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|  | **MINUTES****COMMUNITY DEVELOPMENT BOARD****July 8, 2020 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 both in person and via telecommuntion on July 8, 2020 at 6:00 p.m. in the Council Chambers. |
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| Attendance | Board members were in attendance: Christopher Goodin, Chair Ryan Dill (via web)Aaron Evens, MemberW. Jeremy Randolph, MemberBob Frosio, MemberCharles Miller, MemberNia Livingston, MemberMr. Schwartzenberger and Mr. Raitti (alternate members) were in the audience. |  |
|  | The following staff members were present:Stefen Wynn, City Manager |
|  |  | Zachary Roth, City AttorneyKristina Wright, Community Development DirectorPiper Turner, Code Compliance Supervisor |
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| Call to Order/Roll Call | Chair Goodin called the meeting to order at 6:00 p.m.  |
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| Disclosure of ex-parte communications | All members disclosed they had spoken with members of the public. Ms. Livingston, Mr. Miller and Mr. Goodin had also spoken with the applicant.  |
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| Minutes | Made by Evens, seconded by Miller. |
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| **MOTION:** | **TO APPROVE AUGUST 12, 2020 MINUTES AS SUBMITTED.**  |
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| Roll Call Vote: |
|  Ayes: |  7-Evens, Randolph, Miller, Livingston, Frosio, Dill, Goodin |
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| Noes: |

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| **MOTION CARRIED** |

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| V20-01 Variance Application for Neptune FL Realty 540-580 Atlantic Blvd. | V20-01 Application for variance as outlined in Chapter 27, Article 8 of the Unified Land Development Code of Neptune Beach for Neptune Beach Fl Realty, LLC for the property known as 540-580 Atlantic Blvd (RE#172395-0130). This property is the former Lucky’s Market in the Neptune Beach Plaza. The variance request is to provide relief from Note 6 of Table 27-229-1 by varying the 1000 linear foot requirement for businesses that operate under common business ownership or management, share a warehouse or distribution facility, or otherwise operate as an associated, integrated or cooperative business shall not exceed a combined sixty thousand (60,000) square feet of total gross floor area in aggregate. |
|  | Kristina Wright, Community Development Director, stated that application V20-01 for 580 Atlantic Blvd is a request for a variance that seeks to provide relief from Note 6 of Table 27-229-1 to remove the 1000 linear foot separation requirement for businesses that operate under common business, ownership or management, share a warehouse or distribution facility, or otherwise operate as an associated, integrated or operative business shall not exceed a combine sixty thousand square feet of total gross floor area in aggregate. The property is at 540-580 Atlantic Blvd located within the C-3 commercial zoning district. It’s a previous Lucky’s Market and Proctor Ace Hardware. The variance request is to allow a second, smaller Publix Supermarket within 500 feet of the existing Publix located at 630 Atlantic Blvd. While the owners of both stores are different, both stores are affiliated with Publix Supermarket, Inc. Cumulative floor area of the 2 separate stores would exceed 60,000 square feet, which stands in opposition to the provisions within the land development code table 27-229-1 note 6. More specifically, note 6 within table 27-229-1 stipulates that any retail stores, wholesale warehouses or other freestanding buildings for any permitted use located within 1000 linear feet of each other that operate under common business ownership or management, share a warehouse or distribution facility or otherwise operate as an associated, integrated or cooperate business shall not exceed a combined 60,000 square feet of total gross floor area in aggregate. This property is located on the south side of Atlantic Blvd. and the within 500 feet of the existing Publix.The applicant is proposing a number of site improvements. They have provided renderings showing elevations, textural changes and some landscaping. Tonight, we’re here to consider only the variance request to the code. Staff went over section 27-147: The required findings needed to issue a variance.In terms of number 1: The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district. The applicant states that the hardship is a result of major circumstances that are unique to the parcel. Applicant’s parcel analysis has determined that another Publix cannot be accommodated in any other location within the city . Of the applicable parcels in C-3 and C-2, none of these are currently vacant. However, this does not demonstrate a hardship for the existing parcel. Other viable alternatives exist that could meet the requirements of the land development code. The applicant indicates that the tenant entered into an agreement with and received Bankruptcy Court approval for an assignment of the existing lease with the property owner to Publix Supermarkets, Inc. However. Staff asserts that this does not preclude other viable alternatives such as GreenWise branding, subleasing, etc. The applicant indicates that a “strict application of Note 6 of Table 27-229-1 creates a hardship that is unique to this parcel and not share by other property owners in the same zoning district”; this does not preclude other economically viable alternatives that would meet the requirement of the land development code. In terms of number 2, required finding is needed to issue a variance: The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land. The applicant states that they are seeking to replace Lucky’s Market without any expansion of the existing footprint. Claims that the denial of the proposed variance would prohibit Publix from taking assignment of the lease, which would then enable Lucky’s Market to reject their lease with the property owner. This would terminate the lease, despite approximately 16 years of term remaining per the terms of the lease. The applicant indicates without a variance the property owner would be “permanently unable to attain its reasonable investment-backed expectations from the existing lease”. Staff asserts that other viable alternatives exist that would allow the property owner to realize benefits obtained through the reasonable use of their land. Most uses of this site would be unaffected by this provision. Those uses on this site would be unaffected by this privilege.In terms of number 3, required findings needed to issue a variance, the proposed variance will not adversely affect adjacent or nearby properties or the public in general. The applicant responds that the proposed variance does not alter the existing, permitted used of the property, a retail grocery anchor store. A number of improvements are planned to renovate the overall development. Re-opening of a grocery store at the property would create positive benefits to the nearby properties and the public in general. Granting of the variance supports the Comprehensive Plan Goal A.1 and Objective A.1.3 redevelopment and infill development by encouraging infill redevelopment and avoiding blighting influences. The opening of a Publix grocery store at 580 Atlantic Blvd. is anticipated to create 50 additional permanent jobs, in addition to construction jobs, will have a beneficial impact on tax collection and provide essential service to the public. While redevelopment and the creation of additional jobs is desirable, the addition of another Publix within 500 feet of an existing Publix on the immediately adjacent parcel expands the scale of development within a small coastal community and does not adhere to the requirements of the LDC while other viable alternatives exist. In terms of Number 4: The proposed variance will not diminish property values or the character of the area. According to the applicant the proposed variance does not alter the existing, permitted use, a retail grocery anchor store or alter any physical characteristics of the property from the existing condition. The proposed variance would not substantially diminish property values in, nor alter the essential character of the areas surrounding the site. Furthermore, the re-opening of a store, particularly an industry-leading grocery store with strong finances and significant history, provides for long-term stability in property values and further supports Objective A.1.3 redevelopment and infill development by encouraging infill development. In terms of number 5: The proposed variance is in harmony with the general intent of ULDC. The applicant stated that the property is in the Commercial C-3 zoning district which corresponds to the Commercial high designation on the adopted future land use map. According to LDC Section 27-222-Purpose and intent of Zoning districts, the Commercial C-3 Zoning District is intended to provide retail sales and services that serve the overall community. The applicant indicates that the proposed variance is in harmony with the general intent of the LDC since they feel that the re-opening of a store which “provides retail sales and services that serve the overall community” and in particular provides essential grocery service to the community and the proposal seeks to expand mobility and interconnectivity while making site improvements. While mobility, interconnectivity and redevelopment are desirable, the proposal is not consistent with the LDC, specifically Table 27-229-1 note 6. The application must also meet Section 27-147 required findings needed to issue of variance, which requires demonstrating a unique hardship. In terms of number 6: The need for the variance has not been created by property owner or development nor is the result of mere disregard of the provisions from which relief is sought. The applicant for the variance request has written that the request has arisen from unique and peculiar circumstances relating to the bankruptcy of the tenant under an existing lease with the property owner. The applicant believes that a viable alternative to Publix “does not exist in the current and foreseeable market conditions.” Believes that the need for the variance has not been created by the action of the property owner. Staff says that while Publix is assuming these leases throughout the State, the fact that the one in Neptune Beach in next to another existing Publix is not the basis for relief from out LDC. Rather the need for the variance is being created in part by the property owner in that the property owner seeks to enter into a lease that would result in a code violation due to the long standing business on the adjacent parcel. In terms of number 7: Granting the variance will not confer upon the applicant any special privileges that is denied by the ULDC to other lands, building, or structure in the same zoning district. The applicant states that the need for the variance has arisen from the unique and peculiar circumstances that have created a unique hardship for this parcel alone. The applicant is seeking a development agreement to be considered outside of the Community Development Board and believes that this will provide a distinction between this property and others within the same zoning district. Staff states that while C-2 and C-3 zoning districts allow a grocery store as a permitted use, this does not preclude distance separation and size limitation requirements as codified withing Table 27-229-1 Note 6. Even though the applicant has made considerable effort to demonstrate the desire to improve the lot and the existing development, staff recommends a motion to deny application V20-01 for 540-580 Atlantic Blvd. since the application does not demonstrate the achievement of the Required Findings needed to issue a variance established within section 27-147, which required the demonstration of a unique hardship. Further, the proposal and request are not consistent with the Comprehensive Plan Policy A.1.1.4 or the Land Development Code Table 27-229-1, Note 6. Staff recommends denial of application V20-01 for 540-580 Atlantic Blvd.  |
| Swearing in | Mr. Roth asked anyone appearing before the board to raise their right hand to be sworn in. |
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| Mr. Andrew Greene, VP of TM Realty, applicant and property owner, addressed the board. Happy to be here and proud of the work we have done with the community and excited to introduce everyone to Neptune Plaza. He introduced others joining the meeting via the internet and in person. A lot has happened since we last spoke in June. If you recall, Lucky’s Market went into bankruptcy in January and then Publix had entered into an agreement in Bankruptcy Court to purchase Lucky’s. We also described the small format Publix and what makes that small format Publix different. It’s smaller as the name suggests. It’s roughly half the size of a full-size Publix. It also appeals to a different type of shopper and a different type of shopping experience. You’re invited to linger at this Publix, grab a bite at the center deli, drink at the store beverage bar, navigate down a route of your choice. You can get easily in and out. Grab a few items on a busy night and maybe grab dinner to take home with the grab and go options. In the weeks after our presentation and after many meetings and calls with numerous community members and stakeholders, I heard a consensus that people love Publix. A new Publix store was a rare opportunity in a challenging time for retail and finally with that opportunity many stakeholders felt that there was an opportunity. They wanted to see the property enhanced, to create a place that reflects beauty and character. We heard the community wants a place that reflects the Beaches lifestyle. A place to sit, public art that was walkable, mobility for golf carts. The water feature, trees, landscaping and more of those things we are going to reflect in terms of the Beach. I have the honor tonight of presenting an exciting community development plan for “placemaking” a property. For those who do not know the term place-making, I want to read a good description from Wikipedia. Placemaking capitalizes on a local community’s assets, inspiration, and potential, with the intention of creating public spaces that promote people’s health, happiness and well-being. Don’t think I could have said it better myself. It’s a great definition, it fits perfectly with the place which we’re presenting here tonight. These enhancements will transform the property as you see it today. These claims are the direct results of the conversations among the community stakeholders. Just to be clear, that I’ve heard this question come up a couple of times, these improvements are not a requirement and would done at our cost. I’m confident that the placemaking combined with an exciting new Publix store will create momentum to attract high quality tenants and businesses to our community. Mr. Greene described the proposed site plan with the placemaking improvements. The first enhancement would be the grand entrance arrival street from Atlantic Blvd. opposite Sylvan Drive in Atlantic Beach. This is a fully functional streetscape with the center planting median with palm trees. Foot traffic and on street parking and sidewalks again lined with palm trees giving the full effect of true streetscape as you enter the property and drive south away from Atlantic. Transformation of the front drive aisle into Lemon Street. The existing front drive aisle to the property which is in alignment with Lemon Street in the Town Center will be reconfigured across the parcel. The reconfiguration will narrow and shift the roadway north and introduce an intentional curve to the intersection with the entry drive. These changes serve to introduce a type of traffic calming technique to support a pedestrian-friendly environment and create space for the new pedestrian plaza. The pavement has a raised area so that vehicles entering go up onto the raised flat tabletop with high contrast, visible crosswalks and stop signs. The plaza itself roughly shaped like a lemon wedge measures roughly 160 feet across by 48 feet deep and at the center of the Plaza is a prominent public art fountain. The piece orients itself so that you see it coming down from Atlantic and also as you drive or walk on Lemon Street. We are pulling Lemon Street north away from the building. Doing this gives us the opportunity to create new seating areas, new landscape and new opportunities on the front walk. The expanded front walk gives the opportunity for additional space, pedestrian space and another highlight is the new courtyard. By actually deconstructing a portion of the existing buildings we can create an outdoor amenity space. This is something that we heard from the community members who wanted to replicate the quality of the courtyard by Southern Grounds. Existing monument signs will be replaced with new one featuring a “Beaches Modern” design. We will construct a vehicular roadway to connect the roadway that is currently built on the 630 Atlantic property to form a vehicular connection between the two centers. This has been a long-desired request from many community members and we’ll make that a reality.The existing parking lot will be renovated significantly. 10 golf cart parking spaces will be added on the western edge of the lot. There will be electric charging for the golf carts and regular vehicles. There will be a Beach Buggy drop off and pick up with signage. At least 20 new bicycle spaces will be located throughout the design. All new LED lighting and fixtures. The parking lot will be milled and repaved. Finally, we will plant a new line of trees and shrubs on the north edge of the rear stormwater ditch to provide additional screening for the adjacent residential area. Publix assuming the lease from Lucky’s Market extends the initial term just about 20 years. There are provisions to extend the lease eight more times for a total of 40 additional years.Because each variance is based on a unique circumstance of the property, the past approval of a variance does not mandate similar actions or programs and would not create a precedent for subsequent variance requests. We are focusing on a lemon theme; we are making lemonade out of lemons. This year has been a lot of lemons so we wanted to use the opportunity to have fun with the idea of using the art structure in the shape of lemon with cross bars and a water feature so that kids could run though that and play on the map while the parents sit in the public area. Questions from the board for Mr. Greene:Mr. Miller asked what the width of the walkway would be? From the building to the outer edge of the curve it is about 48 feet.  |
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| Chairperson Goodin opened the floor for public comments.  |

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|  | Mary Frosio, 1838 Nightfall Drive, stated she was here to support the granting of the variance. This is smart development, supported by a majority of the community. Created a survey on Neptune Strong’s Facebook page and got over 154 responses. Roughly 70% of the poll takers responded either “Yes” to the idea of a small format Publix or didn’t care. Having Publix as an anchor tenant stabilizes and defines the future of the property for up to 60 years. Opposed development in the past but always supported smart development. The property is going to be transformed from a tired 1970’s strip center into a high-quality destination, a meeting place fitting the Neptune Beach lifestyle. Even the name evokes images, like a plaza where you ride your bike or golf cart. You sit down and enjoy a beverage, watch your neighbors come and go and see the kids playing in the lemon fountain. Lemons to lemonade fountain, was lemonade being made from lemons on Lemon Street. That’s kinda of a joke around here. The place has ample parking, which is a big plus and outdoor dining and the ocean breeze will still reach it. Alternative tenants are hard to find. An anchor tenant especially Publix was the only company that can do it. If Publix is forced to walk away the property owner has to go back out to the market and look for a new tenant. Keep in mind they already have a 75% vacancy rate at this center. The market is shrinking for tenants in brick and mortar retail due to the rise of online shopping. We have a bird in the hand and it is worth two in the bush. Given the current market, there may be none in the bush. The code does allow you to contemplate this or a relaxation of the code. Granting the variance would not be nullifying this particular order. I ask you to vote to approve the variance. |
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|  | Ginny Thurston, 1200 7th Street, agreed with Ms. Frosio and is an employee of Publix. They are a great company to work for. Can not see Publix not opening and leaving the building vacant. They are going to do whatever they can to make it work. Totally different buildings and different property owners.  |
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|  | Jon Raiti, 224 Bowles Street, Publix is a really well-respected company. Curious about what happened to the Green wise concept? I approve, it sounds like a great idea. Love to see what happens with the development.  |
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|  | Greg Schwartzenberger, 428 Lora St, long-life resident of the beach. Did support the project via an email in June. They have a great reputation amongst their employees, a very diverse workforce. Publix offers great products and consistent service. Supports the plan to clean up the parking lot, sidewalks and a main thoroughfare to the beach.  |
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|  | The following submitted written comments which have been included with the minutes.Wade Laufenberg, Vice President of Bealls OutletBruce Andrews, Atlantic BeachAnne Blount, 915 Florida Blvd, Neptune BeachKim De Palma, owner of Little Palm Food Events, LLCAlan Harris, 76 Oakwood Rd, Jacksonville BeachRonnie MillsWendy PopeHarriet Pruette, Neptune BeachLeona Sheedan, 2010 Shadow Lane, Neptune BeachIngrid Smalling, 1708 Strand, Neptune Beach |
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|  | There being no comments, the public hearing was closed. |
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|  | Mr. Roth, City Attorney, reminded the board that what was before them was just the variance and not the development agreement. In terms of the various drawings shown, those sorts of things are only relevant if they go toward your analysis of the seven required findings of fact for a variance. The development agreement itself, by statute, must be heard by the City Council. As you evaluate and discuss it, think about it in that context.  |
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|  | Board Discussion:  |
|  | Mr. Frosio: All for it, you just have to look at the other strip center. The center at Penman and Atlantic in Atlantic Beach has been vacant for years. A smaller Publix is going to attract other tenants. Upscale won’t be a Big Lots.Mr. Randolph: If Publix wanted to go where Winn Dixie is and Winn Dixie wanted to go into Lucky’s then we would not be here tonight. Mr. Miller: There are a lot of factors at play. Going down the seven finding of facts. Note 6 has to do with Big Box. When you think of Big Box that is a large corporation. They are a great corporation. They are a large corporation. Has concerns over large corporations. If for some reason, Publix opted to occupy the Kmart at other end of shopping center then there would be no need to be here. I am having difficulty with the finding of facts.  |
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|  | Ms. Livingston: Understands the reason for Note 6. Everything else is different. This is going to raise the property value. If it were to remain empty it could be there for years like the rest of the center. Does not believe it will alter the character.  |
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|  | Chairperson Goodin: Substantial improvement in design and scope. No special privilege by allowing this in its location.  |
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|  | Vice-Chair Dill: It is a difficult decision in the sense that the code is distinct and appreciates the way its written. Enough about the proposal is different that we can make a distinction between this property and the other one and that is exactly what this opportunity for a variance is.  |
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|  | Questions for Staff: If this is approved tonight and goes through City Council, what is the next step? Does it come back to the board with full plans for review to make sure it meets all aspects? Ms. Wright stated that any exterior improvement that would alter the site plan would come back through but if the changes were to be within the shell of building those are allowable improvements. The next step in this process would be the Development Agreement. If that is picked up by the City Council, the variance would follow that. The applicant has indicated there might also be a special exception requested in the future. If that is the case, then they would have to go through that process. The pictures shown would go with the Development Agreement and that is not before the board tonight. That is the next step in the process. Any kind of improvement would likely either be codified through visual means or through word text and by part of the agreement.  |
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|  | Mr. Roth clarified that while development agreement is not before the board, any variance granted should be conditions on the Council’s approval of a development agreement.  |
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|  | Made by Frosio, seconded by Randolph.  |
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| **MOTION:** | **MOVE TO APPROVE VARIANCE V20-01 FOR 540-580 ATLANTIC BLVD. CONDITIONED ON THE CITY COUNCIL’S APPROVAL OF THE DEVELOPMENT AGREEMENT.**  |
| Roll Call Vote: |
| Ayes: | 6- Even, Randolph, Livingston, Frosio, Dill, Goodin |
| Noes: | 1-Miller |
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| **MOTION APPROVED.**  |
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|  | The applicants were informed their variance would be forwarded to City Council for their final decisions on October 5th at 6:00 pm. |
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| Adjournment | The next board meeting will be October 14, 2020 at 6:00 pm. There being no further business, the meeting adjourned at 7:08 p.m. |
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|  |  |  Chairperson Christopher Goodin  |
|  | ATTEST: Piper Turner, Board Secretary |  |
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