

PLANNING & ZONING MEETING MINUTES  
JANUARY 14, 2019

Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, January 14, 2019 in the Town Hall Meeting Chambers.

**CALL TO ORDER**

The meeting was called to order at 8:30 a.m. by Chairman Gerald Goray.

**ROLL CALL**

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

|                                | <u>Present:</u> | <u>Absent:</u> | <u>Tardy:</u> |
|--------------------------------|-----------------|----------------|---------------|
| Chairman Gerald Goray          | x               |                |               |
| Member Ric Carey               | x               |                |               |
| Member David Hutchins          |                 | x              |               |
| Member Penny Kosinski          |                 | x              |               |
| Vice Chair Mark Marsh          | x               |                |               |
| Alternate Member Neil Hennigan | x               |                |               |
| Alternate Member James Leming  | x               |                |               |

Let the record show that Members Hutchins and Kosinski were absent with notice. Alternate members Hennigan and Leming took their places at the dais.

Staff Present: Town Manager Jamie Titcomb, Town Attorney Brian Shutt, Building Official Wayne Cameron, Town Clerk Tracey Stevens, and Contracted Planner Marty Minor from Urban Design Kilday Studios.

**PLEDGE OF ALLEGIANCE**

Chairman Goray led the Pledge of Allegiance.

**Member Carey moved to discuss item#3 on the agenda last; seconded by Vice Chair Marsh. Motion carried 5-0.**

**APPROVAL OF THE MINUTES**

1. Approval of the December 10, 2018 Minutes

Member Carey noted that on page 4, next to the last paragraph, third line, the words “driveway would be impacted” should be “driveway would be compacted”.

**Alternate Member Hennigan moved to adopt the December 10, 2018 minutes as amended; seconded by Member Carey. Motion carried 5-0.**

**DISCUSSION / ACTION ITEMS**

2. **Concept Plan Review – 42 Harbour Drive South**

Town Attorney Shutt explained that this is a quasi-judicial hearing, and asked if any of the members had any ex-parte communications with the applicant, builder or owner. There was none. Those that wished to give testimony were sworn in by Town Clerk Stevens.

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Staff report: Building Official Cameron noted that the Planning & Zoning Commission (P&Z) met last month and asked for changes to the application, to which the applicant complied and made changes for re-submittal for this meeting. He read the Zoning Official report that was included in the meeting packages into the record. He mentioned that the item to be corrected was the deck that was too far east and being anchored to the property line which has to be five feet from the setback. The applicant agreed and this can be taken care of during the building permit process. The application meets all zoning codes at this time.

David Frank, the Architect representing the applicant, spoke to the Commission and noted that the patio on the east side is not concrete; it is white gravel. He stated that the wood deck would be eliminated.

Member Carey asked if they planned to put the pool in at a later time, and Mr. Frank confirmed that the pool would be added later.

Town Clerk Stevens swore in the applicant, Lumi Anderson at this time.

Lumi Anderson, the Applicant, 42 Harbour Drive South, stated that her prior Architect did not comply with the Town's zoning codes, so she hired a new architect, Mr. David Frank. Ms. Anderson confirmed that the pool will be built in the future, along with a portable spa.

Member Carey asked if the deck will not be part of the permit, and Building Official Cameron stated that it will not per se but he added it into the calculations and it was taken into consideration in order to see if it meets pervious area, and it does. He stated he treated it as if it was going to be there. He stated that if they comply with that and meet the setback rule by eliminating the deck to the east side, everything will be fine.

Vice Chair Marsh asked for the reason for keeping the garage on the west side, and Mr. Frank stated that it is on pilings, and they are raising the ground floor in order to be compliant with FEMA regulations. Vice Chair Marsh commented that he does not know how the first floor will be supported. He also stated that there was a semi-circle driveway, and Building Official Cameron responded that it was changed as they needed an adequate drain field. Vice Chair Marsh stated that the white gravel should not be put in all the way to the property line, and Ms. Anderson stated that she could take it out. She mentioned that it is there because she would like an outdoor shower. Vice Chair Marsh stated that he would like them to continue the hedge for a buffer for the neighbor. He also mentioned the rear elevation transom lights on the bottom right window, and Mr. Frank stated that he would fix that. Vice Chair Marsh suggested a deep red for the door as opposed to a fire engine red, and Ms. Anderson agreed.

Chairman Goray called for public comment, and there was none.

Chairman Goray closed the quasi-judicial hearing at this time.

**Member Carey moved to recommend that this application proceed to the Building and Zoning officials with the comments made by the Commission; seconded by Alternate Member Hennigan. Motion carried 5-0.**

Town Clerk's Note: Item #4 was taken up at this time due to the change in the agenda items. Item #3 will appear last.

**4. Discussion Regarding Planning & Zoning Authority on Concept Plan Review Applications**

Town Manager Titcomb stated that the P&Z has asked for additional authority on concept plan review applications, and staff recommends a discussion on objective standards to see what we might propose to the Town Commission for recommendation. He noted that Member Carey addressed the Commission at its meeting last week and spoke on behalf of the P&Z.

Member Carey stated that it appeared there were reservations about seeding any subjective authority. He noted that Mayor Coz had a strong opinion that he didn't want subjective authority, and that if it was limited or specific, he would be in favor of considering that. Member Carey stated that is difficult, and if we want specific we can change the code for the Building Official to review to code. He gave the example of what was reviewed today with all of the things being subjective, and stated it will be hard to come up with the narrowly defined objectives.

Town Manager Titcomb stated that recommendations go to the Building Official and those can be ignored by the applicant if everything meets town and building codes, which is the frustration and not necessarily the intent of the town. He stated we want to find the middle ground and the line between objective and subjective and that is the challenge.

Member Carey stated his greatest concern is we had an applicant today that was agreeable but there is nothing to prevent them from going to the Building Official with the exact application and not taking into consideration any of the recommendations as long as it meets code. Building Official Cameron agreed with Member Carey's sentiments.

Chairman Goray asked Mr. Minor, from a professional standpoint, what the appropriate standards would be, even if they are only minimal so we have somewhere to begin.

Marty Minor, contracted Planner with Urban Design Kilday Studios, stated that the P&Z has an incredible amount of expertise, and the way to make this work is to employ that expertise. Going forward, we have to create new standards to help the P&Z make good decisions. He stated there are three options: 1) stay with the current process which has not been working out; 2) Make P&Z a recommendation board and concept plan applications will move onto the Town Commission for final approval; or 3) P&Z would be the approval authority on concept plan review applications with an appeal process to the Town Commission, for certain development approval aspects such as setting the limit on size, etc.

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Chairman Goray asked Mr. Minor if he has suggested criteria that P&Z would have authority on for option #3, and Mr. Minor suggested looking at basic architectural standards and landscaping standards. He stated that some of the items would seem subjective, however, criteria can be given so there is a consistency. We would create a measurable impact to make a judgment from.

Vice Chair Marsh stated that we don't want to regulate styles and colors but our code was never intended to have an architectural element. He stated that we want to maintain the ambience and character of the town and we now want to have an aesthetic review. He asked Mr. Minor if he can create basic criteria that P&Z can use to make a recommendation. Mr. Minor stated that there are basic standards we can include in the code. Vice Chair Marsh stated that we are trying to help the applicants as well as the town.

Chairman Goray stated he is struggling to come up with what the objective criteria would be that we could use, and Vice Chair Marsh stated that's where Mr. Minor's expertise can guide the Commission. Mr. Minor agreed that he would prepare something for the Commission to review. Chairman Goray asked if there are town's similar to Ocean Ridge that we would want to consider, and Mr. Minor stated that we should look at a variety of communities on the island to see what would be appropriate for this town.

Vice Chair Marsh mentioned the appeal process to the town commission which works successfully in other communities, and Chairman Goray noted that we are now lacking that step and we need to consider that in the code amendment.

Alternate Member Hennigan asked Mr. Minor if he finds the town's description of its characteristics in the comp plan lacking, to which Mr. Minor confirmed. Alternate Member Hennigan stated that we need a much better baseline in the comp plan of what is here and where it is located. Mr. Minor stated that would be the foundation of what the town code is built on, and noted that we need to also add a description of what is desired in the town.

Public comment: Martin Wiescholak, 5 Engle Drive, stated that the problem with subjectivity is that it can be challenged, and that is usually what gets people rallied up because town's let one project go through and then say no on another. He commended the applicant that came before the board today for listening to the Board's recommendations and wanting to be a good neighbor. He stated that if we want to regulate colors, we would need to include a color palette in the code that would be acceptable. He would stay away from subjectivity, in order to keep the town from a legal situation. He recommended strengthening the town code, and fixing the issues in a non-subjective basis.

Kristine de Haseth, 29 Sabal Island Drive, stated that she is addressing the Commission as resident, not a Town Commissioner, and noted that she can feel the angst. This is the first time Pandora's Box has been open a little. She stated that the Mayor is only one seat

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on the Commission out of five seats and he only has one vote. She noted that two Commission seats are up for election in March. P&Z should not have hesitancy moving forward with what they want.

Don MaGruder, 9 Ridge Blvd, stated that he attended a meeting in Gulf Stream on Friday where a concept plan review application was taken up before the Commission. The Commission discussed changing the roof color because it was too much like the color next door, and they also had a discussion regarding removal of a ficus tree, and that decision changed the driveway configuration. All of the discussions were to make sure the house fits in with the neighborhood. Mr. MaGruder suggests that we look at the houses that are around the proposed home when taking up an application. He showed a slide show of houses from Key Biscayne to show the differences.

Zoanne Hennigan, 91 Island Drive South, suggested that staff work with the applicants earlier in the process so they can meet the criteria of the board. Building Official Cameron stated that there is plenty of opportunity to talk to staff before an applicant submits their application for concept plan review, and the concept plan review process is meant for that so that money is not spent before changes are made.

Vice Chair Marsh stated he does most of his Architectural work in Palm Beach and Gulf Stream, and Palm Beach is the toughest review board. We don't want to get to that level; we want to create a basic menu for scale and conceptual colors, and flat vs. sloped is a whole other argument. We need something that will help the applicants. Mr. MaGruder reiterated that he wants to see photos of the houses to the right and the left to see the size, shape, and scope of the proposed building. Vice Chair Marsh agreed and noted that the board should look at the mass and scale vs. the current homes.

Vice Chair Marsh asked if this Commission would be comfortable reviewing the concept plans and making a decision. Member Carey stated that he would be comfortable with it. Alternate Member Leming stated that he would like to see the process be creditable and apply standards consistently. He would be comfortable if we develop standards and have consistency. He would not want to be involved in a process of subjectivity. Vice Chair Marsh stated that if we move forward with this process, we need to have a fair way for the applicant to have a fair response.

Alternate Member Hennigan stated that the comp plan is minimalistic, and suggested that the board have an active look at projects that have pushed a boundary. He doesn't think that the town should wait for three houses to push a boundary before codes are amended, and he gave the example of flat roofs and air conditioners on tops of buildings that are higher than chimneys. He suggested that staff or the board submit quarterly items for review and then the board can develop code that gives us things that take us from more subjectivity to more objectivity. Chairman Goray stated that members of the Commission would need to ask for things to be put on the agenda. Alternate Member Hennigan stated that it should be the normal part of the process to make the code more detailed than it is now. Town Manager Titcomb stated that looking at land development regulations line by

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line is an arduous task, and Alternate Member Hennigan's suggestion is a better approach to correct or address those issues.

Chairman Goray stated that it is good to have professionals as opposed to lay people on the board, and mentioned that having Vice Chair Marsh who is an Architect on the board is a good thing. Mr. Minor mentioned that some towns have board member requirements written into their codes such as the requirement to be an architect, engineer, or land development expert. Town Attorney Shutt cautioned the board that Delray Beach had strict guidelines on who could serve and then they made it more lenient because they ran into problems where they couldn't find anyone that met the criteria to serve on the board. He suggested making it a suggestion but not a requirement.

Vice Chair Marsh stated that we can afford a blend of architecture that can sustain the town's image. Chairman Goray asked if contemporary adds character to our neighborhoods, and stated that we are seeing contemporary pop up next to traditional styles. Alternate Member Hennigan stated it depends what is beside the proposed contemporary, and that is the line that we are trying to create.

Public comment: Lumi Anderson, 42 Harbour Drive South, stated that the main reason she moved to Ocean Ridge is because everything is traditional and small with no huge buildings. She stated she agrees with the current regulations and she hopes the regulations remain. This town is small and beautiful, and she would like to keep the Florida architectural style.

Member Carey stated that it is the job of the Town Commission and P&Z to keep Ocean Ridge, Ocean Ridge. We need to make sure the flavor that was just expressed continues. He noted the tension between Ocean Ridge residents and builders and developers who try to maximize the value of what they can get on the lot by maximizing the development. If we leave our land development code loose, we are low hanging fruit and people will build here instead of Palm Beach where the criteria is more strict. It is our job to protect the community, and if that means more standards in our code, that's what we need to do.

Kristine de Haseth, 29 Sabal Island Drive, read the residential community character section of the comp plan to the board. She stated we need to start with the comp plan as it is the foundation, and then add to what that says in the town codes. She stated that it gives the town a basis if litigation comes forward, and she thinks the board is on the right path.

Chairman Goray asked Mr. Minor if they have given him enough guidance to come back to the next meeting with a proposal, and Mr. Minor confirmed. Building Official Cameron stated that he is the enforcement arm of this discussion, and reiterated that his hands are tied and he is bound by the code. He welcomes the board's comments.

Alternate Member Hennigan suggested that the board take a top down approach with the development code and bottom up with the comp plan, and get to a point where we have

made at least a 25% improvement, and we need to drive it from both ends to get some objectivity for the Building Official.

Zoanne Hennigan, 91 Island Drive South, stated that the discussion today has been fabulous. She summarized the discussion and stated that the objective is to protect Ocean Ridge as Ocean Ridge, and the three main objectives are to have a better description of the town, do this earlier in the process, and the key is to place more specifics in the land development regulations, and a process to develop the low hanging fruit first and start knocking out the details.

Chairman Goray added that the very fundamental point is whether or not we want the ability to stop projects from proceeding to building permit, and either make an applicant come back to P&Z with changes, or approve the project.

**There was consensus of the Commission that they would like approval authority with stated criteria. There was also consensus to have Mr. Minor come back to the next meeting with suggestions.**

#### **5. Discussion Regarding Sloped Roofs & Parapets**

Town Manager Titcomb stated that last month the P&Z made the recommendation to study the issue of sloped roofs and parapets, and the Town Commission consensus was for P&Z to study it so we are moving forward.

Vice Chair Marsh stated that we either need to allow flat roofs or require pitched, as the hybrid that we have created is causing people to build higher vertical surfaces to hide the pitched roof, and it is wrong, and it leads to the question of whether we allow flat roofs or not, and how do we discourage them. He stated he has not been an advocate for flat roofs because we are in the tropics and you need a way to shed the water as quickly as possible. He stated he would like to ask Mr. Minor to come back with criteria for a menu of options such as denying flat roofs, or allowing flat roofs under certain criteria such as limiting the height of parapets. He stated that the board is not ready now to make recommendation to allow flat roofs or not.

Alternate Member Hennigan stated that the physical height of exterior perimeter walls needs to be discussed. If we take the pitched roof out, people think they can still go to that limit, and we need to make it clear. Vice Chair Marsh stated that some towns limit the height of the parapet and it brings the scale down tremendously. Alternate Member Hennigan stated that we need to consider defining single story height because the second criteria is the max height we have for the tie beam and ridge height and both of those are assuming a two-story home.

Member Carey stated that his sense was the Town Commission does not like flat roofs. He asked if there is a desire to ban that here and is there a problem from an architectural standpoint. He stated he was surprised by the Town Commission comments.

Chairman Goray stated that on the other hand we need to recognize the legitimacy of the modern home and character it adds to a neighborhood, and noted there is a harmony factor that needs to be considered in the equation. Alternate Member Leming agrees with that last statement.

Martin Wiescholek, 5 Engle Drive, stated that the flat roof really comes in on modern contemporary homes, and is an architectural feature that is essential for that, but it sounds like that style is not desirable in Ocean Ridge. He stated he does not agree with that, but if it is the case, it needs to be regulated. He stated that a 12-1 pitch may solve water problems and stated that modern techniques for water drainage are available. Vice Chair Marsh stated that masking the pitched roof is the issue. Mr. Wiescholek agrees about the height of the parapets being regulated. He stated that property on the water costs millions because of the land. He noted that older homes will be replaced with homes of today's standards, and noted that no one will take a home down and build a single story. He suggested looking at architectural styles that should be considered.

Vice Chair Marsh stated that we need to look at language that can deny flat roofs as the more populous approach, and then look at if flat roofs are allowed, what are the reference points for height and mass.

**It was the consensus of the Commission to have Mr. Minor work on this and come back with suggestions.**

Vice Chair Marsh stated that a resident contacted him directly to go over an application and he was not comfortable with doing that individually and we should discourage that. Town Attorney Shutt stated that it is up to the members whether they want to do that or not, but they would have to disclose what they talked about in the public meeting if they decide to do it. Town Manager Titcomb stated that we encourage applicants to meet with staff prior to submitting an application.

Vice Chair Marsh left the meeting at 9:59 a.m.

### **3. Comp Plan Amendments – Policy Suggestions by P&Z Members**

Mr. Minor stated that he presented the coastal element of the comp plan amendments last month, and the Town Commission consensus was to expand the scope of the comp plan amendments. He asked the members to give him feedback on items that should be addressed in the comp plan.

Chairman Goray stated that the comp plan is complex and he is not sure where his suggestions could be meaningful. Mr. Minor suggested that the board look at the comp plan element by element.

Alternate Member Hennigan stated that he thinks the comp plan needs to be more descriptive regarding the character of the town now, and language referencing where we want to be with the character. He would like to see things stated in a positive way.

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Mr. Minor stated that the board's suggestions will help guide him in developing the amendments.

Chairman Goray asked if we could develop the other two items first and then concentrate on the comp plan. Mr. Minor suggested that the board look at the specific elements in the comp plan while he is preparing the zoning code amendments. He suggested that the board look at the future land use element. Town Manager Titcomb added that we could extract certain elements of the comp plan for the P&Z to review, and suggested they don't get into the minutia of it, but make suggestions on elements that need to be looked at by Mr. Minor.

Alternate Member Hennigan asked if they should give specifics, and Town Manager Titcomb mentioned that we need to look at the big ticket items such as the potable water and sanitary sewer and where the town wants to go in the future, taking into consideration what might be mandated in the future.

Alternate Member Hennigan asked if the FPL infrastructure assessment has been given to us, and Town Manager Titcomb stated that the infrastructure is easier to fix if wires are not underground, and the underground wire option may not be a good one due to sea level rise/ground water levels. Alternate Member Hennigan stated that he's not advocating for underground wires, he just wants to know if an assessment has been done. Town Manager Titcomb stated that the drainage infrastructure is also a future big ticket item that is inter-related. Chairman Goray noted that we need to analyze the future of the utility systems, and Town Manager Titcomb stated that newly elected state officials are noticing that water issues are prevalent so there is already bill drafting in place to look at the issues and mandates.

Don MaGruder, 9 Ridge Blvd, stated that sea level rise issues are coming up quicker than anticipated, and he's working with other towns on the issues. Boynton Beach has a grant that we are part of to look into professionals doing a vulnerability study. We should be able to complete that in 2020. He stated that we should go through the list from last year on matrix discussions on land development reviews. The board is heading in the right direction. We need to start looking at the sewer systems because they will be a problem with sea level rise, and we own our water pipe infrastructure, but are held hostage by Boynton Beach when we need repairs because they control the water source. He stated these are some of the items that the Town Commission really needs the P&Z to study, and he realizes that it will take some time.

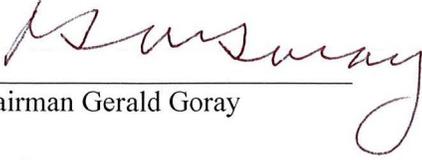
Chairman Goray recognized that the town has been derelict in not looking at those future need items. Mr. MaGruder stated that we need to be looking down the road five or ten years, and Chairman Goray agreed and noted that we should do that as opposed to being reactive.

ADJOURNMENT

Meeting adjourned at 10:17 a.m.

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Minutes prepared by Town Clerk Tracey Stevens, and adopted by the Planning & Zoning Commission on February 11, 2019.



Chairman Gerald Goray

Attest:



Tracey L. Stevens, MMC, Town Clerk

