

Michael Vonder Meulen, Keith & Associates, Pompano Beach, FL, indicated that this is the first of many of the processes that the project will go through. This is the plat taking the metes and bounds legal description of the property and taking it through the City and County processes, to allow them to go through the site plan approval process and through the building permit process. Therefore, the plat being essentially a paper document showing the corners of the property, they will meet with the community once the plat is approved and the site plan is fully developed.

Vice Mayor Moss indicated that out of respect to the Collier City community, he asked for a postponement of the item until they have had an opportunity to meet with the residents of the community, which should have been the first thing to do and not after getting "some goodies in the basket" then go to the community.

A motion was made by Vice Mayor Moss, seconded by Comr. Perkins, to postpone the consideration of hearing the item until November 12, 2019 or until such time that they have met with the Collier City residents. This is not a disapproval but a postponement until they meet with the community prior to bringing it before the Commission. The motion carried unanimously.

Mark Berman, City Attorney, respectfully reminded the Commission that the plat process is purely ministerial in nature not discretionary. Once a party complies with the legal requirements, the courts have held that there is no discretion in government authority to refuse approval of that plat.

A motion was made by Vice Mayor Moss, seconded by Commissioner Perkins, that the Quasi-Judicial/ Resolution be POSTPONED until the November 12, 2019, City Commission meeting. The motion carried by the following vote:

Yes: Eaton
McGee
McMahon
Perkins
Moss
Hardin

19. [19-716](#) **P.H. 2019-131: (PUBLIC HEARING)**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA ALLOCATING A MAXIMUM OF FIFTY EIGHT (58) FLEX UNITS FOR A PROPOSED RESIDENTIAL DEVELOPMENT LOCATED ON THE SOUTHWESTERN CORNER OF SOUTH PALM AIRE DRIVE AND SOUTH POWERLINE ROAD; PROVIDING AN EFFECTIVE DATE
(Fiscal Impact: N/A)

(Staff Contact: Jean Dolan/David Recor)

Mayor Hardin declared that he received numerous letters and emails concerning this matter pro and con for the

project.

Comr. Eaton declared that she also received numerous letters and emails concerning this matter pro and con for the project.

Comr. McGee declared that she received emails concerning the project.

Comr. McMahon declared that he received emails in reference to the project.

Vice Mayor Moss declared that he received emails in reference to the project.

Comr. Perkins declared that she received emails in reference to the project.

Jean Dolan, Development Services Department, presented the item and stated that the flex allocation application request is for 59 flex units and is being made by Joe Usman of Usman Palm Aire LLC for the 1.3-acre property at the southwest corner of Powerline Road and South Palm Aire Drive. She then described the position of flex unit necessity, which was not the allocated units when the 10,631 units created by the Palm Aire dash line (-) Land Use designation were allocated to the various development parcels within the original Palm Aire master plan. Palm Aire is within the City's flex receiving area and is eligible for flex units. The requested 59 units is consistent with the RM-45 zoning of the property, and will fit on the site within a six-story building as shown on the conceptual site plan.

Continuing, Ms. Dolan explained the developer's intent to buy out the affordable housing requirement associated with the allocation of flex units. There are two unique conditions of approval for the flex units that came out of the public input received from the community. One is for a traffic study to ensure that there are not dangerous conditions created on the "S" curve associated with the adjacent segment of South Palm Aire Drive. The other condition is to provide a sidewalk that connects the County greenway system along the canal, south of the property. The applicant agreed to both conditions and to build the units in conformity with the conceptual site plan attached to the resolution. The flex allocation was recommended for approval by the Planning and Zoning Board (P&Z) on June 25, 2019.

Robert Hartsell, Esq., 61 NE 1st Street, Pompano Beach, FL, representing Usman Palmaire LLC, stated that the owner representative, Ghulman "Joe" Usman is available to answer any questions regarding the project. He stated that prior to seeking approval of 58 flexible or reserve units for the property located at 1001 SW 26th Street, the property has no allocated units, so the owner cannot do anything with the property. The flex units were made available through an agreement with those property owners within the dash line (-) that they would be able to apply for these units to get a buildable use out of the property. He stated that currently, there is no viable use for the property, which the owner has for five years and has continued to maintain the property, and has donated part of the property back to the City's utility department, in order to put a pump station for sewage for the rest of the Palm Aire development. He has also developed certain parcels along Powerline Road, which are attractive office buildings and this development will be similar to the Mediterranean style of those office buildings.

Continuing, Mr. Hartsell indicated that the process they have gone through to date involves meetings with Vice

Mayor Moss and residents of the nearby condominium associations, and most of their questions were answered. They had a follow up call and the residents wanted to see a diagram of what the proposed building would look like, which was provided. In addition, Mr. Usman visited the City Clerk's office to check if there were any disagreement letters, which was not available for his review. A copy of Mr. Hartsell's presentation is attached as **Exhibit II**.

Mr. Hartsell requested to do a rebuttal after the public speaks.

The following persons spoke in opposition of the project and provided his/her reasons for opposing it:

- 1) Alan Schechter, 2851 Palm Aire Drive South, Pompano Beach, FL. - Plans are not drawn to scale, parking will not be sufficient for the number of proposed units. Currently there are fully grown trees that provide shade and some sound blockage, which the project will destroy, as well as the property is part of the County greenway. In addition, there will be increased traffic on Palm Aire Drive South, which provides ingress and egress to the areas west of the C-14 Canal.
- 2) Mary Corlin, 3001 South Course Drive, Pompano Beach, FL. - There is not enough room in the area from her estimation of 116 people for the proposed units. The location is unsafe for children that may occupy the units, the width of the path is not enough for the building, parking, etcetera. Viability of putting a project of such a size and nature into a postage stamp size area is scary. Not a good location.
- 3) Marc Sacks, 2651 South Palm Aire Drive, Pompano Beach, FL. - The located area for the project is well walked and bicycled, and traffic will increase in the area thus increasing the potential for accidents. The property is along the "S" curve and is a dangerous area for these types of units and with additional cars there will be additional exposure for incidents to happen. There will be increased traffic flow from the Isle Casino. The proposed Mediterranean look does not go with the consistency of the Palm Aire neighborhood. Public safety is at risk because of the additional cars on the property, as well as public enjoyment is jeopardized because of the removal of the green space and the greenway. The project is too large for the area and a ten unit would be a better fit.
- 4) Patricia Rice, 2901 South Palm Aire Drive, Pompano Beach, FL. - Attended the April 10th meeting with Mr. Usman, Vice Mayor Moss and members of the Palm Aire Condo Associations I, II and III. They expressed concerns regarding the density of the area, parking, and traffic. The entrance at Powerline Road and South Palm Aire Drive has always been hazardous. Speeding is another issue in the area, the ingress and egress of the property for the project is at a dangerous place in the road, the Broward Cypress Greenway runs through it and there is no way for the greenway to continue. There are no property taxes paid by Mr. Usman because the land is valued at \$10. The upcoming developments of the Isle and the Lockhart stadium will also contribute to traffic in the area.
- 5) David Miller, 2621 NW 13th Street, Pompano Beach, FL. - He supports greenspace but the term flex was a bit confusing for him. He likes greenspace more than buildings. Therefore, he would prefer to see the attractions and the traffic control prior to more housing. While he supports housing for the workforce he does not support density.

- 6) Tom Drum, 2700 NE 8th Street, Pompano Beach, FL.. - This goes back to the density and there is another item on the agenda that will add approximately 2,000 residential units, and so with this postage stamp parcel, this is too big of a project for the land space available.
- 7) Carlos Saldias, 2551 South Palm Aire Drive, Pompano Beach, FL. - The proposed project has contributed to the City's major growth drive, but if sustainable it can be good. This will add to an already dangerous traffic condition, noise level would increase, and unsafe speed conditions increased. Construction of residential property without reasonable setbacks would compromise the safety of the residents and negatively impact the narrow South Palm Aire Drive road. The proposed building will detrimentally impact the safety and quality of life of the residents in and around the surrounding area.
- 8) Michael Syphert, 2501 South Palm Aire Drive, Pompano Beach, FL. - The proposed project roof top takes up the same amount of space of the building across the street and there are sixteen people in those units for the same amount of space being proposed for 54 units, therefore, parking will be an issue, the current walking path will be taken away that is utilized by everybody, no place for trash, and it will decrease everybody's property value.
- 9) Rene Kageff , 3301 South Palm Aire Drive, Pompano Beach, FL. - He enquired what will happen if all 50 plus units are not sold, if not, in big developments similar to the proposed project it will become an eye sore later. Also, this will cause increased traffic and accidents, which the area is known to have these issues. Proposed density will not be good.
- 10) Soraya Fayad, 3301 South Palm Aire Drive, Pompano Beach, FL. - As a real estate broker in Florida and New York, she indicated that this place will be crowded, and trees, openness, and quiet will be jeopardized. If they put up units to accommodate kids they will be across the street from a liquor store.
- 11) Michael Skversky, 1630 SW 5th Avenue, Pompano Beach, FL. - Surmised that there are approximately eight persons who spoke against the project development to include a realtor. Also, property value will be impacted.

Ms. Corlin, who spoke earlier, stated that one person estimated the size of the parcel to be 250 x 500 feet, which is double/triple what the actual measurements are. She assumed that the biking and running path will be taken away. The project will be 25 to 30 feet too deep if it is a County item and the path is retained. Given the path measurements it would be about 120 x 370 feet for the full parcel, and for the 120 feet parking will need to be accounted for, ingress/egress to the parking, the ten-foot buffer, the building itself, as well as another buffer beyond that, which is estimated to be 125 feet depth. She concluded that she did not see a survey that indicates the full depth and width of the property, which she would like to see.

Mr. Hartsell provided his rebuttal and indicated that very valid points were raised. As it relates to parking, it is decided by the City and they will provide as many parking spaces according to City code. Otherwise, the site plan and building permit will not be approved. As far as the traffic analysis, there will be 4,000 units going up across the street. Nevertheless, they will do a traffic study prior to approval of the site plan, which is a condition of the flex unit approval. Also, the aesthetics comes at the site plan stage, not at the allocation of

units' stage. The diagram being presented are conceptual drawings, but by the time it comes out it will ultimately be what the City Planning and Zoning Board will approve. The density is not decided by the developer but by what the City designates. Currently, the property is designated at RM-45 and it is 1.3 acres in size.

Joe Usman, 61 NE 1st Street, Pompano Beach, FL, stated as it relates to being artistic, he has built prior buildings in the City and they are some of the nicest buildings in the area. The one in Palm Aire 55, is the nicest building in Palm Aire. As it relates to zoning, it is not a postage stamp, but it is 1.3 acres for all 56,000 square foot. He is not asking for any more units than are required in the zoning district. There is not an issue with the parking because they have met the City's code parking requirements. As it relates to traffic, there will be over 2,000 units built across the street from the proposed project and a proper traffic study will be done. Mr. Usman concluded that they are not asking for any more than they are entitled to have. He concluded if they are asking for more than allowed, he will be willing to make a park out of the parcel.

Vice Mayor Moss disclosed that he has had several meetings with the developer and members of the community on a number of occasions and have thoroughly discussed this issue. He is not anti-development and has expressed this throughout the five years he has been sitting as a commissioner. He is for development when it serves a good purpose and enhances the community. He believes this project does neither. He agrees with his constituents that this is much too big of a building on a much too small of a lot. In terms of the traffic, there are some concerns as there are seven entrances into Palm Aire with over 6,832 units in the area, therefore, to add any additional traffic is going to be a burden on the community.

Finally, Vice Mayor Moss expressed concern about the flex units. He then provided a definition of flex units and indicated that these are the tools that municipalities make available to developers to add extra density, when it serves the purposes of the community, when it adds to the betterment, beauty, and the economic viability of the community, which this does not do any of that. It is just too much on too little. Therefore, he will not vote for the item. He recognizes that Mr. Usman has the right to develop the property but not with the proposed project.

Comr. McGee enquired if these will be condominiums or rentals.

Mr. Hartsell responded they will be condominiums, with an estimated square footage of 1,200 to 1,500. One bedroom will be 850 square feet and two bedrooms will be 1,200 square feet.

Comr. McGee understands the parking is set by City code, but wanted to make an observation because it appears some of the projects have been coming through the parking ratio set up do not mimic reality of how people drive and live. It is concerning not only with this project but a few more as well. If staff could look at the code for units and perhaps re-examine that versus how people live today with working and driving.

Comr. Perkins stated that most people who spoke earlier are against the project and asked if there was anyone in the audience that would support the development. Approximately two persons, the developer and his attorney.

Mayor Hardin indicated that most of the issues that speakers were mentioning were not germane to the discussion because those will be handled at site plan further on in the process. Parking requirements will be

handled per the City code. In reference to trees being destroyed, the City does take tree canopy very seriously, as well as tree preservation. If trees get destroyed, they will be replaced with similar kind or better.

Mayor Hardin asked if the walking/jogging path greenway belongs to the county.

Mr. Usman responded that it is a county greenway and it will be a complement to the county's greenway. They will not be taking any walkways and will be working within their own property lines.

Mayor Hardin understands that they will be working on a traffic study. The greenway will be maintained because it belongs to the County. Also, he said apartment versus condominium is not germane to the discussion about flex units. While he is not supporting or defending anybody, the discussion is really about the granting of the units.

Comr. Eaton asked about the height and the flexibility for this and what is the allowable maximum height.

Mr. Hartsell responded that they are only six stories and it is zoned for ten, but they have reduced it to six.

Comr. Eaton asked if there is a proposed new traffic intersection or light to come on Powerline Road.

Ms. Dolan responded that the Regional Activity Center to be discussed later have some right turn lanes into their property, but there are no new intersections or traffic lights proposed.

Comr. Eaton indicated that if someone has a right to a use on a property and they meet the criteria it is an expensive proposition for the City or one in vain. It is considered a taking and there have been smaller parcels that come before the Commission and according to Exhibit B in the backup, the total lot coverage allowances is only 60% of the property and is not allowed to do any larger lot coverage. The project is presented to scale and verified by City staff. The applicant does not have the ability to "trick" City staff. She believes the project could fit on the parcel of land, and reiterated that the property owner has a vested right and meets the criteria. In a court of law the applicant would likely win.

Vice Mayor Moss disagreed with Comr. Eaton and explained his reasons. As it stands now, Mr. Usman does not have the right.

Mr. Hartsell explained inside the dash line (-) the units were taken away some years ago, within Palm Aire. Some parcels were left out and as part of the settlement agreement they agreed to allow some flex or reserve units to fill in those spaces with urban infill type units, in the public interest to provide residential housing or commercial or an inner mix. He said the flex units cannot go just anywhere. They are designed to go within the (-) line.

Mr. Usman elaborated on Mr. Hartsell's comments and indicated that they were given 900 plus units but it was given to someone else that did not have the zoning without asking them.

Ms. Dolan provided clarification regarding entitlements. She explained that the property has never had residential entitlements. When the 10,631 units were distributed through the settlement agreement that was

mentioned earlier, they were put on specific development parcels. This was not considered a development parcel so it was not assigned units. However, flex units are a totally different thing and is used citywide when people want to request either additional density or to do mixed use on a Commercial Underlying Land Use. They are within their rights to ask for flex units on this piece, but there are no vested rights.

Vice Mayor Moss then provided a background on the issue regarding the 900 units after two of the golf courses were closed.

Comr. Eaton enquired how a piece of property can be zoned RM-45, with 45 residential units per acre and not have those number of units.

Ms. Dolan indicated that she has always tried to explain this issue, and provided an extensive explanation on the background surrounding the land use plan and entitlements, as well as the broadly painted RM-45 zoning for the Palm Aire location.

A motion was made by Vice Mayor Moss, seconded by Commissioner Perkins, that the Quasi-Judicial/ Resolution be ADOPTED. The motion failed by the following vote:

Yes: Eaton

No: McGee
McMahon
Perkins
Moss
Hardin

20. [19-708](#) **P.H. 2019-129: (PUBLIC HEARING 1ST READING)**

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, ABANDONING A SIX-FOOT UTILITY EASEMENT LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF SW 2ND PLACE AND SW 14TH AVENUE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

(Fiscal Impact: N/A)

(Staff Contact: Jean Dolan/David Recor)

Jean Dolan, Development Services Department, presented the item and stated that the applicant is requesting to abandon a six-foot wide utility easement for Southern Grouts and Mortars Inc., located at 1502 SW 2nd Place. The easement is an "L" shaped area within the parcel located on the northwest corner of SW 2nd Place and SW 14th Avenue. It has been determined that the easement is no longer necessary and the abandonment was recommended for approval by the Planning and Zoning Board at their meeting on May 22, 2019. The conditions of approval have been met.