



City Commission

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Samuel A. May

Interim City Attorney

Goren, Cherof,
Doody & Ezrol, P.A.

City Clerk

Joseph J. Kavanagh

REGULAR MEETING OF THE PLANNING AND ZONING BOARD MINUTES

Tuesday, December 5, 2017

7:00 PM

City of Margate
Municipal Building

PRESENT:

Todd E. Angier, Chair
Antonio Arserio
August Mangeney
Richard Zucchini

ALSO PRESENT:

Julie F. Klahr, Interim City Attorney, Goren, Cherof, Doody & Erzol, P.A.
Reddy Chitepu, Acting Director of Economic Development and Director of D.E.E.S
Andrew Pinney, Senior Planner
Andy Dietz, Associate Planner

ABSENT:

Phil Hylander, Vice Chair

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 7:13 p.m. on Tuesday, December 5, 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 NOVEMBER 7, 2017.

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

MOTION: SO MOVE TO APPROVE

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes; Mr. Hylander, Absent; Mr. Angier, Yes. The motion passed with a 4-0 vote.

- 2) **NEW BUSINESS**

ID 2017-763

- 2A) **PZ-23-17** CONSIDERATION OF AN ORDINANCE TO REVISE WINDOW SIGN REGULATIONS AND PROVIDE AN AMORTIZATION DATE

Economic Development Department

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PETITIONER: CITY OF MARGATE

Andrew Pinney led with a PowerPoint presentation. He provided a timeline and explained that there was a discussion at the City Commission meeting on July 12, 2017, which included some initiatives that could be taken to alleviate concerns that the Sign Code was not being enforced. He said the discussion prompted a Workshop that was held on August 23, 2017, where direction was given to evaluate the sign regulations prior to moving forward with any initiative. He said the changes that were suggested were reviewed at the Development Review Committee meeting on October 24, 2017. He said the theme of the changes was to reduce the regulations from being content-based regulations to time, place, and manner regulations. In addition, he said the regulations would be streamlined by reducing duplications that existed in the Code.

Mr. Pinney referenced a Summary of Changes table that was included in the meeting back-up and displayed on the Mondopad and noted the following proposed changes:

- Elimination of specific letter heights
- Elimination of the existing "no prices" sign policy (content based regulation)
- Change in the sign coverage size limit per window to a size limit per storefront
- Elimination of duplicate language
- Addition of a new requirement for permits for permanent signs
- Elimination of the existing requirement that one illuminated sign must read "open" if there were two or more of them (content based regulation)
- Addition of a six-month amortization period to enable businesses to come into compliance upon adoption of the new ordinance
- Addition of more enforceable window tint restrictions for massage and convenience stores (copied the window tint regulations used on vehicles).

He showed a slide of a storefront that had illegal signs because their signs exceeded 50 percent per window coverage and the lettering was more than 12 inches tall. He said the storefront's signage would become legal if the proposed changes were adopted. He showed a second slide of an example of illegal signage because prices were displayed. He said the use of pricing would become legal if the ordinance passed because content based regulations would be eliminated.

Mr. Zucchini asked if the window tint restrictions would apply to all commercial storefronts or only massage and convenience stores. Mr. Pinney responded that it would apply only to businesses that provided massage services and convenience stores, and he read the applicable section of the ordinance. Mr. Zucchini asked if that meant that other businesses would be able to have complete blackout on their windows. Mr. Pinney responded, "Yes." Mr. Zucchini commented that it seemed counter-productive to the intent of the original design of the signs which were to not obstruct visibility into a business and provide a measure of safety so that police could look inside before entering. Mr. Pinney said it was based on the feedback given at the Workshop. He said an example given was of Camp Canine where they wanted to keep the blackout tint so that the dogs would not be alarmed by outdoor passersby. He said the City Commission expressed concern about massage services and convenience stores having blackout. Mr. Zucchini commented that the City Commission oversimplified an issue that was more complicated than they anticipated. He said their issue was they wanted it to be safer for the police to be able to see inside before they entered, but their solution was for 50 percent coverage on the total window area. He said the 50 percent coverage could be anywhere; it

could be the front doors or the front windows which were the most important sight access areas needed by the police. He said a change to the blanket 50 percent language should be made so that the glass frontage of the doors and areas surrounding the doors had enough square footage to visibly see into the cashier's area for businesses that were cashier or cash oriented or high value targets for robberies. Mr. Pinney suggested a motion be made.

Mr. Zucchini also asked how it worked when a business had blinds, i.e., venetian, vertical, drop down shades, etc., because they prevented any visibility to the inside. Mr. Pinney said it was not addressed in the window sign regulations. Mr. Zucchini commented that, depending on the layout or the direction they faced, a business could get a lot of heat and sun. He said he had no issue if professional offices, daycare, schools, hardware stores, restaurants, etc., had complete coverage. He commented that some offices did not have windows at all while those that did mostly used vertical blinds which blocked out the entire window. He said another issue he had was the requirement for businesses to obtain a permit to install vinyl lettering which he said was overreach. Mr. Pinney responded that the Commission had expressed a concern that if business owners were spending money on signage, they wanted to make sure it was for appropriate and legal signs so they would not have to spend more taking them down and putting up legal signs. Mr. Zucchini suggested sending the businesses notice of the new ordinance rather than bog down the Building Department with permit requests for vinyl signs. He agreed that there should be some high value target businesses that should have more visibility at their entranceways and cashier areas.

Mr. Arserio referenced the Workshop and asked about comments he had made there about sunscreening. Mr. Pinney said the Code would differentiate suncreening and window signs. He referenced page four of the ordinance and read, "Sunscreening material shall not count toward window sign coverage, unless said materials displays lettering or images." He said the term "sunscreening" was used in the Statutes and it was the same as window tint. Mr. Arserio expressed a concern about a massage parlor being able to exploit the loophole and put a wrap on their entire window to obstruct visibility. Mr. Pinney responded that once they added graphics, it would become a sign and they would only be allowed to cover half the window frontage. Mr. Arserio commented that if a massage parlor had two windows, the lobby window could be covered which would defeat the purpose of the tint. He said massage parlors were the primary reason for the ordinance changes. Mr. Pinney said the Commission was adamant that massage parlors did not get blackout windows. He said suncreening was specific to tint and a wrap with images would be considered a sign which was limited to 50 percent of the storefront. Mr. Arserio asked whether convenience stores could be required to not obstruct view in any way with either signage or tint.

Discussion ensued about the use of window wraps and visibility into a store or massage parlor. Mr. Zucchini commented that the laws should be used to curtail illegitimate massage parlors. Mr. Mangeney commented that he would be glad to see a massage parlor in his neighborhood be required to remove the tint from their windows because it would likely not survive, adding that he believed it negatively affected his property value. Mr. Zucchini said the Commission's original intent was based on safety. Mr. Angier disagreed and said that the intent was to keep massage parlors honest. Mr. Mangeney said the tint was for people who didn't want to be seen in the lobby. Mr. Zucchini commented that they could put up blinds. Mr. Arserio said his comments were to point out other avenues regarding visibility into businesses so that changes were not limited to one ordinance. Mr. Angier said that the Board members were talking about

other items like vertical blinds that would need to be addressed separately; he said they were dealing with a sign ordinance. Mr. Arserio said he agreed but he felt a recommendation should be made where a massage parlor would not be allowed to obstruct the lobby.

Mr. Pinney commented that the Board needed to speak with one voice and they should make a motion and vote on it.

Mr. Mangeney commented that he understood Mr. Arserio's concerns but he said there were very few places that had only one window as most were storefronts where people walked by. He said it did not seem practical because most likely there would be one window covered and one with absolutely nothing on it. He asked whether the changes to the ordinance would apply to current businesses or just new businesses. Mr. Pinney responded that the reason for the amortization was to give everyone six months to comply.

Mr. Arserio asked how it would affect a business that had a variance or special exception. Mr. Pinney said a variance would have applied to the old Code and the new Code was being put in place with the amortization. He said the purpose of the amortization would be to give a private entity sufficient time to recoup monies invested in whatever they put in place in order to comply. He said six months was sufficient for something as minor as window signs.

Mr. Zucchini said there was already a moratorium on massage parlors and that he did not agree with wanting to see people in the lobby who were getting legitimate massages. Mr. Angier said he thought the intent of the Commission was to try to keep massage parlors from doing things other than massage, particularly if they knew that people could look inside through the windows. Mr. Zucchini said that only a small portion of the lobby reception area would be seen. Mr. Angier said he thought the Commission was trying to do what they could to deter certain activities. There was a brief back and forth about discreteness and that other things could be going on out of the view of the lobby.

Mr. Zucchini commented that there were quite a few businesses that had more than 50 percent signage such as AccuPrint and O'Malley's pub where half of the window was blacked out. Mr. Pinney said the blackout provision did not apply to pubs; only lettering and images would be looked at for them. Mr. Zucchini said they had lettering on some of the same windows that had blackout which made it a sign. Mr. Pinney said that was okay because the lettering would be boxed out and counted separately. He referenced the Powerpoint and an image of an auto parts store that had tinted windows and posterboard. He said the City would only count the posterboards and the lettering above them because it was an auto parts store. He said if it were a convenience store or a massage parlor, then the tint would also count.

Mr. Arserio gave a scenario about a business with a full blue wrap. He asked whether their blue, non-see-through tint with lettering would count as a sign or tint. Mr. Pinney asked for the type of business. He said if the blue wrap was at a massage parlor, it would have to be see-through, and if there was lettering, it would count toward their sign.

Mr. Zucchini showed a picture of the Chinese supermarket located in the back of the BB&T plaza noting that the entire window had a graphic on it. He said they did it that way because they were set so far back in the shopping plaza. He asked if the signage was illegal. Mr. Pinney responded that it was and that they would have six months to comply [under the new

ordinance]. Mr. Angier commented that there were other options available to them to help them advertise closer to the street. Mr. Pinney concurred and said that they could invest in a monument sign if they had the capital or they could take advantage of the promotional advertising banner program where the property owner would put up a banner post and the businesses could take turns displaying their banners.

Mr. Zucchini showed a picture of the storefront for the National Guard and asked if it would be illegal. Mr. Pinney said it was because they could only cover 50 percent.

Mr. Zucchini commented that the food store on West Atlantic, west of U.S. 441, had most of its windows covered and would be considered illegal.

Public Comment

Charles Artner, 6631 N.W. 22nd Court, questioned why a business would want their windows blacked out. He said there were plenty of legitimate massage parlors that had open windows because they had nothing to hide. He said any business that was open to the public should not be hiding their wares. He said black tints on bars needed to go, as there was no privacy in public.

Mr. Zucchini said another issue that had not been discussed was the design of some of the buildings. He said some of the buildings he looked at had window glass that was well above eye level such as in the shopping plaza where the karate place was located. He said all of their windows were covered but the design of the building had windows above that provided no line of sight. Mr. Pinney said only 50 percent of the windows could be covered, even if they were small windows. He said if the business occupied the space, those small windows would be counted as part of the window frontage.

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, No;
Mr. Hylander, Absent; Mr. Angier, Yes. The motion passed with
a 3-1 vote.

ID 2017-774

2B) APPROVAL OF 2018 MEETING CALENDAR

Andrew Pinney advised that there were two dates for which there were conflicts on the 2018 meeting calendar, July and August. He explained that the City Commission meeting scheduled on the first Wednesday of the month fell on the July 4th holiday so their meeting was moved to July 3, 2018, the same date as the Planning and Zoning Board meeting. He asked the Board for direction on an alternate date. In August, he said the first Tuesday of the month was National Night Out and historically many of the Board members had attended this large City event. He asked the Board for direction. He said that the Board of Adjustment members asked to bring the dates back for their consideration at the February meeting.

Mr. Angier asked how the conflicts for July and August were handled in 2017, the current year. Mr. Pinney said he believed the meetings were moved to Tuesday of the following week. Mr. Pinney referenced the Chamber calendar and advised that the Margate Community Redevelopment Agency had a meeting scheduled for the second Tuesday in July. He noted that Thursday, July 5 and 12 were both available dates, as well as the weeks of July 16th and July 23rd. Mr. Angier asked the Board members which dates worked best for each of them. There was a short back and forth discussion about various dates. Mr. Mangeney commented that the preference was to have both boards meet on the same date but the Board of Adjustment had not approved the July 5th meeting date. Mr. Angier confirmed that the meeting dates could be changed if needed.

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

MOTION: SO MOVE TO APPROVE THE PLANNING AND ZONING 2018 CALENDAR WITH REQUESTED CHANGES TO JULY 5, 2018 AT 7:00PM AND AUGUST 9, 2018 AT 7:00PM

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes; Mr. Hylander, Absent; Mr. Angier, Yes. The motion passed with a 4-0 vote.

ID 2017-769

2C) DISCUSSION OF RULES OR ORDER AND PROCEDURE FOR THE PLANNING AND ZONING BOARD

Andrew Pinney referenced the meeting back-up and advised of a few additional proposed changes. As a point of information, he said bullet five (5) was inserted to describe a quorum and the procedure in the event a board member was absent. In addition, per Mr. Artner's comments, he said the month for board member elections was changed to April. He said reference to Rules of Parliamentary Procedure was included. Mr. Mangeney suggested changing "chairman" to "chairperson". Mr. Pinney agreed and also suggested two changes to paragraph four (4): in line 1, change "held" to "conducted"; and, in the second to last line, change "may" to "shall."

Mr. Arserio referenced rule seven (7), and said that while he was fine with giving the Chair the discretion to address unruly meeting attendees, it should specify anyone in the crowd. He said there should be consensus of the Board if the Chair wanted to tell a board member to leave the meeting. Mr. Mangeney asked whether Robert's Rules of Order contained a procedure for removing a board member.

Attorney Julie Klahr said she did not have a copy of Robert's Rules with her but that there were other legal issues and concerns that would come into play when ejecting a member of the board. She said there were certain legal concerns that would come up and hopefully the person providing legal advice would provide the board with appropriate legal guidance before anyone was removed. She said there was reason law enforcement was present at the meeting, but she said there were other ways to handle it before it got to that point. She said while the removal of someone had happened and had been legally challenged where the municipality has prevailed, it had also happened where a commissioner was ejected, challenged it, and they prevailed against the city. She said there were legal ramifications regardless of how it occurred.

Mr. Zucchini commented that the suggestion of having a consensus made sense. Attorney Klahr said that it was meant only for board members. She reiterated that the legal representative that was advising the board should provide appropriate legal counsel to ensure that any ejection of any party would be handled appropriately. She said a vote to eject might not be desirable. Mr. Arserio said he had seen people in the audience removed from commission meetings for being unruly and a consensus should not be needed in those cases, but the removal of a board member should be by consensus. Mr. Angier said the Chair's role was to keep the meeting running and if the Chair felt a member of the audience was disruptive, he/she should have the discretion to remove them in order to keep the meeting running properly. He said he would rely totally on the suggestion of the Board's attorney if the removal involved a Board member. Attorney Klahr pointed out that there may not be the ability to conduct a meeting because of the disruption, regardless of which side of the dais it was happening in order to conduct a vote. She said there were means by which to address the issue; she said she would be willing to discuss the process with any of the board members. She said if they had to wait to get a motion, a second, a vote, discussion, and public input of that discussion, the Chair might never get there. For crowd control purposes, she said the Chair was vested with certain control issues with running a meeting which was the purpose for having one person designated as the Chair. She said a disruption of that sort should be curtailed long before it got to that point. Mr. Arserio clarified that he was speaking about people in the crowd. He said he was concerned about the possibility of board members throwing board members off the meeting because they had become unruly. Attorney Klahr stated that there were legal ramifications that came into play regardless of whether it was justified, and the person providing legal guidance should counsel the board as a whole for inappropriate behavior regardless of who was conducting it. Mr. Angier commented that holding a recess was a very good option in order to cool things down. Mr. Arserio said adjourning the meeting was also an option. Mr. Zucchini commented that consensus was the smarter way to go because it could be the chair that became unruly.

Chair Angier asked the board members if they were in agreement with the Rules, adding that common sense would need to be exercised with rule seven (7). Mr. Arserio said he was fine with the Rules and rule nine (9) provided the ability for them to amend, suspend, etc. Mr. Angier concurred. Attorney Klahr said that it was vested within the Board that they were entitled to amend their Rules of Procedure regardless of rule nine (9). She said they also had the right to interpret the rules as a Board, they have the right to ask the Chair to interpret and make certain rules of Parliamentary procedure, etc.

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

MOTION: SO MOVE TO APPROVE WITH RECOMMENDED CHANGES OF "PERSON", "CONDUCTED", AND "SHALL"

ROLL CALL: Mr. Arserio, Yes; Mr. Mangeney, Yes; Mr. Zucchini, Yes;
Mr. Hylander, Absent; Mr. Angier, Yes. The motion passed with
a 4-0 vote.

3) **GENERAL DISCUSSION**

Andrew Pinney advised that Andy Dietz had decided to pursue a job opportunity with Broward Count and that it was Andy's last meeting.

Mr. Arserio wished everyone happy holidays. He said it was great working with the Board and he looked forward to next year.

Mr. Zucchini commented that he had attended a Community Redevelopment Agency (CRA) meeting where there was a discussion about the City Center, a highly emotionally charged issue. He said he was disappointed that Chair Angier voiced his opinion that he was glad that the developers were suing the City and CRA. He said he understood his difference of opinion but he did not think that a member of a board representing the City should have an opinion that they were glad that the developers were suing the City.

Chair Angier wished everyone happy holidays and said he looked forward to a very successful and prosperous 2018.

There being no further business, the meeting was adjourned at 7:58 p.m.

Respectfully submitted,

Prepared by Rita Rodi

Todd E. Angier, Chair

