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REGULAR MEETING OF THE PLANNING AND ZONING BOARD <https://us02web.zoom.us/j/88168180121> MINUTES

Tuesday, October 17, 2023

7:00 p.m.

City of Margate

City Commission Chambers at City Hall

PRESENT:

Sloan Robbins, Chair

Shekinah Awofadeju-Major, Secretary

Y. Robert Pierre, Board Member

Mohamed M. Sulaman, Board Member

ABSENT:

Catherine Yardley, Vice Chair

STAFF PRESENT:

Amelia Jadoo, Weiss, Serota, Helfman, Cole, and Bierman

Elizabeth Taschereau, Director of Development Services

Christopher Gratz, AICP, Senior Planner

Jim Hickey, AICP, Calvin, Giordano & Associates, Inc.

Graham Long, Project Manager, AICP, Calvin, Giordano & Associates, Inc.

The regular meeting of the Margate Planning and Zoning Board (P&Z) having been properly noticed, was called to order at 7:01 p.m. on Tuesday, October 17, 2023, in the City Commission Chambers at City Hall, 5790 Margate Boulevard, Margate, FL 33063.

1) APPROVAL OF MINUTES

A) ID2023-324

APPROVAL OF MINUTES FOR THE JUNE 6, 2023, PLANNING
AND ZONING BOARD (P&Z) MEETING

Mr. Pierre made the following motion, seconded by Ms. Awofadeju-Major:

MOTION: TO APPROVE THE MINUTES FOR THE JUNE 6, 2023,
PLANNING AND ZONING BOARD (P&Z) MEETING

Development Services Department

901 NW 66th Avenue, Suite C, Margate, FL 33063 • Phone: (954) 979-6213

www.margatefl.com • dsd@margatefl.com

ROLL CALL: Mr. Robbins – Yes; Ms. Awofadeju-Major – Yes; Mr. Pierre – Yes; Mr. Sulaman – Yes. The motion passed with a 4-0 vote.

2) PUBLIC COMMENTS (only for Remote Speakers via Zoom)

3) NEW BUSINESS

A) ID2023-323

PHASE II OF THE CODE UPDATE PROJECT: AN ORDINANCE OF THE CITY OF MARGATE, FLORIDA, AMENDING CHAPTER 40 “LAND DEVELOPMENT CODE;” REPEALING CHAPTER 23 “LANDSCAPING;” REPEALING APPENDIX A “ZONING”; REPEALING APPENDIX C “LAND DEVELOPMENT CODE”; PROVIDING FOR NEW DEFINITIONS, NEW DEVELOPMENT STANDARDS, NEW REGULATIONS, AND INCORPORATING THE PROVISIONS FROM CHAPTER 23 “LANDSCAPING” AND APPENDIX “A” ZONING INTO CHAPTER 40 “LAND DEVELOPMENT CODE.”

Amelia Jadoo, Interim City Attorney, introduced the item by title only.

Jim Hickey, Calvin, Giordano & Associates, Inc., presented on behalf of staff. He explained this was the culmination of a process begun in 2020, and noted staff and the attorneys had been extremely helpful in making sure the amended Code is implementable, legally defensible, and helps the P&Z in reviewing applications moving forward.

Mr. Hickey stated he would be reviewing the process briefly, followed by a discussion of the key changes and timeline. He invited input from the Board throughout the presentation. He noted phase one (1) of the Code update was complete, and this ordinance covered phase two (2), which included amendments to Appendix A, Chapter 23, CRA Architectural Design Guidelines, and Appendix C. He explained staff and the consultants had worked together to create a Unified Land Development Code in Chapter 40, so that a person in Ohio who wanted to start a business in Margate would be able to follow the process step-by-step.

Mr. Hickey reviewed the high-level changes made, as follows:

Appendix A: General, Administrative, Supplemental

- *Non-conforming uses: clarified language*
- *Variance – no use variances*
- *Vehicle fueling stations*
 - *Drive aisles, access, distance from residential uses*

Mr. Hickey explained that in addition to not allowing variances for uses, staff recommended not allowing variances regarding distance separations. He noted the Commission was still in discussion on that matter and asked whether the P&Z had feedback.

Mr. Sulaman asked for clarification on what it would mean to have no variance on distance separations. Mr. Hickey used filling stations as an example to provide further detail. He stated the rule could be kept as-is and allow people to apply for a variance, but it is easier for staff to enforce a rule if it is strict and not allowed to erode through variances.

Mr. Sulaman asked what the pro would be in saying absolutely no variances rather than leaving it up to the individual situation. Mr. Hickey stated it would limit the types of uses that the City does not want to have a lot of. He noted that, for example, fast food, restaurants, and retail do not have a distance requirement, but for more specialized uses, they may want to maintain a distance requirement. He explained that not having a variance for that distance basically ties the Board's hands to have to reject a use they may like.

Mr. Sulaman asked what businesses were covered by the distance separation requirement. Mr. Hickey explained there are specific types of businesses that have this requirement and stated he would provide the Board with a complete list.

Mr. Hickey continued his review of potential changes, as follows:

Appendix A: General, Administrative, Supplemental

- *Walls, fences, hedges: refined regulations on placement, height, etc.*
 - *White PVC fence*
 - *Side and rear property lines abutting right-of-way (ROW)*
 - *Only for single-family and two (2) family lots not in a Homeowners' Association (HOA)*

Mr. Hickey advised that the regulations on height and location of fences had been refined, but an item the Commission had concerns about was fencing along ROW. He noted that 15-20 years ago, there were hedges along roadways that provided screening, but whitefly had come along and destroyed hedges, so now people are putting fences up, and the result is a different pattern along the roadways. He stated staff is looking at a potential requirement for a type of fence which would be required on any abutting ROW. Mr. Hickey shared concerns voiced by the Commission, including that white PVC is among the most expensive fence materials. He pointed out the results do not happen overnight, but as people make changes.

Mr. Pierre stated he had seen different colors of PVC fences and asked whether it had to be white. Mr. Hickey advised that other colors would be options, but white is easiest to match up. He noted staff was open to suggestions and feedback. He stated he had experienced this requirement in another city and it was difficult to enforce.

Chair Robbins stated he understood the benefit of uniformity, but if all people are not doing it, it eliminates the uniformity, anyway.

Mr. Sulaman asked whether the City had looked into some sort of incentive or discount to encourage people to make the change. Mr. Hickey stated the issue with incentives would be utilizing public money for private residents, but it would be something to consider.

Mr. Sulaman stated the incentive would not be necessary for all residents, just for those along the ROW. Elizabeth Taschereau, Development Services Director, advised the fence standard was included because there is a lot of fencing that is all different colors along the main ROW, because that was what was chosen by the individual residents. She stated the City was trying to present a nice visual along its high traffic areas, but colors fade and small sections of fence are replaced, and it is not a good presentation for the City on its main ROW.

Mr. Sulaman pointed out that a lot of cities put up and maintain a concrete fence. He suggested that if the City were able to come up with an incentive or discount to purchase the white fence to place along the ROW, then the homeowner takes on the maintenance rather than the City having to go through the process of building and maintaining a wall. Ms. Taschereau responded that a small grant was something the Administration could possibly look into.

Mr. Hickey advised that there is an HOA on Royal Palm that is all brown fence because it is an HOA, and it looks nice because of the uniformity. He stated that is what the City is trying to get to, it just takes time.

Mr. Sulaman stated he believed it was a great idea, but if there were a program for those along Atlantic Boulevard where they could pick up a voucher or similar for fencing on that one (1) side of their fence, residents would be more inclined to do it and move the project along.

Mr. Hickey continued his review of changes, as follows:

Appendix A: Zoning Code

- *“Transit-Oriented” removed*
 - *TOC-C, TOC-G, and TOC-CC*
 - *Proposed C, G, and CC*
- *Activity Center land use designation*
- *Updated regulations in specific districts*
 - *E.g. vehicle fueling, brewery/distillery*
 - *Updated standards in some districts*
 - *Minimum separation distances*

Mr. Hickey advised the removal of “Transit-Oriented” was made to be consistent with current policies and procedures. He continued his review of changes, as follows:

Appendix A: Zoning Code (Code Additions)

- *Supplemental Uses section*
 - *Regulations for vending machines, walkway cafes, public schools*
 - *Deleted from Code but still apply*

- *Places of Assembly*
 - *Based on Federal Religious Land Use and Institutionalized Persons Act (RLUIPA)*

Mr. Hickey continued his review of changes, as follows:

Appendix A: Zoning Code (Code Additions to Municode)

- *T-1 Mobile Home District*
- *R-3U Rowhouse*
- *R-1C: One-family Dwelling*
- *R-1D: One-family Dwelling*
- *B-2A: Regional Business*

Mr. Hickey explained these additions were made to match the zoning map, where they were likely created due to annexations.

Appendix A: Zoning Code (Code Additions)

- *Supplemental Residential Development Standards*
 - *Promotes high-quality neighborhood design and safety*
 - *Applies to new:*
 - *Single family*
 - *Zero lot line*
 - *Townhouse/Duplex*
 - *Cluster homes*

Mr. Hickey stated the intent was to ensure new construction was quality development. He noted that in multi-family development there are a lot of eyes on the project, but at times single family construction does not have the same level of scrutiny of the quality and architectural features. Continuing, Mr. Hickey explained there had been changes made to the parking requirements for single family, including looking at how garages are reviewed. He stated most people use their garage for storage rather than parking, so staff suggestions were as follows:

- *Single-car garages not to be counted as parking space*
- *Two-car garage to be counted as one (1) space*
- *Bedroom definition clarified to enforce required parking*
- *Change number/percentage of required guest parking spaces for multi-family*

Mr. Hickey stated this would limit the number of bedrooms which a new construction home could possibly have. He pointed out a lot of new developments have a room with no closet which they call a study that is not counted toward the number of bedrooms in the home but may be used that way over time. He explained this change would effectively make parking requirements in single family zoning more restrictive.

Mr. Sulaman asked the goal of the parking requirements. Mr. Hickey explained the idea is that the City knows and understands that logically, with a two (2) car garage, one (1) will not be useable for a vehicle.

Mr. Sulaman stated if he has a one (1) car garage and chooses to use it for his car or does not choose to use it for his car, he does not understand why the Code has to mention anything about how it is used. Mr. Hickey advised staff was trying to ensure there is sufficient parking on the lot. He acknowledged the change would penalize people who are not using their garage as storage.

Mr. Sulaman asked if the intent was to have people use their garage as a garage, to push the cars off the side of the road and onto the person's property. Christopher Gratz, Senior Planner, explained the basic premise is to make sure that there is enough parking so that cars do not end up being a nuisance all over the street and in front of other people's houses. He stated the reality is that most people with a (one) car garage do not use it for parking, and to address this, the thought is that newer houses must have larger driveways to accommodate parking. He reiterated that these rules would only apply to new construction and would not affect any existing houses.

Mr. Sulaman asked whether the purpose was to mandate the number of parking spaces in front of a home. Mr. Gratz explained that the number of bedrooms in the home would be limited by the amount of parking available. He stated for example, a developer could not build a five (5) bedroom house if they only had three (3) parking spaces. He noted there are houses in the City now with five (5) or six (6) cars parked on the lawn, and it does not look good.

Mr. Sulaman commented that under the HUD mandates, there can be two (2) people per bedroom, so if there was a three (3) bedroom house, that could mean six (6) people with six (6) cars. Mr. Gratz stated the bar being set was even lower, because the recommendation was to count one (1) car per bedroom.

Ms. Awofadeju-Major asked whether calling a study a bedroom would increase the cost of new homes, as homes are priced by bedrooms and size. Mr. Hickey explained that currently, a bedroom must have a window and a closet. He stated the change would be to remove the requirement to have a closet in order to "count" toward the parking requirement. He noted a lot of times, builders of newer units will show the space as study/bedroom, but when going to zoning, they call it a study.

Mr. Sulaman asked if that meant that the space would be treated as a bedroom on real estate and property taxes. Mr. Hickey stated if it is assessed as a study when it is established, it would be counted as a study in the listing. Discussion continued regarding the requirement, and Mr. Hickey provided additional examples.

Mr. Hickey pointed out the final item on the list for discussion was the percentage of required guest parking spaces in multi-family development. He stated right now the requirement is 15 percent, but in looking at other cities, that is high. He explained staff had discussed a reduction to 10 percent, or 10 spaces for each 100 units, which would be closer to the industry standard.

Ms. Awofadeju-Major asked why the City would want to reduce the amount of guest parking when customarily, a unit only has one (1) parking space but multiple occupants. Mr. Hickey stated a lot of those buildings were built in the 1950s, 1960s, and 1970s, and were built as seasonal units, so they would have one (1) car and it would not be an issue. He advised that since that time those units have developed into year-round, and households have more than one (1) car, so the needs are different. Mr. Hickey explained the current Code requirements are one (1) space per unit plus one (1) space per bedroom, plus guest parking. He reviewed example calculations briefly.

Mr. Hickey continued his review of changes, as follows:

Appendix A: Other Supplemental Uses

- *Drive-throughs: escape lanes, traffic flow standards*
- *Off street parking residential/commercial*
- *Trash container locations/setbacks*
- *Pain clinics, adult uses, alcoholic beverage establishments: 1,000 feet minimum separation*

Mr. Hickey explained the recommendation was to add an escape lane to drive-through requirements, which would be in addition to the drive-through lane and the path for driving around the building.

Mr. Hickey stated major changes were made to the Landscaping Code, with most changes necessary to become consistent with the State and County. He noted he is asked frequently why the tree regulations are so stringent, but the County has control over landscaping. He noted Florida-Friendly Landscaping and South Florida Regional Planning Council are also factors. He reviewed the proposed changes as follows:

Chapter 23: Landscaping

- *Definitions*
 - *Native plants, sod, turf*
- *Flexible standards for residential landscaping*
- *Interior parking areas, swales*
- *Fertilizers*
- *Synthetic turf regulations*
- *Canopy replacement: Tree options and standards*
- *Appendix*
 - *Recommended plant list*

Mr. Hickey stated the intent with artificial turf was to have it look as much like natural grass as possible. He noted there are similar regulations in other cities, including for ball fields.

Mr. Sulaman asked whether the implementation of the landscaping changes would be for new construction only or would include remodeling existing property. Mr. Hickey stated the

requirements would apply to new construction and major improvements. He added that in the case of artificial turf, that was something a resident would come to the City for a permit for, and the application would be reviewed to ensure it meets the current specifications.

Mr. Hickey noted the tree canopy requirements were being updated to meet a recent change to State Statute which allows for a certified arborist to approve a tree coming down for safety issues without permit or mitigation.

Mr. Sulaman asked if an oak tree would fall into that category. Mr. Hickey responded that it would depend on the situation. He stated the idea is to keep the canopy there, because it helps for heat and other issues, especially in the summer months.

Mr. Hickey briefly reviewed the goals for updates to the CRA building design regulations and associated discussion points as follows:

CRA Building Design Regulations

- *Assessment*
 - *Supports higher-quality commercial design*
 - *Oriented to incremental suburban land use*
 - *Reinvestment/new development*
 - *Clarity for development review standards*
- *Discussion*
 - *Should apply to all development in CRA?*
 - *Pedestrian-oriented versus auto-oriented?*
 - *What would be the most effective? Least?*
 - *Direction of vision for CRA needed to draft/implement*

There was no further discussion or questions from the Board.

Mr. Hickey continued with a discussion of Appendix C. He stated Appendix C: Land Development Code was a well-written document that was never adopted, so the last adoption was in 1990. He explained that as a result, the changes in the appendix were reviewed and incorporated into this new Code update. Mr. Hickey reviewed the timeline for completion of the code rewrite and noted the first reading of this ordinance by the Commission was set for November 1, and the second hearing was scheduled for November 15.

Mr. Hickey completed his presentation and called for any additional questions. There were none.

Chair Robbins called for a motion.

Mr. Sulaman asserted he wanted to make sure that when the City makes these rules, they do not take away the rights of a homeowner. He noted he owns properties in Margate and does not want to put himself and other residents in a “trick box,” where things are mandated, and the owners are

left with the price tag. He stated the fence and driveway changes were keeping him on the fence about not approving the ordinance.

City Attorney Jadoo clarified the motion would be to recommend the changes to the ordinance as proposed, and it would be the City Commission that approved the ordinance. She stated if the Board had amendments or additional recommendations to pass along for consideration by the Commission, they could provide those.

Ms. Taschereau explained the PowerPoint presentation was just bringing to the attention of the Board high-level items which are needed to bring change to Margate. She stated they did not show images, but that may have been helpful so the Board could see the impact of not making these changes. She noted the Code update is massive, with a lot of changes that are required because the Code is outdated. Ms. Taschereau stated there are sections of the Code causing problems for residential and commercial properties, so to recommend against approval of the entire update would continue to cause issues. She shared that staff is dealing with issues day after day where residents and commercial owners are being stopped or the Code is getting in the way. She noted the items in the presentation were shared because these are big changes, and pointed out a lot of the Code changes will happen when there is redevelopment.

Mr. Sulaman stated he lives in Margate, so he sees the issues when going around. He asked that verbiage be added to say that the changes are primarily for new construction or when doing improvements over 50 percent. Ms. Taschereau confirmed that language was existing.

Mr. Sulaman asked that this be clarified.

Ms. Awofadeju-Major stated fundamentally, even if the Board does not recommend approval, the final say is not up to them, anyway. Ms. Taschereau stated that was correct.

Ms. Awofadeju-Major asserted that meant it was okay if they say nay. Ms. Taschereau stated they absolutely can, but if they read the entire document, there would be many Code updates that impact the community negatively because they are very old Codes. She asked staff to provide examples of Codes which staff receives calls on that they know will be solved with the codification of this document. She explained staff had relied on Mr. Gratz's experience in other cities to bring best practices into the update to provide residents and commercial owners with more flexibility and freedom.

Mr. Pierre advised that he does not have a recommendation, but his question is whether taxes would be increased because of the zoning changes. Ms. Taschereau stated the changes are updating aged requirements and would not impact taxes.

Chair Robbins clarified the changes are really for the benefit of new construction coming in. He stated he lives in a neighborhood that has homes with a one (1) car garage with one (1) driveway where there are multiple members of the family living in the house, resulting in parking all over

the street. He stated instead of allowing new developers to come in and make those same mistakes, these changes make the Code stricter to allow the City to look the way residents want.

Chair Robbins stated the only thing that might have a negative affect on current residents was the fencing situation, but if they look at the HOAs where a specific fencing is already required, he thinks that overall, it will improve the general look of the main streets. He noted it was the same concept as requiring a certain number of plants in front of the fence, and pointed out if someone does not like the white fence, they can paint the inside. Chair Robbins added that he thought the parking change was a good one because a lot of these communities are so old that when they were built houses just had one (1) worker driving, and that was it.

Mr. Gratz provided additional clarification. He stated staff and the consultant had worked to the best of their ability to preserve the property rights that residents have now and into the future, and the changes to the development standards are for those things that come into Margate now, or if a resident chooses to knock their house down and rebuild. He explained the other goal was to preserve, protect, and enhance this community as much as possible by taking a special look at business uses. He asked the Board to consider how many more pawn shops, discount stores, check cashing stores, and gas stations the City honestly needs. He advised that under the current Code, when someone wants to build a gas station across the street from a gas station, staff is telling them that there is a requirement of 1,000 feet between stations, but it does not matter what staff says, because they can request a variance from Commission.

Mr. Gratz stated there was nothing in the document which would penalize someone already here. He added that in reference to the fences, it was a very limited area being affected, as it was limited to individually platted lots along ROW that do not have an HOA. He advised this would include houses along Royal Palm and Southgate, and he did not believe he needed to provide pictures for the Board to know how bad Southgate looks. He stated whether everyone agrees on the white PVC, that detail is irrelevant. He suggested language to include in the motion to ask the Commission to consider a program to help people with the expense as the fencing is replaced over time. He stated most of the City is covered by HOAs that have nice fences and hedges around them, but there are a few areas with no rhyme or reason.

City Attorney Jadoo explained she has a printed red lined copy of the changes if anyone wanted to review it. She asked staff to mention the various departments that had reviewed the update.

Mr. Gratz explained that none of the Code rewrite work was done in a vacuum. He stated the document was created with the help of the Building Department, Engineering, Public Works, Parks and Recreation, the Building Official, Police Department, Fire Department, and the expert consultant who has a nationwide database of vetted ideas.

Mr. Pierre observed that after a couple of years, PVC is not the same color anymore. He noted the concrete fences in Tamarac and asked why not use concrete instead of PVC. Mr. Gratz explained to say that type of project would be difficult would be an understatement. He stated the properties in question are individually platted without an easement for the City to put a fence in.

He shared an example from Oakland Park where a resident spent two (2) years going door-to-door to get everyone to sign easements for a wall.

Mr. Sulaman noted they would then need to do an assessment. Mr. Gratz stated it would need to be paid for somehow, either through the General Fund or by special assessment. He added that trying to put something on someone else's property usually does not go well.

Ms. Awofadeju-Major stated she would like to add a recommendation to the motion that the guest parking for multi-family developments be left as-is. Mr. Gratz clarified that no change to the parking equation was included in the Code update at this time, that topic had simply been included in the presentation for discussion. He stated as written in the document; it remains at 15 percent.

Chair Robbins called for public comment, and seeing none, closed the public hearing.

Mr. Sulaman made the following motion, seconded by Mr. Pierre:

MOTION: TO RECOMMEND APPROVAL OF THE ORDINANCE AS PRESENTED, WITH THE RECOMMENDATION THAT THE COMMISSION CREATE A GRANT TO HELP HOMEOWNERS IN CHANGING THEIR FENCE ALONG THE MAIN ROAD.

ROLL CALL: Mr. Robbins – Yes; Ms. Awofadeju-Major – Yes; Mr. Pierre – Yes; Mr. Sulaman – Yes. The motion passed with a 4-0 vote.

4) GENERAL DISCUSSION

None.

There being no further business to discuss, the meeting was adjourned at 8:16 p.m.

Respectfully submitted,

Sloan Robbins, Chair