



City Commission

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Antonio V. Arserio
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Joanne Simone

City Manager

Cale Curtis

City Attorney

Janette M. Smith, Esq.

City Clerk

Joseph J. Kavanagh

REGULAR MEETING OF THE PLANNING AND ZONING BOARD MINUTES

Tuesday, October 1, 2019

7:00 PM

City of Margate
Municipal Building

PRESENT:

Richard Zucchini, Chair
Rob Reiner
Juli Van Der Meulen
Donald Fritz

ALSO PRESENT:

Janette M. Smith, Esq.
Robert Massarelli, AICP, Director Development Services
Andrew Pinney, Senior Planner

ABSENT:

Todd Angier

The regular meeting of the Planning and Zoning Board of the City of Margate, having been properly noticed, was called to order by Chair Richard Zucchini at 7:00 p.m. on Tuesday, October 1, 2019. The Pledge of Allegiance was recited followed by a roll call of the Board members.

Chair Zucchini asked for consensus to move item 1A to be heard immediately after item 2B. Consensus was reached by the board to move the item.

1) OLD BUSINESS

ID 2019-518

1A) COMMERCIAL REDEVELOPMENT APPROVAL PROCESS

Item was moved to be heard after Item 2B

2) NEW BUSINESS

Development Services Department

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ID 2019-516

2A) REGULATING THE PRUNING, TRIMMING, REMOVAL, OR REPLANTING OF, OR MITIGATION TO, A TREE ON RESIDENTIAL PROPERTY CODE AMENDMENTS.

Mr. Robert Massarelli gave a brief presentation on recently passed HB 1159. He explained that it prohibits local governments, notice, application, approval, permit, fees, or mitigation for the pruning, trimming, or removal of a tree on residential property if the property owner obtains documentation from a certified arborist or a licensed landscape architect; if the tree presents a danger to persons or property. He explained the current procedures as stated in our code, however, the purpose of this ordinance is to bring City code in compliance with State Law.

Mr. Zucchini asked if Margate has a nuisance tree permit requirement, similar to other cities? Mr. Massarelli replied "yes". Mr. Zucchini asked who sees the letter from the arborist? Mr. Massarelli responded that Florida Statutes are silent. Mr. Zucchini asked if the letter be sent via email and/or fax? Mr. Massarelli stated that the City cannot require a notice. City Attorney Janette Smith, explained that the legislation is specific on prohibiting notice.

Ms. Van Der Meulen commented on her neighbors cutting down trees and removing landscape, asking how the City can prevent this from happening? Ms. Smith explained that a letter of permission will be required by a certified arborist or a landscape architect for tree removal, and without the letter a code violation can be issued. She recommends following up with the Legislature in Tallahassee.

Mr. Massarelli continued by explaining some of the complications and factors that are involved and that this was not fully thought through by the legislature. Ms. Smith stated that the City has to follow statute. She recommended making a motion to the City Commission to add this to their legislative agenda for the upcoming session.

Ms. Van Der Meulen made the following motion, seconded by Mr. Reiner:

MOTION: RECOMMENDATION OF DENIAL OF THE PROPOSED ORDINANCE AS PRESENTED

Public Comment:

Ms. Sasson, Oriole Garden 2, commented on the effect this will have with future development and the rules in regards to the cutting down and the re-planting of trees. She said that she is concerned with how this will effect condominiums and rules of the association. Ms. Smith addressed this concern by stating that common property of the condominium associations is considered commercial property.

Ms. Smith clarified that this act is prohibitive for local government and that it pre-empts the (local government) process.

Dara Kustler, 551 NW 76th Terrace, commented on the new law, stating that it is badly written and that she is against approving this.

ROLL CALL: Mr. Fritz, Yes; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

Chair Zucchini asked for consensus from the board to consider a secondary motion for the City Commission to propose a resolution for legislative change against the new legislation.

Ms. Van Der Meulen made the following motion, seconded by Mr. Reiner:

MOTION: RECOMMENDATION TO THE CITY COMMISSION TO OPPOSE THE NEW LEGISLATION CREATING FLORIDA STATUTES (F.S.) 163.045 AT THE UPCOMING LEGISLATIVE SESSION

Public Comment:

Dara Kustler, 551 NW 76th Terrace, volunteered to represent the City of Margate in opposition of this new law and to find an alternative way.

ROLL CALL: Mr. Fritz, Yes; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

ID 2019-517

2B) WINDOW SIGNS AMENDMENTS

Mr. Robert Massarelli gave a brief presentation, stating that at the August 28, 2019 City Commission meeting, staff was directed to prepare an ordinance amending the City Code regulating window signs to reduce the permitted area covered from 50% to 25% and allow perforated signs. Which is now in front of the Planning and Zoning Board. He concluded his presentation with recommendation to the City Commission approval of the proposed ordinance.

Mr. Zucchini stated that he disagrees with the City Commission on this matter. He then gave a history on the recent changes to the sign code, stating that there is now an issue with the perforated signs. He said that there is both a safety issue and an issue with the aesthetics of the shopping plazas. Mr. Zucchini stated that this code is ineffectual and therefore will need to be reconsidered. He said that this code is anti-business and will not improve the looks of the shopping plazas; he recommended that code enforcement continue enforcing the code and owners should be responsible for the upkeep on their property. He said there is no quick solution to this issue and there are many reasons why there have been a number of workshops to discuss this problem.

Ms. Van Der Meulen commented that she is in favor of an architectural review board. Mr. Zucchini stated that enforcement should be put on the plaza owners to upgrade the look of the entire plaza. Ms. Smith stated that commercial Code Enforcement is a top priority of the Commission, as discussed at a recent workshop.

Mr. Reiner made the following motion, seconded by Mr. Fritz:

MOTION: RECCOMENDATION TO THE CITY COMMISSION TO RECONSIDER THE CURRENT WINDOW SIGN CODE IN ITS ENTIRETY.

Public Comment:

Dara Kustler, 551 NW 76th Terrace, thanked Chair Zucchini for his position in regards to the sign code. She commented that if there is a code that isn't working then it will need to be looked at in its entirety.

Ms. Sasson, Oriole Garden 2, commented on the issues of maintenance and window signs.

ROLL CALL: Mr. Fritz, Yes; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 4-0 vote.

1) **OLD BUSINESS**

ID 2019-518

1A) **COMMERCIAL REDEVELOPMENT APPROVAL PROCESS**

Mr. Robert Massarelli gave a brief presentation on the changes as recommended by the board at the last Planning and Zoning. He explained the issues caused by the impacts of either a 30% change of occupancy and the 25% increase in additional parking requirements. Mr. Zucchini clarified that the change should read either a 30% change of occupancy (in terms of square footage) or a 25% increase in additional parking requirements. Mr. Massarelli continued with his presentation. He stated that the burden will be on the smaller plaza owner as opposed to the large shopping center. He explained the process giving an example of property that currently operates retail and wants to change to a restaurant, where a trigger may apply. Mr. Zucchini suggested to include verbiage where a change of occupancy would require additional capacities, such as parking and bringing the plaza up to code. Ms. Van Der Meulen asked how the City will address plazas that have not had any upgrades? Mr. Massarelli replied that this is what triggered this item, a business was looking to come into the City and triggered the upgrade to the shopping center; in which they (shopping center) did not want the burden of completing an upgrade. He explained that the percentage trigger will just delay future upgrades in shopping centers/plazas. Discussion ensued.

Mr. Massarelli stated that staff recommendation is when there is a change of occupancy or use requiring the photometric and/or landscape plan to be brought up to code if it has not been updated. He recommended to eliminate the minimum parking requirements, however, to still keep design requirements for handicap parking, pick-up and drop-off, online order pick-up, Uber eats, electrical vehicle charging, and loading zone requirements. He also mentioned compliance with dumpsters, which enclosures are required; as well as requiring an approved site plan to bring the property up to code. Mr. Massarelli suggested to the board to make a motion for the Commission to direct the staff to prepare an ordinance that would state the 30% change of

occupancy, or the 25% increase in parking requirements, or a period of time since the approval of the original site plan and at the most restrictive criteria to upgrade a shopping center. Mr. Zucchini asked about plaza age as a trigger. Mr. Massarelli responded to make it from the date of the original approval site plan, or date of latest approval, or effective date of the ordinance. Mr. Zucchini stated to take it from the last date when the plaza was upgraded to current code. Mr. Andrew Pinney addressed the board stating at what point does staff determine that it is up to the current code. Discussion ensued.

Mr. Massarelli gave the suggested triggers to be a cumulative change of occupancy of 30% of the square footage based on the occupancy with a greater impact by parking; or if the parking is increase by 25% cumulatively; or a period of time. Mr. Zucchini explained the reasons behind the additional trigger to be based on aging and if it is too short of time then it will be difficult on the owner in terms of his amortization. Discussion ensued.

Mr. Reiner asked to clarify the trigger of parking versus time. Mr. Massarelli explained that it will never get to 25% because of the minimum required parking, he said the issue is with the demand for parking. Mr. Zucchini commented that parking would be a trigger if a restaurant came into a 40,000 square-foot retail plaza, and that there will be excess parking. Mr. Massarelli explained the process of how parking is calculated when businesses move in and out of a shopping plaza. He stated that it is because the code is currently based on the minimum parking requirements. He again said that his recommendation is to get rid of the minimum parking requirements. Mr. Zucchini said that it would depend on the size of the impact. Mr. Massarelli said the situation the Margate faces is that the City is essentially built out, and the parking field cannot be adjusted; however, the only way that it can be adjusted is to place a parking garage on properties. Mr. Zucchini restated Mr. Massarelli's recommendation to eliminate parking completely. Mr. Massarelli stated to get rid of the minimum parking requirements and have design standards. He said that with the minimum parking trigger eliminated it will then be based on time as a trigger, saying that arbitrarily every ten (10) years the plan will need to be upgraded to the current code. He said that owners can therefore have time to plan for the future of upgrading their sites. Mr. Massarelli stated that staff will recommend to the Commission to hire a consultant to give the guidance for a proper amortization schedule.

Mr. Reiner made the following motion, seconded by Ms. Van Der Meulen:

MOTION: RECOMMENDATION TO THE CITY COMMISSION THAT THE COMMERCIAL REDEVELOPMENT APPROVAL PROCESS WILL BE BASED ON A TIME TRIGGER

ROLL CALL: Mr. Fritz, No; Ms. Van Der Meulen, Yes; Mr. Reiner, Yes; Mr. Zucchini, Yes. The motion passed with a 3-1 vote.

3) **DIRECTOR'S REPORT**

Mr. Massarelli gave an update on the 13th Floor/Carolina Club Application, stating that there will be Public Meeting scheduled on October 10, 2019 which will give three additional alternatives to the application. He explained that this meeting is to benefit the public and to make them aware of the process. Mr. Massarelli then gave an update on the Comprehensive Plan, and future ordinances as directed by the City Commission. He

concluded by informing the board that the Development Services Department recently purchased new software for the department; this new software will assist in streamlining both the workflow and permitting process within the department.

4) **GENERAL DISCUSSION**

Robert Reiner, commented that this was a productive meeting and that they are now moving in the right direction. He stated that he is proud to be a part of this team.

Richard Zucchini, thanked Mr. Massarelli for a productive meeting.

Meeting adjourned at 10:09 p.m.

Respectfully submitted,

Prepared by Melissa M. Miller

Richard Zucchini, Chair