

City of New Port Richey

RFQ15-016

Signage Regulations

Submitted by:

The Mellgren Planning Group, Inc.

&

Susan Trevarthen, FAICP, Esq.

of Weiss Serota Helfman Cole & Bierman, PL

July 6, 2015



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PRACTICE FOCUS / APPELLATE LAW

## With Ruling, It's Time to Revisit Municipal Sign Ordinances

Commentary by Susan Trevarthen



The U.S. Supreme Court unanimously ruled June 18 in *Reed v. Town of Gilbert, Arizona*, that the town's sign code violates the First Amendment.

While the Supreme Court did not directly overrule any of its prior decisions and the nine justices disagreed on why the code was unconstitutional, local governments clearly need to revisit their sign codes and evaluate whether they should be changed to conform to *Reed*.

The town's code is similar to those of most South Florida communities in regulating signs based on and differentiating among generalized categories or sign types. At issue were three types of temporary signs with different regulatory standards—ideological, political and temporary directional signs.

Petitioner Clyde Reed is the pastor of a small itinerant church that used temporary directional signs to publicize the location of its Sunday morning services. Signs were placed in the right of way every Saturday morning and removed by midday the following day. The town cited the church because temporary directional signs were limited to 12 hours before an event to one hour afterward. Reed and his church filed suit. Losing at both the trial and appellate levels, Reed appealed to the U.S. Supreme Court, which in its first look at content neutrality in sign regulation in many years, reversed the decision by the U.S. Court of Appeals for the Ninth Circuit.

In finding the town's temporary

sign regulations unconstitutional, the Supreme Court majority opinion authored by Justice Clarence Thomas objected to the code's differentiation among the temporary sign types, applied a literal approach to conclude that the regulation was content-based and applied strict scrutiny review—requiring the regulations be narrowly tailored to serve a compelling government interest.

While acknowledging the governmental interests in aesthetics and traffic safety that support sign regulation, Thomas wrote that the town's regulatory distinctions between the sign types were "hopelessly underinclusive." In other words, while the restrictions on temporary directional signs furthered the town's stated governmental purpose of preserving community aesthetics, that purpose was undermined by the code's looser regulations of other temporary signs with similar aesthetic impacts.

### DANGER OF CENSORSHIP

The majority accepted that the regulation was not intended to censor speech but noted "innocent motives do not eliminate the danger of censorship." Thomas noted many sign regulations may seem "perfectly rational," but "laws that might seem 'entirely reasonable' will sometimes be 'struck down because of their content-based nature.'"

Finally, the majority opinion reasons that "a sign ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—such as warning signs marking hazards on private property, signs directing traffic, or street numbers asso-

ciated with private houses—well might survive strict scrutiny."

Justice Samuel Alito, joined by Justices Anthony Kennedy and Sonia Sotomayor, issued a concurring opinion that was careful to limit the implications of the case, providing a noncomprehensive list of various categories of sign regulation that are still constitutional after *Reed*, such as regulations that distinguish between off-premise and on-premise speech (a key distinction in billboard regulation), between digital and static signs, and between signs on commercially zoned property and signs on residentially zoned property. All justices reaffirmed that local governments have broad powers to control or even ban private signage on public property under the governmental speech doctrine.

Concurring only in the judgment, Justices Stephen Breyer and Elena Kagan, joined by Justices Ruth Bader Ginsburg and Breyer) issued opinions that read more like dissents. Breyer argued, "The First Amendment requires greater judicial sensitivity both to the Amendment's expressive objectives and to the public's legitimate need for regulation than a simple recitation of categories ... would permit." Noting that many areas of governmental regulation involve content discrimination, he concluded that automatic strict scrutiny review is like "writing a recipe for judicial management of ordinary government regulatory activity."

### 'SUPREME BOARD'

Kagan said all justices agreed the town's temporary sign regulations were

unconstitutional even under intermediate scrutiny, so the Thomas opinion was too broad. She predicted that communities will be left choosing between repealing "exemptions that allow for helpful signs on streets and sidewalks," or loosening their sign restrictions and tolerating more sign clutter.

In her view, the subject matter exemptions in many sign codes do not implicate the constitutional reasons for strictly scrutinizing governmental regulation—namely, the need to "preserve an uninhibited marketplace of ideas in which truth will ultimately prevail," to "ensure that the government has not regulated speech 'based on hostility—or favoritism—towards the underlying message expressed,'" and to intervene when "any realistic possibility that official suppression of ideas is afoot."

By adopting an automatic strict scrutiny test, she warned the majority "may soon find itself a veritable Supreme Board of Sign Review."

The decision is a major development in sign law, and regulators and attorneys will be evaluating the decision and its impacts in city halls and courtrooms for some time to come. Now is the time for local governments to review their sign codes and revise them as needed.

Susan Trevarthen is a member of Weiss Serota Helfman Cole & Bierman in Fort Lauderdale, where she advises governments on sign control and other land use and zoning matters as chair of the firm's public land use and zoning group. Representing the American Planning Association, she co-authored an amicus curiae brief in the *Reed* case on behalf of local government and planning interest groups. She can be reached at [strevarth@wsh-law.com](mailto:strevarth@wsh-law.com).

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## BACKGROUND SUMMARY

- The Mellgren Planning Group, Inc. is a Florida corporation established in 1998 that is located in Fort Lauderdale, Florida. We specialize in planning, zoning and land use consulting. Because we have a very specific focus, we have a broad spectrum of experience directly in crafting zoning codes and land development regulations; researching and writing comprehensive plans and master plans; and, in conducting extremely successful visioning and public participation workshops. We have undertaken the services that the City of New Port Richey desires for numerous other cities. These total some 15 cities for which we have written codes, 8 cities for which we have written complete comprehensive plans, and 6 cities for which we have created and implemented extensive public visioning programs. Additionally, we have written 6 redevelopment plans that include objectives and realistic implementation strategies.

## QUALIFICATIONS SUMMARY

- The strength of The Mellgren Planning Group and the success we have enjoyed comes not merely from a known company name, but from the expertise and excellent reputations of key professionals in the firm. Together, Michele Mellgren and Jeff Katims offer more than 50 years of combined experience; experience that is contemporary in the field of planning. Unique to this, however, is the fact that each professional offers expertise that complements the experience of the other. Jeff Katims, AICP, CNU-A, brings more than 20 years of professional planning experience with a focus on policy formulation and public participation. Both AICP, offers 30 years of experience with a focus on zoning codes and public participation. Both Michele Mellgren and Jeff Katims have extensive experience not only in writing zoning codes, but in applying codes in everyday situations. As a result, they know what codes are successful and where code language falls short of effectiveness. Michele offers one additional, unique aspect. She is highly regarded as an excellent expert witness, qualified in circuit court, successfully providing testimony regarding codes, code language and code application.

We are pleased to introduce the key personnel who will undertake the work for the City of New Port Richey. Resumes for each professional follow.

#### PROJECT MANAGER/TECHNICAL DRAFTING



Jeff Katims, AICP, CNU-A, has more than 20 years of professional experience. He focuses not only on preparing comprehensive plans and comprehensive plan updates, but specifically on writing zoning codes and land development regulations. Jeff has extensive experience in this arena, including a breadth and depth of experience in writing form based codes that are tailored to each community to reflect desired community character.

Jeff holds a Master of Science degree in Urban Planning from Florida State University, and is certified by the American Institute of Certified Planners. He is also accredited by The Congress for the New Urbanism (CNU-A).

#### ADVISORY/REVIEW/EDITING



Susan Trevarthen, FAICP, is a member of the law firm of Weiss Serota Helfman Cole & Bierman, PL. She handles land use, planning and zoning matters for governments and is a municipal attorney. Her work includes negotiating development agreements and approvals, drafting municipal codes and plans, advising municipal staffs, managers and attorneys, defending challenges to municipal regulations and decisions, handling public hearings and counseling elected officials, as well as advocating for municipalities on legislative issues in her field. Susan's practice includes extensive constitutional law in her field, including regulatory taking cases and land use and zoning decisions raising First Amendment issues, including sign codes, adult use regulations, and regulation of religious uses, Harris Act claims, comprehensive plan challenges and petitions for certiorari.

Susan holds law and planning degrees from the University of North Carolina, is a board certified City, County and Local Government lawyer, and has been honored with the designation of Fellow of the American Institute of Certified Planners.

## ADVISORY/PUBLIC PARTICIPATION



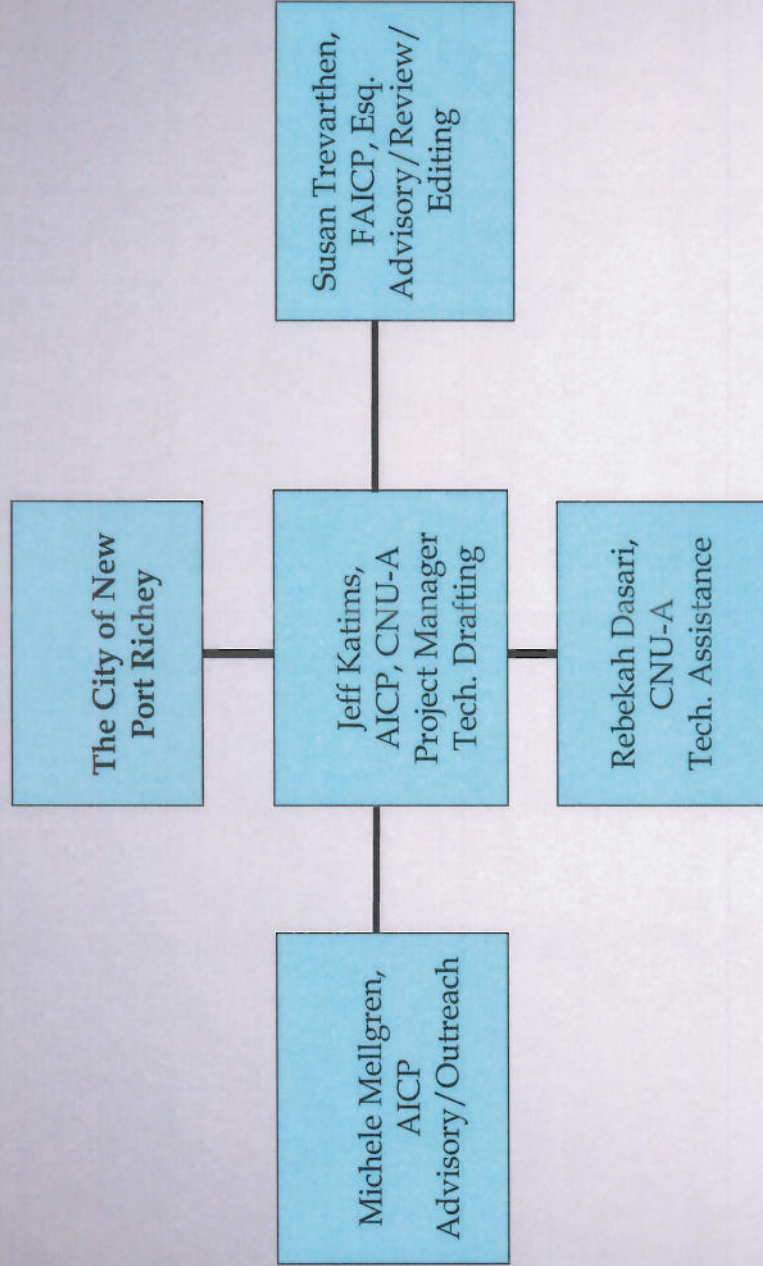
Michele Mellgren, AICP, brings 30 years of professional experience to the City of Tamarac, which not only includes preparing plans and codes, but also in-depth experience in analyzing the short and long term implications of policy, and in public visioning and consensus building. She also has extensive experience in project management. Michele holds a Master's Degree in Urban and Regional Planning from The George Washington University and is certified in charrette facilitation and management by the National Charrette Institute of Portland, Oregon.

## TECHNICAL ASSISTANCE



Rebekah Dasari, CNU-A, has extensive involvement with redevelopment project management and economic development program design. She is particularly interested in asset mapping, community engagement, participatory planning, research design and implementation, and economic development. Rebekah has a Master's Degree in Urban and Regional Planning from the University of South Florida.

ORGANIZATIONAL CHART



**JEFFREY N. KATIMS, AICP, CNU-A**

**PROFESSIONAL QUALIFICATIONS**

**EDUCATION**

Master's Degree: Urban and Regional Planning  
Florida State University, Tallahassee, FL

Bachelor of Arts Degree: Psychology  
State University of New York, College at Oneonta, Oneonta, NY

Virginia Polytechnic Institute  
Academy for the New Urbanism, Form-Based Codes Institute

University of Miami, School of Architecture  
Principles and Practices of New Urbanism, CNU Accreditation

Office of the Attorney General  
Florida Crime Prevention Training Institute

**PROFESSIONAL MEMBERSHIPS OR DESIGNATIONS**

**American Institute of Certified Planners (AICP)**  
Membership Number 012252 – Effective 1996  
This is the highest level of earned professional planning certification

**American Planning Association (APA) – National Chapter**  
Membership Number 076051 - Effective 1990

**Florida American Planning Association (FAPA)**  
Membership effective 1990

**Broward County Section of American Planning Association (BAPA)**  
Membership effective 1993

**Congress for the New Urbanism-Accredited**  
Membership effective 2009

**PROFESSIONAL AFFILIATIONS**

Urban Land Institute (1999-2001)  
Florida League of Cities, Broward County Technical Advisory Committee Secretary (1997-1998)

**AWARDS OR RECOGNITIONS**

City of Hallandale, FL – Employee of the Year Award, 1995

**AUTHORED ZONING CODES AND LAND DEVELOPMENT REGULATIONS**

City of Parkland, Broward County, FL  
*Rewrite entire zoning code, including sign code (2015)*

City of Wilton Manors, Broward County, FL  
*Prepare form based code for Transit Oriented Corridor (2012)*

City of Coconut Creek, Broward County, FL  
*Prepare sign code (2011)*

City of Dania Beach, Broward County, FL  
*Prepare unified land development regulations (2010)*

City of Miami Gardens, Miami Dade County, FL  
*Update land development regulations (2010)*

City of Dania Beach, Broward County, FL  
*Prepare form based code (2009)*

City of Plant City, Hillsborough County, FL  
*Prepare form based code (2009)*

Town of Davie, Broward County, FL  
*Prepare form based code(2008)*

City of Pinellas Park, Pinellas County, FL  
*Prepare zoning regulations (2005)*

Town of Southwest Ranches, Broward County, FL  
*Prepared unified zoning and land development regulations (2004)*

Town of Lauderdale-By-The-Sea. Broward County, FL  
*Prepare unified zoning and land development regulations (2003)*

City of Wilton Manors, Broward County, FL  
*Prepared unified zoning and land development regulations (2003)*

City of Boynton Beach, Palm Beach County, FL  
*Prepared new zoning districts to implement redevelopment plan (2001)*

Town of Davie, Broward County, FL  
*Prepared the Griffin Corridor District and other new zoning standards and land development regulations (1996-2001)*

#### **AUTHORED REDEVELOPMENT PLANS AND COMPREHENSIVE PLANS**

*"Evaluation and Appraisal Report" of the Comprehensive Plan. Miami Shores Village, FL (2005)*

*"Evaluation and Appraisal Report" of the Comprehensive Plan. North Miami Beach, FL (2005)*

*"Evaluation and Appraisal Report" of the Comprehensive Plan. Sunrise, FL (2005)*

*"Evaluation and Appraisal Report" of the Comprehensive Plan. Parkland, FL (2005)*

*"Evaluation and Appraisal Report" of the Comprehensive Plan. Tamarac, FL (2005)*

*"Southwest Ranches Comprehensive Plan." Review and commentary on proposed provisions. Town of Southwest Ranches, FL (2002)*

*"Town of Davie Comprehensive Plan Evaluation and Appraisal Report Amendments." Davie, FL (1997)*

*"City of Hallandale Beach Comprehensive Plan Evaluation and Appraisal Report."(Future Land Use Element and Coastal Element). Hallandale Beach, FL (1996)*

“County Line Road Corridor Plan.” Hallandale, Florida (1995)

“Fashion Row District Plan.” Hallandale, Florida (1993)

**OTHER AUTHORED DOCUMENTS AND MONOGRAPHS**

“Potable Water Level of Service Standards”, (Minch, Katims) *Florida Planning* (2009)

“Concurrency Management System for North Miami Beach (2004)

“Justification for the Davie Regional Activity Center.” (1997)

“Albany-Dougherty County Paratransit Plan.” (1992)

**PROFESSIONAL EXPERIENCE**

Jeff Katims, AICP, CNU-A has more than 22 years of public and private sector experience in urban planning, zoning and land use, including providing expert witness testimony. He is the Senior Associate of The Mellgren Planning Group, Inc., which provides professional planning, zoning, land use and expert witness consulting services to the public and private sectors.

Mr. Katims has current extensive experience in all phases of planning, zoning and land use matters, providing services to a number of local governments and private clients on behalf of the firm. His current experience routinely includes undertaking land use plan amendments; rezonings; variances; development research; zoning code and land development code preparation, interpretation and application; and, providing expert witness testimony. Mr. Katims has qualified as an expert witness in State of Florida Administrative Hearings. He also serves as the assistant planning and zoning official for the Town of Southwest Ranches, Florida, including serving as the Town’s expert witness in quasi-judicial land use matters, as necessary.

Until joining The Mellgren Planning Group, Mr. Katims worked from 1996 to 2001 for the Town of Davie, where he was ultimately the Planning and Zoning Manager. In that capacity, he was responsible for preparing and administering the comprehensive plan, the zoning code and land development regulations. He also reviewed and made recommendations for numerous land use related applications, many of them in a quasi-judicial setting as an expert witness for the Town. These applications included site development plans, land use plan amendments, rezonings, variances, special permits, plats and delegation requests.

Prior to joining the Town of Davie, Mr. Katims worked from 1993 to 1996 for the City of Hallandale Beach as Associate Planner. In this capacity, he undertook a variety of planning projects. Mr. Katims was responsible for analyzing development requests; writing and implementing segments of the comprehensive plan; amending and administering the zoning code; and, preparing redevelopment plans and assisting in their implementation.

Before relocating to Florida, Mr. Katims provided professional planning services to the Albany Dougherty Planning Commission in Albany, Georgia from 1991 to 1993. For this City/County Planning Commission, he administered multiple city and county zoning and subdivision regulations; analyzed land development applications; and, prepared and implemented the County’s first ADA Paratransit Plan.

# Susan L. Trevarthen, FAICP

Member  
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Susan handles land use, planning and zoning matters for governments and is a municipal attorney. Her work includes negotiating development agreements and approvals, drafting municipal codes and plans, advising municipal staffs, managers and attorneys, defending challenges to municipal regulations and decisions, handling public hearings and counseling elected officials, as well as advocating for municipalities on legislative issues in her field. She serves as Town Attorney.

She also serves as the Chair of our Public Land Use and Zoning Group, which handles all of the land use matters for the Cities of Cooper City, Weston, Miramar, Aventura, North Bay Village, Medley, Doral, Marco Island, Indialantic and Homestead; the Towns of Cutler Bay and Lauderdale-By-The-Sea; and the Villages of Bal Harbour, Key Biscayne, Pinecrest and Islamorada. The Group also provides outside counsel services on planning, zoning and land use matters to additional South Florida cities on an as needed basis. In recent years, these cities have included Boca Raton, Delray Beach, Deerfield Beach, Wellington, Lauderhill, Juno Beach, Pompano Beach, Sunrise, Hallandale Beach, Parkland, Hollywood, Coconut Creek, Vero Beach, Miami Beach, Dania Beach, Cape Coral, Coral Gables and Miami Springs.

Susan's practice includes extensive constitutional law in her field, including regulatory taking cases and land use and zoning decisions raising First Amendment issues, including sign codes, adult use regulations, and regulation of religious uses, Harris Act claims, comprehensive plan challenges and petitions for certiorari.

Susan also has extensive experience with school planning and facilities issues and mandatory school concurrency, and she has represented local governments and school boards across the state on these issues.

Susan has held leadership positions in The Florida Bar's Section for Environmental and Land Use Law and Section for City, County and Local Government Law. She has been recognized as one of the top land use attorneys in the state in publications such as Florida Trend Magazine and SuperLawyers, and she has an AV rating (highest attainable) from Martindale Hubbell. A member of the College of Fellows of the American Institute of Certified Planners and Board Certified in City, County and Local Government Law by The Florida Bar, Susan speaks and publishes frequently on planning, zoning and land use issues. Susan grew up in Boca Raton, Florida.

## Significant Matters

### Regulation of First Amendment-Protected Land Uses

#### *Signs*

- Representing the American Planning Association, co-author of the amicus brief addressing the interests of the American Planning Association, National League of Cities, International Municipal Lawyers Association, US Conference of Mayors, National Association of Counties, International City/County Management Association, and Scenic America, Inc., in the 2015 U.S. Supreme Court case of *Reed v. Town of Gilbert*.
- Updated and revised regulations of signs for City of Sunrise after it was challenged, and resulting regulations were upheld by the Eleventh Circuit. Advised the City on the implementation and interpretation of the sign code as it related to the Broward County Civic Arena and other developments.
- Updated and revised regulation of signs for City of Miramar and, working with the Litigation Group, successfully defended the sign regulations in the Southern District of Florida.
- Working with the Litigation Group, successfully defended the City of Boca Raton's sign regulations in the Southern District of Florida.
- Updated and revised regulations of signs for Cities of Weston, Coconut Creek and Dania Beach, Town of Lauderdale-By-The-Sea, and Pasco County, without challenge.

#### *Sexually Oriented Businesses*

- Updated and revised regulations of sexually oriented businesses in City of Dania Beach, changed the zoning districts in which they are located, established an amortization requirement for nonconforming locations, and assisted the City and its insurer in successfully enforcing the amortization requirement against the three existing, nonconforming locations.
- Updated and revised regulations of sexually oriented businesses in the City of Hallandale Beach, and worked with Litigation Group to defended two challenges related to the prior regulations.
- Updated and revised regulations of sexually oriented businesses for Villages of Wellington and Islamorada, and the Cities of Miramar, Sunrise, and Boca Raton, without challenge.

#### *Places of Worship*

- Updated and revised regulations of places of public assembly, and working with the Litigation Group and the Town's insurer to defend Town of Surfside from challenge to the application of those regulations.
- Updated and revised regulations of places of public assembly in Cities of Cooper City, Sunrise, Miramar, Dania Beach, and Weston, without challenge. Advising the City of Lauderhill with code revisions in response to a Department of Justice investigation related to regulation of religious uses. Drafted procedures for reasonable accommodation and zoning relief for several municipalities

#### *Zoning Districts, Special Uses and Supplemental Regulations*

- Drafted and advised on the implementation of targeted **moratoria** for various purposes in the Cities of Homestead, Hollywood and Hallandale Beach, without challenge.
- Drafted **vacation rental** regulations for several municipalities before preemption, and have defended challenges and advised several municipalities on the ability to amend grandfathered regulations or adopt new regulations compliant with state law.
- Drafted regulations of **medical marijuana** uses for several municipalities and was the appointee of the Florida Municipal Attorneys' Association to statewide working group of local government and public safety interests.

## Susan L. Trevarthen, FAICP

- Developed **Planned Unit Development** regulations for the Cities of Homestead and Sunrise, and created a form-based overlay with Dover Kohl & Partners for the Planned Area Development District in City of Coral Gables.
- Developed commercial **design guidelines** and special zoning districts for neighborhood plans in the City of Homestead.
- Developed **specialty business** zoning districts and regulations for **hotels** in the Cities of Dania Beach, Sunrise and Miramar.
- Advised on Joint Land Use Study, developed updated aircraft compatibility regulations and developed vested rights process for City of Homestead in relation to **Air Reserve Base**.
- Advised on changes to and implementation of regulations of **agricultural** uses in the City of Parkland, represented the City staff in related code enforcement matters, and worked with City's insurer to defend a challenge to the application of its regulations to an agricultural use.
- Developed **quasi-judicial** hearing procedures for our municipalities, and routinely administer, interpret and advise on quasi-judicial hearing procedure.
- Represented municipal staff or governing bodies in numerous **contested quasi-judicial hearings** in cities including Parkland, Weston, Hallandale Beach, Miramar, Deerfield Beach, Sunrise and North Bay Village.
- Advised our municipalities and defended **challenges to quasi-judicial decisions** including projects such as the proposed SuperTarget and WalMart stores in the City of Miramar, the redevelopment of the Sonesta Beach Resort in the Village of Key Biscayne, the redevelopment of the Boca Beach Club at the Boca Raton Resort and Club, and various development decisions for the Village of Islamorada.
- Drafted **noise** regulations for City of Sunrise and Town of Lauderdale-By-The-Sea.
- Revised, implemented and represented staff at hearings on **telecommunications facilities**.
- Reviewed and advised on the implementation and updating of **impact fee** ordinances for municipal clients, including an affordable housing linkage fee in the City of Coconut Creek and Village of Islamorada, a transit impact fee for the City of Aventura, and police, public works and parks fees for the City of Homestead.
- Part of consulting team that completely rewrote the City of Dania Beach Land Development Code.

### Comprehensive Plans

- Advised the City of Coral Gables on comprehensive plan amendment to enable **form-based regulation** in the Planned Area Development District.
- Advised the City of Sunrise, and participate in the comprehensive plan amendment process for Tao residential high-rise development, Metropica Transit-Oriented Development, and Westerra Local Activity Center.
- Advised the City of Coconut Creek on the **Regional Activity Center** for the MainStreet development.
- Advised municipal clients on applicants' plan amendments, and related rezonings.
- Advised municipal clients on **Evaluation and Appraisal** Reports and related plan amendments, and other plan amendments necessary to implement new State mandates including school concurrency, water supply planning, and greenhouse gas reduction.
- Advised the City of Sunrise in the development and implementation of the Western Sunrise Area plan and land development regulations from 1995 to present.
- Advised the City of Homestead on the adoption of **neighborhood plans** for redeveloping areas of the City.
- Represented a **coalition of Broward County municipalities and the Broward League of Cities** in advocating for changes to the 2004 Broward County Evaluation and Appraisal process and potential changes to charter authority over land use.

### Public School Facilities

- Advised the Department of Community Affairs as part of the consulting team preparing technical assistance documents for the implementation of **school concurrency**, including a model concurrency management system and model **proportionate share mitigation** agreement for school facilities.
- Advised the pilot communities in Sarasota County and Walton County on the implementation of school concurrency, including drafting and review of all pilot deliverables, including the public school facilities element and the school interlocal agreement.
- Drafted **school interlocal agreements**, reviewed public school facilities elements, and advised on the implementation of school concurrency for Cities of Sunrise, Miramar, Weston, Dania Beach and Hallandale Beach and the Collier County School Board.
- Represented the Miami-Dade School Concurrency Task Force in its development of a recommended approach to school concurrency, and represented the Miami-Dade County School Board in its negotiations with Miami-Dade County over the school interlocal agreement, and related to implementation of school concurrency.
- Advised City of Cooper City on issues with proposed **public school boundary** changes and assisted in developing alternatives.
- Advised Town of Miami Lakes and the Cities of Homestead and Sunrise on issues with review and approval of **charter school** facilities.

### Developments of Regional Impact

- Advised the City and participated in the DRI review process for the creation or amendment of DRIs for Sawgrass Mills, the Broward County Civic Arena (the BankAtlantic Center), Amerifirst/Metropica/Tao, Sawgrass International Corporate Park, and Harrison Park/Westerra in the City of Sunrise.
- Advised the City and participated in DRI review process for implementation and amendment of the Villages of Homestead in the City of Homestead. Also developed new zoning districts, comprehensive plan amendments, development agreements and other associated approvals for these projects.

### Development Agreements

- Represented the City of Hallandale Beach in the Development Agreement and project approvals for BeachWalk condo hotel and related **public-private partnership** for development of a public restaurant and recreational facilities on the city's beach.
- Represented the City of Coral Gables in the Development Agreement and project approvals for Mediterranean Village, a 7-acre mixed use infill development designed with form-based regulations.
- Represented the City of Sunrise in the land use aspects and related approvals for Development Agreements for several major projects including Metropica and Westerra.

### Certifications and Specialties

- The Florida Bar Board Certified, City, County and Local Government Law
- College of Fellows of American Institute of Certified Planners (FAICP)
- American Institute of Certified Planners (AICP)

# Susan L. Trevarthen, FAICP

## Memberships

- American Planning Association
- Citizens for a Scenic Florida, Board of Directors and Vice President
- Florida Bar Section of Environmental and Land Use Law, Former Executive Council Member
- Florida Bar Section of City, County and Local Government Law, Former Executive Council Member

## Publications

- "Best Practices in First Amendment Land Use Regulations," *Planning and Environmental Law*, Volume 51, 2009
- "Perspectives on the 2009 Growth Management Legislation" and "Municipal Perspectives on Senate Bill 360, Version 2.0," *The Florida Bar Journal*, Volume 83, No. 9, October 2009 "Senate Bill 360 Refined: The Impact of the 2007 Legislative Session on Local Government Growth Management, Part I," *The Florida Bar Journal*, Co-Author with Michelle Vos and Chad Friedman, Volume 81, Number 10, 2007.
- "Senate Bill 360 Refined: The Impact of the 2007 Legislative Session on Local Government Growth Management, Part II," *The Florida Bar Journal*, Co-Author with Michelle Vos and Chad Friedman, Volume 81, Number 11, 2007.
- "Senate Bill 360: Growth Management Reform Arrives and It Is All About Infrastructure," (Co-Author), *The Florida Bar Journal*, Volume 79, No. 9, October 2005
- "Advising the Client Regarding Protection of Property Rights: Harris Act and Inverse Condemnation Claims," *The Florida Bar Journal*, Volume LXXXVIII, No. 7, July/August 2004 "Alternatives to Takings: Procedural Due Process, Equal Protection and State Law Doctrine in Taking Sides on Takings Issues: The Public and Private Perspectives," ABA, Roberts, Thomas Ed., 2001
- *Special Editor*, "Inverse Condemnation and Impact Fees Chapters," Florida Environmental and Land Use Law, February 2001
- "Florida Supreme Court Decides That Comprehensive Plan Amendments are Legislative," *Florida Planning*, May/June, 1997
- "Defensible Exactions After *Nollan v. California Coastal Commission* and *Dolan v. City of Tigard*" (Co-Author), *XXV Stetson Law Review*

## Presentations

- "Planning Official Training," *APA Florida Conference*, annually
- "*Reed v. Town of Gilbert* and sign codes," *American Bar Association, American Planning Association, Lorman Educational Services, Stafford, and 1000 Friends of Florida webinars*, 2015
- "Planning and the Courts," *APA Florida Conference*, September 2015
- "Quasi-Judicial Hearings" and "Municipal Land Use: Hot Topics," *CLE International Land Use Law Conference*, August 2015
- "Medical Marijuana" and "Signs," *Florida Municipal Attorneys Association Annual Meeting*, July 2015
- "Changes to Growth Management Laws Affecting School Facilities," *Florida Educational Facilities Planners Association*, July 2015
- "Ethics Laws Affecting Florida Local Government Elected Officials," *Good Government Initiative*, August 2014 and 2015
- State-mandated ethics training for elected officials, *Space Coast League of Cities and Palm Beach County League of Cities*, 2015
- "Planning and the Courts," *APA Florida Public Policy Workshop*, February 2013-2015
- "What Are Cities Doing To Deal With Problematic Vacation-Rentals?" *Florida League of Cities Webinar*, December 2014
- "The Sharing Economy," *Florida League of Cities Legislative Conference*, November 2014
- "Counsel as Ethical Counselor," *8th Annual Ethics Seminar of Palm Beach Planning Congress*, November 2014
- "Medical Marijuana," *Broward League of Cities*, October 2014
- "Marijuana: What Does it Mean for Your City?" *Palm Beach League of Cities*, October 2014
- "Land Use Regulations of Marijuana Related Uses," *Miami-Dade County Bar Local Government Section Seminar*, September 2014
- "Quasi-Judicial Hearings" and "RLUIPA," *CLE International Land Use Law Conference*, August 2014
- "Planning Ethics," *1000 Friends of Florida Webinar*, June 2014
- "School Facilities," *APA National Planning Conference*, April 2014
- Rewrote the course materials and taught land use course for *Florida League of Cities' Advanced Institute for Elected Municipal Officials*, November 2013
- "School Concurrency Unplugged," *APA Florida Conference*, September 2013
- "The Politics of Sustainability," Sustainable Zoning and Development Controls, *Planners Training Service, American Planning Association*, 2011
- "Planning in the Courts, Senate Bill 360 Challenge," *9th Annual APA Florida Public Policy Workshop*, 2011
- "Regulating Political Signs and Speech - Strategies for Local Governments Responding to First Amendment and Land Use Challenges," *Stafford Webinar with Interactive Q&A*, 2010 "Regulating First Amendment Land Uses," *National Conference of the American Planning Association*, New Orleans 2010 and Boston 2011
- "Unfunded Mandates and the Constitutional Challenge to Senate Bill 360," *Florida On-Line Academy on Planning & Growth Topics*, 2009
- "The Local Government Attorney's Guide to Successful Regulation of First Amendment Land Uses," *Florida Municipal Attorneys' Association*, 2009 and City, County and Local Government Law Section of the Florida Bar, 2009
- "School Concurrency," *25th Annual Growth Management, Energy, Climate Change, and the Environment Short Course*, Florida Chamber of Commerce, 2009
- "Issues in Implementing the Harris Act," *Eminent Domain Committee*, The Florida Bar, 2005
- "What Local Governments Can Do About School Overcrowding," *City, County and Local Government Law Section of The Florida Bar*, Orlando 2004

## Classes Taught

- Adjunct Professor, Environmental and Growth Management Law, Florida Atlantic University, Department of Public Administration, 1992 – 1993
- Frequent guest lecturer at University of Miami School of Law, St Thomas University School of Law, Florida Atlantic University School of Urban Planning on land use, zoning and planning matters

## Professional Associations

- The Florida Bar, City, County and Local Government Section Executive Council
- The Florida Bar, Environmental and Land Use Law Section Executive Council
- American Institute of Certified Planners (AICP), and College of Fellows
- City of Boca Raton Environmental Advisory Board, 1994-2000

# Susan L. Trevarthen, FAICP

- Vice President and Board of Directors, Citizens for a Scenic Florida
- Mezzo-Soprano Master Chorale of South Florida/Florida Philharmonic Orchestra
- The City of Boca Raton Environmental Advisory Board, 1994 – 2000

## Reported Cases

- *Restigouche v. Town of Jupiter*, 845 F. Supp. 1540 (S.D. Fla. 1993)
- *Schumacher v. Town of Jupiter*, 643 So. 2d 8 (Fla. 4th DCA 1994)
- *Section 28 Partnership, Ltd. v. Martin County*, 676 So. 2d 532 (Fla. 4th DCA 1996)
- *Woodrow Kantner, Trustee, Carolyn Weaver & YMCA v. Martin County*, 929 F. Supp. 1482 (S.D. Fla. 1993)
- *Town of Jupiter v. Michele Alexander*, 747 So. 2d 395 (Fla. 4th DCA 1998)
- *MediaNet of South Florida, Inc. v. City of Miramar*, Case No. 03cv61689 (S.D. Fla. 2002)
- *Florida Outdoor Advertising, LLC v. City of Boca Raton*, 266 F. Supp. 2d 1376 (S.D. Fla. 2003)
- *Renaissance Charter School, Inc. v. Department of Community Affairs and School Board of Miami-Dade County*, Case No. 1D09-2065 (Fla. 1<sup>st</sup> DCA 2010)
- *Seay Outdoor Advertising, Inc. v. City of Mary Esther, Florida*, 397 F.3d 943 (11<sup>th</sup> Cir. 2005) (amicus brief for Citizens for a Scenic Florida)
- *City Of Weston, Florida; Village Of Key Biscayne, Florida; Town Of Cutler Bay, Florida; Lee County, Florida; City Of Deerfield Beach, Florida; City Of Miami Gardens, Florida; City Of Fruitland Park, Florida; City Of Parkland, Florida; City Of Homestead, Florida; Cooper City, Florida; City Of Pompano Beach, Florida; City Of North Miami, Florida; Village Of Palmetto Bay, Florida; City Of Coral Gables, Florida; City Of Pembroke Pines, Florida; Broward County, Florida; Levy County, Florida; St. Lucie County, Florida; Islamorada, Village Of Islands, Florida; And Town Of Lauderdale-By-The-Sea, Florida, v. The Honorable Charlie Crist, Governor Of The State Of Florida; The Honorable Kurt S. Browning, Secretary Of State, State Of Florida; The Honorable Jeff Atwater, President Of The Senate, State Of Florida; The Honorable Larry Cretul, Speaker Of The House, State Of Florida*, Case No. 2009 CA 2639 (2<sup>nd</sup> Judicial Circuit, Fla. 2010)
- *Outdoor Media Group, Inc., and Chance Outdoor, LLC, v. City Of Beaumont, California*, Case No. No. 10-56081 (9<sup>th</sup> Cir. 2011) (amicus brief for Citizens for a Scenic Florida)
- *Atwater v. City of Weston*, 64 So. 3d 701 (Fla. 1st DCA 2010)
- *Reed v. Town of Gilbert*, 135 S.Ct. 884, 190 L.Ed.2d 701, 83 USLW 3365, 2015 WL 2473374 (June 18, 2015) (co-authored amicus brief for American Planning Association)

## Awards and Recognitions

- AV Rated
- Avvo Rating "10.0"
- "Florida SuperLawyer," *Florida SuperLawyers*, 2010-present
- Legal Elite
- Burns Fellowship in Development Planning
- Cited with favor by Florida's First District Court of Appeals in *M&H Profit, Inc. v. City of Panama City*, 28 So.3d 71 (Fla. 1st DCA 2009) for article on Harris Act: [https://www.floridabar.org/divcom/jn/injournal01.nsf/Author/29DBBCF7355AEB1F85256\\_EC20049ADD1](https://www.floridabar.org/divcom/jn/injournal01.nsf/Author/29DBBCF7355AEB1F85256_EC20049ADD1).

## Press Mentions

- "With Ruling, It's Time to Revisit Municipal Sign Ordinances," *Daily Business Review*, 7/2/15
- "Old Liens May Still Haunt in Zombie Foreclosures," *Daily Business Review*, 11/4/14
- "Municipalities Have Much to Address with Digital Billboards," *Daily Business Review*, 1/3/13
- "House Passes Growth-Management SB360 Do-Over Bills," *Florida Tribune*, 3/16/11
- "The Next Generation of Florida's Growth Management," *The Miami Herald*, 7/25/11
- "Growth Law Challenge Leads to Recommendation to Clarify 'Unfunded Mandates'," *The Current*, 9/16/11
- "Signs of the Times: New Frontier," *Florida Trend*, December 2011

## Bar Admissions

- Florida, 1991
- U.S. District Court, Southern District of Florida, 1993
- U.S. Court of Appeals, 11th Circuit, 1997
- U.S. Court of Appeals, 9th Circuit, 2011
- U.S. Supreme Court, 2003

## Education

- University of North Carolina School of Law JD, 1991
- University of North Carolina MRP, 1991
- Duke University AB Public Policy Studies, *cum laude*, 1986



## **Michele C. Mellgren, AICP President**

Michele Mellgren has more than 25 years of public and private sector experience in urban planning, zoning and land use, including providing expert witness testimony, where she has qualified in circuit court. She is the president of The Mellgren Planning Group Inc., which she established in 1998.

Ms. Mellgren has extensive experience in all phases of planning and zoning. She is widely regarded as a land use strategist and creative problem solver. Her current experience routinely includes land use plan amendments; rezonings; variances; redevelopment strategies; development research; economic impact analyses; comprehensive plan land development code preparation, interpretation and application; and, providing expert witness testimony. Ms. Mellgren has received full training from the National Charrette Institute and is fully certified and highly skilled in creating public participation and consensus building programs that result in positive outcomes. She also serves as the Planning Director and the planning and zoning official for the City of Parkland and the Town of Southwest Ranches, Florida, respectively.

Prior to establishing her firm, Ms. Mellgren served as the Development Services Director for the Town of Davie; a South Florida community of 70,000 residents. With a \$3.5 million departmental budget, she directed all operations of current and long range planning, zoning, building permit review, engineering, code compliance, business tax receipts and community redevelopment, while managing a staff of 50. She was responsible for conceiving the 2,200 acre Regional Activity Center that was established to encourage growth of the South Florida Educational Complex and to spur redevelopment in the area. Before joining Davie, Ms. Mellgren worked for the City of Fort Lauderdale, and was singly responsible for obtaining over one million dollars of grant funding to expand the City's marina; a key redevelopment project identified in the Central Beach Community Redevelopment Plan. She also prepared an economic impact analysis that quantified the value of tall sailing vessels to the City. The study was used to determine the ultimate design of the 17<sup>th</sup> Street Causeway Bridge, which provides deep water access from the Intracoastal Waterway. Since founding The Mellgren Planning Group, Ms. Mellgren has achieved such notable accomplishments as establishing a full cost recovery planning department for a new municipality; preparing an economic impact study of eliminating traffic concurrency; quantifying the economic impact of airport expansion on private property values and municipal revenues; and, successfully leading significant public participation programs. In addition, she has completed code rewrites, comprehensive plan updates, redevelopment plans, land use analyses and other planning activities.

### **EXPERTISE**

- Comprehensive Planning
- Land Use Analysis
- Redevelopment Strategies
- Economic Development
- Code Writing
- Community Visioning
- Expert Witness Testimony

### **EDUCATION**

- Master's Degree: Urban & Regional Planning  
The George Washington University  
Washington, D.C.
- Bachelor of Arts Degree: Fine Arts/Design  
The George Washington University  
Washington, D.C.
- Charrette Facilitation & Management  
National Charrette Institute  
Portland, Oregon

### **PROFESSIONAL AFFILIATIONS**

- American Institute of Certified Planners
- American Planning Association-National Chapter
- Florida-American Planning Association
- Broward County-American Planning Association
- National Complete Streets Coalition



## **Rebekah G. Brightbill-Dasari, CNU-A Planner**

Rebekah Dasari has 8 years of public sector experience in redevelopment planning and economic development management.

Ms. Dasari has extensive involvement with redevelopment project management and economic development program design. She is particularly interested in asset mapping, community engagement, participatory planning, research design and implementation, and economic development strategies.

Prior to joining The Mellgren Planning Group in 2015, Ms. Dasari was the CRA Manager for the City of Bradenton Central Community Redevelopment Agency, a 598 acre CRA with approximately 4,600 residents. She was responsible for capital projects due-diligence, coordination, and management (including a 25 acre, \$6 million urban park revitalization project; a 16,000 square foot urban grocery store with 9,000 square feet of retail outparcels, and an enterprise center campus for the holistic delivery of economic development services). She managed CRA finances and compliance. She was also involved in economic development programming design, outreach, and coordination (including work on the creation of a non-profit dedicated to low-income microbusiness development); a multi-year free income tax preparation program through the IRS VITA Program; and a multi-year, public-private workforce funders initiative. She also worked on several public art and community history preservation projects.

### **EXPERTISE**

- Redevelopment
- Economic Development
- Community Engagement

### **EDUCATION**

- Master of Arts: Urban and Regional Planning  
University of South Florida  
Tampa, FL
- Bachelor of Arts: Community Development  
Covenant College  
Lookout Mountain, GA

### **PROFESSIONAL AFFILIATIONS**

- American Planning Association– National
- Florida-American Planning Association
- Broward County-American Planning Association
- Sustainability Division- American Planning Association
- Congress for the New Urbanism

## TECHNICAL EXPERIENCE

The following information details our experience in public participation and preparing land development regulations.

### **CITY OF DANIA BEACH**

**Community Visioning | Zoning Code | Form Based Code | Comprehensive Redevelopment Plan | Mapping**

#### **Community Visioning/Public Involvement Program**

- Designed and implemented a comprehensive public participation program that was inclusive of residents, citizen activists, business owners, homeowners' associations and civic groups
- Visioning Program was frequent, public and ongoing, creating consensus for the Code and Redevelopment Plan
- Frequency of public involvement generated excitement and support for the various projects

#### **The Code**

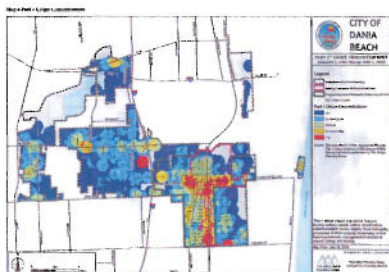
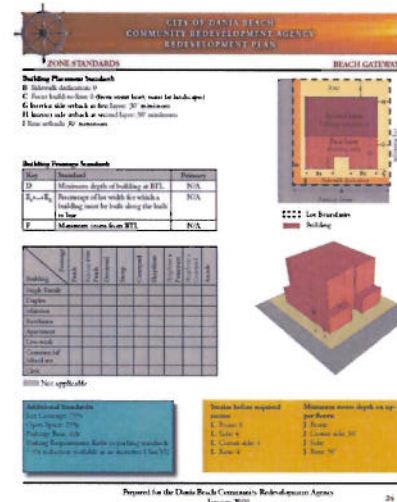
- Rewrote entire code to combine three applicable codes into one, known as OneCode
- Eliminated conflicts, corrected ambiguities and inconsistencies
- Modernized standards
- OneCode is intuitive and user-friendly

#### **The Form Based Code**

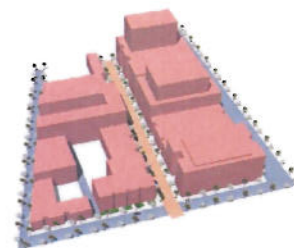
- Prepared specifically for the downtown area of the Community Redevelopment Area to allow flexibility in redevelopment over time
- Prepared zoning maps and alternatives

#### **Comprehensive Redevelopment Plan**

- Prepared Finding of Necessity to establish 1,349 acre Community Redevelopment Area (CRA)
- Authored CRA plan that included specific goals and objectives, along with realistic implementation strategies. Included "green" component
- Prepared and processed comprehensive plan amendments to establish new land use designations and add density
- Provided architectural design guidelines
- Sophisticated mapping utilizing GIS



*City Center Massing Study  
Advanced Mapping and Spatial Analysis*



## CITY OF WILTON MANORS

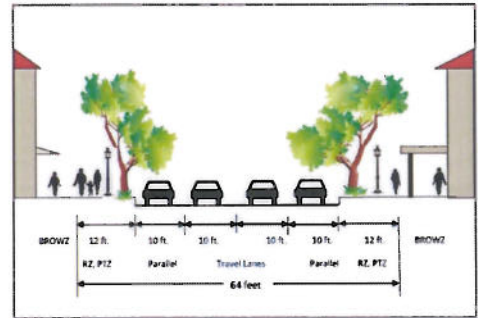
Zoning Code | Form Based Code | Comprehensive Plan | Corridor Plan | Community Visioning | Mapping

### The Code

- Rewrote entire code, including a complete rewrite of the sign code
- Eliminated conflicts, corrected ambiguities and inconsistencies
- Modernized standards
- The code is intuitive and user-friendly

### The Form Based Code

- Designed to create urban character particularly along Wilton Drive
- Implemented the Transit Oriented Corridor land use designation
- Public participation component to elicit visual preference and garner support

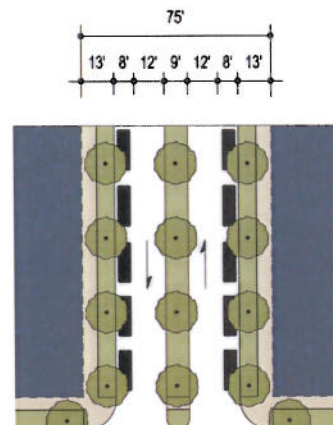


### The Comprehensive Plan

- Completed entire comprehensive plan update pursuant to Florida Statutes
- Updated all maps associated with the plan
- Completed map analyses of land use designations compared to zoning designations
- Updated Future Land Use Element to reflect the Transit Oriented Corridor densities and intensities

### Corridor Plan

- Completed land use and zoning analysis of Powerline Road within the City
- Developed short and long term strategies for redevelopment along the corridor



## CITY OF PLANT CITY

### Midtown Development Regulations

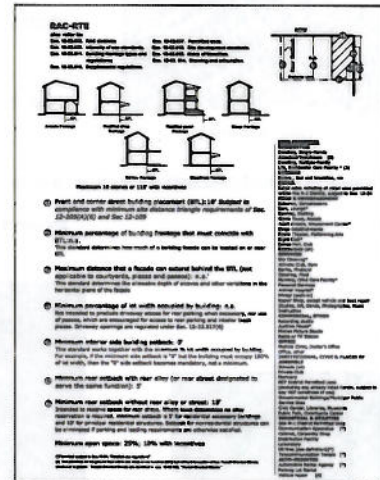
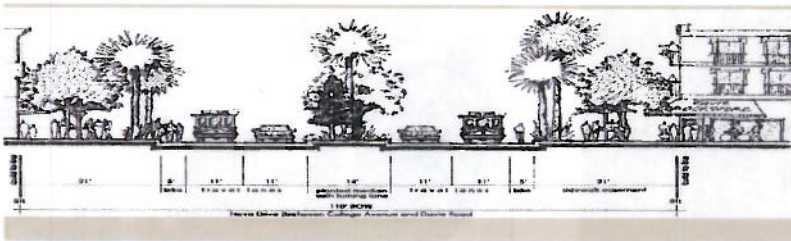


- Authored the form based code for the Midtown area to implement the City's vision of Midtown as a pedestrian-friendly mixed use environment that creates a "sense of place" within the City of Plant City.

## TOWN OF DAVIE

### Regional Activity Center Regulations

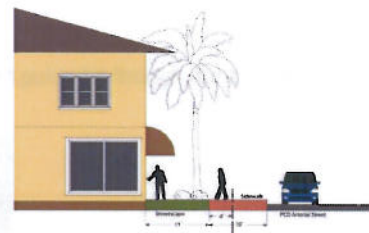
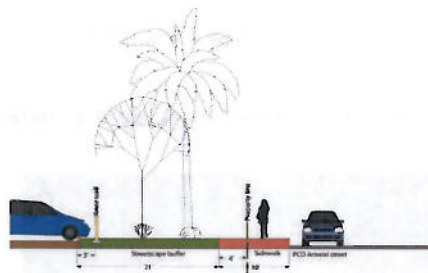
- TMPG worked in formal collaboration with several institutions of higher learning, major landowners and the Town of Davie, to create a form-based code for a 2,200 acre area encompassing 4 colleges, a downtown redevelopment area, numerous neighborhoods, a large industrial area, and a planned multimodal transportation terminal.



## City of Miami Gardens

### Zoning Code | Form Based Code

- Updated key sections of the zoning code
- Wrote form based standards for main corridors to encourage economic development
- Prepared architectural design standards



## HOURLY RATES

Jeff Katims, AICP, CNU-A

\$150

Susan Trevarthen, FAICP, Esq.

\$250 + 2.5% cost factor for  
Ms. Trevarthen and any  
attorney who may assist her.

Michele Mellgren, AICP

\$175

Rebekah Dasari, CNU-A

\$100

Rates do not include travel costs or direct costs

## REFERENCES

### The Mellgren Planning Group, Inc.

#### **City of Lauderdale Lakes (Ongoing: Zoning, Comp. Planning, Mapping)**

Danny A. Holmes, AICP, Interim City Manager

3521 NW 43rd Ave, Lauderdale Lakes, FL 33319

Phone:

954-535-2480

Fax:

954-731-5309

[danh@lauderdalelakes.org](mailto:danh@lauderdalelakes.org)

#### **City of Parkland (Ongoing: Planning, Zoning, Zoning Codes, Comp. Planning, Serve as Planning Director)**

Caryn Gardner-Young, AICP, City Manager

6600 University Drive, Parkland, FL 33067

Phone:

954-753-5040

Fax:

954-341-5161

[cgardneryoung@cityofparkland.org](mailto:cgardneryoung@cityofparkland.org)

#### **Town of Southwest Ranches (Ongoing: Zoning Codes, Comp. Planning, Serve as Town Planner)**

Andy Berns, Town Administrator

13600 Griffin Road, Southwest Ranches, FL 33330

Phone:

954-434-0008

Fax:

954-434-1490

[aberns@southwestranches.org](mailto:aberns@southwestranches.org)

Phone:

954-434-0008

Fax:

954-921-2604

## REFERENCES, CONT.

### City of North Miami (Current: Comp Planning, Public Outreach)

Tanya Wilson-Sejour, AICP, Planning Manager  
Community Planning & Development Department  
12400 NE 8<sup>th</sup> Avenue  
North Miami, FL 33161  
Phone: 305-895-9826  
Fax: 305-895-4074  
[tsejour@northmiamifl.gov](mailto:tsejour@northmiamifl.gov)

### City of Dania Beach (2005 - 2011, Current: Zoning Codes, Planning, Public Outreach)

Anne Castro, Executive Director  
Dania Beach Housing Authority  
715 W. Dania Beach Boulevard  
Dania Beach, FL 33004  
Phone: 954-920-9662  
Fax: 954-921-2604

REFERENCES, CONT.

Susan Trevarthan, FAICP, Esq.

Michael Alpert  
Principal Planner  
**City of Miramar**  
2300 Civic Center Place  
Miramar, FL 33025  
(954) 602-3246  
[malpert@ci.miramar.fl.us](mailto:malpert@ci.miramar.fl.us)

Rewrite of and defense of challenge to sign code for City, 2003-2004  
Drafting of form-based sign code for City, 2011  
Advice on interpretation and other potential amendments to present

**City of Coral Gables**  
Charles Wu  
Assistant Director of Development Services  
405 Biltmore Way  
Coral Gables, FL 33134  
[cwu@coralgables.com](mailto:cwu@coralgables.com)

General land use and zoning outside counsel for City, including advice on interpretation and application of sign regulations

## REFERENCES, CONT.

**City of Dania Beach**  
Thomas Ansbro, Esq.  
City Attorney  
100 West Dania Beach Boulevard  
Post Office Box 1708  
Dania Beach, Florida 33004  
(954) 924-6800 x 3635  
[tansbro@ci.dania-beach.fl.us](mailto:tansbro@ci.dania-beach.fl.us)

Rewrite of sign code 2001, and subsequent amendments and advice on interpretation to present  
Advice on interpretation of sign code 2003 to present  
2003-2004 defense of challenge to sign code

**City of Sunrise**  
Mark Lubelski  
Assistant City Manager  
1601 NW 136th Avenue, Building A  
Sunrise, FL 33323  
(954) 746-3288  
[mlubelski@cityofsunrise.org](mailto:mlubelski@cityofsunrise.org)

Advice on interpretation of sign code 2000 to present  
Rewrite of sign code that was upheld by the Eleventh Circuit Court of Appeals in 2005

## REFERENCES, CONT.

City of Weston  
John Flint  
City Manager  
17200 Royal Palm Boulevard  
Weston, FL 33326  
(954) 385-2000  
(954) 385-2005  
[JFlint@westonfl.org](mailto:JFlint@westonfl.org)

Rewrite of sign code 2000, and subsequent amendments and advice on interpretation to present

Diana Grub-Frieser, Esq.  
City Attorney  
City of Boca Raton  
201 West Palmetto Park Road  
Boca Raton, Florida 33432  
(561) 393-7718  
[dgfrieser@ci.boca-raton.fl.us](mailto:dgfrieser@ci.boca-raton.fl.us)

Advice on interpretation of sign code 2003 to present  
2003-2004 defense of challenge to sign code