

PLANNING & ZONING MEETING MINUTES  
APRIL 17, 2017

Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, April 17, 2017 in the Town Hall Meeting Chambers.

I. CALL TO ORDER

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

II. 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 Goray	x		
Member Richard Bajakian		x	
Member Penny Kosinski	x		
Member Mark Marsh	x		
Member Mauro Walker		x	
Alternate David Hutchins		x	
Alternate Kimberlee Marshall	x		

Staff present: Town Attorney Brian Shutt, Town Manager Jamie Titcomb, and Town Clerk Tracey Stevens.

III. APPROVAL OF THE MARCH 6, 2017 MINUTES

**Member Kosinski moved to adopt the March 6, 2017 minutes; seconded by Member Marsh. Motion carried 4-0.**

IV. ORDINANCE REVIEW

1. Ordinance No. 619: Site Plan Review Procedures

Attorney Shutt advised that at the last meeting, staff presented a draft Site Plan Review ordinance which provided that the Planning & Zoning Commission (P&Z) would make recommendations on building plans to the Zoning Official with no ultimate authority. Due to the comments received at the last meeting, staff modified the ordinance as presented at today's meeting. Attorney Shutt noted that staff recently had a question on whether the 50% cost threshold would apply to costs for the exterior façade and interior renovations, or only exterior façade. Member Marsh responded that the P&Z would be concerned with structural elements. The Building Department would review kitchen remodels, bathroom remodels, etc. and the P&Z would not want to use those costs in the 50% threshold to deem it necessary to come through the site plan review process. He stated the P&Z would be concerned with exterior façade and elements that would physically change the exterior. Attorney Shutt asked if we would want staff to break down the cost of the exterior renovations in the building permit costs and if that goes beyond the 50% threshold, it would come to P&Z, and Member Marsh responded that it is a gray area with total value. He stated we can let staff use their judgment to determine

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if the improvements are enough of an impact to the exterior to send it to P&Z. Attorney Shutt noted that we would look at the values on the Property Appraiser's website, however, those values are low compared to the actual value of the structure. Member Marsh responded that it is traditional to allow the applicant to get the market value appraisal if they want to. Attorney Shutt asked what time frame we would like to use for aggregating the 50% cost threshold, and Member Marsh responded that the norm is to take the total cost of work done in a year period to determine the 50% threshold.

Attorney Shutt noted that he made a change to the draft site plan review ordinance under Section 63-53, a new section #3 was added regarding 10 sets of plans to be submitted by the Architect. He asked the Commission if they had any input on what they would like to see. He also noted that there is a separate section regarding Concept Plan Review which is voluntary and gives the applicant an avenue to present a rendering and receive input from the Commission before moving forward with a full review. Member Marsh responded that it's fair if the applicant can get feedback before they invest heavily into architecture and engineering services.

Chair Goray asked if part of the criteria in section 3 would be enhancing the surrounding neighborhood, should the applicant come in with a graphic to determine that, and Member Marsh responded that most towns require submission of a street profile of two streets adjacent. He noted that it is cumbersome, but if they do a site plan aerial on Google Maps showing the adjacent neighborhood, it would be the duty of the Commission to evaluate it. Member Marshall stated that the goal is to help the applicant and not to obligate them to requirements at that stage. Member Marsh stated that other towns regulate colors, and we don't want to do that, but we are concerned with plans that come in that are out of context with the town. He noted that we should look at what the applicant is presenting, not what we would like to see. We should not re-design an applicant's design. We just need to give feedback on what we like and do not like, and should be very objective.

Member Marsh stated that regarding Section 1.d. List of Property Owner's Notification, 300 feet within the subject property, the norm is 250 feet. He noted that variances trigger more of a neighbor's concern. It was the consensus of the Commission to change that to 250 feet.

Attorney Shutt asked about the requirement to submit 10 sets of plans, and Member Marsh stated we need to have a strict format. He stated that electronic and hard copies should be allowed because it is easier for some applicants. The Town would get the electronic set and the official record set, and the Commission would get presentation sets (11x17 reductions). Town Clerk Stevens noted that 10 copies is standard, as we have five board members, the Town Clerk, Town Manager, Town Attorney, Town Engineer, and Building/Zoning Official that need to review the plans.

Attorney Shutt noted that we will need to develop an application, and Member Marsh stated that Gulf Stream has a good example. He stated that it needs to be a checklist format so staff can determine a responsive submission. He noted that Gulf Stream's

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application process covers from the survey to preliminary drainage, including site plan, elevations, etc. He noted that the advantage of electronic submissions is you can put them on the screen for the public at the meetings. Chair Goray asked if Commission members have suggestions on wording, or if we can leave the submission checklist up to staff with the ability to modify it as technology changes, and Attorney Shutt stated that applicants will ask to see a written policy, and Town Clerk Stevens agreed. Attorney Shutt stated that we can note in the ordinance that documents shall be submitted in accordance with the requirements as adopted by the Town Commission, and then the Town Commission can adopt a resolution to change items from time to time.

Member Kosinski asked about Section 63-51 (2) Major Development, submitted to the Administrative Official for approval by the Town Commission after recommendation by the P&Z, and Attorney Shutt stated that multi-family development final approval rests with the Town Commission after recommendation by the P&Z, however for single family and two family structures, P&Z is the final approving authority.

Chair Goray asked if the Commission had any comments regarding the criteria used for relationship of the building to the site, and Member Marsh stated he is ok with the criteria as written, as it needs to be general. He noted that it would be an unfair burden for staff to interpret and have to make those decisions.

Item 4 Concept Plan Review, second paragraph, second sentence, Attorney Shutt asked if the Commission had any input on timeframes for submittal. The Commission consensus was to have a rigid format. Attorney Shutt stated he will discuss with staff on timeframes and put that in a resolution.

There was a discussion regarding the P&Z meeting schedule, and the Commission consensus was to hold the meetings at 8:30 a.m. on the second Monday of each month.

There was a discussion regarding timeframe for adoption, and Attorney Shutt stated he will make the changes as discussed to the ordinance, and also develop a checklist, etc. and asked the Commission if they would like to see it before it goes to the Town Commission.

Member Marsh noted that the checklist should be the minimum requirements, and stated the word “minimum” should be included.

Member Kosinski stated that under “Concept Review” when we pull out the second sentence in the second paragraph, all of the other things should be pulled out as well. Attorney Shutt agreed that the language will work a lot better in a working document rather than an ordinance because we will have changes after the fact as we work through the process.

Member Marsh asked how we are going to determine application fees, and Town Manager Titcomb stated we will need to review our current fee schedule and schedules of surrounding communities to see what the reasonable fees may be.

**Member Marsh moved to approve the draft ordinance with revisions as suggested by the Commission and input from staff and move it forward to the Town Commission; seconded by Member Marshall. Motion carried 4-0.**

Attorney Shutt stated that staff will work on the application, procedure form, and ordinance to submit to the Town Commission.

Member Marsh suggested that we do some public relations on this so residents are aware of the changes. Attorney Shutt asked if the Commission has any recommendations on when to make the ordinance effective once it is approved. He noted that he would be hesitant to make the ordinance effective upon adoption because we would want to give people notice of the changes. Member Kosinski stated there is a perception that things are passed through the Commission in the summer months when people are not here, and she wants to see the ordinance go before the Town Commission in May and be made effective as soon as possible. Member Marshall stated she would be in favor of that, but we may want to be lenient with applicants at first. Member Marsh agreed that we should make it effective sooner rather than later. Attorney Shutt noted that we could recommend that it be effective upon adoption, but it will be up to the Town Commission.

Public comment: Don MaGruder, Town Commissioner, 9 Ridge Blvd, stated he is in favor of everything the Commission has done this morning, and that the proposed ordinance will help us get ahead of things like what is happening on Hudson (the building is not compatible with the neighborhood). He stated he believes this ordinance will be favorable with the public, and that there would be no resistance from the public unless there are a lot of contractors speaking.

Member Marsh stated the Commission still needs to discuss the issue of flat roofs, as there is a hole in our interpretation of pitched roof and flat roof definitions. Mr. MaGruder stated that Architects are creative and find ways to get around our ordinance. Chair Goray stated that the genesis of this whole problem began with the house on Harbour Drive South but the driver of the criticism was a lot of the other architectural details and a lack of landscaping. Member Kosinski asked why we would be against flat roofs besides aesthetics, and Member Marsh noted that it displays a non-residential character. Chair Goray suggested that we put this item on the next agenda for discussion. It was suggested that we have a joint workshop between the P&Z and the Town Commission, and there was consensus of the Commission to do so.

Mr. MaGruder stated we should also talk about the CCCL issues in a workshop, as we have some potential problems regarding height. Member Marsh stated that the state dictates that the finished floor habitable elevation has to be 15.42 beyond the side of the grade beam that you have to be piled, and usually you have two feet of grade beam so it would basically be 17.42. So now you have a grade that is an 8 and you have artificially elevated the structure, and the point of reference is from the finished floor elevation so you now have three stories.

James Bonfiglio, Town Commissioner, 5616 N. Ocean Blvd, stated that his recollection on flat roof discussion is a pitched roof is conducive to drainage off the roof, and you need some sort of pitch, or after a while it will warp in the heat and water will puddle on the roof which breeds mosquitos and bugs. He stated a pitched roof is also aesthetically better looking in the town as well.

Town Manager Titcomb stated that the Building Official recently informed us that the Building Code allows for mezzanines that are not included in the elevation figures, and not counted as the official first floor living area of the building for elevation calculations. This is essentially a loop hole in where the first floor begins. He stated it is allowable under state code. Member Marsh stated it is a commercial criteria that has crept into residential.

2. Ordinance No. 622: Sign Code

Attorney Shutt advised that in June 2015, the U.S. Supreme Court made a ruling regarding sign codes that impacted 99% of municipalities in the country. He noted that temporary signs are free speech signs, political signs, garage sale signs, real estate signs, etc. and the U.S. Supreme Court holds that all of these signs can be regulated but cannot be regulated based on content. We need to regulate these signs on a neutral basis. For example, we could not place regulations in our code that say a real estate sign can be 40 square inches, but a political sign can be 50 square inches. All of the temporary signs have to be regulated the same. He stated that the ordinance staff has submitted to the Planning & Zoning Commission today would comply with the U.S. Supreme Court ruling.

Town Manager Titcomb mentioned that we have not had any litigation regarding signs yet. Attorney Shutt stated we do not need to rush this ordinance, and that the Commission should review it and maybe come up with some wording that may be less impactful to the community.

Member Marsh noted that the Town addressed real estate signs in 1990 because they were too big for the Town, and stated that we should unify the signs to one size. He asked about political signs possibly exceeding the size, and Attorney Shutt reiterated that we cannot regulate based on content, so if we place a regulation size on a real estate sign, we would need to regulate all temporary signs to that size, including political signs.

Attorney Shutt mentioned that the draft ordinance states that no more than two signs can be commercial in nature, and there are spacing limits. He also noted that certain signs in the draft ordinance are exempt such as alarm signs, no trespassing, and regulatory signs, etc.

Alternate Member Marshall stated she would be in favor of limiting size and developing levels of temporary signs, and Attorney Shutt reiterated that the US Supreme Court is saying no, you cannot do that, as you cannot have content based signs.

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Town Manager Titcomb stated this is a legal driven issue based on the US Supreme Court ruling. He noted that if we regulate 4 x 10 as our size, we have to use that for real estate and any other temporary signs.

Attorney Shutt noted that we need a size requirement, but people are entitled to free speech. Member Kosinski stated the definition of temporary sign is critical.

Public Comment: James Bonfiglio asked Member Marsh if he has seen any push back by Realtors, and Member Marsh responded that he has not. Mr. Bonfiglio stated he does not see a need to move forward with this until someone complains. He stated we can take our time and work on the language.

**Alternate Member Marshall moved to defer action on Ordinance No. 622; seconded by Member Kosinski. Motion carried 4-0.**

V. Adjournment

Member Kosinski moved to adjourn at 9:55 a.m.; seconded by Member Marshall. Motion carried 4-0.

Minutes adopted by the Planning & Zoning Commission at its meeting on May 8, 2017.

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Chairman Goray

Attest:

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Tracey L. Stevens, CMC, Town Clerk