

SPECIAL TOWN COMMISSION MEETING MINUTES
SEPTEMBER 17, 2018

Minutes of the Special Town Commission Meeting/Joint Meeting of the Planning & Zoning Commission
of the Town of Ocean Ridge held on Monday, September 17, 2018, at 9:30 AM in the
Town Hall Commission Chambers.

CALL TO ORDER

The meeting was called to order by Mayor Bonfiglio at 9:30 a.m.

ROLL CALL

Town Clerk Stevens led the roll call, which was answered by the following:

	<u>Present:</u>	<u>Absent:</u>	<u>Tardy:</u>
<u>Town Commission:</u>			
Commissioner Besler		x	
Mayor Bonfiglio	x		
Commissioner Coz	x		
Commissioner de Haseth	x		
Vice Mayor MaGruder	x		
<u>Planning & Zoning:</u>			
Chairman Goray	x		
Vice Chair Marsh	x		
Member Carey		x	
Member Hutchins	x		
Member Kosinski	x		
Alternate Member Hennigan		x	
Alternate Member Leming	x		

Commissioners absent and out of town have sent their regrets.

PLEDGE OF ALLEGIANCE

Mayor Bonfiglio led the Pledge of Allegiance.

PUBLIC COMMENT

Shai Ozery, Attorney for the Lauring family, reserved his right to speak on item #2 on the agenda.

WORKSHOP DISCUSSION ITEMS

1. Town Planner Report

Town Manager Titcomb stated that updated packages were submitted before the meeting began. Town Planner Marty Minor thanked town staff, the boards and citizens for all of the input they have provided in addressing the issues, and noted that the issues affect the RSF and RSE zoning districts only; they do not apply to the other zoning districts in town. He stated that we have been looking at parking and the general open space on each single family lot, as well as improvements to the drainage regulations.

Parking Requirements

Mr. Minor noted that the RSF parking requirements are currently two spaces per home. He did a survey of average car sizes and what other communities recommend, and staff is proposing a 10x20 parking space size for a single family home, and due to conditions on the barrier island, most homes have a two-car garage with a two-car driveway. Staff is proposing one parking space per bedroom, and also requiring a two-car garage per single family home. The garage counts against the FAR requirements for the building and ensures some parking is located inside. Staff also recommends that for every two bedrooms more than four, an additional garage space needs to be added.

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Member Hutchins asked if the smaller lots have been addressed, and Mr. Minor stated that staff is recommending that for single or two-family homes on less than a 10,000 square foot lot, that a one-car garage be required.

Commissioner Coz voiced his concern about the parking burden for a five-bedroom home, and mentioned that there is only a two to three year window of when children receive their license to when they go off to college. Commissioner de Haseh noted that we are not really using our garages for cars anymore, and thinks it's good to have a cushion built in due to not really being able to do code enforcement on what is inside the garage. She stated that there are parking problems in her neighborhood currently and neighborhood kids have had to ask for permission to park in the neighbor's driveway and then when the neighbors return seasonally, they have to get special permission to park on the lawn. Commissioner Coz responded that Commissioners should not amend a code for things that only happen on a small percentage of the lots.

Member Kosinski noted that it looks like the other communities are consistent with what is being proposed by staff, and Mayor Bonfiglio followed up that it sounds like a good compromise because we don't allow on-street parking here (due to narrow roads). Commissioner Coz noted that if we are looking at other towns for comparison, we need to look at the lot sizes too because other towns have larger lots. Commissioner de Haseh mentioned that we have been setting people up for failure by not allowing on-street parking, and then not requiring enough parking on the lot, so the amendments to the code to require adequate parking on the lot will solve those problems.

Mr. Minor clarified that the parking requirements are a global change, not just in the RSF and RSE zoning districts. In speaking about the smaller than 10,000 square foot lots, Commissioner Coz stated that the parking requirements of a one-car garage on the smaller lots would be a huge burden as people would possibly lose up to two bedrooms, or 200 square feet, and it could affect the sale of the homes on those lots. Vice Chair Marsh suggested that we don't require a garage on the smaller lots, but require parking spaces off the right of way. Mayor Bonfiglio suggested that we require one parking space per bedroom, with an exception for no garage requirement on those lots, and Vice Chair Marsh agreed and added that the current houses were built with no onsite parking and that is what the current problem is. He stated we are trying to improve what we have now which is little to no parking on these streets. Vice Mayor MaGruder mentioned that there is a house on his street with no garage, and one of the primary concerns during the sale of the home was that it had no garage, and the realtor indicated that it would have sold quicker if there was a garage. He stated that a one car garage or carport is beneficial at point of sale in this community. Commissioner de Haseh stated that since we don't have basements here, there is nowhere to store equipment without a garage.

Town Attorney Shutt stated that he has a concern about a 9,995 square foot lot not having the same requirements as the 10,000 square foot lot, and after discussion he suggested that for the single family or two family homes located in the zoning districts other than RSF or RSE that have lots under 10,000 square feet be allowed to have a one parking space requirement, which would cover the Douglas and Oceanview area. Town Manager Titcomb noted that we already have different metrics in the RMM zoning district such as the 40% FAR requirement, so that might be the commonality. Town Engineer Tropepe stated that staff works with the homeowners for projects on those smaller lots because they can't possibly meet the requirements that the larger lots have.

Vice Mayor MaGruder asked about stacking cars upward, and Mr. Minor responded that those can still be built, but the upper space in the garage would not be counted as a parking space.

There was consensus of the Commission to direct the Town Attorney to draft an ordinance conforming with the recommendations of Town Planner Marty Minor in respect to the parking

requirements he is proposing in 64-46 off street parking, with the amendment to require one parking space per lot for the single family or two family homes located in the zoning districts other than RSF or RSE that have lots under 10,000 square feet.

Landscaped Open Space

Mr. Minor stated that the current pervious area requirement is 25% for each single family lot. He noted that his recommendations only pertain to the RSF and RSE districts. He did a lot of modeling and looked at such things as building permits issued in town, different size lots, how parking would impact certain things, use of circular driveways, and staff also met with the Health Department and they provided information such as the septic cannot be located within 75' of a waterway so the system has to be brought up to front or side yard, and the septic systems have to be 10' apart from each other, which would increase the side setback for septic systems from three feet to five feet which will ensure that systems between lots will maintain the 10' separation. In looking at the various modeling and discussions with staff and the Health Department, he is proposing a 35% pervious area, which would maintain the existing pervious area discussion; it does not create a separate open space vs. pervious and operates within the framework of the zoning code of the town.

Public comment: John Lauring, 94 Island Drive, stated that his family is a contracting family from Massachusetts and for as long as he can remember from when the architectural standards book came out, the standard size of a parking space has been 9x18, and if the Town is trying to get cars off the property and into the garage, he does not see why the proposal would be to make the parking spaces bigger. He stated that he does not understand why, if the purpose is to get cars off the street and onto the lot, the town would not count a space for a stacked car in a garage. In reference to increasing the pervious area, he stated that the town is discussing a requirement to build bigger impervious parking spaces outside at the same time as increasing the pervious area, and the two requirements are in conflict with each other, which will limit a home's tax value and hurt the tax rolls down the road.

Mayor Bonfiglio stated that we are going to have more frequent and intense rain events, and we need to encourage property owners to hold more of the water on their lot before it goes into the drainage systems. The requirements that are being proposed will encourage homeowners to absorb water on their lots, and will increase home values with decreased flooding in town which is what we need to look at when looking at pervious area. He stated that we also need to keep drain fields from discharging nutrients into the intercoastal which will in turn decrease algae growth. He stated that we will more than likely see the state mandating this in the future to decrease the flow of nutrients into the waterways, and it is better to be prepared now.

Member Kosinski asked for clarification about what will be included in pervious vs. impervious, and Mr. Minor responded that the impervious area would include the driveway, building footprint, hardscape decks, sidewalks and swimming pools. The pervious area would remain the same as it is now except that we would include septic systems including the tank and the drain field.

Commissioner Coz stated that we currently have 25% open space with the drain field included, therefore the drain field is pervious, and under the new rules it would be 35% including the drain field and the septic tank, and Mr. Minor confirmed. Member Kosinski asked if we can separate that and make the tank impervious and the drain field pervious as a compromise. Vice Chair Marsh stated that the tank is buried and has two feet of soil cover so technically it is pervious.

Commissioner Coz clarified that we are increasing the side setback from three to five feet along the entire property so on a 10,000 square foot lot you will have an additional 1,400 open space requirement.

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Mr. Minor stated that the town has a minimum landscaping requirement of one tree per 2,500 square feet that we are proposing to increase to one tree and six shrubs per 1,000 square feet of open space pervious areas in order to help with the drainage, with one tree required in the front yard. (Example: 12,000 square foot lot with 35% pervious would require four trees and 24 shrubs at a minimum.) Commissioner de Haseth suggested that the word “palm” be removed on page 5 if that is not the intent.

Member Hutchins asked if the septic tank and drain field equates to 10% of the total property, and Mr. Minor stated that is a rough estimate. Town Manager Titcomb stated that it is typically less than that. Member Hutchins asked what we are gaining with the extra 10% of open space, and Mr. Minor stated the benefit is that it provides more room for drainage. He stated that it doesn't affect the building footprint, the FAR, or setbacks for the building; all that is changing is how much hard scape you can build. The extra 10% will go for green area not hardscape to allow for drainage. He stated that we see a trend of houses with landscaping having more value than the homes with more hardscape. Member Hutchins asked how it would work with 30% as opposed to 35%, and Vice Chair Marsh reminded everyone that we are doing catch up work in our codes, and if you look at the comps, we are on the low end with what other communities have, and we are deficient. Mayor Bonfiglio stated that the whole purpose of looking at amending our codes is to retain the property values, retain more water on the individual lots to help with drainage, keep the flooding down, and keep the infrastructure costs down, and we are getting closer to the pervious and impervious open space ratios of other coastal barrier island towns. Town Manager Titcomb pointed out that we recently adopted new floodplain elevations for federal requirements which has created exacerbated situations between different level properties, and it is a necessity to treat more stormwater runoff as increased with that metric alone.

Commissioner Coz stated we need to decide what types of driveway materials are pervious and what is not, and Vice Chair Marsh stated that in other communities gravel does not count as pervious. Building Official Cameron stated that gravel itself is pervious until it becomes compacted and then it is no longer pervious. Commissioner Coz asked about brick pavers, and Vice Chair Marsh stated that you have to set those on a hard packed surface, and once the interlocking brick pavers are set on a compact surface, you are defeating the pervious. Commissioner Coz stated he is looking for relief for someone who wants a pool deck and asked about a raised wooden deck, and Vice Chair Marsh responded that a raised wooden deck would be fine.

Chairman Goray stated that he has done research and talked to Building Officials in other communities, as well as land planners and landscape architects, and there is no magic number but the 35% is a reasonable number that does a good job that we can live with.

There was consensus of the Commission to go forward with Mr. Minor's proposal of increasing the landscaped open space to 35% which includes all septic. Commissioner de Haseth stated that she is not totally comfortable with the proposal but will go with the majority.

Vice Chair Marsh mentioned that double stacking of vehicles could affect the architecture because you need the clearance, which could create an appearance issue.

There was consensus of the Commission to go forward with Mr. Minor's proposal on tree permits, with the word “palm” stricken.

Commissioner de Haseth stated she would like to have a discussion regarding a requirement for native trees, and Vice Chair Marsh stated that we could not mandate that. Town Manager Titcomb stated that we have a section of town code already that addresses incentivized and prohibited plants.

Drainage

Mr. Minor stated that the language regarding pervious areas raises 25% to 35% pervious area, and adds contiguous buildable lot area so if a property has a non-buildable lot on the other side of the street, they can't count that in the overall pervious area calculations. Commissioner de Haseth asked if someone owns a piece of property next to them, can they consider that lot in the pervious area calculation, and Town Manager Titcomb stated that they cannot; two lots that are joined by title but separated by a street or other obstruction, our current code allows for a credit coming from the non-contiguous piece to be applied to the buildable piece. Mr. Minor stated that another amendment is to add the sentence that "trench drains along the property line shall connect to an existing or new drainage system" due to some current problems that we have had.

Vice Chair Marsh left the meeting at 10:37 a.m.

Public comment: Polly Joa, 35 Hersey Drive, stated she is concerned with the changes that are being made, and suggested that staff look at the plans for an existing property in Ocean Ridge and apply the new code proposals to it to illustrate how it would work. She stated that she does not have very much ground that doesn't have septic, propane tank, or a drain field, so she would like to see a real property illustration.

Chairman Goray responded that what is underground is included in the 35%, and Mayor Bonfiglio followed up that all of the items Ms. Joa listed would not be included in the calculations. Ms. Joa stated that she has a four bedroom home and they had to put in two septic systems and drain fields. Mayor Bonfiglio stated that would not be affected, as the drain field and septic are included in pervious. He also noted that her property would not be affected as it is in the RMM zoning district. Ms. Joa stated that the landscaping cannot be over the drain fields, and we have to take into account the roots of what is being planted. Member Kosinski stated that in some cases, the code changes will reduce the size of the home that can be built on a smaller lot, but she thinks that's where we want to be for all of the reasons listed such as drainage, water retention, value retention, etc. Ms. Joa stated that she wants to make sure that when all of these new requirements come together, it is a workable plan for the property owner. Commissioner Coz stated that staff can do a graph for an existing property for the next Commission meeting. Member Kosinski noted that she likes the contiguous language even though it would affect her property if she demolished and rebuilt, because she receives a lot of water from a neighboring property due to the current code.

There was consensus of the Commission to move forward with the proposals in the drainage section of the Town Planner's report.

2. Moratorium & Related Ordinances

Town Attorney Shutt explained that the Town received correspondence from an Attorney representing a property owner in town that was included in the meeting packages regarding a request for a limited exemption from proposed ordinances for uniquely situated building applicants. This limited exemption would affect anyone who was in the building process when the moratorium was placed. They are seeking a limited exemption from the new ordinances for anyone who was already in the building process when the Town put the moratorium in place.

Shai Ozery, Robert Hartsell PA, on behalf of the Lauring family at 94 Island Drive South, stated that the Lauring's are a large family who have been homeowners in Ocean Ridge for 22 years, and they submitted final residential plans for review and approval. He wanted to be 100% clear on the record that the plans are for their family dream home. In response to some of the proposed ordinances, it is important to note that the Lauring's building application is in a unique position, and if the town decides to make changes to the land development code during this moratorium, the town is under an obligation to exempt the Lauring's from the new and surely more stringent regulations. He addressed the points in the memo that was included

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in the meeting packages regarding the steps the Lauring's have taken to build their home and noted that they have incurred a substantial expense in working diligently with the town and relied upon the Town's representations that their construction was inevitable, thus equity provides that the town exempt the Lauring's, and given their substantially altered position now in reliance upon the town and the original regulations, even Florida courts have held that a citizen is entitled to rely on the assurances and commitments of the zoning authority, and if he does, the zoning authority is bound by its representations whether in the form of words or deeds. While the Lauring's understand that the town wishes to amend its land development code in the interest of health and welfare, the Lauring's expenditures and efforts upon reliance of the town's representations over the past three to four years to the point where they have obtained a demolition permit and even cut the power in preparation for demolition, dictates that their application be considered unique. They are in a unique position, making it highly inequitable under Florida law that the town by way of this moratorium or new land development changes to prevent them from continuing the construction of their family home; therefore, we ask the Commission to grant the Lauring's an exemption to the new regulations and allow them to move forward with the existing regulations consistent with Florida law given their unique status this far in progression.

Mark Lauring, 94 Island Drive South, stated that his brothers and sisters have been working on their building project for over three years now, which started out as a simple kitchen renovation to move the kitchen from the front of the house to the back of the house in order to have a nice view of the intercoastal from the kitchen which is where they spend most of their time. The plan became cost prohibitive due to restrictions in the code, and the architect recommended that the family demo the house and rebuild. The family, along with architects and engineers have been working on the plans for a couple of years to build their dream home on the lot their father bought over 22 years ago. The plans have been finalized and comply with town codes, but when their builder went to town hall to get a building permit, he was told that the permits were not being accepted and being held up due to a moratorium. He asked how this could happen for projects that are already in the pipeline. There has been a great deal of time, talent and money expended on this project to be compliant with all of the town codes. The town cannot move the goal post without a fair amount of notification. He understands that the town would like to make changes, but timely notification has to be part of the changes, and in their case there was none. They will still be faced with changing plans at their expense to meet the new codes. They are building a house with a smaller footprint than what they are tearing down and they accept that, but they cannot accept the town denying them the right to build their home, when they have complied with everything the town has asked them to do. The town should allow their home and any other home in a similar predicament to move forward.

James Lauring, 94 Island Drive South, stated that four out of five Lauring family members are present today, and they are very upset with the politics of the municipality all because of the belief that they are building a sober home, which could not be further from the truth. He stated that they are building a house for the family so they can escape the chill from the New England weather, when time allows. He stated that when he attended the Concept Plan Review meeting, his neighbor Mrs. Hennigan commented that it must be a sober home being built because there is no master suite and there are a lot of bedrooms of the same size. However, that is an incorrect statement. The committee members at the meeting agreed, after the lawyer stated they should, that the project could move forward and they met all of the zoning requirements. He stated that all of the adults would love to have their own master suite and they tried to accomplish that, but the town codes do not allow a house of that size on that size lot. The plan is to build the new house on 94 Island Drive South and eventually sell the house on 92 Island Drive South to help support the financial burden of building the new home. If they cannot build the vacation home they have designed, then they will need to maximize the economic value of the properties by renting them out, and as landlords they cannot discriminate. He hopes the town will not discriminate against them, and hopefully they will be treated fairly.

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Maryann Siebold, 94 Island Drive South, stated she is opposed to all of the proposals, and feels like they are being targeted and the town is doing all of these things so they can't build the house because it is thought to be a sober home, but it will not be a sober home. She stated they would be the best kind of neighbors because they will hardly ever be there. She stated that even with the number of family members, they only have two cars there that they use all the time, and they also use Uber or Lyft. She stated that typically the father is there and maybe two or three of the family members at one time with their kids. She stated that they have been in Ocean Ridge for 22 years in the same house, with the same cars, and nothing is changing. She stated that when looking at the plans, she likes to look at the bedrooms as a master suite for each adult family with their own bathroom. She stated that her Dad is getting older, and every day that the town holds up the project is taking away precious time from the children spending time with their Dad. She stated that the town is acting in a vicious way toward the family, and the townspeople don't even know them. They are a great family and the town should grant the building permit.

John Luring, 94 Island Drive South, stated that the home is a family vacation home and the new ordinances would affect the home and other people's homes if they want to demolish and rebuild, and it is ill-advised because it will devalue the properties in town. He stated that the family has been working on re-platting the lots and drawing the plans, working on septic design and everything to comply with the town ordinances for over three years, and the Concept Plan Review committee agreed with that and voted to move it forward to the next step, and when they went for the building permit, the town said they were not accepting permits, and then later that day the moratorium was voted in. They have spent hundreds of thousands of dollars on engineers, architects, and lawyers, all relying on the regulations at the time, and now for the town to deny them that right to build the home as relied on has substantially hurt them financially and emotionally. He asks that the Town consider an exception from the new regulations for people like them who have spent considerable funds relying on the old ordinances, have been through the Concept Review Committee, and have essentially done everything except apply for the building permit. He thinks that only a handful of properties would come under such an exception. He urged the Commission to enact an exception from the new ordinances, as it is the right thing to do, and the just thing to do.

Member Hutchins asked how many properties are being held up because of the moratorium, and Town Manager Titcomb stated that the moratorium is structured so that everyone is held up if they are building a new home or a home that exceeds the 50% rule for additions. The question that is posed is whether or not properties that went through some of the steps already and are now going for a building permit but can't due to moratorium, will be granted an exemption due to the time and expense applied. He stated that it is up to the Commission as to whether an exemption will be granted and when that would occur. He spoke about the concept plan review vs. CCCL procedures and properties that meet current code but don't meet the intent of the proposals, and noted that about a half dozen properties are caught in the middle of that right now, with 94 Island Drive South being one of them. He stated that 94 Island Drive South is not caught up with the credit on the non-contiguous piece, but they have other issues such as the unity of title and the offsite improvements that play into the issues with their property. The Town has pretty much given them the nod to deal with those issues concurrently while they are constructing the house as well as complying with the requirements for release of unity of title. He stated that each property is different in how it is impacted with the moratorium, but the frustration with the administrative exemption is that people want to debate the content of the code or the content of the changes and that is not our charge under the administrative exemption. Our charge is to determine if they more than exceed the thresholds that are being discussed in context of the items and get the ability to move forward or not and unfortunately that is not an administrative decision, it is a legislative and legal decision in the context of the properties that are waiting for exemption.

Town Attorney Shutt stated that he disagrees with some of the factual assertions made. He stated that the P&Z board raised concerns and although they do not have approval authority, they raised concerns and recommended that those concerns go to the Zoning Official, who in his report as well raised concerns when

he presented it to the board. He stated that normally the way a moratorium is lifted is upon second reading of the ordinances at the direction of the Commission. The ordinance will have language that the moratorium is to be lifted on second reading, and the new ordinances will apply to any and all properties going forward at that time which would include the Luring's property unless he hears different direction from the Commission.

Commissioner de Haseth clarified that the second reading will be in November, and Town Attorney Shutt confirmed.

Commissioner Coz asked for clarification that the zoning official did not recommend approval on the 94 Island Drive South concept plan review, and Town Attorney Shutt confirmed. He stated that the board voiced their concerns about the project and forwarded those concerns to staff. Staff was looking at the comments from the P&Z meeting in review of the application, and was stopped from issuing a permit due to the moratorium, so we don't know if a permit would have been issued or not at this point. Mayor Bonfiglio stated that the applicant before the moratorium had not met all of the requirements yet, and a lot of the things were self-induced regarding the delay of their project. Town Attorney Shutt responded that in all due respect, they had been working on the project for a long time, but in the past we have seen plans being submitted on a quicker timeline than theirs, but that was up to them to submit the applications, it is not anything that the town held them up on that he is aware of. Town Attorney Shutt asked the Commission for direction on how to move forward whether it be drafting the ordinances as recommended during this meeting, or adding exemption language.

There was consensus of the Commission to not have an exception listed in the ordinances.

3. Determine Meeting Date for the Planning & Zoning Commission Prior to October 1st

Town Attorney Shutt explained that P&Z should review the ordinances and make a recommendation to the Commission before the October 1st meeting.

There was consensus of the P&Z to meet on September 24th at 8:30 a.m.

4. Planning & Zoning Commission Authority on Concept Plan Review Applications

Town Manager Titcomb explained that there is currently no authority by the P&Z on concept plan review applications, they simply make recommendations for the zoning official to review on the applications. There is a desire by some members to have authority on the applications so it is up for discussion.

Commissioner Coz stated that the charge of the P&Z in reviewing concept plans is to look at architectural style and design, and the P&Z is the driving force on figuring out the moratorium issues, so he would like to see those issues finished and the moratorium lifted before we move forward on this topic.

Commissioner de Haseth stated that the P&Z had charged Mr. Minor with coming up with a list of items for the concept plan review so they can decide on the components that they will look at, and this will be a better discussion once we see that list.

Chairman Goray opined that we should postpone this discussion. He does not suggest that the P&Z be a dictator board, but we are one of only a few communities that does not have an ARC board that has some authority, so he would like to know what the minimum standards are that they could have authority over and not over-do it.

There was consensus of the Commission to finish with the moratorium and then place this item on another agenda.

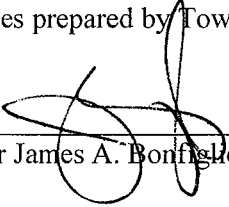
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Commissioner de Haseh suggested that after the moratorium is lifted, the P&Z should discuss this at a meeting. Member Kosinski agreed and said they need to review Mr. Minor's list and then have a discussion, as it needs to be looked at overall. Commissioner Coz stated that there are other items the P&Z needs to look at after the main concerns are taken care of as well.

ADJOURNMENT

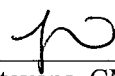
Meeting Adjourned at 11:20 a.m.

Minutes prepared by Town Clerk Stevens, and adopted by the Town Commission on October 1, 2018.



Mayor James A. Bonfiglio

ATTEST:



Tracey L. Stevens, CMC, Town Clerk