



NEW PORT RICHEY

5919 MAIN STREET • NEW PORT RICHEY, FL 34652 • (727) 853.1016

Land Development Review Board (LDRB) - Minutes

Date: April 21, 2016
Time: 2:00 pm
Location: City Council Chambers
First Floor, City Hall, 5919 Main Street, New Port Richey, FL 34652

Any person desiring to appeal any decision made by the LDRB, with respect to any matter considered at any meeting or hearing, will need a record of the proceedings and may need to insure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is to be based. The law does not require that the Secretary transcribe verbatim minutes, therefore, the applicant must make the necessary arrangements with a private reporter or private reporting firm and bear the resulting expense (FS 286.0105).

I. Roll Call & Pledge of Allegiance:

Members Present:

Don Cadle, Jr., Vice Chairperson
Dan Maysilles
Judy Michel
Mary Moran
Greg Smith

Members Absent:

John Grey, Chairperson
Louis Parrillo

Others Present:

Lisa L. Fierce, Development Director
Gus Karpas, Senior Planner
Chris Mettler, Senior Planner
Melanie Tyler, Development Technician
Joe Poblick, City Attorney
Debbie L. Manns, City Manager
KC Bonney, Network Administrator

II. Approval of Minutes:

Dr. Cadle chaired the meeting. Dr. Cadle made the motion to approve the March 17, 2016 minutes which was seconded by Ms. Moran. The motion carried and the Board approved the minutes (5-0).

III. Code Amendment COD2016-05:

Case: Code Amendment COD2016-05 – Sign Regulations
Applicant: City of New Port Richey, Debbie L. Manns City Manager, 5919 Main Street, New Port Richey, FL 34652.

Request: Review and recommendation on an amendment to the Land Development Code addressing sign regulations (Ordinance #2016-2078).

Susan L. Trevarthen, an attorney with the Coral Gables firm of Weiss Serota Helfman Cole & Bierman, has been hired as a consultant to assist the City staff with amending the sign regulations to address a recent Supreme Court decision regarding local sign regulations. She presented a Power Point presentation for the ordinance, which amends the City's sign regulations. She first presented a legal overview of sign regulations, noting that signs are protected under the free speech guarantees of the First Amendment of the U.S. Constitution. Regulation of signs by local governments must conform to the First Amendment; they cannot vary based on the content of the speech and cannot favor or punish points of view or topics. Content-based regulation is presumed unconstitutional and must be justified by a compelling governmental interest.

Ms. Trevarthen stated that sign regulations must be narrowly tailored to achieve the governmental purpose for the regulation (generally, traffic safety and aesthetics), cannot be overbroad, exceeding the scope of the purpose, cannot be substantially under-inclusive or so full of exceptions that the purpose is not achieved and regulation of commercial signs cannot be looser than those for noncommercial signs. She stated that courts have been unclear on how to determine when a regulation is "content-based."

Ms. Trevarthen provided an overview of the 2015 Supreme Court decision in "Reed v. Town of Gilbert", which addresses the issue of First Amendment limitations on local sign regulations. A church sued the Town of Gilbert, Arizona, arguing the Town's sign code treated event directional signs differently than other noncommercial signs, in terms of size and duration. The Supreme Court held that government regulation of speech is "content-based" if a law applies to a particular speech because of the topic discussed or the idea or message expressed. Gilbert's regulation was stricken because it was under-inclusive and not narrowly tailored enough to advance the interests of aesthetics and traffic safety.

Ms. Trevarthen stated that the majority and concurring opinions disagreed on whether an event directional sign "conveys an idea about a specific event" and is therefore content-based. The concurring opinion assures local governments that they can still regulate signs based on common key distinctions including commercial vs. noncommercial, off-premise vs. on-premise, temporary vs. permanent and zoning districts and land use. She stated that governmental signs on governmental property, including traffic control devices, are not affected by the First Amendment. Private signs are not required to be allowed on governmental property, but once you allow one sign on to right-of-way or other public property, you cannot say no to any other noncommercial sign, even those with polarizing political messages.

Ms. Trevarthen stated that the ordinance changes temporary and permanent sign regulations to improve their defensibility and respond to "Reed," by removing regulations based on content or function (e.g., political, grand opening, and garage sale), replacing them with more generic regulations (e.g., temporary noncommercial and temporary commercial), reducing the number of sign types exempted from regulation and the number of prohibited sign types and revising or removing definitions for consistency with regulations and case law.

Ms. Trevarthen provided an overview of the amendments to the sign regulations, which revise the purpose, intent, and scope to better articulate the governmental interests that support the regulation of sign, reference the governing case law, incorporate requirement for local sign regulation in Florida Statutes, incorporate the Florida Constitution's protection of scenic beauty, reference the goals, objectives and policies of the City's Comprehensive Plan and provide a few changes to the Downtown District sign regulations. All other policy driven changes will be handled as part of Phase 2 of this project, after public involvement and incorporating the advice of additional consultants.

Dr. Cadle asked how the amendment would address billboards, noting the current ordinance does not permit the placement of any new ones. He asked if the existing ones would be "grandfathered." Ms. Trevarthen said the billboard regulations remain the same. One of the reasons is that cities are limited in their ability to

require the removal of off-premise commercial signs. Doing so typically requires the City to monetarily compensate the owner of such a sign. Dr. Cadle asked about vehicle signage and how it was being addressed. Ms. Trevarthen said the regulation has not been changed. Vehicles that are parked in a manner to advertise a business will be treated as though they are a sign. Ms. Fierce said the current ordinance only regulates vehicle signage in the downtown area, Phase 2 of the sign ordinance revisions will expand regulation to include other areas of the City.

Mr. Maysilles said there is the potential to overlook some regulations in this process and actually create problems. Ms. Trevarthen said the goal is to not make the ordinance too ambiguous and to minimize discretion. She noted there are a number of areas in the ordinance where there are spelled out objective standards. Mr. Maysilles asked about signs that do not meet the current code. Ms. Trevarthen said those signs are permitted to remain in place until they are removed or the property is redeveloped. Ms. Fierce said this current phase of the amendment is only dealing with the most recent changes necessary based on the Supreme Court decision. Many of the technical questions will be addressed in the second phase of the amendment process.

Mr. Maysilles asked if it would be necessary to include the date of adoption for this amendment as has been done for past amendments. Ms. Trevarthen said the proposed changes in the ordinance have been more liberal and have not denied anything further than what was prohibited in the previous version of the ordinance. Mr. Maysilles discussed whether the LDRB wanted to be more liberal in the provisions. Ms. Trevarthen said there has not been an increase in the allowable area of commercial signage, just a shift in the permitted residential signage to compensate for the difference between the two square footages. Ms. Trevarthen provided examples where bringing an equality in the sign areas actually reduced the amount of signage permitted in residential areas based on the type of signage, i.e., construction and real estate signage. She said an overall cap can be set on the permitted area of signage allowed for a residential lot but, an allowance for more than one sign provide the aggregate total does not exceed the established cap.

Ms. Moran made the motion to recommend approval of Ordinance #2016-2078 as presented, which was seconded by Ms. Michel. Roll call vote: Ms. Moran, yes, Mr. Smith, yes, Ms. Michel, yes, Mr. Maysilles, yes and Dr. Cadle, yes. The motion passed (5-0).

IV. Adjourn:

Ms. Fierce thanked the Board Members for attending the meeting. The next meeting is May 19, 2016. The meeting adjourned at 2:45 p.m.

Respectfully submitted,



Chris Mettler, Senior Planner