

PLANNING & ZONING MEETING MINUTES  
MAY 14, 2018

Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, May 14, 2018 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 David Hutchins	x		
Member Penny Kosinski	x		
Vice Chair Mark Marsh	x		
Alternate Member Ric Carey	x		
Alternate Member James Leming	x		

Staff Present: Town Manager Jamie Titcomb, Town Attorney Brian Shutt, Zoning Official Manny Palacios, Building Official Don McIntosh, Town Engineer Lisa Tropepe, and Town Clerk Tracey Stevens.

PLEDGE OF ALLEGIANCE

Chairman Goray led the Pledge of Allegiance.

APPROVAL OF THE MINUTES

1. Approval of the April 9, 2018 Minutes

**Vice Chair Marsh moved to adopt the April 9, 2018 minutes as submitted; seconded by Member Hutchins. Motion carried 5-0.**

PUBLIC HEARINGS

None

ORDINANCE REVIEW

None

Chairman Goray stated that he wants to listen to staff comments first, then have public comment, followed by Board Member comments to define and prioritize three to four of the most important items, and if deemed necessary, refer those items to staff to come back to the Board with professional input. He noted that this is an ongoing process that began approximately six months ago when we began the concept plan review process, and stated that it is not the reaction of one particular situation; it is an overview of the codes. He stated that we are looking for objective standards, not subjective input.

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### DISCUSSION / ACTION ITEMS

#### 2. Planning & Zoning Commission Meeting Schedule in May & June

Town Manager Titcomb explained that additional meetings are necessary to accomplish the code review in a timely manner. There was consensus of the Commission to schedule a meeting on Friday, May 25<sup>th</sup> at 8:30 a.m. and change the June meeting date from June 11<sup>th</sup> to June 18<sup>th</sup> at 8:30 a.m. The Commission directed Town Clerk Stevens to poll both the P&Z members and the Town Commission for availability for a June joint workshop.

#### 3. Land Development Code Review as Directed by the Town Commission

Town Manager Titcomb explained that the Town Commission directed the Planning & Zoning Commission to expeditiously review the land development code to address proposed homes that would meet zoning but have an excessive number of bedrooms, bathrooms and other features that might fit an extraordinary amount of people in one home, ingress and egress for an extraordinary amount of people in one home, burden on septic tanks, requiring a larger drain field, number of bedrooms vs. number of parking spaces available on the lot, impervious vs. pervious land, in order to make sure proposed homes provide for sufficient health and safety requirements for residents of that home and also the neighbors in respect to health, safety and welfare from potential impacts to adjacent properties in the subdivision, public infrastructure and environmental factors. He stated that staff recommends that the Planning & Zoning Commission discuss and direct town staff to prepare specific land development ordinance modifications to benefit the Town of Ocean Ridge overall that troubleshoot in matters of concern toward overbuilding and incompatibilities in neighborhoods potentially impacted by unconventional metrics or exceptions in town and health codes. He reminded the Commission that we are not here to look at specific properties or specific usages that would put us in a bind with property rights, however, there are several projects that have come in that push the envelope from what the zoning and building codes can absorb in Ocean Ridge.

Chairman Goray summarized that the Board will need to look at three areas: 1) the burden on septic tanks and drain fields; 2) ingress and egress; and 3) parking spaces.

Town Manager Titcomb noted that a complete comprehensive review of the land development code (LDR) is a long exhaustive process, but there is compelling need to do so in Ocean Ridge. He stated that we need to try to resolve these specific issues first and then move forward without taking up all possible scenarios that would impact the economy, builders, and property owners who are all being held up with this process.

Chairman Goray suggested that the priority items be addressed first, and then the complete land development code review at a later time.

Public Comment: Steve Varga, Varga Homes, and resident at 31 Spanish River Drive, stated he has built homes in the town already, and he has some to begin that are already conforming to town codes. He stated that his customers hope this will be a swift process. He brought up some ideas to quickly revise the codes such as looking at garage spaces in reference to square footage and number of bedrooms in the home. He gave the following

example: houses that are 18-2400 a/c under air sq ft would be 3 bedroom with 2 car garage, 24-3500 sq ft would be 4 bedroom with 2 car garage, 42-4900 sq ft would be 6 bedrooms with 2 car garage, and 49-5900 sq ft would be 7 bedrooms and 3 car garage to address parking, and each additional bedroom over that sq ft ratio would need an additional garage space. He stated that since garage space comes out of the square footage ratio, it would limit the amount of bedrooms with only a two-car garage. He stated that adding more garage space would be a faster way to decrease the number of bedrooms. Chairman Goray asked about office spaces or dens and Mr. Varga stated that he did not take that into consideration with the examples he gave, but he has built 4 bedroom homes with a small office space without a closet. He also brought up the idea of addressing stacking of vehicles in the driveway, and suggested that we should only allow 72 hours for cars to be stacked on a lot unless there is a permit in place from the town. He stated that too many vehicles on a lot is an eyesore for residents and causes blocking. Mr. Varga's third thought was in reference to future use of the property and stated that if someone comes into town and builds a home with ten or twelve bedrooms with only a two car garage, it would be difficult to sell the property later. In reference to septic, he stated that there are several sewage treatment options available that the Town Engineer could look into. Chairman Goray summarized Mr. Varga's three points: 1) relate number of bedrooms to the square footage of the house; 2) create ordinance that would eliminate stacking of vehicles; and 3) consider potential future use of properties.

Member Hutchins asked Mr. Varga if he has any thoughts on how we can write a code that addresses potential use of property by a new owner, or restrict the use of rooms inside the new home, and Mr. Varga stated that it is hard to police things that happen inside the home. He gave the example of when he owned apartment houses in the past and the renters tried to place extra people in the units.

Neil Hennigan, 91 Island Drive South, handed out a package of materials to the Commission and encouraged them to look at section 3 for later meetings as this meeting has been scaled down to three particular items. He stated that he would like to address a starting point on where we are going based on where we are. He thinks our community has a certain character, and when reviewing design and appearance we often say that we would like to maintain character in the town. He stated it is a difficult road to go down, and hard to define and extremely hard to defend. He would like us to use a baseline of what we have already created in town. His report listed some quantitative numbers in relation to zones for overview of what we have in town regarding number of bedrooms. He noted that the only houses we have that are over 10 bedrooms are the two houses that are in the RSE district along A1A near Ocean Ave. He noted that we are currently talking about changes in the RSF zone. The number of houses in Ocean Ridge per Citydata.com totals 1,485. In the RSF zone, we have 456 homes, and we have 24 estates in the RSE zone. He noted that his data is based on the data on the Palm Beach County Property Appraiser's website, so if a lot is empty, it is not included in his data. He stated that Ocean Ridge is a community of predominantly two, three and four bedroom homes. He stated that when looking at the RSF zone alone, the breakdown is the following: 4 bedrooms or less represent 89% of the homes, which is a typical home in Ocean Ridge. We have 5 bedroom homes that represent 10% of the homes, and 6 bedrooms or more

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represent 1%. He reviewed the typical standard size home in Ocean Ridge as noted in his report: 5 bedroom home, 5 ½ bath, 4559 sq ft under air, 6271 total square footage, 631 sq ft garage, and we have not been compromising the FAR or second floor 75% rule. He noted that the homes that have six or more bedrooms are built on larger lot sizes so there is enough room for parking and septic. He stated that even in the RSE district, we only have three estate homes that exceed 5 bedrooms.

Mr. Hennigan stated that he also did some research on the use of sprinklers which is one of the safety items, and he noted that our Building Official Don McIntosh identified some areas in the Florida Building Code and acts of the Legislature that addresses that which Mr. Hennigan did, and he thinks that we will be precluded as a town on venturing into sprinklers because the legislature has made it onerous for a municipality to go down that road with expensive public hearings and cost benefit analysis, justification, and ongoing processes.

Chairman Goray asked Mr. Hennigan for a summary of his points, and Mr. Hennigan responded that we are a community of 4 bedroom homes in majority, and a large home in our community is a home with 5 bedrooms, with atypical larger homes which are more than 5 bedrooms, and we don't have anything that is more than 8 bedrooms, which constitutes only one home in Ocean Ridge. Chairman Goray Jerry stated that we should maintain bedroom size relative to square footage and to continue the character of the town in that respect. Mr. Hennigan stated that the data supports us making determinations based on footage and bedrooms.

Chairman Goray stated that he would now like to address the items that the Town Commission would like us to address which is the mission of this meeting which is septic tanks, drainage fields, onsite parking and so forth so that we can ask staff to address follow up items for us.

Mr. Hennigan referenced the parking metrics section in his report, and noted that the dimensions are by square footage and asked the Board to recognize that there is an area in the south end of town that one car garage spaces are not atypical, which may be a consideration for someone who wants a small house with a one car garage, so we may want to grandfather certain lots. He stated that the conclusion we may draw from the PAPA data, is that we may consider whether we would want to adapt this to lot size. These criteria will fit on any of our lots that are in the 11-12,000 sq ft or bigger lot. If you're talking about a 10,000 ft lot, it may squeeze the size of the house. He stated that there is nothing in the current code for parking metrics for garages. He explained off street parking next. He stated that putting something like this in our code is commensurate with the fact that we already put parking diagrams and parking flows in the multi-family section of our code so this would carry over the same concept into RSF. Chairman Goray asked if there is a relationship between the number of practical off street parking spaces to the number of bedrooms or the size of a home, and Mr. Hennigan stated that the report looks at both and compares them. There are times when number of bedrooms would be the driver, and times when square footage would be the driver. Chairman Goray stated that we need to look at that relationship today and noted that the

size of garages is for further consideration. Mr. Hennigan noted that the Village of Wellington has an example in their code. **Chairman Goray suggested that staff look at what other communities have done and bring it back to the Board for consideration.**

Mr. Hennigan introduced a statement of support for the need to justify the need for septic improvements. He would like the Board to consider that and he thinks that if we are ever evaluated we can say that we are not a minimum standard community, but a sensitive community and we have addressed the changes that are occurring environmentally and from larger homes which would put us in good stead if that need should arise. Chairman Goray asked if it is possible for governing bodies to add to or change the state health department requirements mandating septic standards. Kristine de Haseth, 29 Sabal Island Drive, stated that she thinks we can be more stringent, not less, and Mr. Hennigan agreed. He noted that the septic metrics he prepared are intended to be a starting point, as we need to have something to work from. The four real items that make up how the septic process works is evaluated, and then mandated is gallons per day. He stated that we have a conflict in our comp plan in reference to gallons per day. We have 115 gallons in the comp plan, and then 125 or 150 somewhere else. The State, in the last 10 years as we now have more efficient toilets, sinks and showers, keeps lowering the requirement for septic, and we are now down to 50-60 gallons per day per occupant or bedroom. He stated that his report looks at our gallons per day usage and what is mandated by the 4015 process which is the state requirement that is processed through Palm Beach County. They do not have extra requirements based on location. They calculate gallons per day based on square footage or number of bedrooms and sometimes based on occupants. Mr. Hennigan wants Ocean Ridge to start with the worst calculation, and if we have more people in sleeping rooms, we will calculate more than what the state will require. Also, we need to take into consideration that the state code does not take into consideration if there is more than one kitchen, laundry unit, etc. if the property is residential; it only considers those things for commercial properties such as hotels, etc. We need to look at what is submitted and make adjustments for a house that goes above and beyond on kitchen and laundry facilities. He stated that we should look at state septic requirements and determine if it is sufficient for us. He stated that he met with our Town Engineer and discussed where drain fields are located on the property, and right now in our code, drain fields can go up to the lot line so that may be an area that we need to address. He stated his report has recommendations for setbacks, and the setbacks give a clear area for when you want to address property drainage. If you are going to have a swale or have areas along the property that have gravel, you can't have septic in the same area. In looking at meeting these things, the answer has been to go to high tech systems, such as a HOOT system which come in different sizes. Trying to keep in lower cost HOOT size that will meet the system. On a 35-3700 square foot house trying to get a 7% improvement, we would try to keep within the bottom 2 sizes of a 4-500 or even a 600 gallon size HOOT system. The HOOT systems are packaged 3 stage plastic systems in the ground that have pumps, fans, computers, etc.that will enable large houses on our lot sizes. Chairman Goray asked if the HOOT system reduces the size of the drain field, and Mr. Hennigan responded that it changes the size and nature of the drain field. He stated there is a special type of pipe that replaces the PVC system. He stated that going to the higher tech system reduces the area that the drain field occupies. If we are going to be able to deal

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with rising sea water and covering more of the lot in certain areas, we risk saturating a very small amount of land, and he wants to see us take away some of the reduction that the County is using for these new systems. He stated that the new systems are not maintenance free. He stated that they have alarms, and require to be pumped. He stated we already allow these in town with no maintenance requirements.

Mr. Hennigan stated that the ingress/egress issue is another area that will take time to study, and will not be a short term fix. He stated that we have recently hired a new Building Official who has a fire certificate and he should be tasked with looking at that. Chairman Goray thanked Mr. Hennigan for his comprehensive report.

Steve Varga, 31 Spanish River Drive, noted that even though the Town Code does not address it, the State Health Department requires five foot setbacks for septic systems. He also stated that the HOOT systems have to be registered with the State, and require a yearly contract, in which they are being constantly checked in a comprehensive manner. Mr. Hennigan stated that no one in town is monitoring that. Mr. Varga stated that he would open up some of the houses he has built in town if the Board members would like to go in and look at the square footage.

Vice Chair Marsh commended Mr. Hennigan on his report. He stated that he recommends a joint workshop with the Town Commission, as he feels that the town is venturing into a dangerous area, due to the reaction from the community based on a nine bedroom house that was presented to the Board a few months ago. The Commission has charged us with looking at points such as public health issues and life safety issues. He stated the biggest concern is that we do come under the Federal Fair Housing Act, and suggested that we look at that. He also stated that he has yet to find any town that mandates a maximum number of bedrooms. He suggests a review of the land development code as we are entitled to upgrade and bring some of the points raised to that because it starts to affect the zoning criteria. He stated that Pompano is an example of a town who recently dealt with what appeared to be a sober house or recovery facility and they were challenged and it all comes back to the Fair Housing Act. He stated that drug or alcohol problems are protected under ADA criteria which is a civil right, not a zoning issue. He stated there was a case in Lake Park that had a similar concern, and they were challenged by an Attorney and they lost. He stated before we venture into this we need to take a look at that. He stated that the positive thing is that Mr. Hennigan's report shows that we are in good shape now, but we are at a crossroads to protect the future. He stated that the Town Commission should be part of this as it is a large subject, and we want to be cautious that where we are venturing is a wide open challengeable situation. He stated that right now, we have our own criteria that defines that no more than three unrelated people can live in a dwelling. He suggests that we create an amendment to that portion of code that creates a maximum. He stated that a lot of our code addresses minimums not maximums, and he wants to see a five bedroom limit for the RSF district, and if you want more than five bedrooms, you have to purchase a lot in the multi-family zones. He stated we would have to put in a special exception process for larger lots in the RSF district, and if they can justify sustainance through listed criteria, they should have the opportunity to go through the special exception process. He stated

that Mr. Hennigan's data is good for historical reference, but he is not sure how much can be incorporated into our code. Mr. Hennigan followed up that he was not inferring that we have a cap in number of bedrooms. His approach is to describe what is currently here, and then we can look at that and look at what is typical and then carry that on. He stated we shouldn't tell you how many bedrooms to have, but each time you add a bedroom, you have new criteria and imposes new restrictions. Vice Chair Marsh stated that this whole discussion is to address an abnormal number of bedrooms in the RSF district. Mr. Hennigan stated that if the lot will accommodate it with the restrictions, its ok, but now we don't have any quantitative metrics that tell you how you're going to scale it. He stated that most of the things he's talking about is how to scale things through a spectrum. His report tells us where we are on that spectrum historically, and the further you go from the norm, the restrictions become more stringent, but never to the point where you say how many bedrooms can be built. He does not think restricting number of bedrooms is defensible. He does not agree that we can't drive someone to something closer to the norm by saying that every time you go bigger, there is more impact on the builder. Mr. Hennigan stated that if the owner comes in with a 6-8 bedroom home and they meet all the criteria, there would be nothing that would preclude that from happening.

Kristine de haseth, 29 Sabal Island Drive, stated that changing a zone for one particular house within another zone would be considered spot zoning. Our multi-family zoning allows up to ten units per acre, so now you may have taken someone who wants an eight bedroom house and given them the opportunity for a twelve bedroom house because it's a big lot, so she cautions us not to do that.

Attorney Shutt stated we can take some action on drain field setback requirements and some of the other points even though the Palm Beach County Health Department grants a permit for that which is based on state statute and Florida Administrative Code. He stated there are sections in state statute that say we can enact other regulations, but cannot enact regulations in conflict with what currently exists. He stated there is a fine line we would walk to address that if the Board directs staff to look at that in order to come up with regulations on that matter. He stated he would not recommend re-zoning of any kind. He stated we can look at the parameters or requirements that might apply to higher zoning districts and apply them to the RSF zoning district, but we have it in the code that if there is a certain tipping point that those requirements are set forth. He stated that he has seen many cases where the Fair Housing Act is involved, and as far as what brought up this discussion and the intention of the Commission, he does not see that being an issue. The testimony that has been brought forward on this alone is that if there is a large number of people whether related or unrelated, the use in a single family neighborhood that could basically alter the fundamental zoning scheme of the single family neighborhood, and that is the direction that the Town Commission and Planning & Zoning Commission ultimately has given to staff to address.

Chairman Goray asked if it would be appropriate to direct staff to draft a proposed ordinance that addresses non-traditional housing of a transient nature, and how do we codify requirements that would eliminate the ability of someone to build transient

housing that is non-traditional with the rest of the community. Town Attorney Shutt responded that the transient housing aspect is not coming into play here. It is the size and the use of the property, and the large number of people that may be residing legitimately on the property that is the real issue as heard in the testimony today. If you have a family of 20-30 people, and then you have more homes on the same street with the same issue, that may create some issues with drain fields, parking, and different aspects of the infrastructure in the neighborhood. The Commission has not asked us to address the use of the property in the RSF district, but the large number of people that might be there and their impacts on the street and the neighbors.

Chairman Goray summarized the items that have been discussed, beginning with off street parking in relation to size of the house, and noted that it was mentioned that the Village of Wellington has standards that we will ask staff to review and bring back to the P&Z to review and make a recommendation to the Town Commission. Town Attorney Shutt stated that we have some direction on items we can bring back for changes to our code, based on things that have been discussed regarding off site parking and drain fields, but he doesn't think we can address ingress and egress as that is more of a building code issue.

Member Hutchins mentioned holding the meetings during the evening hours so that more of the public may attend the meetings.

Town Engineer Tropepe stated that we can look at the setback requirements for the septic and drain fields in town and how not to adversely impact the neighbors with respect to drainage. She stated the second item we will look at is flows, and the information provided by Mr. Hennigan is great. We have to follow state codes, but one size fits all in the state codes. State codes look at square footage and number of bedrooms, and after 4 bedrooms, it only adds on a small flow. Because this town is 89% 4 bedroom homes, we should look at increasing flow after 4 bedrooms. The third thing to look at is the 25% calculation for pervious area. She stated that a lot of applicants use the drain field in that calculation and she thinks staff needs to look at that more closely. She stated that we may not want to add the drain fields in the 25% green space calculation. **The consensus of the Board is to have staff look at the three items as listed by Town Engineer Tropepe, as well as the off street parking item in relation to occupancy and number of bedrooms.**

Don McIntosh, Building Official, stated that he does plan review for the town, and when an applicant brings a concept plan in that has a large number of bedrooms and a larger size kitchen than normal, alarms are set off for him. He stated that Florida Building Code requires one exit for ingress and egress, but normally houses are not built with only a front door. When he does plan review he filters a lot of things such as plumbing, and he asks questions regarding the size of the water service and how many fixtures it is feeding. He also asks for the number of drainage fixture units and he matches that up with the Health Department standards and approvals. To say there is no process in place now to try and filter some of these things is not an accurate statement. There are ways we can tweak the system, but he works with the owners and contractors, and we don't have many



people that want to build over 5 bedroom homes but for most part we deal with everything per the Florida Building Code. He reminded the Board that the Florida Building Code is only the minimum. We have to enforce that, along with the ordinances of the town, and ordinances of Palm Beach County, the Fair Housing Act, state statutes, and the Florida Administrative Code. He stated that a lot of things come into play when someone wants to build a structure. He works as a filter before things come before the Board.

Chairman Goray suggested that the Building Official make suggestions to the Board when a plan comes in with more than 5 bedrooms, with refinements or admissions to the state building code that might be appropriate to make sure it does not place a big burden on the town. Building Official McIntosh stated he looks at the number of drainage fixtures in each house, and the number would be 45-50 normally for a 4-5 bedroom home. The proposed structure that was brought before the committee had a minimum number of 103 drainage fixtures. His educated opinion is that the Health Department would not just arbitrarily approve that. They could come up with other systems to abate the problem, but to say that usage for a structure like that would be extremely hard for the Health Department to approve it. Chairman Goray asked if Building Official McIntosh would feel comfortable looking at our code and coming up with ideas for us to consider that might make larger multiple occupant houses a better fit for the community, and Mr. McIntosh stated that he will work with the Board as far as he can. Chairman Goray asked staff to have a discussion with the Building Official.

Vice Chair Marsh left the meeting at 9:48 a.m.

**Chairman Goray summarized that staff will be looking at the three septic and drainage related items, the off-street parking issue, and any ideas the Building Official has for making the Board understand what can legally be done, and therefore make legally proper recommendations to the Town Commission.**

Member Kosinski asked if we are allowed to make additional requirements within our code that would be more restrictive than state codes, Health Department rules, and various agencies that have approval routes. Town Attorney Shutt stated that he thinks we can legislate in that area. He stated that when speaking about more restrictive rules, we need to be careful about where it would be a conflict with existing codes of any of those agencies.

Kristine de Haseth, 29 Sabal Island Drive, stated that she is in favor of going into the metrics because they are quantifiable and objective. She is in favor of looking at the codes of other towns, and suggested that we look at Gulf Stream's code as far as parking. We have to remember that when we are looking at more stringent items, we are on a barrier island and we have every reason to do that. Some things that are in state statute do not take that into consideration. She stated she does not know how you would come up with metrics to quantify, but don't forget about character and compatibility. She stated we will get into this later with the Concept Plan Review process, and reminded the Board not to forget about the character and percentage. She stated she knows we can't

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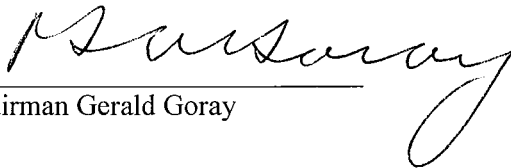
restrict the number of bedrooms, but make sure the property can accept the number of bedrooms and parking spaces, taking into consideration the compatibility and character of the neighborhood. She stated we may come up with a list of objective things, but the one subjective thing may be the one thing that could bring the ball home if we are litigated against. She stated it could be that one rare beetle that could save the entire acreage.

**Chairman Goray wrapped up the key items for direction to staff: 1) Septic; 2) drain fields; 3) onsite parking spaces and number of bedrooms and occupants relative to parking; 4) ingress and egress in reference to health safety standpoint and plumbing fixtures, etc. There was consensus of the Board to have staff develop ordinance amendment drafts regarding the above mentioned items to bring back to the next meeting on May 25<sup>th</sup>.**

ADJOURNMENT

**Member Kosinski moved to adjourn at 10:05 a.m.; seconded by Alternate Member Carey. Motion carried 5-0.**

Minutes adopted by the Planning & Zoning Commission at its meeting on May 25, 2018.

  
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Chairman Gerald Goray

Attest:

  
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Tracey L. Stevens, CMC, Town Clerk