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PLANNING AND ZONING BOARD/LOCAL
PLANNING AGENCY

January 25th, 2017
Wednesday

City Commission Chambers

6:00 P.M.

MINUTES

A. Call to order by the Chairman of the Board, Mr. Fred Stacer at 6:05 P.M.

B. **ROLL CALL:**

Fred Stacer
Joan Kovac
Dwight Evans
Jerry Mills
Richard Klosiewicz
Jeff Torrey
Tony Hill

Also in attendance:

Matt Edge, Zoning Technician
Paola West, Principal Planner
Carrie Sarver, Assistant City Attorney
Robin Bird, Development Services Director
Michael Vonder Muelen
Natasha Alfonso
Chris Brown

G. OTHER BUSINESS

5. Chapter 156 Text Amendments, Sign Code

Staff is recommending approval of the text amendments to the Sign Code.

Mr. Robin Bird, Development Services Director, presented himself to the Board. He stated that this code revision has been in the works for some time and that it was initiated by a lawsuit against the City alleging Constitutional violations of the first and fourteenth amendments. The proposed revision addresses the concerns of the lawsuit and other needed improvements identified by staff. He noted that the amendment proposes to modify how signage content is regulated, modify the way in which signs are approved, include new terminology and definitions, and update cross-references. Mr. Bird highlighted some points that the proposed amendment would impact. He stated that the sign code will no longer regulate government permanent or temporary signs on property owned by the CRA, City, County, or State, that it will also prohibit additional sign types in the Atlantic Overlay District and Downtown Pompano Overlay District, that the definition of “Mural” will be deleted and included in the Public Art Code, and also that a master sign program will be governed by the Zoning Code.

Mr. Bird explained that there is an order from the court that requires the proposed amendments to move to the City Commission in February. He apologized for the rush, but noted that any concerns the Board may have could be brought back to them before the ordinance’s second reading at City Commission.

Mr. Klosiewicz asked if the suit brought against the City will be settled based upon this text amendment becoming effective.

Mr. Bird stated that the changes do not satisfy the requests of those who filed the lawsuit, as they are desirous to obtain a permit for a billboard.

Ms. Sarver added that the majority of the proposed changes are to remove content-based regulations so that the procedures meet the standards recently dealt with in the *Reed* Supreme Court case. She added that the City Attorney’s office strongly recommends this amendment, and that outside counsel has also reviewed the proposed changes.

Mr. Klosiewicz asked if the judge is requesting that the City make this amendment.

Ms. Sarver responded that these changes are proactive to avoid other constitutional challenges.

Mr. Bird stated that the Supreme Court decision is still recent, so many municipalities have not had a chance to react. The judge hearing the City’s lawsuit is allowing the City to react.

Ms. Sarver added that it is the City staff’s position that this amendment will put the City in a good position moving forward.

Any person who decides to appeal any decision of the PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // ME

Mr. Klosiewicz asked if the final order been handed down from the judge.

Ms. Sarver stated that she isn't aware of all the specifics since outside counsel is handling that case for the City. She stated that the changes really are separate from the lawsuit against the City and are overdue on their own. As far as she is aware, the lawsuit has not been settled. She added that she and staff are not very comfortable answering too many specific questions about the lawsuit since it is ongoing litigation.

Mr. Klosiewicz asked Mr. Bird if the changes will look favorable for the City and the lawsuit.

Mr. Bird replied that the proposed changes look good when compared against other municipalities.

Mr. Stacer asked if the lawsuit was at the Circuit Court level or Federal.

Mr. Bird stated that the lawsuit against the City is at the US District Court. He added that this amendment will allow for different types of uses to have the same amount of sign space as the others, and will therefore no longer regulate the content of those signs.

Mr. Stacer asked if any local businesses had any input on the sign code.

Mr. Bird stated that the City Attorney went to outside counsel for expertise in this area and that the proposed text just recently was received from them.

Dr. Mills asked how the proposed changes will affect the pending lawsuit against the City.

Mr. Bird responded that this question could not be answered at this hearing, but only by the court.

Mr. Hill asked if a logo on an umbrella shade for a restaurant's outdoor seating would require a sign permit.

Mr. Bird stated that if the logos are intended to be seen from the right-of-way, they would be considered a sign and would be subject to the sign code.

Mr. Hill asked if a temporary sign for proposed, still un-approved development would be permitted.

Mr. Bird stated that such signs would be classified as a real estate sign, which could then be added to with a development sign once a project has received permits.

Mr. Hill asked if a sign that was put up advertising what will be developed would be allowed.

Mr. Bird pointed out that in light of the *Reed* Supreme Court decision, this poses a problem because where previously the City would regulate a real estate sign and a development sign, it's no longer lawful to differentiate the two based on content. He added that the City has always allowed for real estate signs, but has prohibited development signs until a project had received permits.

Mr. Hill asked how temporary sale signs are tracked.

Mr. Bird stated that Code Compliance would provide oversight.

Mr. Hill asked if there is a time limit on real estate signs.

Mr. Bird stated that the sign would stay up until the property is sold or taken off the market. He suggested that these questions could be brought back to the Board at a later meeting for further consideration.

Ms. Sarver stated that she would bring his concerns to outside counsel for their input and will follow up with Mr. Hill when she sees a response.

Mr. Bird stated that if any member of the Board has comments or questions, they should let staff know so that it can be addressed before the City Commission meetings. He reiterated that he always tries to avoid placing items before the Board that they don't have enough time to fairly consider.

Ms. Sarver stated that her office is working with other cities in determining how to best proceed and the goal is to get the best product to the City Commission.

Mr. Stacer clarified that Mr. Hill's question is whether the sign is a real estate or development sign.

Mr. Hill pointed out that a commercial development sign, per the proposed language, must have a permit pulled before being able to be approved.

Mr. Stacer pointed out the difference between a building permit and a development permit.

Ms. Sarver asked how the board felt about what time the development should be allowed to install a development sign.

Mr. Stacer pointed out the balance between avoiding the proliferation of these development signs and thwarting development by making it very difficult to obtain a development sign.

Mr. Klosiewicz asked if it is possible to have a timeframe on a development sign.

Mr. Bird stated that the concerns of the Board have been heard and that this can be discussed in further detail at the February hearing.

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Ms. Sarver stated that changes can be made between the first and second reading of the City Commission.

Mr. Stacer stated that he feels that this proposed amendment should move forward as long as it comes back at the February hearing.

Mr. Bird suggested that any individual Board members who have questions to please contact staff for more information.

Mr. Stacer asked if it would be inappropriate to postpone the decision and give the recommendation at this meeting.

Ms. Sarver responded that procedurally this would be possible.

Mr. Bird stated that the Board could give their recommendation at this meeting with a note that the Board would like to see some of their concerns met.

Ms. Sarver commented that her feeling is that given the Commission's deference to this Board, if the Board still had reservations at second hearing they would likely postpone the ordinance until those concerns were assuaged.

Mr. Bird specified that if the Board has any specific requests, they should make this clear for the minutes since the City Commission is provided a copy of the meeting minutes.

Dr. Mills asked if those in who are in violation or not in compliance would be grandfathered in.

Mr. Bird stated that there will be an amortization schedule for those who will be non-conforming under the new code. Some signs would be vested permanently. He added that staff will return to the Board with more details.

Mr. Stacer asked if such instances would render such signs legally non-conforming.

Ms. Sarver replied that any changes to a non-conforming sign would need to comply with whatever the current regulations at the time are.

Mr. Hill asked if an existing business would need to replace their sign if they have a pole sign and wish to modify it.

Mr. Bird affirmed that they would.

Mr. Stacer commented that these can be relatively easy retrofits.

Mr. Stacer asked how staff is hoping the Board to act.

Mr. Bird suggested that the Board recommend approval with the opportunity to revisit the questions the Board members asked tonight and any other questions they may have at the next Board meeting and to provide a further recommendation to the City Commission.

Mr. Stacer asked if anyone in the audience wished to speak. There were none present.

MOTION was made by Joan Kovac and seconded by Tony Hill to recommend approval of the sign code text amendments with the stipulation that staff return at the February 22nd hearing to provide the Board an additional opportunity to discuss the items brought up at this hearing and any other concerns that Board members may have. All voted in favor of the motion, therefore the motion passed.

K. ADJOURNMENT

MOTION by Richard Klosiewicz to adjourn the meeting at 8:53 p.m. All voted in favor.

Approved at the meeting held on February 22, 2017

Fred Stacer
Chairman
Planning and Zoning Board/Local Planning Agency