



City of Mexico Beach
Planning & Zoning Board Regular Meeting
Tuesday, March 6, 2018
Regular Meeting 6:00 P.M.
Civic Center – 105 N. 31st Street

Post 1 Alex Hogan	Alternate Post 1	Vacant
Post 2 Jim Bush	Alternate Post 2	Vacant
Post 3 Jack Kerigan		
Post 4 Bill Driver		
Post 5 David Masters		

ROLL CALL

MINUTES

1. February 27, 2018.

MISCELLANEOUS

1. Accessory Apartment. Discussion and possible recommendation to the City Council.
2. Other Various and Sundry Items.

ADJOURN

*Anyone deciding to appeal a decision by the Board on any matter considered at this or any subsequent meeting will need a record of the proceedings, and for purposes of that appeal, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**You are hereby notified that in accordance with Florida Statutes, you have the right to appeal any decision made by the Board with respect to any matter considered at the above referenced meeting. You may need to ensure that a verbatim record of the proceedings is made which may need to include evidence and testimony upon which the appeal is based. Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Adrian Welle, City Clerk, at 114 N 22nd Street, Mexico Beach, Florida 32410; or by phone at (850) 648-5700 at least five calendar days prior to the meeting. If you are hearing or speech impaired, and you possess TDD equipment, you may contact the City Clerk using the Florida Dual Party Relay System, which can be reached at 1-800-955-8770 (TDD).

Planning and Zoning
Tuesday, February 27, 2018 6:00 pm.
Civic Center 105 N. 31st Street

Post 1 Alex Hogan
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Post 5 David Masters

Post 2 Jim Bush
Post 3 Jack Kerigan

The meeting was called to order at 6:00pm

Motion by Mr. Driver and seconded by Mr. Kerigan to approve the minutes from January 30, 2018. Motion carried unanimously.

Discussion and review of the utility element (Element 4) of the comprehensive plan. Board members went through the document and discussed items of questions. The only change that was made was to analyze the need to replace the above ground water storage tank every 3 years.

The next item discussed was the coastal management element. Discussion ensued on the clarification of language throughout the element. A series of questions and clarifications were made and changes will be brought forward at the next Comprehensive plan meeting

The next comprehensive plan meeting will be on April 24, 2018 at 1:00 pm.

Motion by Mr. Kerigan and seconded by Mr. Masters to adjourn.

Meeting adjourned at 6:58 pm.

By: _____
Chair Jim Bush

Attest: _____
Adrian Welle, City Clerk

HAND ARENDALL HARRISON SALE LLC

304 MAGNOLIA AVENUE ■ PANAMA CITY, FLORIDA 32401
(850) 769-3434 ■ Facsimile: (850) 769-6121

TO: Planning and Zoning Board
City Administrator

FROM: Nicholas Beninate, City Attorney

DATE: March 2, 2018

RE: Ordinance for detached bedroom structures

You have been provided a draft ordinance to allow a single-family dwelling to include an additional detached structure(s) when the detached structure(s) is occupied by a relative of a resident of the primary dwelling unit structure. Under this ordinance, if the additional detached structure itself qualifies as a Dwelling Unit, the situation would be considered multiple single-family dwellings and would only be allowed if multiple Dwelling Units are otherwise allowed on the parcel. In general, this ordinance normally will mean that a house can have an additional bedroom located in a detached structure on the same property if it is occupied by a relative.

The general approach of the ordinance is to make this type of situation included under the definition of single-family dwelling. This relatively simple change avoids the need to rework sections addressing topics such as accessory structures, accessory apartments, and various rules and standards for single-family dwellings. Also, it is consistent with the general notion of “single-family,” which originally focused on the concept of one family rather than one building.

Your analysis should be twofold. First, you should determine whether this is a good policy change for the City. Second, you should consider whether the difficulty and complications of enforcement of this new rule would outweigh its benefits. Issues such as the following are likely:

- As applications are made for this new type of use, staff will be relying on the word of the applicant about how the structure will be used and by whom. The City may require a sworn certification, but that is no guarantee of honesty and continued compliance.
- It will be very hard to know if the detached structure is being occupied only by relatives. Not only would it be time consuming for Code Enforcement staff to monitor this, their ability to monitor it would be limited. Entering into someone’s backyard to inspect a detached structure often could be considered a warrantless search. Furthermore, making determinations about whether two people are actually relatives could be time consuming and controversial.
- What to do about violations? The City would be in a difficult predicament of previously deciding that the detached structure itself is not a code violation when used properly. Therefore, the City generally could not pursue demolition of the detached structure due to violations. Instead, fines and injunctive relief (*i.e.* a court order against certain uses) would

generally be the only remedies available. Also, if a citizen no longer has a permissible used for the detached structure, it may fall into disrepair as it sits unused.

- The ordinance is not drafted to allow relatives of only the homeowner. Instead it allows relatives of any resident of the main house. Given that many homes are occupied by renters or by multiple people who are not relatives, it does not work well to only allow relatives of the homeowner. If the City chose to only allow relatives of the homeowner, this could invite equal protection litigation and would deserve additional research before proceeding.
- Compliance with the new rule will likely decrease after property sales. New owners may not have the same need for the detached structure or may not understand the rules. Regardless, a permitted detached bedroom-type structure will exist in their backyard that they will want to use even if they do not have a relative to occupy it.
- The theory behind the proposed rule is that these additional detached portions of a house are acceptable if a relative is occupying them. You need to understand that, at times, nobody will be occupying the detached structures. It would be unrealistic to expect zero usage until another relative moves in. Therefore, you should expect these detached spaces to be used sometimes as additional living rooms, clubhouses, storage spaces, or countless other uses. At times this will be the consequence of a relative moving away or dying, but other times it will be an abuse of the rule by design. You need to be willing to accept that there will be far more detached residential structures in the City and they will not always be in use as bedrooms for relatives.

Finally, this ordinance has two blanks in it that require your input. First, do you want to limit how many of these detached structures are allowed per home? Second, do you want to limit the square footage of these detached structures. If no limitations are established, the Land Development Regulations (“LDR”) would still provide limits based on the allowable intensities within each zoning category as provided in the LDR, such as lot coverage.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF MEXICO BEACH, FLORIDA AMENDING THE CITY'S LAND DEVELOPMENT REGULATIONS; AMENDING DEFINITION OF SINGLE-FAMILY DWELLING TO INCLUDE DETACHED STRUCTURES IF OCCUPIED BY RELATIVES; ADDING A DEFINITION FOR RELATIVE; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; REPEALING RULES THAT CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN IMMEDIATELY EFFECTIVE DATE.

WHEREAS, as provided in section 2(b), Article VIII of the Constitution of the State of Florida, and section 166.021(1), Florida Statutes, the City of Mexico Beach, Florida, (the "City") enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, Chapters 163 and 166 of the Florida Statutes provide for the City to regulate zoning and development through land development regulations; and

WHEREAS, the City's Land Development Regulations rely on the concept of single-family dwellings and single-family residential pervasively as a basis for various rules and standards; and

WHEREAS, for Residential Low Density, Tourist Residential, and Residential General zones, the Land Development Regulations do not allow the use of an accessory structure as an additional bedroom or allow a person to otherwise reside or sleep in an accessory structure; and

WHEREAS, the City Council finds that the basis for the rules and standards for single-family dwellings and residential as well as occasional preferential treatment of single-family dwellings do not rely materially on there being only one residential structure per parcel; and

WHEREAS, allowing additional detached structures to be used as bedrooms or other sleeping quarters by relatives of the residents of the primary dwelling unit structure may help alleviate affordable housing shortages and may assist with providing housing alternatives for older citizens as encouraged by Florida law (*see, e.g.*, § 4(f), Art. VII of the State Constitution; § 193.703, Fla. Stat.); and

WHEREAS, the City Council has determined that allowing additional detached structures to be used as bedrooms or other sleeping quarters by relatives of the residents of the primary dwelling unit structure is in the best interest of the citizens of the City; and

WHEREAS, the use of an additional structure as allowed by this ordinance requires that there is legal dwelling unit primary structure on the parcel; and

WHEREAS, any structure meeting the definition of a dwelling unit shall not qualify for use under this ordinance and, instead, shall only be permissible if the Land Development Regulations otherwise allow multiple dwelling units on the particular parcel; and

WHEREAS, this ordinance is not inconsistent with the City of Mexico Beach Comprehensive Plan

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MEXICO BEACH:

SECTION 1. From and after the effective date of this ordinance, Section 2.00.01 of the Land Development Regulations of the City of Mexico Beach providing definition is renumbered as Section 2.00.02 and amended as follows (new text **bold and underlined**, deleted text ~~struckthrough~~):

Single-Family Dwelling

A structure containing one dwelling unit and not attached to any other dwelling unit by any means. **If occupied only by one or more relative of a permanent resident of the primary dwelling unit structure, a Single-Family Dwelling may include an [do you wish to allow multiple? how many?] additional detached structure [of no more than square feet or do you not care about the size], so long as the detached structure complies with the Florida Building Code and does not meet the definition of a Dwelling Unit.** A single-family unit may contain an accessory apartment pursuant to this Code.

Relative

Means a spouse, child, grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption.

SECTION 2. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the Mexico Beach Land Development Regulations. Section numbers may be assigned and changed whenever

necessary or convenient.

SECTION 3. All Codes, Ordinances and/or Resolutions or parts of Codes, Ordinances and/or Resolutions in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 4. If any section, subsection, sentence, clause, phrase of this Ordinance, or any particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining sections, subsections, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 5. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Council of the City of Mexico Beach, Florida, this ____day of _____, 2018.

William A. Cathey, Mayor

ATTEST:

Adrian Welle, City Clerk