 new trips, so almost 10 times the analysis submitted. He asserted staff did their best and due diligence in reviewing the submission and trying to come up with guidelines for the applicant to address and allow the development to move forward while fitting into the community and not presenting a burden to the City of Margate.

Mr. Sargent responded that obviously the applicant would need to explain that when going to P&Z, but on behalf of the Traffic Engineer, there were concerns.

Attorney Scott asserted it being the case that there is seemingly a disconnect between what staff was looking for in the review and what the Traffic Engineer had produced, it made sense to set up a call to connect and talk through those items. He stated they were not asking staff to change their view, but there seemed to be a genuine disconnect and it would be good to talk it out. Attorney Scott stated they did not have any further questions on the comments. He asked for clarification on the process. He noted the negative recommendation on the Land Use Plan Amendment and stated assuming there was also a negative recommendation on the Rezoning and asked whether based on discussions at the P&Z, the applicant could request to go back to DRC for additional review.

Mr. Pinney asked if the applicant wanted to withdraw the Rezoning application pending the outcome of the Land Use Plan Amendment.

Attorney Scott stated that was not his intent, but no matter what, the Rezoning would wait on the Land Use Plan Amendment. He noted globally, the applicant is saying they want to move forward on the Land Use Plan Amendment, and he would assume the Rezoning would not be reviewed by P&Z or the City Commission until that process was further along.

Mr. Pinney stated he believed there was State Statute that said if the applicant wanted to submit the Land Use Plan Amendment and Rezoning applications concurrently, the City had to accept them, so it would be on a parallel track.

Attorney Scott noted the City Commission could not legally approve a Rezoning if the Land Use was not in place.

Mr. Pinney stated there were examples of linking the effective dates on the Ordinance to the Land Use being finalized.

Attorney Scott asked whether the applicant could state now they were moving forward and later decide to bring the Rezoning back before the DRC. He acknowledged the recommendation of the DRC was important and asked if the applicant and staff were to work through the issues with the traffic study, the item could be brought back to the DRC for review. He asked if that was something that had been done before.

Mr. Pinney stated it seemed bizarre to split the applications on to two (2) different tracks.

Attorney Scott explained he meant both applications.

Mr. Pinney confirmed the applicant would have the option to resubmit if they like. He stated the denial was not carved in stone and they could have that conversation offline.

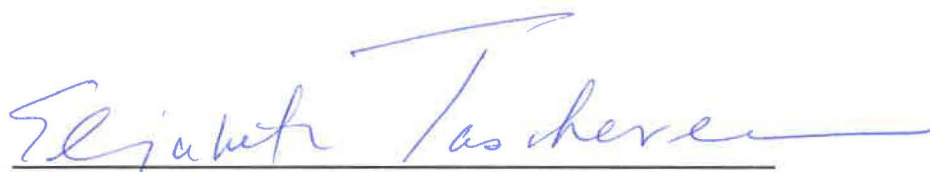
Mr. Pinney explained based on the comments issued, he believed the DRC would recommend denial of the application. He called for any comment from the Board, and hearing none, stated the DRC recommends denial of the Rezoning application.

GENERAL DISCUSSION

Mr. Pinney called for any general discussion.

There being no further business to discuss, the meeting was adjourned at 10:57 a.m.

Respectfully submitted,



Elizabeth Taschereau, Director of Development Services