CITY OF MARGATE
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REGULAR MEETING OF THE PLANNING AND ZONING BOARD MINUTES

Tuesday, October 3, 2017
7:01 PM
City of Margate
Municipal Building

PRESENT:
Todd E. Angier, Chair
Phil Hylander, Vice Chair
Antonio Arserio
August Mangeney
Richard Zucchini

ALSO PRESENT:
Douglas Gonzales, City Attorney
Reddy Chitepu, Acting Director of Economic Development and Director of D.E.E.S
Andy Dietz, Associate Planner

The regular meeting of the Planning and Zoning Board of the City of Margate, having been properly noticed, was called to order by Chair Todd Angier at 7:30 p.m. on Tuesday, October 3, 2017. A roll call of the Board members was done followed by the Pledge of Allegiance.

1A) APPROVAL OF THE MINUTES FROM THE PLANNING AND ZONING BOARD MEETING ON AUGUST 7, 2017

Mr. Arserio made the following motion, seconded by Mr. Mangeney:

MOTION: SO MOVE TO APPROVE

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes; Mr. Hylander, Yes; Mr. Angier, Yes. The motion passed with a 5-0 vote.

2) **NEW BUSINESS**

ID 2017-622

2A) **PZ-18-17** CONSIDERATION OF AN ORDINANCE TO REQUIRE SPECIAL EXCEPTION USE APPROVAL OF ANY NEW MASSAGE SPAS, MASSAGE PARLORS, AND SIMILAR MASSAGE SERVICE TYPE BUSINESSES WITHIN THE CITY OF MARGATE.
PETITIONER: CITY OF MARGATE

Economic Development Department
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Reddy Chitepu explained that the City Commission had previously passed a moratorium on Massage Services in the City and the moratorium was set to expire on November 17, 2017. He said the City Commission held a workshop in August, 2017, to discuss the use and it directed staff to make it a special exception use instead of a permitted use whereby the City Commission would have final approval on whether or not the subject businesses would be allowed in the City. He said the issue discussed at the workshop was whether to ban Massage Services or to allow for some higher end massage businesses such as Massage Envy. Currently, he said Massage Services were a permitted use under Personal Care Services and they were allowed in all the Transit Oriented Corridor (TOC) districts and business districts in the City.

Mr. Chitepu advised that the proposed ordinance would amend the Personal Care Services to exempt the Massage Services and place Massage Services in the Special Exception section of the Code. He said the zoning districts would remain unchanged.

There were no questions posed by the Board members or the public.

Mr. Arserio made the following motion, seconded by Mr. Mangeney:

MOTION: TO APPROVE

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes; Mr. Hylander, Yes; Mr. Angier, Yes. The motion passed with a 5-0 vote

ID 2017-623

2B) **PZ-19-17** CONSIDERATION OF AN ORDINANCE TO PROHIBIT THE ESTABLISHMENT OF ANY NEW SELF-STORAGE USES WITHIN THE CITY OF MARGATE

Reddy Chitepu explained that, similar to the previous item, the City Commission had previously passed a moratorium on self-service storage use. He said this was also discussed at the August workshop and the direction was to prohibit the self-storage use. The proposed ordinance removed the use from the zoning districts where it was currently allowed, i.e., Transit Oriented Corridor-Corridor (TOC-C), B-3, and M-1 he said. With regards to existing facilities, he said language was added to the Code to allow for their use and some exceptions.

Mr. Mangeney asked why the ordinance did not allow for a special exception of the use similar to the previous massage use ordinance; otherwise, the Code would need to be amended should the City Commission decide to allow self-storage in the future. Mr. Chitepu responded that it was discussed at the workshop; however, the Commission thought there was over saturation of the use in the City and they did not want to have it in the Code at all. Mr. Mangeney said he thought it would give the City Commission more authority in general.

Mr. Angier said there were too many self-service facilities currently in the City but he agreed with Mr. Mangeney that it might change at a future date and it would not hurt to have the special exception language in the ordinance since it would still be at the City Commission's discretion. Mr. Chitepu responded that there were some conflicts that existed with special exceptions that required good justification to deny. He said there was some discussion about it and the City Commission did not want the ability to approve it as a special exception; he deferred to the City Attorney.

Douglas Gonzales, City Attorney, concurred that the City Commission would have to justify denial of the special exception, and he added that the premise of oversaturation might subject it to legal review.

Mr. Arserio mentioned an example of a request for a Brownfield where the City could not legally deny the petitioner because they met all the requirements.

Mr. Arserio said he attended the workshop and his interpretation was that once a storage facility sold and moved, a new one could not open in its place. He asked whether the new owner could operate as a storage facility. Attorney Gonzales said there was a comment made toward the end of the meeting that indicated that if a storage use were to sell, the City would entertain keeping the storage use. Mr. Chitepu, referenced the ordinance, and said that the storage use could continue as permitted.

Mr. Hylander commented that there were other ways around it; for example, if the storage facility was owned by a corporation, and the corporation was purchased and there was no transfer, the City would have no jurisdiction over it as it was a corporate transfer versus a property or business transfer.

Mr. Hylander asked how, in terms of perceived saturation, Margate compared to Coral Springs, Coconut Creek, and Pompano Beach. He also asked whether the taxes paid by a storage facility versus another use would be greater and whether the City would lose tax revenue. Mr. Chitepu said he did not have that information available at that time.

Mr. Zucchini asked whether possible negative effects of having storage facilities were discussed at the workshop. Mr. Chitepu responded that over saturation was the main issue and that he was not aware of any others being discussed. Mr. Zucchini questioned whether market forces would dictate the slowing down of the saturation of new storage facilities. Mr. Chitepu responded that the City Commission was pretty adamant about the City being over saturated with the self-service storage use. Mr. Zucchini asked if any of the storage facilities in Margate had failed. Mr. Chitepu responded that he was not aware of any, however, he noted that the new facility located on Coconut Creek Parkway kept changing ownership. Mr. Zucchini asked if the ordinance prohibited new construction. Mr. Chitepu responded that it was a prohibition of new self-storage facilities; the existing ones could continue as they were. Mr. Zucchini commented that had never been a fan of government trying to dictate and overcome market forces.

Mr. Mangeney made the following motion, seconded by Mr. Arserio:

MOTION: SO MOVE TO APPROVE

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini Yes; Mr. Hylander, No; Mr. Angier, Yes. The motion passed with a 4-1 vote.

ID 2017-625

2C) **PZ-20-17** CONSIDERATION OF AN ORDINANCE TO AMEND THE S-1 RECREATIONAL ZONING DISTRICT

Reddy Chitepu explained that proposed changes to the ordinance included the removal of the setback requirements for any facility from the major roadways. He said the section being deleted, Section 3.19, was not part of the S-1 zoning district but it was being removed as part of the ordinance and setback requirements had been included in the different sections of the Code. He said instead of making it a generic Code requirement, it was removed and incorporated into the various sections.

He said the amendment would modify the current permitted use from "municipal parks and playgrounds" to "municipal structures to provide for health, safety, and welfare of the community," and it would allow for generic municipal buildings such as community facilities, police stations, safety buildings, and fire stations. He said the ordinance was the result of a current fire station issue. He said the ordinance would also provide for an exemption from the Development Review Committee (DRC) for any minor improvements in City parks. Currently, he said any small changes that Parks and Recreation requested such as putting up a shade structure required going through DRC and the entire permitting process. He said this ordinance would allow exemption from DRC as long as the functionality of the park was not being changed. In addition, he said the ordinance changed the height and setback requirements for municipal structures. He said the new maximum height allowable would be 65 feet which would allow for the proposed fire station on Rock Island Road. Also, setbacks would be removed to accommodate the fire station.

Mr. Arserio said he met with Chief Booker and it was his understanding that this ordinance was needed because the fire station was currently encroaching on an FPL easement and the fire station needed to be brought closer to the street and built up vertically. Mr. Chitepu responded that he was correct.

Mr. Arserio made the following motion, seconded by Mr. Angier:

MOTION: SO MOVE TO APPROVE

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini Yes; Mr. Hylander, Yes; Mr. Angier, Yes. The motion passed with a 5-0 vote.

ID 2017-601

2D) **PZ-21-17** CONSIDERATION OF AN ORDINANCE AMENDING CHAPTER 31-PLATTING, SUBDIVISION AND OTHER LAND USE REGULATIONS, ARTICLE 1. – IN GENERAL, SECTION 31.2. UNDERGROUND WIRING REQUIRED; EXCEPTION AND ADDING NEW SECTION, SECTION 31-3 UNDERGROUND UTILITY TRUST FUND – ESTABLISHED; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

Reddy Chitepu explained that the ordinance was a new Code provision requested by the City Commission that was modeled after Coconut Creek's Code. He said it would be applicable to all the non-residential zoning districts for new developments or any development that was considered substantially redeveloped. He said there was a definition for substantially redeveloped in the City Code and in the Florida Building Code; a property that was redeveloped 50 percent or more was considered substantial improvement. In the residential zoning districts, he said all the new developments would be subject to the new ordinance, as well as redevelopment or reconstruction projects that were above five acres, and existing

developments with reconstruction of five units or more. Mr. Chitepu said single family homes would also be subject to the ordinance if 50 percent or more of the home was demolished. Mr. Chitepu stated that all the overhead utilities such as AT &T, Comcast, FPL, etc., along the public right-of-ways or within private property would have to be underground. Also, he said overhead utilities along the public right-of-ways that extended out onto private property would need to be put underground. If the property was at an intersection, he said the Code required that the underground wiring be extended out to the other side of the intersection. He said the cost for the work would be bore by the developer or the owner of the development. He said the one exception in the Code was that if the electrical transmission and distribution lines were above 27,000 volts, they would be exempt from the Code to avoid undergrounding major transmission lines. He said if the City participated in the program and undergrounded any of the areas, the developers or owners of the affected properties would be subject to reimburse the City for the cost of the project. He said there was a waiver provision for the developers and owners that could be only granted or denied by the City Commission. He said there was a process built into the Code where the applicant would submit the technical justification and staff would make a recommendation to the City Commission; it would be solely up to them to grant or deny the waiver. If the waiver were granted, he said the developer still would be subject to pay the City for the cost to underground the infrastructure. The costs would be deposited into the Underground Utility Trust Fund which he said would be established as a result of the new ordinance. The funds in the Underground Utility Trust Fund would be restricted for use to underground existing above ground utilities. He said expenditures from the Trust Fund would require a specific resolution from the City; the funds could not be used for any other purpose.

Mr. Mangeney commented that the language used on page 7, section (4)(c), with regards to granting a waiver, read …"that the cost of placing the utilities underground, as determined by an estimate established by the relevant utilities and as agreed upon by the City, may be required to be paid into the City's Underground Utility Trust Fund…" was permissive language. He questioned why it did not say "shall be required" because he interpreted it to mean that the Commission could extend the exception to not require payment into the Trust Fund. He expressed a concern that the City Commission would have to justify not granting an exception to pay into the Trust Fund, similar to what was discussed in the prior item.

Douglas Gonzales, City Attorney, said changing the wording to "shall" would not be a problem, and it could be included with any other amendments that might be made to this ordinance during the discussion.

Mr. Zucchini, under residential exceptions, questioned the rationale used to equate new development of five acres or more to reconstruction of five units or more in terms of the requirement to pay. Mr. Chitepu responded that a limit had to be established. He said it applied to any reconstruction or remodeling in existing residential zoning districts, not for redevelopment. He said, for example, a five-acre development going through substantial redevelopment would be subject to the requirement, or a residential development that was going through substantial development of at least five units would also be subject to the requirement. Mr. Zucchini said it was not analogous to him that a developer that planned to develop four and one-half acres would not be encumbered by the requirement, yet someone remodeling six units would be encumbered.

Attorney Gonzales said when directed by the City Commission to provide for the new development fee, the City chose to piggyback an ordinance currently in place in Coconut Creek

which he said was a valid ordinance that had not been legally challenged. Mr. Zucchini commented that it was unfair. Mr. Arserio said the ratio between the entities was not consistent. Attorney Gonzales stated that they could have it brought before the Commission; Mr. Chitepu advised that it could be a recommendation from the Planning and Zoning Board that would appear in the minutes and would be included on the agenda fact sheet.

Mr. Zucchini questioned how many lots required one-acre zoning for a single family house in the City's residential zoning, adding that there were none. Mr. Chitepu responded that their recommendation would be shared with the City Commission and they could change the ordinance. Mr. Zucchini said the requirement for anything over five units needed to change to a much higher number. Mr. Angier commented that the amount of acreage for new developments needed to be reduced. Mr. Chitepu said the requirement was automatic for new developments and that there were no limits. He noted that the discussion was geared mostly toward the redevelopment and reconstruction projects.

Mr. Zucchini referenced the section that read, "For a project parcel located at a roadway intersection, the developer and/or owner shall be responsible to continue the underground conversion across the intersection to the nearest point/points of connection at no cost to the City." He commented that someone remodeling or reconstructing six units located on a corner would have to absorb the cost to dig up the street across the intersection. He said it was the City's responsibility since it owned the land. Attorney Gonzales responded the reason for it was because Florida Power and Light (FPL) had certain facilities that could be tied into when going underground that did not necessarily end at a property border. In the event the tie-in location by FPL was under the street and across the street, he said the property owner would be required to tie-in to that location. He said FPL did not have tie-ins at every boundary of a residential property, noting that sometimes the tie-ins could be half a block away so FPL would require that the property owner underground the utility cables into their easement. In the event the location of the utility hook-up was beyond the owner's property boundary, the City would not be responsible for doing it or paying for it since it was an FPL requirement; it would be the developer's or owner's responsibility. Mr. Zucchini said he could understand running along residential property lines but not roadways that were City property. Attorney Gonzales said it would be wherever FPL had their tie-ins located. Mr. Zucchini asked if ballpark costs were brought up when the discussion took place. Mr. Chitepu responded that tonight was the first discussion on the ordinance other than the Development Review Committee. Mr. Zucchini asked whether the Engineering Department might know the impact it would make. Mr. Chitepu said they did not have the cost figures because they were based on FPL and they refused to provide generic dollar figures. He said FPL required specific designs and the connection points as explained by Attorney Gonzales before they would provide an estimate. He said that there was language in the Code that allowed the developer and FPL to work together to arrive at a cost figure.

Mr. Arserio said Mr. Zucchini made a good point about the City not being responsible for the tie-in. He commented that FPL was a business that made money off meters, and he asked whether a big developer that wanted to put up a development that required a lot of underground wiring would be allowed to negotiate that cost with FPL. Attorney Gonzales said it was doubtful that FPL being a public utility would negotiate as they set their rates and locations

of the tie-ins. Mr. Chitepu said the City got proposals from FPL all the time for its utility work and the City had to pay, even though it was the government.

Mr. Angier asked if the ordinance applied to individual homes where over 50 percent was being remodeled. Mr. Chitepu said it did apply. Mr. Angier gave the scenario of a property owner at the very end of a cul-de-sac where no other owners planned any remodeling, and he asked whether the line would stop at their property, go underground, and then come back up on the other side of their property. Mr. Chitepu said the underground wiring would extend out to the points of connection identified by FPL and not property line to property line.

Mr. Arserio asked if multiple lines could tie into it. He gave a scenario of a developer that had to pay to put in underground wiring half a mile down the street, and then a store opened up across the street. He asked whether the store would also have to run wiring down the street or if it could tie into the line paid by the developer as a means to save money. Mr. Chitepu said the capacity would be calculated by FPL when they undergrounded the wiring and that they would consider all the properties along that line. He said there was a provision in the Code that allowed the City to pay upfront in such instances and then have the developers or property owners along that stretch of the line reimburse the City when they connected instead of one entity paying for it and others using it.

Mr. Angier commented that he found it confusing that an individual homeowner who decided to remodel more than half their house would be required to have underground lines at likely a significant expense, while others in the neighborhood would have above ground lines.

Attorney Gonzales said that it would depend on the location of the end points identified by FPL. He said it could be that the homeowner would be burying the lines across other properties if that was what was needed to reach the end points. It would be benefiting the neighbors but that was the requirement. Mr. Angier asked if the other property owners could also tie in and reduce the cost to the initial homeowner or did the others just benefit from it. Mr. Chitepu responded that there was language in the ordinance that allowed the City to pay the cost upfront for the points of connection. There was also language that required all the adjoining properties to connect within a certain period of time. Mr. Angier said it would not be fair to impose this additional cost on to the adjoining properties just because one homeowner decided to redevelop their home. Mr. Chitepu said the ultimate intent from the City Commission was to underground the utilities.

Attorney Gonzales said the way it would work was that if the tie-in was on another property, the lines of the other residences would be undergrounded and they would not be paying for the cost of it; the homeowner that was redeveloping would pay the cost for it. He said there was discussion at the workshop about removing the redevelopment portion of it. He said they took the Coconut Creek ordinance and made it apply to the Code in Margate. He said if burying the utility lines required crossing over others property lines to get to the FPL end points, then the other property owners on that line would benefit from having their lines buried at the initial homeowner's expense.

Mr. Angier said his understanding from Mr. Chitepu' s explanation was that the City paid into the Underground Utility Trust Fund first and everyone would be required to reimburse the expense. Mr. Chitepu said that provision was allowed in the ordinance. Mr. Angier said Attorney Gonzales had said that the property owner had to pay for everything, but Mr. Chitepu had said

that when the bill came in, everyone affected would have to pay for it. Mr. Chitepu said that would be the case only when the City upfronted the money. If the City did not upfront the money, he said the individual homeowner would be responsible. He said it would depend on the position of the City at the time.

There was back and forth discussion about the 50 percent remodeling requirement. Mr. Chitepu explained that the ordinance would be applicable to a property being demolished 50 percent or more. Mr. Zucchini asked it were based on value or square footage. Mr. Chitepu said the language in the ordinance indicated that it would be based on 50 percent of the structure. Mr. Mangeney asked how it would work if someone pulled a permit to demolish 49 percent of their home and then pulled a permit for one or more percent at another time. Mr. Chitepu responded that substantial improvements were always cumulative. Under the Florida Building Code, he said when older structures were being improved, it was cumulative and when the 50 percent point was reached, the home was supposed to be up to Code. Mr. Mangeney asked what would happen if the current homeowner improved 40 percent and sold the home, and the new homeowner did 10 percent. Mr. Chitepu said that in the Florida Building Code it went by the structure not by ownership. Mr. Angier asked if the City kept track of all home renovations. Mr. Chitepu said that software in the Building Department kept track of all permits pulled by address. Mr. Arserio asked if the modeling requirement would be retroactive. Mr. Chitepu responded that it would not be retroactive. Mr. Hylander asked how it would relate to storm damage and Mr. Mangeney commented that there was an exception for storm damage.

Mr. Hylander commented that there were homes back to back in north Margate where the overhead utility lines ran between the houses in the back along the property lines; he said there was nothing underground so there were no end points. He asked if the ordinance would force FPL to put a box underground and, if FPL did, five out of six parcels would still have wires overhead. Mr. Chitepu said it would work that same way as it did if the utility lines were in the front or on the sides of the homes. He explained that the design would be to remove the utility poles, install the boxes, run conduit between them, and then run the wire within the conduit to the individual homes. Mr. Arserio commented that FPL would have to remove the underground wiring and the City would have to step in and pay for it and then assess the other affected homes because one home made modifications. Mr. Chitepu said it would be up to the City Commission to make that decision at that time.

Mr. Mangeney said it was his opinion that either the redevelopment requirement, or preferably the residential requirement, should be removed.

Mr. Angier said he did not like it and suggested removing the redevelopment requirement.

Mr. Arserio asked if any business or resident would be immediately affected if the Board decided to table the item under next month. Mr. Chitepu responded that the City Commission wanted to review the ordinance as soon as possible. He said if anyone were to come in and submit an application, they would be grandfathered because the ordinance was still in the process.

Mr. Zucchini said it seemed the City was placing an onerous burden on homeowners and small developers to do what FPL had refused to do for many years. He said that at some point in the future FPL would turn around and decide that it needed to put their power grid underground

and they would amortize the expense in the cost of the electricity and those that had already paid in advance would be forced to pay additional fees. Mr. Arserio commented that the cost of putting in the underground wiring in a single family home would likely cost more than the modification of the home itself.

Mr. Chitepu remarked that the concerns expressed by the Board members were all valid and that they would be brought forward to the City Commission.

Mr. Angier said that as Margate looked toward the future, it made sense to require new development to put the lines underground. He proposed that the entire redevelopment section be removed from the ordinance as the impact on residential had not been thoroughly reviewed and he suggested the possibility of having studies done. He said he agreed with everything Messrs. Zucchini and Arserio said regarding the major financial impact it would have on the small guys, especially residential. Mr. Mangeney repeated that his preference would be to remove the residential component but not the redevelopment, noting commercial redevelopment would be fine. Mr. Angier commented that there were also questions about it as well such as lot size. He said the whole redevelopment section should be removed until it was better thought out and it included fiscal impacts. Mr. Arserio said he would be comfortable with that in lieu of tabling the item, and they could address it at a later time once they received all the information.

Mr. Chitepu asked the Board to consider passing the ordinance with an amendment so that the discussion could be brought forth to the City Commission. Attorney Gonzales said the Board needed to decide whether they wanted to remove all development or just residential development. If it were the wish of the Board, he said what would move forward to the City Commission would be that the Board approved the item on the condition that either all development or all residential redevelopment would be removed from it, and that would be the Commission's discussion point.

Mr. Angier made the following amendment, seconded by Mr. Mangeney:

AMENDMENT: TO APPROVE WITH THE CONTINGENCY THAT THE REDEVELOPMENT SECTION FOR COMMERCIAL AND RESIDENTIAL PROPERTIES BE REMOVED; AND TO CHANGE "MAY" TO "SHALL" UNDER SECTION 4(c)

ROLL CALL ON THE AMENDMENT: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini Yes; Mr. Hylander, Yes; Mr. Angier, Yes. The amendment passed with a 5-0 vote.

Mr. Mangeney made the following motion, seconded by Mr. Arserio:

MOTION ON THE ITEM AS AMENDED: SO MOVE TO APPROVE

ROLL CALL
ON THE MOTION
AS AMENDED: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini No; Mr. Hylander, Yes; Mr. Angier, Yes. The motion passed with a 4-1 vote.

ID 2017-599

2E) **PZ-22-17** CONSIDERATION OF AN ORDINANCE AMENDING CHAPTER 31 - PLATTING, SUBDIVISION AND OTHER LAND USE REGULATIONS, ARTICLE 1. – IN GENERAL, ADDING NEW SECTION SEC. 31-4 PUBLIC ART REQUIREMENT; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE

Reddy Chitepu explained that the ordinance was a new Code provision requested by the City Commission, and it would be applicable to all non-residential zoning districts. He said the proposed ordinance would be applicable to all new developments, redevelopments, any remodeling that was more than 12,500 square feet, and new public constructions, with some exceptions such as utility work or public works projects. He said the value of the artwork that needed to be provided would depend on the type of development: $.50 per square foot on the gross square footage for new development; $.25 per square foot for remodeling.

Mr. Chitepu said the proposed artwork would need to be approved by the City Commission, and 75 percent of the value of the artwork would need to be displayed in publicly visible areas. He said there was a provision in the ordinance to allow for a contribution to the City in lieu of providing the artwork: $.40 per square foot of the gross floor area for new development; and $.20 per square foot of the gross floor area for remodeling. He said the funds would be placed in a newly established Public Art Fund and the funds would be restricted for public art and related expenses, i.e., installation and maintenance throughout its life. Expenditures from the Public Art Fund would require authorization by the City Manager or his designee he said.

Mr. Zucchini asked whether the City Commission would be responsible for voting on individual art projects. Mr. Chitepu responded, "Yes." Mr. Zucchini commented that it would be opening a can of worms and that he would prefer to see a landscaping fund or something similar. He said there were two issues: first, the definition of art and the fact that art was very subjective; second, the value of art, noting that sometimes struggling artists that produced beautiful work might discount their prices or sell at retail. He said the idea was well-intentioned but it would be very difficult to administer. He said he found it hard to believe that petitioners would need to come before the City Commission to show their art work and then wait for approval. Mr. Chitepu responded that applications for a development project would come through City staff, the Development Review Committee, and then to the City Commission for approval. Mr. Zucchini commented that a development could be negatively affected if the majority of the Commissioners did not like someone's taste in art. Mr. Angier responded that there was an option to contribute to the fund instead. Mr. Zucchini commented that something like a landscaping fund could be used to beautify the City and would be less controversial.

Mr. Arserio commented that between this ordinance and the previous one, it seemed as though the City wanted the residents to pay for all of the beautification going on; he questioned why the City had the Community Redevelopment Agency (CRA). Mr. Chitepu responded that this ordinance was for non-residential; it was for property owners in the commercial areas.

Mr. Arserio asked if the commercial property owner that was paying for the artwork would be able to determine where the artwork was placed. He said the ordinance should contain verbiage that provided for placement of the artwork within a certain radius of the business establishment.

Mr. Zucchini commented how both the artwork and its value were totally subjective, noting that an artist could present an invoice for $10,000 when they might be willing to sell the art for $500.

Mr. Hylander stated that he also had some issues with the proposed ordinance. He said having the City Commission as the ultimate decision maker was a scary thought. He said the way the ordinance was worded was such that the public art fund was going to be used for selection, commissioning, acquisition, transportation, maintenance, promotion, administration, and insurance; therefore, a piece of artwork that cost $5,000 could end up costing $15,000-$20,000 by the time it was in place. He said there were too many areas that were open for interpretation. Mr. Chitepu said there was language in the Code that allowed monies to be taken from the fund for all costs associated with the installation of the artwork, if it were being done by the City, including liability insurance and any maintenance needed in the future.

Mr. Hylander commented that if a developer decided it wanted to put its own piece of artwork at the development, the City would not be insuring it or maintaining since it would be on private property. He said there were two different types of artwork: privately owned; and City owned. He commented that the City did not have the best track record of accounting for its funds, specifically the Alzheimer's Center and CRA funds. He asked who would keep track of the Public Art Fund and who would pay the salary of that person.

Mr. Mangeney commented that he did not see the definition of remodeling and asked whether it would relate to anything that required a permit, regardless of the dollar value. Mr. Chitepu said it had no exemptions for size. He said if someone came in for a building permit on a non-residential property, they would be contributing to the fund. Mr. Mangeney asked whether the square footage was based on the size of the property, the unit or the size of the property being remodeled; for example, if one wall was being taken down in a building that was 12,500 square feet, would payment into the art fund or art purchase be based on the value of the entire property even though one wall was being taken down. Mr. Chitepu responded, "Yes." Mr. Mangeney also asked if there was a policy reason for providing a savings if someone chose to pay into the fund or if it was because the ordinance was modeled after another city's. Mr. Chitepu responded that the ordinance was modeled after that of a neighboring city. Mr. Mangeney said he did not read anything in the ordinance that encouraged any type of uniform or cohesive look for artwork in the City. Mr. Chitepu responded that the control would be with the City Commission.

Mr. Hylander asked, with regards to the square footage requirement, whether the public art requirement would apply in the case where one 1,500 square foot bay was remodeled in a shopping center that was 15,000 square feet. Mr. Chitepu responded, "Yes." Mr. Hylander asked if the public art requirement applied if a new ceiling and air conditioner were put in a 1,000 square foot bay in an old shopping center. Mr. Chitepu responded that it would apply based on the way the ordinance was written.

Mr. Angier asked the Board members for a motion. No motion was brought forth; the item died for the lack of a motion.

Mr. Angier asked Mr. Chitepu if he wished to discuss the email that Andrew Pinney had provided regarding stacking lanes under General Discussion or if he wished to handle it as a separate item. Mr. Chitepu said he preferred to handle it as a separate item when he was better prepared to discuss it. He said Andrew would be at following month's meeting. Mr. Angier asked if the Board had any objections to having Andrew review it at the next meeting or if they preferred to discuss it that night. The majority of the Board gave consensus to have Andrew review it at the next meeting; however, Mr. Arserio stated that he was disappointed because staff was directed two months ago to provide information and they should have been prepared to respond to their questions that day. Mr. Chitepu said he could address any concerns or he could take his questions and come back to them. Mr. Arserio said he did not have questions but he suspected that some of the other Board members had questions. As a Board member who asked something to be done, he said he expected those answers to have been available to them.

Mr. Angier said he did not disagree with Mr. Arserio about the information not being ready at the last meeting, but since then there had been a hurricane and Mr. Pinney's wife had a baby. He said he wanted to give Mr. Pinney the benefit of the doubt adding that he did not think it would hurt anything to wait until the next meeting to review it. Mr. Arserio said he understood Mr. Angier's comments but he was disappointed that the item was not ready to be discussed that night.

Mr. Angier asked Mr. Chitepu if the item could be added to the next agenda to which Mr. Chitepu responded, "Absolutely."

3) **GENERAL DISCUSSION**

Mr. Zucchini said he had a number of issues to discuss that evening. He said the Board's nomination of officers had not been completed correctly because the Charter required the nomination of a Board Secretary and that had not been done. He said he was deeply disappointed that the last meeting had been canceled and he said that he noticed that the Board continued to act solely as a reactive board while he felt it should be more proactive. Also, he said he was deeply disappointed that the Board's Chair did not poll the board members to decide whether or not to reinstate the last meeting, and that he decided unilaterally to cancel it. Mr. Zucchini made the following motion:

MOTION: TO INSTALL A SECRETARY FOR THE PLANNING AND ZONING BOARD; TO RECOMMEND A CHANGE TO THE CHAIR POSITION AND INSTALL ANTONIO ARSERIO AS CHAIR WITH PHIL HYLANDER REMAINING AS VICE CHAIR, AND TO INSTALL AUGUST MANGENEY AS SECRETARY

Mr. Mangeney declined the nomination for Secretary.

Attorney Gonzales said he believed the currently elected Chair would remain as Chair until March of 2019. Mr. Arserio disagreed and he asked for his source of reference. He said if Attorney Gonzales were referring to the rules from 1998 that had been reinstated, they could be suspended at any time. Mr. Arserio made the following motion:

MOTION: TO SUSPEND THE RULES OF THE BOARD

Mr. Arserio added that the rules read one year because they had not been corrected yet. Attorney Gonzales said that under Section 2.86 for the Planning and Zoning Board, all appointments shall be for a two-year period. He said amended letters would be going out to existing Board members advising them that their term would be for two years. He said the City Commission was in the process of having it changed to be one year because that was the intent when the Board of Adjustment rules were changed. In past years, he said he was told that the intent was that it would ultimately be changed for the Planning and Zoning Board, but it had not occurred. He said current appointees would be appointed for two year period under the current Code.

Mr. Arserio said Mr. Zucchini's motion was not to remove Mr. Angier from the Board; he said the motion was to restructure the Board. He said the rules clearly stated the rules could be suspended at any time. There was a short back and forth conversation between Attorney Gonzales and Mr. Arserio about the rules which Mr. Arserio said he received from the City Clerk's office. He said he could provide copies to the Board if a five minute recess could be called. Mr. Angier said a motion had been made by Mr. Zucchini, and he asked if there was a second. Mr. Arserio seconded the motion.

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, No; Mr. Zucchini, Yes; Mr. Hylander, No; Mr. Angier, No. The motion failed 2-3.

Mr. Zucchini said there were a number of issues that the Board should direct City staff to report on for the Board to be more proactive. He said he sat in on a Board of Adjustment meeting where there was a petitioner who was looking for approval for a beer and wine liquor license even though they were less than the 1,000 foot restriction that was required. He said it was a ridiculous example of where the Code was not serving the City well because the liquor sales did not differentiate between a restaurant with wine and beer versus a packaged good liquor store, a bar, or a night club. He said the Board should look into changing codes so liquor sales could be differentiated from restaurant wine and beer sales as a less restrictive use.

Mr. Zucchini suggested that the Chair could take the issues and maybe decide to direct each board member to take on one item to review to help City staff because he knew they were shorthanded and perhaps the Board could help them.

Secondly, Mr. Zucchini said that elevators should be required on any higher density, multi-family developments above one floor. At a previous meeting, he said the City Attorney was asked to report back to the Board as to whether there would be any ADA requirement on the elevator. He said staff should be directed to look into multi-family elevator requirements for anything above one floor.

Third, Mr. Zucchini said he thought the issue concerning parking requirements for new residential construction was supposed to come before the City Commission. He said that the Commission did not address it and, as a result, the Planning and Zoning Board should. He said having a 1.5 requirement on residential parking underserved the community and Margate, being a suburban environment, should have a minimum of two parking spaces per unit and/or one parking place per bedroom, whichever was greater.

Lastly, Mr. Zucchini said it was unfortunate that the stacking requirement would not be discussed that evening. He said he would like to see the Planning and Zoning Board be more proactive on items. He said he would also ask the Chair to understand that there were other members of the Board and when they had a chance to have a meeting in the past, they should have had a meeting just so that they could talk to each other about raising other issues because they were handcuffed by the Sunshine Law to speak to each other about issues.

Attorney Gonzales said that the Planning and Zoning Board was governed by Section 2.86 of the Code and that section of the Code did not provide for the ability for them to direct staff. He said what they could make a recommendation to the Commission that there were items that the Board would like to have looked into to see if they would direct staff to do so on the Board's behalf. Mr. Arserio said he believed that the board of directors set direction and he was pretty sure that it [the rules] stated that there were a lot of things that the Board was able to do that were not listed online. He said he thought one of them would be for the Board to address issues when the City Commission said it wanted to address things such as the TOC or parking. Attorney Gonzales said that unfortunately the Code did not provide for that at the current point. He said it provided them with the opportunity to review existing applications and questions related to zoning in an advisory capacity. Being in an advisory capacity, he said the Board could ask for more power and the City Commission could decide to change the Code to provide for it. Mr. Arserio asked why the Board could not be proactive and look at some of those things. Attorney Gonzales responded that it was because the Commission had not granted them the responsibility to be proactive. He said it was something they could address with the City Commission but it was not what the current rules provided.

Discussion ensued amongst several Board members and the City Attorney about the Board's authority and the rules under which it has operated, including whether the Board could initiate agenda items and the authority of the Board Chair approve the agenda and call or cancel a meeting. Attorney Gonzales stated that there was nothing in the current rules that allowed the Board to initiate agenda items. Mr. Arserio commented that the rules of the Board should be addressed at the next meeting. He said the Board should have a say in what was on the agenda and that the Board should be able to hold a meeting if the majority of the Board wished to meet. Mr. Arserio said the rules were created by the Board in 1992 and reinstated in 1998, and there was nothing in the rules that indicated otherwise. Attorney Gonzales suggested that the Board consider potential bylaws at the next meeting, like he had discussed at the earlier Board of Adjustment meeting. He said he would provide the Board with several bylaws that were used for planning and zoning boards throughout Broward County and they could decide what they would like to do with them. He asked Mr. Angier if that was acceptable; Mr. Angier said he was in agreement with it. Mr. Zucchini said it was just part of it; they wanted to know if other city's planning and zoning boards had the ability to create some of the agenda items. Mr. Gonzales responded that he did not know whether they did or not and that he would need to look at their Codes.

In response to Mr. Zucchini's question about multi-family elevator requirements and the Americans with Disabilities Act (ADA), Attorney Gonzales said the Florida Building Code set forth the minimum standards that must be followed in the State of Florida. He said there was case law that suggested the City Commission could amend the Code but there were several safeguards that were in place that had to be established which included the following:

1) "The local amendment must be more stringent than the minimum standards." He said currently elevators were required for four stories and up, and Mr. Zucchini suggested reducing the requirement.
2) "Any amendments must be given to the Florida Building Commission within 30 days after their enactment."
3) "The local government shall make any amendments available to the general public in a usable format that includes being posted on floridabuilding.org website for one month before being enforced."
Attorney Gonzales said that suggestions to the Commission to amend the provisions to be stricter than the Florida Building Code were permissible and the Board could consider doing so.

Mr. Zucchini commented that they were an advisory board and anything they did would be suggestions, including the creation of their own agenda items. Mr. Arserio commented that putting the elevator topic on the agenda would be an example.

Mr. Mangeney commented that he had no issue asking for consensus to request that items concerning the elevator, the parking, and beer and wine at restaurants be added to a future agenda. He said they were all things that should be reviewed by the Planning and Zoning Board. However, in regards to not having a meeting last month, he said a meeting could not be noticed without agenda items and Public Discussion and Board Member Discussion were not agenda items. He said it would be waste of everyone's time to come to a meeting with no agenda items, adding that the board members did not sign up for general discussion. He said the board members signed up to have agenda items, review them, educate themselves on the issues, and have thoughtful discussion with City staff about them rather than come to a meeting and ask City staff about things the board members thought about for a month.

Mr. Arserio commented that there were a lot of things in the City that needed to be done from a planning and zoning perspective. He said he was very disappointed when he learned that the meeting was being cancelled without the Chair calling to ask the board members if there were items to discuss. He said he went to City staff and told them of the issues that he thought should be on the agenda, but the reason there was nothing on the agenda was because the Chair had the sole power to call the meetings and City staff creates the agenda. He said if the Board was asked, and if they had the ability to make suggestions for agenda items, there would have been two or three items on the meeting agenda. He said there were a lot of residents upset, and if the public wanted to come to a meeting to discuss what was going on with planning and zoning in the City, then he wanted to hear what they had to say, whether or not it was on an agenda item. He said he hoped it did not happen again and that he did not find it possible that there would be nothing on their agenda. He said he signed up to meet once a month and he expected to meet once a month.

Mr. Hylander said he had two small things to discuss. With regards to the discussion about parking requirements within the City, he said it was his understanding that the Transit Oriented Corridor (TOC) requirements trumped those of the City. He said the City jumped on board with the Metropolitan Planning Organization (MPO) in Broward County about eight years ago without thinking it through. Attorney Gonzales commented that the TOC was an item of discussion at the City Commission scheduled for the following night. Mr. Hylander said it would probably take two to three years to undo because the City had been amending things to bring it into

compliance with the TOC up until about a year ago. Attorney Gonzales concurred it that it would likely take a couple of years.

In regards to the stacking requirements items that would be discussed at the next meeting, Mr. Hylander asked what the City's stance was on stacking when cars backed up into a main street and blocked traffic. He said it happened on a regular basis, especially at schools specifically Atlantic West and Margate Middle. He suggested contacting the Chief of Police.
Reddy Chitepu responded that the only current requirements were for businesses; there were no requirements for schools at that time. He said that most of the time police were at the schools to help with traffic circulation.

Mr. Hylander commented on the proposed drive thru for Dunkin Donuts on Royal Palm Boulevard and asked what would happen if traffic backed up on the side street and then onto Royal Palm Boulevard in the morning. Mr. Chitepu said the potential existed and that the City went through that same problem with the Dunkin Donuts on Banks Road and Atlantic Boulevard. He said City staff worked with the owner to resolve the issue. He said the business had met the minimum requirement provided in the Code at that time. He said the problem that the City has had with Dunkin Donuts and drive throughs was not about the requirements in the Code, noting that they had more stacking spaces than what was in the Code. He explained that the business on Banks Road had more cars going into the roadway than they had parking stalls because the owner was having a staffing problem and the cars were not moving fast enough. In such instances, he and someone from the Police Department and City Manager's office would meet and work with the business owner and ask them to improve their service. In this example, the City worked with the owner to resolve the problem. He said having ten as the minimum stacking requirement would not have helped in that case. Mr. Hylander commented that there must be something on the City's books that said one could not create a nuisance and block traffic.

Mr. Angier said he was going to comment about the meeting last month, but his opinion would not be good enough for several of the Board members. He commented that it was fine for the Board members to ask questions of staff which he believed staff would welcome. However, he said when it came to the point of becoming a nuisance; he did not think that was correct. He commented that the City Attorney had to field numerous questions about a non-meeting when he was on vacation which he said was disrespectful of his time and position. He said it was a good Board, the Board members asked great questions, and they were definitely involved what was going on in Margate. He commented that it was fine to be proactive but to be proactive within the limits. He said Attorney Gonzales would decide those limits until they were changed by the City Commission and the Board should have a little respect.

Attorney Gonzales apologized to the Board if he came across wrong earlier. He said he read comments about him giving bad advice and it was alluded to again that evening. He asked each Board member to understand that while he had been involved in land use and development throughout his career, it had not been his specialty. He said he had been asked to attend the Board meeting to ensure that procedurally things were done right. He said questions are asked of him on the dais that he may not have right answer for, but he answers to the best of his ability. He said he never tries to mislead anybody; he does the best he can. He asked the Board to please respect that as they would anybody else who was up there doing the best they could for the City. He said that sometimes things were misstated and they were corrected as soon as possible afterwards. He said anyone who served in a city capacity should have the right to have

that understood. He said Mr. Chitepu was the closest person he knew to having all the answers, and that night Mr. Chitepu did not have all answers either. He said everyone prepares and tries

to address questions that come up on the fly as best as they can.

There being no further business, the meeting was adjourned at 9:04 p.m.

Respectfully submitted, Prepared by Rita Rodi

Todd E. Angier, Chair