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|  | **MINUTES****COMMUNITY DEVELOPMENT BOARD****APRIL 14, 2021 AT 6:00 P.M.****COUNCIL CHAMBERS** **116 FIRST STREET****NEPTUNE BEACH, FLORIDA 32266** |
|  | Pursuant to proper notice a public hearing of the Community Development Board for the City of Neptune Beach was held on April 14, 2021 at 6:00 p.m. in the Council Chambers. |
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| Attendance | Board members were in attendance: Christopher Goodin, Chair arrived at 6:08pmCharles Miller, MemberW. Jeremy Randolph, MemberNia Livingston, MemberJonathan Raitti, Alternate MemberGreg Schwartzenberger, Alternate Member |
|  | The following staff members were present:Thom Jenks, Acting City Attorney |
|  |  | Kristina Wright, Community Development DirectorPiper Turner, Code Compliance Supervisor |
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| Call to Order/Roll Call | Member Livingston called the meeting to order at 6:03 p.m.  |
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| Minutes | Made by Miller, seconded by Randolph. |
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| **MOTION:** | **TO APPROVE NOVEMBER 4, 2020 AND FEBRUARY 10, 2021 MINUTES AS SUBMITTED.**  |
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|  Roll Call Vote: |
|  Ayes: |  5-Miller, Randolph, Schwartzenberger, Raitti, Livingston |
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| Noes: |

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| Absent: | 11-Goodin |

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| **MOTION CARRIED** |

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| V21-04 517 Magnolia StFence Height | V21-04 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for the Hall Family Trust C/O Fredrick S. Hall for the property known as 517 Magnolia Street (RE#172481-0020). The request is to vary section 27-27-330(a)(1) Fences, walls and hedges. The request is to install an 8-foot tall fence with a double gate facing 5th St and Jarboe Park. |
|  | Kristina Wright stated that the applicant is seeking an eight (8) ft. fence to allow for the screening and light and noise reduction of the proximate water treatment plant. If granted, the proposed variance will allow an eight (8) ft. privacy fence with a double gate to face Fifth Street and Jarboe Park. The applicant has indicated that the water treatment plant operates all hours of the night Further, the applicant believes the light and noise creates a circumstance unlike other property owners.  |
|  | The Applicant indicates in a written narrative:*I am asking to install a new fence and gates just like the one I currently have, but taller. Activity behind my home is constant and bothersome. Bright lights and large trucks are the norm during all hours of the night. The grade of the street behind my home is taller requiring the need for a taller fence. Beaches Chapel is utilizing the easement significantly more than in past years. I will install more bushes, but I have double gates and a standard entry gate. I need to use the gates for access.* |
|  | **Required findings needed to issue a variance in Section 27-147 explain the following**  |
|  | 1. **Indicate how the proposed variance will not adversely affect adjacent or nearby properties or the public in general.**

*The applicant states that the proposed variance will not adversely affect adjacent or nearby properties or the public in general since the applicant states that there are no landowners behind his property other than the water plant.*1. **Indicate how the proposed variance will not diminish property values nor alter the character of the area.**

*The applicant states that the proposed variance will not diminish property values nor alter the character of the area since the applicant states that this is just a fence. Further, the applicant believes that if anything, the fence will increase values since the fence will be an expensive wood fence.* 1. **Explain how the proposed variance is in harmony with the general intent of the Unified Land Development Code.**

*The applicant believes that the proposed variance is in harmony with the general intent of the Unified Land Development Code since the applicant explains that the proposed fence is a simple fence that is a little taller than most. However, the Code requires a six (6) foot height limit for fences and therefore the request exceeds the limit of what is allowed by Code.*  |
|  | 1. **Explain how the need for the proposed variance has been created by you or the developer?**

*The applicant believes that the need for the proposed variance has not been created by the applicant since the applicant explains that this issue has been discussed before. The applicant explains that their current six (6) ft. fence doesn’t provide privacy and diminished lighting from plant operations. However, the applicant purchased the property in 2019 with the current six (6) ft. height limit in place, and the water treatment plant and park were already in existence.* 1. **Indicate how granting of the proposed variance will not confer upon any special privileges that is denied by the code to other lands, building or structure in the same zoning district.**

*The applicant believes that the granting of the proposed variance will not confer upon the applicant any special privileges denied by the code to other lands, buildings, or structures in the same zoning district since the applicant states that the other property owners do not have water plant operations in their backyard. However, staff contends that the code requires a six (6) ft. height limit for fences throughout the zoning district.*  |
|  | **Recommendation of staff:** Staff recommends denial of application V21-04 517 Magnolia Street since the property does not abut a commercial property as stipulated by Section 27-330 (a)(1), the Code requires a six (6) ft. height limit, and the property was purchased in 2019 with the water treatment plant and park already in existence. |
|  | Mr. Fredrick Hall, property owner, appeared via phone stated that activity behind his property which is adjacent to Fifth Street and water treatment plant has changed recently due to activity and construction at Jarboe Park. The new park plan will have cars parking in the area behind the fence. The church also uses the area for parking. The neighbor to the south has a higher fence than 6 foot tall.  |
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|  | Chairperson Goodin opened the floor for public comments. There being no comments, the public hearing was closed.

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|  | Question from the Board to Mr. Hall: Have you looked in to adding a hedge to defuse the light? No, there are gates at the rear of the house to Fifth Street and the City has a plan for parking behind the fence. Are you will to reduce your request to match the height of your neighbor’s fence? Yes, with at least a 7-foot tall fence it would defuse the truck lights.  |
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|  | Board Discussion: The property is across from commercial activity even if it is not zoned commercial. Water treatment plant is a commercial activity. The church and their school can be very noisy. The neighbor’s fence is 7 feet 6 inches tall.  |
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|  | Made by Raitti, seconded by Schwartzenberger.  |
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| **MOTION:** | **TO APPROVE V21-04 FOR 517 MAGNOLIA STREET PROVIDED THAT THE HEIGHT OF THE FENCE CAN NOT EXCEED 7’ 6” MAXIMUM FINDINGS BASED ON THE HEIGHT OF THE NEIGHBOR’S FENCE AND BEING ADJACENT TO THE WATER TREATMENT PLANT.**  |
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| Roll Call Vote: |
| Ayes: | 6-Miller, Randolph, Schwartzenberger, Raitti, Livingston, Goodin |
| Noes: | 0 |
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| **MOTION APPROVED.**  |
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Applicant was informed there is a 30-day appeal period before they could apply for their permits.

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| V21-05 Application for Variance Lot Coverage 511 Bowles St | V21-05 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Joshua & Erica Flamm for the property known as 511 Bowles Street (RE#173211-0000). The request is to vary Section 27-238(2) and Table-27-229-1 Maximum lot coverage in order to building a swimming pool. |
|  | Kristina Write stated that the applicant is seeking relief from Section 27-238(2) within the R-2 Zoning District since the existing property is already exceed the maximum lot coverage within the R-2 Zoning district. The property is approximately 8,880 sf and the current lot coverage amount is approximately 4,862 sf, which produces a total lot coverage amount of 55%. More specifically:House: 2670 sf, Garage: 804 sf, Driveway: 1388 sf, for a total of 4862 sf which (exceeds the 4,440-sf maximum of 50% lot coverage by 422 sf for a total lot coverage amount of 55%)Proposed Pool: 10x25= 250 sf Proposed Total: 5,112 sf (58%), which is an excess of 672 sf and 8% more than the maximum allowable lot coverage allowed within the R-2 zoning district. Table 27-229-1 Maximum Lot Coverage requires a property within the R-2 Zoning District to have no more than 50% lot coverage. In sum, the request is to allow an additional 672 sf or 8% of lot coverage. |
|  | **Required findings needed to issue a variance in Section 27-147 explain the following** 1. **How does your property have unique and peculiar circumstance, which create an exceptional and unique hardship? Unique hardship shall be unique to the parcel ant shared by other property owners. The hardship cannot be created by or be the result of the property owner’s action.**

*According to the applicant, the property has a unique and peculiar circumstance since the property already exceeds lot coverage and the amount of lot coverage was already greater than what is allowed within the R-2 Zoning District when the applicant purchased the property. However, staff contends that this lot does not present unique circumstances in that it is similar to other lots in the R-2 District, and the lot’s nonconformity can be remedied to recapture the pervious surface area necessary to bring the lot into compliance and even to add a pool without the need for a variance.* 1. **How is the proposed variance the minimum necessary to allow reasonable use of the property?**

*The applicant states that the proposed variance is the minimum necessary to allow reasonable use of the property since the applicant lives at the beach and believes that a pool is a normal amenity*. 1. **Indicate how the proposed variance will not adversely affect adjacent or nearby properties or the public in general.**

*The proposed variance will not adversely affect adjacent or nearby properties or the public in general since the applicant states that the swimming pool will meet all the safety requirements and will not be available to the public.* 1. **Indicate how the proposed variance will not diminish property values nor alter the character of the area.**

*The applicant states that the proposed variance will not diminish property values nor alter the character of the area since the applicant believes that pools increase the value of a home.*1. **Explain how the proposed variance is in harmony with the general intent of the Unified Land Development Code.**

*The applicant has indicated that the proposed variance is in harmony with the general intent of the Unified Land Development Code since the applicant indicates that pools are a permitted accessory use. However, staff contends that increased impervious surface area that exceeds the maximum allowable amount stands in conflict to the intent of the ULDC for the purposes of stormwater management, resiliency, and sustainability.* 1. **Explain how the need for the proposed variance has been created by you or the developer?**

*The proposed variance has not been created by the applicant since the applicant indicates that the lot coverage exceeded the maximum allowed by code prior to their purchase of the property. However, staff contends that the applicant purchased the property with the current requirements in place. Further, the lot can be remedied to bring the property into compliance that would preclude the need for a variance.* 1. **Indicate how granting of the proposed variance will not confer upon any special privileges that is denied by the code to other lands, building or structure in the same zoning district.**

*The granting of the proposed variance will not confer upon the applicant any special privileges denied by the code to other lands, buildings, or structures in the same zoning district since the applicant indicates that pools are an allowable accessory use. However, other lots within the same zoning district are expected not to exceed the 50% maximum lot coverage requirement.* Staff recommends denial of application V21-05 511 Bowles Street and recommends that the applicant recapture, at a minimum, 672 sf of impervious surface area. 672 sf is the amount that the request to construct a 250 square foot pool would result in excess of the 50% lot coverage maximum due to the excess of 422 sf of impervious surface area that currently exists. This remedy would preclude the need for a variance and would aid the City in achieving its stormwater, resiliency, and sustainability goals.  |
|  | Mr. Famm, the property owner, stated they had moved to the beach recently and did not realize their property was over the lot coverage until they started planning to have a pool built during COVID.  |
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|  | Chairperson Goodin opened the floor for public comments. There being no comments the public hearing was closed. |
|  | Question from the board to Mr. Famm: Do you plan to have any pool decking? There will be wood decking around the pool since it does not count as lot coverage. Have you considered removing some of the existing concrete or use a pervious material so that you would not need the variance? No. |
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|  | The board discussed table the application till the next meeting rather than denying the variance. This will give the applicant an opportunity to look for other ways to come into compliance rather than being denied tonight and having to pay addition fees later. |
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|  | **MOTION:**  | **MOVE TO TABLE REQUEST V21-05 FOR 511 BOWLES STREET TO THE MAY 12TH MEETING.**  |
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|  | Made by Livingston, seconded by Randolph. |
|  | Roll Call:  |
|  | Ayes: | 6-Randolph, Miller, Raitti Schwartzenberger, Livingston, Goodin |
|  | Noes: | 0  |
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|  | **MOTION APPROVED.** |
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|  | The applicant was informed that if he would like to revise his request and appear before the Board at their May meeting may do so at no additional cost.  |
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| SE21-01 Application for a Special Exception for Outdoor dining at 580 Atlantic Blvd | SE21-01 Application for a special exception as outlined in Chapter 27, Article 3 Division 9 and Section 27-226(j)(3)b of the Unified Land Development Code. Allowable uses by special exception in the C-3 zoning district. The application is made by Neptune Beach FL Realty, LLC for the property known as 580 Atlantic Blvd. (RE# 172395-0130). The applicant seeks approval for a special exception permit for outdoor seating/dining for an accessory restaurant use to the retail of a future Publix at 580 Atlantic Blvd.  |
|  | Kristina Wright, stated that application SE 21-01 580 Atlantic is a request for a special exception outlined in Chapter 27, Article III, Division 9 and Section 27-226(j)(3)b of the Unified Land development Code of Neptune Beach regarding Allowable Uses by Special exception in the C-3 Zoning District. The application is for Neptune Beach, FL Realty LLC for the property known as 540 through 580 Atlantic BLVD (PIN: 172395-0130). The applicant is requesting a special exception for the address of 580 Atlantic BLVD only. The applicant seeks approval for a special exception permit for outdoor seating/dining for an accessory restaurant use to the retail of a future Publix. |
|  | The Applicant’s narrative reinforces that both the grocery store and the restaurant are permitted uses within the C-3 Zoning District and that it is the outdoor seating area that requires the Special Exception as per Section 27-226(j)(3)b of the Unified Land Development Code. The Applicant is the owner of 580 Atlantic Blvd. that has an approved Development Agreement and a Zoning Variance to permit the opening of a 29,810 SF Publix grocery store in the existing Lucky’s Market premises. The applicant explains that the proposed small-format Publix within the City of Neptune Beach will include a POURS in-store beverage café, a prominent deli, and will sell prepared foods. Further, the Applicant proposes to construct a plaza which that includes a designated outdoor seating and dining area to support the accessory Restaurant use. Exhibit “A” depicts the proposed outdoor seating area for Publix together with the adjacent POURS café located inside the store. The outdoor seating area is accessed via a doorway offering a direct connection from the POURS café area to the outdoor seating and vice-versa. The interior POURS café area is proposed to be approximately 830 square feet, including both preparation and seating areas. The outdoor seating area is approximately 750 square feet. The Applicant further states that the outdoor seating area may be enclosed by a partition for alcoholic beverage licensing purposes. In sum, the Applicant seeks approval for a Special Exception for the outdoor seating/dining area at 580 Atlantic Blvd.**Sec. 27-160 Required Findings Needed to Recommend a Special Exception**1. **Is the proposed use consistent with the Comprehensive Plan?**

The proposed use is consistent with the Comprehensive Plan since Comprehensive Plan Goal A.1 is to preserve the pleasant character of the City. Outdoor seating is central to the pleasant character of the community as exemplified by many areas of the Beaches Town Center, Brew Hound Dog Park and Bar, and many properties with the same C-3 zoning as the subject property located along Atlantic Blvd.1. **Is the proposed use compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses?**

The proposed use is compatible with the general character of the area, considering the population density; the design, density, scale, location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses since the proposed Outdoor seating/dining use, is present at numerous properties directly adjacent to, or in vicinity of, the subject property, including immediately to the west at 630 Atlantic Blvd (multiple areas within Seminole Shoppes), immediately to the north at Beach Diner at 501 Atlantic Blvd. (located in Atlantic Beach), in the vicinity to the northeast at ABBQ at 461 Atlantic Blvd. (located in Atlantic Beach)., and in the vicinity to the east at Kamiya 86 at 200 Third Street, and Al’s Pizza at 240 Third Street.1. **Will the proposed use have an environmental impact that is inconsistent with the health, safety, and welfare of the community?**

The proposed outdoor seating/dining use would be consistent with other existing similar uses within the community and would not have an environmental impact inconsistent with the health, safety, and welfare of the community. The closest public right-of-way to the proposed use is over 400 feet away. The proposed use is 350 feet away from the nearest residential home and will be shielded completely by the retail building.1. **Will the proposed use generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety, and welfare of the community?**

The proposed outdoor seating/dining use is located over 400 feet from the nearest public right-of-way and the subject property is well-served by existing ingress and egress points and parking facilities. The proposed outdoor seating/dining use will be constructed together with an expanded pedestrian plaza, an expanded front walk, and a new sidewalk to Atlantic Blvd that will enhance pedestrian movement and provide traffic calming to create a walkable environment.1. **Will the proposed use have a detrimental effect on the future development of the area as allowed in the Comprehensive Plan?**

The proposed outdoor seating/dining use supports “retail sales and service that serve the overall community” (Comp. Plan Policy A.1.4.2 C-3) by enhancing the property, encouraging occupancy by new retail sales and service, and providing high-quality space accessible to customers from the Beaches community.1. **Will the proposed use result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust, or physical activities inconsistent with existing or permissible uses in the area?**

The proposed outdoor seating and dining area will be shielded by the building and will not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust, or physical activities inconsistent with existing or permissible uses in the area.1. **Will the proposed use overburden existing public services and facilities?**

The proposed outdoor seating/dining use would be professionally maintained and will not overburden existing public services and facilities.1. **Does the proposed use meet all other requirements as provided for elsewhere in the Code?**

The proposed outdoor seating/dining use meets all other applicable requirements provided for in Chapter 27.**Staff Recommendation** Staff recommends approval of application SE 21-01 580 Atlantic Blvd.Andrew Greene, Vice-President of Neptune Beach FL Realty, addressed the board and stated that they have been working with staff and Council to develop an agreement to develop the former Lucky’s site. Construction could start in late June. Outdoor seating is what we heard the citizens wanted, so we created an outdoor space. Publix is proposing the “Pours” concept for this store. Pours will have an in-store beverage café, prominent deli and prepared foods. The outdoor seating area adjunct to the Pours café area would allow the patrons an option to enjoy the ready-to-eat food and beverages for consumption outside of the store. Questions for the Board:How do you prohibit the patrons from taking their drinks outside the dining area? The stated Alcohol and Tobacco department will require a barrier to be in place. Are the tables going to removed when the store is closed? The tables would be bolted down and not moveable. The area would be accessible after hours.  |
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|  | Chairperson Goodin opened the floor for public comments, there being no comments the public hearing was closed. |
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| **MOTION:**  | **MOVE TO RECOMMEND TO CITY COUNCIL THE APPROVAL OF SE21-01 580 ATLANTIC BLVD. FOR OUTDOOR SEATING AND DINING.** |
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| Made by Raitti, seconded by Livingston. |
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| Roll Call:  |
| Ayes: | 6-Randolph, Miller, Raitti Schwartzenberger, Livingston, Goodin |
| Noes: | 0  |
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| **MOTION APPROVED.** |

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|  | Applicant was informed this application would be forwarded to the City Council’s May meeting and that they should attend that meeting.  |
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| Election of Chair and Vice-Chair  | Election of Chair and Vice-Chair for a period of one year.  |
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| **MOTION:**  | **MOVE TO NOMINATE CHRISTOPHER GOODIN FOR BOARD CHAIR AND NIA LIVINGSTON FOR VICE-CHAIR.** |

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| Both nominees agreed to serve.  |
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| Made by Schwartzenberger, seconded by Randolph. |
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| Roll Call:  |
| Ayes: | 6-Randolph, Miller, Raitti Schwartzenberger, Evens, Livingston, Goodin |
| Noes: | 0  |
| **MOTION APPROVED.** |

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| Open Discussion | The code rewrite should address outdoor seating. The comprehensive plan elements are close to be finished and the board will be reviewing the first draft next month. The next board meeting will be May 12, 2021 at 6:00 pm.  |
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| Adjournment | There being no further business, the meeting adjourned at 7:11 p.m. |
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|  |  |  Christopher Goodin , Chairperson |
|  | ATTEST: Piper Turner, Board Secretary |  |

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