



# VILLAGE OF MARVIN

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## VILLAGE COUNCIL REGULAR RECONVENED WORK SESSION MEETING

November 1, 2016 – 5 p.m.

Banks Fellowship Hall

**This is the reconvened meeting from 10/27/2016.  
Items where discussion was completed are marked through.**

### Agenda

#### 1. ~~ADOPTION OF AGENDA~~

#### 2. ~~CONSENT AGENDA~~

- a. Adopt the 9/13/2016 Regular Meeting Minutes
- b. Adopt the 9/28/2016 Regular Work Session Meeting Minutes
- c. Adopt the 10/11/2016 Regular Meeting Minutes
- d. Adopt the 10/18/2016 Regular Meeting Minutes
- e. Adopt the September 2016 Treasury Report
- \*\* f. *Call for a special meeting to be held Wednesday, Nov. 2 at 6 p.m. at 2151 Hawkins St. (Shook Kelley Office) to hold an informal discussion with the Planning Board and a Planning Consultant to discuss the Land Use Plan and a possible Village Center District*

#### 3. PUBLIC HEARINGS

- a. ~~Proposed Text Amendments to Title XI: Business Regulations, Adding a New Chapter 110 Panhandling, Begging, Solicitation and Canvassing~~
  1. Discussion and Consideration of Proposed Text Amendments
- b. ~~Proposed Text Amendments to Sections 150.015, 150.061, 150.062, 150.066 to Define and Reference the Marvin Engineering Standards and Procedures Manual and Amend Various Subsections for Streets and Roads~~
  1. Discussion and Consideration of Proposed Text Amendments
- c. ~~Temporary Use Permit #16-11779 for the Annual Christmas Tree Lighting to be held Saturday, December 10, 2016 from 4:30-6:30 p.m. at Marvin Efird Park~~
  1. Discussion and Consideration of TUP #16-11779

#### 4. ~~DISCUSSION AND CONSIDERATION OF REGULATING UNMANNED AIRCRAFT (DRONES)~~

#### \*\* 5. ~~UPDATE ON VILLAGE HALL PROJECT~~

#### 6. ~~PUBLIC HEARING ON REZONING OF PARCELS 06-183-011, 06-183-011B, 06-183-011C, 06-156-014A AND 06-159-005B FROM MXCD TO ICD-MARVIN GARDENS (at 6:30 p.m.)~~

1. Discussion and Consideration of Rezoning of Parcels from MXCD to ICD-Marvin Gardens

#### TS 251:08 7. REVIEW ACTION ITEMS

#### TS 252:14 8. COUNCIL COMMENTS

#### TS 257:26 9. ADJOURNMENT

**VILLAGE OF MARVIN**  
Regular Reconvened Council Work Session Meeting Minutes  
November 1, 2016 – Banks Fellowship Hall  
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Mayor Pollino reconvened the October 27, 2016 Regular Work Session meeting at 5:05 p.m. on Tuesday, November 1, 2016.

Quorum was determined with the following members in attendance: Mayor Joe Pollino, Mayor Pro Tem Brian Beaty, Councilman Nick Dispenziere, Councilman Robert Epps and Councilman Ron Salimao.

No members were absent.

The following staff was present:

Lisa Thompson, Administrator/Senior Planner  
Melody Graham, Clerk  
Melanie Cox, Village Attorney

The following applicant representatives were present:

Chris Widmayer, Regency Centers  
Thomas Cowan, Publix

**DISCUSSION AND CONSIDERATION OF REZONING OF PARCELS FROM MXCD TO ICD-MARVIN GARDENS**

Mayor Pollino reminded the Council that they should focus on ensuring the compliance of standards for this application. He added: The Village Council shall evaluate the Applicant's Statement of Compliance and consider the degree to which the Application complies with Ordinances, the Land Use Plan, other adopted land use policy documents and the North Carolina General Statutes. The Village Council shall also review aspects of the plan outlined in §151.251(C)(5). The Village Council shall also consider recommendations and input provided by the public, staff and the Planning Board.

Ms. Thompson stated: She does not have anything new to report since the last meeting. She has provided a draft Ordinance that the Council will need to adopt. Council will need to make a decision on the project and will need to adopt a Land Use Plan Consistency Statement. She listed the conditions that were agreed upon in the Ordinance, but it can be amended with whatever the final conditions are from the meeting.

Councilman Salimao thanked everyone for attending the second meeting pertaining to this project. He stated: The applicant and the Council have worked very hard to get where we are today. He hopes that with some minor tweaks, we can make this project work. He thinks this is a good project. There were some things said at the last meeting that he wanted to clear up for the record. It was said that the Council gave 24 additional conditions the day before the meeting. Staff emailed the applicant on September 13 the Council's document. So whatever the applicant saw or received the day before the meeting was the same document from September 13. We did not add any additional conditions. The conditions that the Council has today are the same ones we've been talking about for the past year.

Mr. Widmayer stated: There are a lot of things that have been discussed over the past year. What we're saying is that this was a new set of conditions that were asked for at the end, so we had to go through and review them all again in order to decide which ones we could agree to

move forward with or not. The same way that you said you were left up late reviewing the documents, so too were we. We made accommodations on as many of the conditions as we felt we could. Before we move forward, I just want to restate what I said last week. We put our best foot forward and we are not in the position to make any additional changes. This is the best we can do, along with our partners in Publix, this is the decision that has been made. Again, it is not any single condition, it's the conditions in the totality. We just don't have the room to give anything additional.

Councilman Salimao stated: We each have to do what we have to do. He would like to go through each condition, because he is afraid that there are a lot of things that we agreed upon that are no longer in the documents. The record needs to show this. As we review the list, we'll be able to make this very clear. He wants the record to be clear that the Council did not send a new list of conditions right before the meeting.

The Council and the applicant reviewed the list of proposed conditions and discussed them in depth. They agreed to list each condition as part of the motion and to state their agreement at that time.

Mayor Pollino called for a brief recess at 7:12 p.m.  
Mayor Pollino reconvened the meeting at 7:26 p.m.

The Council and applicant continued the discussion of conditions.

TS 218:00

**Motion:** Mayor Pro Tem Beaty moved to approve Ordinance #2016-11-01 An Ordinance Rezoning Parcels 06-183-011, 06-183-011B, 06-183-011C, 06-156-005B, and 06-156-014A to the Individual Conditional District – Marvin Gardens, and adopt the Land Use Plan Consistency Statement as follows and subject to the agreed upon list of conditions: *(See Attached: OR-2016-11-01 is hereby incorporated and made a part of these minutes).*

**LAND USE PLAN CONSISTENCY STATEMENT:** The Village of Marvin Land Use Plan designates this area as a commercial corridor. The scale of the commercial development and types of uses permitted service the communities needs and are consistent with the Land Use Plan. The residential portion of the plan is a compatible use due to the surrounding properties, transition to adjacent commercial uses, and minimum impacts on public facilities. The commercial road buffers and residential density are found to be inconsistent with the recommendation of the plan; however it furthers the goals and purpose of the plan by providing conservation land or fee-in-lieu for future greenway connections, agrarian aesthetics, transportation improvements, and economic development to the area. The rezoning of the subject site to the Individual Conditional District – Marvin Gardens is reasonable and is in the public interest because it promotes the goals of the adopted Land Use Plan.

**CONDITIONS AGREED UPON BY BOTH THE VILLAGE COUNCIL AND THE APPLICANT:**

1. **Wire Fencing.** The Preliminary site plan/Civil design plans shall include a demolition plan for the removal of the existing barbed wire fencing on the site.
2. **CCR's.** CCR's for both residential and commercial portions shall be reviewed and approved prior to plat approval.

3. **Residential Lot Sizes**. Amend the plan so no lots are less than 8000 sq. ft. and the minimum lot size of 8000 sq. ft. is added to the data table for sheet CZ-1A.
4. **Lot 2 Acreage Label**. Amend LOT 2 acreage label.
5. **Outdoor Lighting**. The development shall be subject to Chapter 152: Outdoor Lighting of the Village Ordinances.
6. **Engineering Manual**. The development shall be subject to the Village of Marvin Engineering Standards and Procedures Manual (upon adoption).
7. **Maintenance Plan Updates**. The Maintenance Plan shall be updated with the new residential layout.
8. **Conceptual Site Layouts**. The conceptual site layouts on outparcels shall be removed and not be considered a part of the rezoning plan.
9. **Drive-through Masonry Screening Wall**. The drive-through service lane for Outparcel 2 requires a masonry screening wall.
10. **Buffer Width Reductions**. A note shall be added to the plans that buffers are a material consideration to the rezoning and it is recommended to all future boards and councils that these not be reduced in any way.
11. **Supplemental Screening for Outparcel 1**. Screening for Outparcel 1 shall be supplemented with an additional row of understory trees due to the reduced setback.
12. **Publix Sign Plans**. Publix signage shall be attached to the development standards.
13. **Wall Sign Projections**. Wall signs shall not project more than twelve (12) inches from the outside of a wall.
14. **Truck Delivery and Services**. Truck deliveries shall be permitted between the hours of 6 a.m. and 10 p.m. Waste and trash removal trucks shall only be permitted between the hours of 7 a.m. and 10 p.m. and outlined in the maintenance agreements and CCRs for the development.
15. **Weddington Chase Sidewalk Connection**. The applicant shall provide a check in the amount of \$5000 payable to the Village of Marvin upon receipt of a land development permit to be applied toward the cost of the construction of a sidewalk connection. If the sidewalk connection is not constructed by the Weddington Chase HoA within six months of the CO of the anchor tenant building, the funds shall be returned to the applicant.
16. **Fuel Station Canopy**. The fuel station canopy shall be constructed in accordance with the image shown on the applicant's response to staff's conditions listed in the 10/11/2016 staff report and shown as item #10 and the development standards will be updated with this image.
17. **Raceways for Signs**. No raceways shall be used in conjunction with signage on a building.
18. **Foundation Landscaping**. Foundation landscaping standards shall be restored to indicate five (5) foot wide sidewalks and four (4) foot wide planting strips, for a total of nine (9) feet, as measured from the back of the curb.

19. ***Stacking Space Requirements.*** Remove the stacking space standard permitting a reduction of up to two stacking spaces and insert the following standards into the Development standards document; as outlined below.

<b>Restaurant</b> , with drive-through	10	Service Window	200 feet	12 feet
<b>Restaurant, Fast-food</b> , with drive-through	10	Service Window	200 feet	12 feet
<b>Coffee Shop</b>	12	Service Window	240 feet	12 feet

20. ***Outparcel 2 Parking Space Requirements.*** The minimum parking standard for Outparcel 2 is six (6) spaces per 1000 square feet of building area.
21. ***Architecture for Feature Building and Outparcels.*** The Feature Building in Outparcel 2 and architecture in Envelope B shall be developed as a single, cohesive style, substantially similar to Building 4 in Envelope A.
22. ***Rezoning Plan Exhibits and Attachments.*** All exhibits and attachments, as submitted by the applicant, shall be incorporated as part of this rezoning. Amendments to site plans shall be completed by the applicant and must be provided to Village Staff within two weeks.

**Applicant Submitted Exhibits to be incorporated as part of the rezoning.**

- #1 – 505 Design Vision Book
- #2 – Building Elevations
- #3 – Commercial Amenity Plan
- #4 – Cut-Fill Plan
- #5 – CZ Cover through 5.5
- #6 – Legal Description
- #7 – Preliminary Photometric Plan
- #8 – Profile Views
- #9 – Truck Path Exhibit
- #10 – Development Standards
- #11 – Deviations
- #12 – TIA

**Vote:** The motion passed with a unanimous vote.

**TS 251:08 REVIEW ACTION ITEMS**

Ms. Graham agreed to email the action items to Council.

**COUNCIL COMMENTS**

**TS 252:14** Councilman Epps thanked everyone involved in this project for all the hard work and time commitment. He added: This is a big project for the Village and it impacts a lot of people. He is glad to see this approval and to see the project moving forward.

TS 252:39 Councilman Salimao stated: He is glad to have this portion of the project completed and to see it moving forward. Neither side got everything they wanted, but there was compromise on both sides. This will be a good project. Special thanks to Ms. Shkut and the Planning Board for all their hard work. Thanks to staff as well. He appreciates all the work that went into this and thanks everyone involved.

TS 253:16 Councilman Dispenziere offered his thanks to staff, Ms. Shkut and the Planning Board for all the work that has gone into this project. He added: There were a lot of tough decisions for everyone to deal with in getting through this discussion. It is no secret that he was opposed to this plan at the beginning. He is pleased how the applicant worked with the Village to come up with a project both sides could agree to. He is especially pleased with the reduction in number of residential units. He hopes that the outparcels turn out to be good for the Village. He believes that this is an overall good project. He looks forward to moving forward.

TS 254:20 Mayor Pro Tem Beaty offered his thanks and appreciation to staff and the Planning Board. He added: They have put forth countless hours on this project. The approval of this project is a testament to the Council's willingness to work with the applicant in order to bring forth the best possible compromise. It's true that neither side got everything they wanted, but there was good compromise on both sides. Everyone has spent a lot of time on this project and he is grateful for all the hard work. He is sorry that he missed that last meeting, but he had a work obligation that took precedence. This project has highlighted some areas where we should be able to provide some efficiencies on our processes moving forward. Overall we did a really good thing for the Village.

TS 255:46 Mayor Pollino stated: This has be a really big project for the Planning Board and Council. Thanks to staff and Planning Board for all the hard work. The process wasn't necessarily pretty, but we got through it and came out with a product that residents will want. He believes this will be a good product. Thanks again to all for all the hard work. He offered a note of appreciation to the Marvin Ridge Marching Band for coming out to his neighborhood to entertain kids on Halloween night. It was great and really added to the festivities.

#### ADJOURNMENT

TS 257:26           Motion:           Councilman Salimao moved to adjourn the meeting at 8:16 p.m.  
                          Vote:               The motion passed with a unanimous vote.