

M I N U T E S

SPECIAL COMMISSION MEETING
SOUTH PASADENA, FLORIDA

TUESDAY, JUNE 13, 2023
COMMISSION CHAMBERS 6:30 P.M.

CITY COMMISSION ACTING AS THE PLANNING & ZONING BOARD

MAYOR PENNY CALLED THE MEETING TO ORDER AT 6:43 P.M.

ROLL CALL: COMMISSIONERS GAIL NEIDINGER, BEN THOMAS, LYNDIA THOMPSON, VICE MAYOR THOMAS REID AND MAYOR ARTHUR PENNY. ALSO PRESENT: CITY CLERK CARLEY LEWIS, CITY ATTORNEY JULIA MANDELL, FINANCE DIRECTOR JAMES GRAHAM, PUBLIC SAFETY DIRECTOR DAVID MIXSON, AND DEPUTY CITY CLERK MARY JO BOWMAN.

Mayor Penny stated that the City Commission was acting as the Planning and Zoning Board for this Special Commission Meeting.

City Attorney Mandell asked the City Commission to disclose all ex-parte communications regarding the three pending cases before the board.

Hearing no ex-parte communications, City Attorney Mandell informed the participants about the record of hearing process. She noted that these procedures will apply to all three items on the meeting's agenda.

City Clerk Lewis administered the oath of testimony to those intending to give testimony.

HEARING

1. CONSIDERATION OF APPLICATION FOR VARIANCE FROM JEFFREY LAMIGO - MORRIS & ASSOCIATES, LLC FOR 1198 PASADENA AVENUE SOUTH, SOUTH PASADENA, FL 33707.

City Attorney Mandell introduced the item. She reported that the item was originally presented at a Special Commission Meeting on May 9, 2023 with a tie vote result. She stated that the hearing was continued to the next meeting for the purpose of taking action. She further stated that the hearing did not need to be reopened unless the applicant requests it. She noted that she believes Mayor Penny was absent for the May 9, 2023 meeting but has had an adequate opportunity to review the materials and is ready to take action on the item.

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In response to Mayor Penny, the applicant declined to have the hearing reopened.

MOTION WAS MADE BY COMMISSIONER NEIDINGER, SECONDED BY COMMISSIONER THOMAS, TO RECOMMEND APPROVAL OF THE APPLICATION FOR VARIANCE FROM JEFFREY LAMIGO - MORRIS & ASSOCIATES, LLC FOR 1198 PASADENA AVENUE SOUTH, SOUTH PASADENA, FL 33707.

Commissioner Thompson spoke regarding local curb appeal. She stated that she does not feel that variances should be approved that do not fit with the City's beautification efforts.

Vice Mayor Reid spoke regarding hardship requirements for variances. He spoke against recommending the item for approval.

VOTE:	COMMISSIONER NEIDINGER	AYE
	COMMISSIONER THOMAS	AYE
	COMMISSIONER THOMPSON	NAY
	VICE MAYOR REID	NAY
	MAYOR PENNY	AYE

DISPOSITION: PASSED

2. CONSIDERATION OF APPLICATION FOR SPECIAL EXCEPTION FROM JEFFREY LAMIGO - MORRIS & ASSOCIATES, LLC FOR 1198 PASADENA AVENUE SOUTH, SOUTH PASADENA, FL 33707.

Mayor Penny opened the public hearing at 6:51 p.m.

City Attorney Mandell introduced the item.

Mayor Penny called for the staff report to be presented.

Luis Serna, Calvin, Giordano & Associates, LLC, presented the staff report (attached to Minutes as Exhibit A). He reported that the applicant was requesting a special exception use permit for the construction of a quick service oil change facility. Mr. Serna reviewed the criteria and findings during his presentation and stated staff recommended approval of the item. He noted that there is a variance for the frontage requirement listed as a condition which is no longer needed because the variance was just granted.

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In response to Mr. Serna, City Attorney Mandell stated that the decision made related to the variance was only a recommendation and not a final approval so the condition should remain part of his report.

Vice Mayor Reid questioned if the facility could be considered enclosed if the bay doors are open.

Discussion ensued regarding the structure and operating logistics of the proposed facility.

At this time Mayor Penny invited the applicant to make a presentation.

Matt Marek, Morris & Associates, LLC, presented the application for special exception (attached to Minutes as Exhibit B). He discussed operating procedures for the proposed Take 5 facility and noted that it is a low impact development in the automotive repair industry. He noted that they would be open to discussing options for addressing concerns with the doors being open.

Mayor Penny spoke regarding the design and façade of the proposed facility and distributed a handout (attached to Minutes as Exhibit C). He questioned if the applicant would agree that the proposed facility would be designed like the Take 5 located at Park Street and Park Boulevard. He spoke in favor of enhancing the proposed masonry and landscaping.

Discussion ensued regarding the design of the proposed Take 5 facility.

In response to Mayor Penny, Mr. Marek stated that they would agree to his requested design and landscaping enhancements as a condition of approval.

City Attorney Mandell stated that she would draft a condition addressing the requested design enhancements to be discussed at the end of the hearing.

In response to Mayor Penny, Mr. Marek stated that questions about having the bay doors open would need to be addressed by operations staff.

Discussion ensued regarding facility operations and bay doors.

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Mayor Penny invited members of the public who wished to speak in favor of the application to address the Commission.

Jake Holehouse, 1st Avenue North, spoke in favor of the application for special exception.

There being no further public comment in favor of the application, Mayor Penny invited members of the public who wished to speak in opposition of the application to address the Commission.

Resident Marj Lorand, Corey Way South, spoke in opposition of the application for special exception.

City Clerk Lewis read into the record written comments submitted in opposition to the application for special exception as follows (attached to Minutes as Exhibit D):

Resident Anne Romano, Corey Way South, wrote in opposition of the application for special exception.

Resident Linda and Wayne Christensen, Sailboat Key Blvd. S., wrote in opposition of the application for special exception.

Hearing no further comments, Mayor Penny invited the applicant to deliver a rebuttal.

Prior to the applicant's rebuttal, City Attorney Mandell presented proposed conditions in response to the earlier discussion as follows:

1. As a condition of approval, the façade of the building shall be adorned with stone and canopies over the openings in a manner consistent with Exhibit 1 (attached to Minutes as Exhibit E). No certificate of occupancy will be granted by the City unless this condition has been met.
2. As a condition of approval, any bays not in use for more than four hours during opening hours shall remain closed.

Mr. Marek spoke for rebuttal. He discussed facility operations, traffic, and nearby businesses. He stated that development of any kind will generate additional traffic. He said they believe the business fits the area as there

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are other businesses related to running errands in the vicinity. He noted that the company is publicly traded and he believes the business will perform well.

In response to City Attorney Mandell, Mr. Marek confirmed that he is agreeable to the two conditions she presented.

In response to Mayor Penny, Mr. Serna declined to give a closing statement on behalf of staff.

In response to Mayor Penny, the applicant declined to give a closing statement.

There being no further comments, Mayor Penny closed the public hearing at 7:22 p.m.

Vice Mayor Reid stated that he feels too many things are being asked for relating to one project. He spoke regarding frontage requirements, bay door policies, and the special exception process. He encouraged the Commission to vote no.

Commissioner Neidinger spoke in favor of bringing businesses into the city. She discussed tax revenues and vacant lots and spoke in favor of voting yes.

Mayor Penny spoke regarding vacant lots and business development. He stated that the new bus rapid transit lane makes it easier for cars to get out of businesses. He spoke against turning away businesses.

MOTION WAS MADE BY COMMISSIONER THOMAS, SECONDED BY COMMISSIONER NEIDINGER, TO RECOMMEND APPROVAL OF THE APPLICATION FOR SPECIAL EXCEPTION FROM JEFFREY LAMIGO - MORRIS & ASSOCIATES, LLC FOR 1198 PASADENA AVENUE SOUTH, SOUTH PASADENA, FL 33707.

City Attorney Mandell announced that the motion and second to recommend approval of the item would include the two conditions entered into the record earlier in the meeting.

VOTE:	COMMISSIONER THOMAS	AYE
	COMMISSIONER THOMPSON	NAY
	VICE MAYOR REID	NAY
	COMMISSIONER NEIDINGER	AYE
	MAYOR PENNY	AYE

DISPOSITION: PASSED

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3. CONSIDERATION OF APPLICATION FOR SPECIAL EXCEPTION FROM GULFPORT MARINA LLC FOR 6810 GULFPORT BOULEVARD SOUTH, SOUTH PASADENA, FL 33707.

Mayor Penny opened the public hearing at 7:27 p.m.

City Attorney Mandell introduced item.

Mayor Penny called for the staff report to be presented.

Mr. Serna presented the staff report (attached to Minutes as Exhibit F). He reported that the applicant is requesting a special exception use permit for the construction of a fueling facility at the subject marina. He discussed the review criteria and stated that staff is recommending approval of the application with the condition that the fueling facility shall be generally located as depicted on the plans submitted with the application for a special exception use permit, prepared by Infinity Engineering, LLC, dated November 18, 2018.

In response to Mayor Penny, City Attorney Mandell stated that the condition would be added as part of the approval.

At this time, Mayor Penny invited the applicant to present.

Brian Aungst, MacFarlane Ferguson & McMullen, presented the application for special exception (attached to Minutes as Exhibit G). He discussed operations at the marina, boat traffic, proposed logistics for the fueling facility, and reviewed a PowerPoint presentation (attached to Minutes as Exhibit H). He noted that MarineMax is voluntarily obtaining a Clean Marina designation.

Heather Mess, MarineMax, spoke regarding the Clean Marina designation, safety requirements, and spillage practices.

In response to Mayor Penny, Mr. Aungst spoke regarding limiting fueling services to MarineMax boat slip users and residents of certain local complexes. He stated that they would accept a condition to limit access to their boat slip customers and South Pasadena residents if that is what the Commission decided.

City Attorney Mandell stated that such a condition would have to be discussed further in terms of enforcement.

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Matthew Lamoureux, Florida Fish and Wildlife Conservation Commission, spoke regarding boating fueling accidents, local boat traffic, and environmental boating practices.

In response to Mr. Aungst, applicant witnesses Mess, Lamoureux, and Peavler stated that they were not aware of any oil spills at any MarineMax facility in their experience.

Caleb Peavler, MarineMax, spoke regarding fueling services, safety concerns and protective measures, and spillage response. He stated that the fueling of private vessels is currently being done by private owners but the intention of the project is that fueling will only be done by trained employees if the fueling facility is implemented.

Mayor Penny invited members of the public who wished to speak in favor of the application to address the Commission.

Resident Sam Obradovich, Pasadena Avenue South, spoke in favor of the application for special exception.

Resident Robert Mossbacher, Pasadena Avenue South, spoke in favor of the application for special exception.

Resident Jim Garland, Shore Drive South, spoke in favor of the application for special exception.

City Clerk Lewis read into the record written comments submitted in favor of the application for special exception as follows (attached to Minutes as Exhibit I):

Resident John P. Cronin, Pasadena Avenue South, corresponded in favor of the application for special exception.

Margaret Macklin, Palma del Mar Boulevard South, corresponded in favor of the application for special exception.

Resident Suzanne Nunziata, Pasadena Avenue South, corresponded in favor of the application for special exception.

There being no further public comment in favor of the application, Mayor Penny invited members of the public who

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wished to speak in opposition of the application to address the Commission.

Terrance Buchert, Sea Gull Drive, stated that he represents himself, his neighbors, and Pasadena Golf Club Estates Civic Group and requested the right to cross-examine.

City Attorney Mandell spoke regarding the hearing process. She stated that she feels Mr. Buchert has the right to cross-examination.

Mr. Aungst requested clarification on who Mr. Buchert represents. He noted that Mr. Buchert stated that he represents his neighbors but the applicant has a witness that lives on the same street that would not be represented by him.

Scott Steiss, Sea Gull Drive South, stated that he is the president of the Pasadena Golf Club Estates Civic Group. He stated that a petition circulated through his neighborhood had collected 66 signatures.

City Attorney Mandell stated that Mr. Buchert would have 10 minutes for cross-examination.

Mr. Aungst stated that the following people were available as witnesses for cross-examination: Mr. Serna, the City's witness; Ms. Mess, Mr. Peavler and Mr. Lamoureux, the applicant's witnesses.

Mr. Buchert cross-examined Mr. Serna regarding special exception use permits, his evaluations and findings on behalf of staff, zoning regulations, the public interest, and environmental concerns.

At the conclusion of his 10 minute cross-examination period, Mr. Buchert requested an additional 5 minutes.

The City Commission denied Mr. Buchert's request for an additional 5 minutes.

In response to Mr. Buchert, City Attorney Mandell stated that Mr. Buchert's letter would be included in the record as it was handed out during his presentation (attached to Minutes as Exhibit J). She noted that she is not sure if a petition was received.

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In response to City Clerk Lewis, Mr. Buchert stated that he believed a petition was provided to the City earlier in the day but did not know who submitted it.

Resident John Herrick, Lighthouse Terrace South, spoke in opposition of the application for special exception and distributed a handout (attached to Minutes as Exhibit K).

Sandra Chiappetta, 46th Avenue South, spoke in opposition of the application for special exception.

Resident Lari Johnson, Pasadena Avenue South, spoke in opposition of the application for special exception.

In response to Mr. Steiss, City Attorney Mandell stated that he had indicated he was represented by Mr. Buchert.

Mr. Steiss stated he wishes to speak as a resident.

Scott Steiss, Sea Gull Drive South, spoke in opposition of the application for special exception.

Resident Dawn L. Rowland, Pasadena Avenue South, spoke in opposition of the application for special exception.

Travis Siegfried, Sea Gull Drive South, spoke in opposition of the application for special exception and distributed a handout (attached to Minutes as Exhibit L).

Mr. Siegfried cross-examined Ms. Mess regarding fuel spillages and locations of MarineMax facilities with regard to residential areas.

Ann Seifried, Sea Gull Drive South, spoke in opposition of the application for special exception.

The meeting was recessed at 9:05 p.m. and reconvened at 9:20 p.m.

Resident Kathy MacLaury, Pasadena Avenue South, spoke in opposition of the application for special exception.

Resident Charlie Johnson, Pasadena Avenue South, spoke in opposition of the application for special exception.

Kevin Wellendorf, Sea Gull Drive South, posed a question regarding the application for special exception.

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Mr. Wellendorf cross-examined Mr. Lamoureux regarding boat traffic, citations, and enforcement of boating regulations.

Mr. Wellendorf cross-examined Mr. Peavler regarding marina management and inventory, community relations, and employee training and safety.

In response to Mr. Wellendorf, City Attorney Mandell stated that the application for special exception is being considered on its own merits today and the fact that a previous application was denied is not relevant to this particular application.

In response to Mayor Penny, City Clerk Lewis stated that there were two additional statements submitted in opposition to the application but the names and addresses were not verified. She distributed an item of written correspondence and noted she believes it is the petition that was referenced earlier in the meeting (attached to Minutes as Exhibit M).

Mayor Penny invited the applicant to deliver a rebuttal.

Mr. Aungst spoke for rebuttal. He discussed the review criteria for special exceptions, the fueling facility location and logistics, and the Clean Marina designation. He stated that they have tried to address community concerns in advance. He further stated that the fueling equipment would only be used by trained MarineMax employees.

In response to Commissioner Neidinger, Mr. Peavler spoke regarding legal liability. He discussed spill kits, safety measures, and employee training.

Discussion ensued regarding operating procedures for the proposed fueling facility.

Commissioner Thompson spoke regarding boat traffic and congestion. She stated that she has traveled extensively on her boat and has not experienced significant boat congestion at marinas.

Mayor Penny spoke in favor of limiting use of the fueling facility to MarineMax customers and South Pasadena residents.

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In response to Mayor Penny, City Attorney Mandell spoke regarding limiting fueling access. She stated that she is concerned about the legality of limiting access to South Pasadena residents. She reported that there are interstate legal issues related to restricting fuel sales by where someone lives. She noted that there has been discussion of not allowing self-service fueling and recommended that a condition be added that fueling may only be done by an employee.

Discussion ensued regarding fueling access and hours of operation for the proposed fueling facility.

In response to City Attorney Mandell, Mayor Penny spoke against limiting access to fueling by area or city of residence. He spoke in favor of adding the condition that the fueling facility can only be operated by MarineMax employees.

In response to City Attorney Mandell, Mr. Aungst said that MarineMax would be agreeable to maintaining the stated hours of operations for fueling and adding a condition requiring that fueling only be performed by a MarineMax employee. He noted that he does not know the legality or enforceability of restricting access to boat fuel by area of residence.

In response to Mayor Penny, Mr. Serna declined to give a closing statement on behalf of staff.

In response to Mayor Penny, Mr. Aungst declined to give a closing statement on behalf of the applicant.

There being no further comment, Mayor Penny closed the public hearing at 10:00 p.m.

MOTION WAS MADE BY COMMISSIONER THOMPSON, SECONDED BY VICE MAYOR REID, TO RECOMMEND APPROVAL OF THE APPLICATION FOR SPECIAL EXCEPTION FROM GULFPORT MARINA LLC FOR 6810 GULFPORT BOULEVARD SOUTH, SOUTH PASADENA, FL 33707.

City Attorney Mandell stated that the motion and second include the agreed upon conditions.

VOTE:	COMMISSIONER THOMPSON	AYE
	VICE MAYOR REID	AYE
	COMMISSIONER NEIDINGER	AYE

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COMMISSIONER THOMAS	AYE
MAYOR PENNY	AYE

UNANIMOUSLY APPROVED

There being no further discussion, the meeting was adjourned at
10:01 p.m.

Arthur Penny

Arthur Penny, Mayor

ATTEST:

Carley Lewis

Carley Lewis, City Clerk
06-13.23SCM

**DIGITALLY SIGNED COPY.
TO VIEW ORIGINAL SIGNED MINUTES,
PLEASE CONTACT THE CITY CLERK'S OFFICE.**