



AGENDA

JOINT CITY COMMISSION MEETING, COMPREHENSIVE PLANNING & ZONING BOARD, AND SUSTAINABILITY & ENVIRONMENTAL PLANNING ADVISORY COMMITTEE WORKSHOP

MONDAY, MAY 18, 2021 AT 6:00 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A South, St. Augustine Beach, FL 32080

NOTICE TO THE PUBLIC

THE CITY COMMISSION HAS ADOPTED THE FOLLOWING PROCEDURE: PERSONS WISHING TO SPEAK ABOUT TOPICS THAT ARE ON THE AGENDA MUST FILL OUT A SPEAKER CARD IN ADVANCE AND GIVE IT TO THE RECORDING SECRETARY. THE CARDS ARE AVAILABLE AT THE BACK OF THE MEETING ROOM. THIS PROCEDURE DOES NOT APPLY TO PERSONS WHO WANT TO SPEAK TO THE COMMISSION UNDER "PUBLIC COMMENTS."

RULES OF CIVILITY FOR PUBLIC PARTICIPATION

1. The goal of Commission meetings is to accomplish the public's business in an environment that encourages a fair discussion and exchange of ideas without fear of personal attacks.
2. Anger, rudeness, ridicule, impatience, and lack of respect for others is unacceptable behavior. Demonstrations to support or oppose a speaker or idea, such as clapping, cheering, booing, hissing, or the use of intimidating body language are not permitted.
3. When persons refuse to abide by reasonable rules of civility and decorum or ignore repeated requests by the Mayor to finish their remarks within the time limit adopted by the City Commission, and/or who make threats of physical violence shall be removed from the meeting room by law enforcement officers, either at the Mayor's request or by an affirmative vote of a majority of the sitting Commissioners.

"Politeness costs so little." – ABRAHAM LINCOLN

- I. **CALL TO ORDER BY MAYOR ENGLAND**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ROLL CALL**
- IV. **DISCUSSION OF:**
 - a. Ordinance 21-04, to Amend the Land Development Regulations to Change Setbacks for Small Platted Lots and to Abolish the Overlay District (Presenter: Brian Law: Building Official)
 - b. Proposal to Provide More Authority to the Planning Board for Approval of Conditional Use Permits and Possible Other Land Use Matters (Presenter: Brian Law, Building Official)
 - c. Communication/Relations Between the City Commission and the Two Boards (Presenter: Max Royle, City Manager)
 - d. Other Topics of Mutual Concern/Interest (Presenter: Max Royle, City Manager)
- V. **ADJOURNMENT**

NOTICES TO THE PUBLIC

1. **City Commission.** It will hold its continuation meeting on Monday, May 24, 2021, at 1:00 p.m. in the Commission meeting room at city hall.
2. **ART IN THE PARK:** The City, the Cultural Council, and the Art Studio will present Art in the Park on Saturday, May 22, 2021, from 11:00 a.m. to 5:00 p.m. The location is the City's Lakeside Park to the east of the police station. Local artists will present their works for sale and a local musician or musicians will provide entertainment. The public is encouraged to walk or bicycle to the event.
3. **HOLIDAY, MEMORIAL DAY.** It will be observed on Monday, May 31, 2021. CITY OFFICES CLOSED. There will be no pickup of household waste on that day. Residents who usually have pickup service on Monday will have service on Tuesday. There will be no change to the recycling and special waste pickup schedule that week.

NOTE:


The agenda material containing background information for this meeting is available on a CD in pdf format upon request at the City Manager's office for a \$5 fee. Adobe Acrobat Reader will be needed to open the file.

NOTICES: In accordance with Florida Statute 286.0105: "If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this scheduled meeting or hearing, the person will need a record of the proceedings, and for such purpose the person 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.

In accordance with the Americans with Disabilities act, persons needing a special accommodation to participate in this proceeding should contact the City Manager's Office not later than seven days prior to the proceeding at the address provided, or telephone 904-471-2122, or email sabadmin@cityofsab.org.

MEMORANDUM

TO: City Commission
Comprehensive Planning & Zoning Board
Sustainability and Environmental Planning Advisory Committee

FROM: Max Royle, City Manager 

DATE: May 7, 2021

SUBJECT: May 18, 2021, Workshop Meeting, Discussion of:

- a. Ordinance 21-04, to Amend the Land Development Regulations to Change Setbacks for Small Platted Lots and to Abolish the Overlay District
- b. Proposal to Provide More Authority to the Planning Board for Approval of Conditional Use Permits and Possible Other Land Use Matters
- c. Communication/Relations between the City Commission and the Two Boards
- d. Other Topics of Mutual Concern

ITEM A. ORDINANCE 21-04

Attached for your review is the following information, which we hope will provide the context for Ordinance 21-04.

- Page 1, a brief overview by the Building Official of the history behind the Ordinance
- Pages 2-7, the minutes of that part of the Planning Board's April 20, 2021, meeting when the Board discussed Ordinance 21-04 and by a unanimous vote recommended denial of the Ordinance with a strong recommendation that a workshop be held with the Board, the City Commission and SEPAC to further discuss the amendments proposed in the Ordinance.
- Pages 8-12 the minutes of that part of the City Commission's May 3rd meeting, when the Commission discussed Ordinance 21-04, approved a number of changes to the Ordinance and passed the Ordinance on second reading.
- Pages 13-24, Ordinance 21-04 with the changes that the Commission approved at its May 3rd meeting.

Action Requested

It is that you discuss Ordinance 21-04 as revised and whether further changes should be made to it. The Ordinance has been scheduled for its second public hearing and final reading at the Commission's June 7th meeting.

ITEM B. MORE AUTHORITY TO PLANNING BOARD

The Building Official and the City Manager recently discussed ways to shorten the agendas for Commission meetings and as well as lessen the regulatory burden on property owners. One possibility is to give the Planning Board the authority to approve all conditional use permits. At this time, the Board has the

authority to approve permits for home occupations. Over many years, this has worked out well with no complaints about what the Board has approved. The same result could happen for other types of permits.

The conditional use permits that usually come to the City Commission for approval concern:

1. Building a residence in a commercial land use district.
2. Outside serving of food and beverages, or outside storage of items for rent, such as scooters.
3. Drive-thru windows for food establishments and banks.

As all such requests must first be reviewed by the Planning Board, which then makes a recommendation to the Commission whether to approve them, it would make the process more efficient if such requests were both reviewed and approved by the Board. Any denials by the Board could be appealed to the City Commission. This change would also reduce the number of topics the Commission must consider at its meetings.

There may be other decisions concerning land use proposals that the Commission could delegate to the Planning Board.

Action Requested

It is that you discuss whether to delegate authority to the Planning Board to approve or deny conditional use permits and whether there are other decisions you could delegate to the Board.

ITEM C. COMMUNICATION/RELATIONS BETWEEN THE COMMISSION, PLANNING BOARD AND - SEPAC

This topic is suggested in the event any members of the Commission and the two boards have concerns about communications and relations, or any questions about the roles and responsibilities of the Planning Board and SEPAC.

ITEM D. OTHER TOPICS

There may be other topics that members of the Commission and the two boards think should be discussed.



City of St. Augustine Beach Building and Zoning Department

TO: Max Royle

FROM: Brian Law

SUBJECT: Small Platted Lots setbacks

DATE: 2-8-2021, 3-4-2021, 4-12-2021

During the City Commission meeting on the 1st of February 2021 a conversation ensued regarding the small platted lots in relation to the current setbacks. The mayor asked that this topic be brought back to them at the March Commission meeting. Included with this memo are 2 different drafts regarding proposed setback changes. The proposal "draft 1" is a simple reduction in current setbacks for small platted lots and the reduction of all single family residence setbacks to 20 feet. The proposal "draft 2" limits the total height of the structure to 27 feet for the reduced setbacks on the 50' x 93' lots. The proposed changes are in red for ease of viewing. If the City Commission decides to move forward with a modification of the City setbacks the Building & Zoning Department asks that the city attorney drafts an ordinance for the April Commission meeting.

During the City Commission meeting on the 1st of March 2021 the City Commission instructed staff to proceed with the Draft 1 changes to the code and modify the flexible setbacks to save trees. Enclosed is the proposed draft code with the changes in red, identified as Draft 3. The ordinance included was prepared by the City Attorney. In addition, in the event that this ordinance is adopted it is prudent to remove section 3.08.00 Overlay Districts as the only benefit of the overlay was for reduced setbacks on small platted lots, as both overlay districts include the statement "Approval is not required if all other sections of the Land Development Regulations are adhered to nor is a comprehensive planning and zoning review required". This statement would clearly negate the overlay districts. I recommend that the section 3.08.00 be reserved for future use.

During the City Commission meeting on the 5th of April 2021 the City Commission instructed staff to modify "Draft 3" as follows: Several whereas statements are to be modified by the City attorney and specific code changes eliminating section 6.01.03 A.1. as the overlay district is proposed for removal and modify section 6.01.03 A.4. to continue the allowance of certain architectural profiling. The proposal is watermarked as draft 3a.

Brian W Law CBO, CFM, MCP
City of St. Augustine Beach
Director of Building and Zoning
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FROM MINUTES OF PLANNING BOARD MEETING, APRIL 20, 2021

- B. Ordinance No. 21-04, passed on first reading by the City Commission at its regular monthly meeting held Monday, April 5, 2021, to amend Section 6.01.03 of the City's Land Development Regulations (LDRs), pertaining to building setback requirements, and repeal and removal of Section 3.08.00 of the LDRs, pertaining to overlay districts

Mr. Law said at its regular monthly meeting in February of this year, the City Commission asked that the 2019 proposal for reduced setbacks be brought back up. This was not a staff-generated proposal, staff is simply following the orders given by the City Manager at the direction of the Commission. The Commission revisited this again at its March regular monthly meeting with two draft options, one of which proposed reduced setbacks with a 27-foot height maximum, coinciding with the reduced setbacks allowed in the mixed use district. The Commission declined pursuing this draft, and instructed staff to proceed with the second draft, which proposes setback reductions for the small-platted lots in the City and the deletion of the overlay districts, as with the reduced setbacks proposed, the overlay districts would no longer serve a useful purpose. During its April regular monthly meeting, the Commission made a couple of more changes resulting in the latest draft, Ordinance No. 21-04, which gears the setback reductions for single-family, 50-foot-by-93-foot small-platted lots to 20 feet front and rear, 7.5 feet on the sides, and 12 feet for street sides. The Commission felt strongly about keeping the flexible setbacks to save trees, even with these reduced setbacks, and also agreed to keep the architectural feature bump-outs currently allowed to encroach into the setbacks for architectural profiling. All of the different scenarios for setbacks are accommodated in the tables in Section 6.01.03.A of Ordinance No. 21-04. This Board is now tasked with reviewing the ordinance for a recommendation to the Commission to approve, disapprove or modify it. When the setback reductions were proposed in 2019, the Board recommended approval by a vote of 5-2.

Ms. Odom asked why the proposed setback reductions have come back up at this time.

Mr. Law said he cannot speak for the Commission, but he knows there has been some communication regarding the number of variances that have been applied for and approved since the setbacks were last changed in 2018. For this or whatever other reasons, the Commission has decided to bring the issue back up.

Mr. Sarris said the last time the Board discussed this, they talked about a conflicting challenge with impervious surface ration (ISR) coverage and the currently allowed minimum setback requirements per the LDRs.

Mr. Law said for the record, he thinks the terminology Mr. Sarris is referring to is lot coverage, not ISR coverage. The current minimum setbacks required for 50-foot-by-93-foot lots only allow building footprint lot coverage of 27%-28%, while the maximum lot coverage allowed for residential construction is 35%. So, there is a discord in the Code, as the current setbacks do not allow property owners to build to the maximum lot coverage allowed. The Commission is aware of this and has discussed it, and this may be a possibility as to why the Commission ordered that the setbacks be brought back up. There is a discrepancy as to what can be built and what the Code allows, and with the currently required minimum setbacks, you cannot build to what the Code allows on 50-foot-by-93-foot lots. With the reduced setbacks proposed for these small lots, you would be able to build a bigger building footprint up to the maximum 35% lot coverage allowed per Code. A 50-foot-by-93-foot lot is 4,650 square feet total, which times 35% calculates to a 1627.5-square-foot covered building footprint, which is lot coverage. Right now, with the current minimum 25-foot front and rear and 10-foot side setbacks, you can only build a building footprint up to 1290 square feet, which constitutes 27.74% lot coverage, but the Code allows maximum 35% lot coverage for residential construction. Lot coverage is the first basis of any ISR coverage calculations. The proposed setback reductions for the small-platted lots will not increase maximum lot coverage, ISR coverage, or building height allowed on these lots, it will simply give these smaller lots more room for larger building footprints.

Mr. Sarris said he thinks in general it is a lot easier to design a home with 7.5-foot versus 10-foot side setbacks, but if the setbacks are reduced as proposed, will they then be setting themselves up for more conversations with people applying for variances because they cannot fit their house on their lot because of lot coverage issues?

Mr. Law said if he may provide his opinion as Building Official and Director of Building and Zoning, he would say if the City Commission decided to pass this ordinance, this would negate almost any hardship for a variance for reduced setbacks for construction of a new structure with the exception of certain lots that have niches taken out of them. The Board saw one such lot last year, with a niche carved out of part of it that is owned by the St. Johns County Utility Department, which has a lift station on it. Also, there are a lot of odd-shaped lots around the old City well and old electric trolley lines, and these lots may require variances and attention and consideration from the Planning and Zoning Board. However, for the most part, there would just be no reason or hardship for a variance for setbacks even more reduced than those in the proposed ordinance. The policy of the Building and Zoning Department is to encourage people seeking variances to apply, so this Board, which is a panel of the applicant's peers, can make the decision. The Building and Zoning Department has no desire to wield that much power, as this power must come from this Board. Citizens may apply for a variance to anything in City Code.

Mr. Kincaid asked for public comment. He said he got an email from Mr. Craig Thomson, a member of the City's Sustainability and Environmental Planning Advisory Committee (SEPAC), asking that members of SEPAC be allowed to speak for more than the standard three minutes.

Lana Bandy, 150 Whispering Oaks Circle, St. Augustine Beach, Florida, 32080, said she is the vice-chairperson of SEPAC, which has several members here, including Craig Thomson, who is passing out fliers to the Board members. SEPAC has authorized Mr. Thomson to speak on its behalf and fully supports his presentation to the Board.

Craig Thomson, 6 D Street Unit A, St. Augustine Beach, Florida, 32080, said SEPAC met last week and discuss this proposed ordinance to reduce setbacks at some length. What he handed out to the Board members is a series of environmental concerns SEPAC has identified. These include preservation of the urban tree canopy, protection of natural water bodies and groundwater conservation, and flood protection due to climate change, storm surge and stormwater runoff. SEPAC takes exception to the statement in the ordinance that states the City Commission reviewed the setbacks and finds that providing more flexibility with the setbacks may save trees. SEPAC believes this might reduce the trees on these small lots that make up about a third of St. Augustine Beach, because on the eastern side of A1A Beach Boulevard, there is a very small tree canopy area to consider, so this is a critical

protection zone for trees. The definition for a critical protection zone for trees comes out of the City's Urban Forestry Management Plan, which defines this as a zone to protect trees of a certain size and their roots, not just the tree canopies. They understand there is a drive to have larger houses, which sets a competition with SEPAC's environmental concerns for the smaller lots. SEPAC's number one concern as a tree board is how they can help preserve the tree canopy, and they would just like to caution the Board that reducing the setbacks on these small lots will most likely diminish the tree canopy. The ordinance also states the City Commission is not changing its protection for the environment and drainage management, as all property is still required to comply with height and impervious surface ratio maximums as established by the Commission. The ISR maximum for the small-platted lots in the City is 50%, and the reduced setbacks create larger buildings, let alone the fact that decks and bump-outs are allowed to extend outside the building footprint envelope, which represents a maximum 35% lot coverage footprint. This sets up an inconsistency right away, as City Code does not take into consideration decks, bump-outs, and overhangs that are allowed to extend and encroach into the setbacks. What happens when you enlarge a building that has overhangs that extend 18 inches from the building wall? The water comes off the roof and moves at a much faster pace. SEPAC is concerned that the amount of run-off being generated by what is currently being built on raised grades is typically directed straight to the roadways in front, as there are no swales or anything to control the water run-off. SEPAC has looked at Comprehensive Plan policies and asks the Board to consider ways to help conserve this run-off, which is going to create poor water quality in addition to flooding. It is interesting that they are in the midst of a vulnerability study and at the same time, coming up with this idea of changing the setbacks to allow an increase in building size and water run-off for a third of the lots in the City. The City's major retention pond on Mizell Road failed two or three years ago, due to a flooding event during hurricane season, and while it is currently under repair and being rebuilt, it is very limited as to how much water can get out of the City. The City has said there will be times during high tides and storms when the water run-off will back up because it has nowhere to go, as the engineers studying this pointed out there is sort of a dike system with the oceanfront dunes and the raised section of the City adjacent to A1A South that makes the center section of the City very prone to flooding with sea level rise, climate change, and more intense storms. This is what they should be focusing on, not just how to get a bigger building footprint on small lots. SEPAC takes exception with how this ordinance will protect the environment and whether it will create a worse situation in regard to flooding. If homeowners are going to be allowed to build larger buildings, SEPAC proposes this City follow what other cities are doing in studying how to build infrastructure that controls water run-off by creating more on-site retention, as there has to be somewhere for excess water to go. Solutions may include creating stemwalls, raising buildings, capturing rainwater by use of rain barrels, French drains, or cistern systems, etc. This City has to come up with solutions, otherwise, new construction is going to flood out the older construction. Creating roadside swales and rain gardens is also a very big program the City should be looking into. In a perfect world, he would not be making this presentation without the City planner, and it would be great to have a workshop meeting to discuss these things with the ordinance on the tonight's agenda, to look at these issues in more detail, as SEPAC feels the ordinance is in conflict with the current environmental concerns and goals that are important for the City's future.

Mr. Kincaid said he sees the concerns and agrees that a workshop, or a series of workshop meetings, would be appropriate and very helpful in ensuring everybody is working on the same level on the same page. He asked Mr. Thomson if he has a specific set of recommendations to address SEPAC's concerns that the Board could put into a motion or convey to the City Commission on behalf of the Planning and Zoning Board.

Mr. Thomson said a lot of the recommendations he has referred to have come out of studies including the vulnerability study SEPAC has been researching and which lists a number of land development regulation code changes that would not only help save trees but also protect against water run-off and flooding. SEPAC's recommendation is that creating bigger buildings on small lots without mitigation is a serious problem, and SEPAC is very clear in suggesting that the Planning and Zoning Board not recommend approval of Ordinance No. 21-04.

Mr. Law said regarding the tree canopy, the City works very hard to save trees during development and construction. Currently, City Code only requires one tree in the front setback area. There was talk in 2018 to bring in a tree credit program based on required tree inches per lot square footage, but this was not adopted by the City Commission. In regard to swales, water run-off, etc., that is actually currently being handled and utilized by the City's Public Works Director, Bill Tredik, who spends quite a bit of time reviewing every new construction site plan for lot grading and drainage. The retention pond weir that was breached and failed is currently being improved and strengthened, along with the City's master pumping station and drainage system, which will help manage a higher volume of water run-off with a greater outfall capacity. The City currently has 121 structures in special flood hazard areas. The majority of structures within the City do not lie in a special flood hazard area, per Federal Emergency Management Agency (FEMA) flood insurance maps, which are beyond reproach.

Mr. Kincaid asked for any other public comment.

Linda Ringwood, 8 F Street, St. Augustine Beach, Florida, 32080, said she would also like to ask the Board to not recommend the changes proposed by this ordinance to the City Commission, as buildings are just getting bigger and bigger, and most are being built as short-term rentals. It used to be if you followed school buses down A1A Beach Boulevard, you would see it picking up and dropping off kids heading to the east side of the Boulevard, but now, all the kids getting on and off the buses go to the west side of the Boulevard, as there are no families living on the east side of the Boulevard. There are starting to be more and more short-term rentals on the west side of the Boulevard as well, and one of the big issues residents have to deal with are the parking problems these short-term rentals cause, which include people parking on other people's property, blocking driveways, and so on. There is not enough parking on the alphabet and number streets to being with, so why allow bigger buildings that house more people and have more cars when there is not enough room to park vehicles on properties that have already been built? The City does not need more hotels with no managers and no parking.

Tom Ringwood, 8 F Street, St. Augustine Beach, Florida, 32080, said he and his wife are permanent residents living in a two-story house on a street with five rentals and several three-story homes. This is not the neighborhood they thought they would be living in when they retired here. Luckily, the three-story buildings all have 10-foot side setbacks, and a couple of them have 12-foot side setbacks, so they can sit on their porch and have a private conversation. He cannot imagine having any privacy at all with buildings that only have 7.5-foot side setbacks and bump-outs, particularly if they are short-term rentals occupied by people on vacation. The current setbacks allow a 3500-4000-square-foot house, which should be plenty for the size of these lots. He implored the Board to not approve 7.5-foot side yard setbacks with bump-outs, as this would not allow residents to have any peace or be able to sit on their porches to have an evening meal without being subjected to neighbors who are very close.

Craig Thomson, 6-A D Street, St. Augustine Beach, Florida, 32080, said individually, as a resident, an architect, and a planner, in addition to conflicting with environmental policy and regulations, the proposed ordinance also disrespects established neighborhood setbacks. This creates an inconsistency with the original land development regulations that have been in place for some 60 years, and disadvantages homeowners who built to the current setback regulations. There just seems to be no reason other than monetary gain for new developers to create bigger structures, and the enforcement of this is very complicated, as ISR coverage is one thing, and lot coverage and building bump-out calculations are another. Allowing building areas to expand does not make any sense to him, and allowing structures to be built closer to their neighbors is not something the neighbors are going to like, as this cuts off light, air, etc. He has seen this happen in his neighborhood on the east side of A1A Beach Boulevard. With the overlay districts in place, property owners could apply for reduced setbacks, and if a neighbor were adversely affected, they could discuss it with this Board. This ordinance not only reduces setbacks on small lots but removes the overlay districts, thereby eliminating any possible discussion of adverse effects upon neighboring properties. He thinks it would be a better situation to keep aspects of the overlay district regulations and extend

them to the west side of the Boulevard, instead of doing a blanket removal of the overlay districts and still allow reduced setbacks and bump-outs and all the other things it has been demonstrated are not going to save trees.

Mr. Sarris said to get a clearer understanding of what the ordinance proposes, the reduced setbacks will allow bigger buildings, but construction will still have to meet the same lot coverage and ISR coverage requirements.

Mr. Kincaid said the reduced setbacks will allow bigger houses, because the current setbacks only allow 27%-28% total lot coverage on 50-foot-by-93-foot lots. Reducing the setbacks on these lots will allow owners to build to the maximum 35% residential lot coverage allowed per City Code. So, this ordinance basically reduces the setbacks to allow the house size the Code already allows, were it not for the currently required setbacks.

Mr. Law said he would agree with that statement, as Section 3.02.04 of the LDRs is very clear that maximum lot coverage for residential properties shall not exceed 35% of the lot size. A conversation this Board should have is the construction of single-family residences in commercial land use districts per conditional use permits. Applications to build single-family homes on commercial lots are typically granted with the stipulation that regulations for medium density residential be applied, to avoid the additional ISR and lot coverage allowed for commercial property and to avoid any confusion regarding setbacks. But if this is not specified in the motion to approve the conditional use permit, houses that are built on commercial lots via conditional use permits would be allowed to have the same lot coverage, ISR, setbacks, etc., allowed per the LDRs for commercial properties.

Mr. Kincaid said if he is correct in his knowledge of the history of the setback changes, the current setbacks are the original setbacks, which are larger than the reduced setbacks that were passed by City ordinance a few years back. The ordinance before the Board tonight for the Board's recommendation to the City Commission would once again reduce the setbacks back to what they were a few years ago.

Mr. Law said right, and this is, once again, a Commission directive. The Board is tasked with making any recommendations it sees fit to the Commission, which will then consider the Board's recommendations when the ordinance comes back before the Commission in May for a final reading.

Mr. Pranis said he is not really in favor of changing the setbacks to make them smaller. He does not know if this stems from the Board's decision a month or two ago to not approve the variance for reduced setbacks on 11th Street, or what started this, so he is not really understanding the concept, but he thinks they should probably have a workshop meeting to discuss the reasoning and thoughts behind this move to change the setbacks once again.

Ms. Odom said the variance for reduced setbacks on 11th Street came before the Board in January. She has respect for SEPAC, as it is a City-driven committee, and she thinks they should pay attention to all the research SEPAC has done, as she thinks it has a lot of value to the environment that she hopes would carry through to the Commission. The State Legislature right now is going through sea level rise issues, so this is not just something St. Augustine Beach is dealing with. She has been a resident of this City since before it was incorporated as a city in 1959, so she has been here a long time, and her family moved here because it was a small little town and a neighborhood town. Her profession is to sell houses, but she still thinks there is a reason to sell a house in a community, and it is not for the economic gain she believes they are helping promote in this little community that they have. For those reasons, she agrees with Mr. Pranis that the Board should not recommend this change in the setbacks.

Mr. Sarris said the people who have spoken here tonight have brought up a big and important conversation, so he thinks the mention of having a workshop meeting is a good one, as he is not insensitive to what they have said, and he does not know that he can vote either way on the proposed ordinance or the setbacks until he learns more about all the issues that are involved here. It is not just about a 7.5-foot setback, there are tree issues, drainage

issue, and many other issues from people who are concerned about this community which they all live in. It is not an easy answer that he feels comfortable voting on right now.

Mr. Law said the Board is required to make a motion. The Board may very well make a motion to table this and have a workshop meeting. The proposed ordinance comes from a directive from the Mayor to bring the setbacks issue back up resulting from the variance applications for reduced setbacks that came before the Board earlier this year, one of which was part of a conditional use permit to build a single-family home that came before the Commission in February. This was not staff-generated. Staff presented the proposed setback changes presented to the Commission and the Planning and Zoning Board in 2019, which included some of his proposals regarding building height and not allowing bump-outs with reduced setbacks, not allowing flexible setbacks for trees on the small-platted lots, etc. This was debated at length at several Commission meetings. Ultimately, the City Commission is the agency that generates City policy, and the City's zoning code is a reflection of the Commission. A motion from this Board is needed to recommend approval or disapproval of the ordinance as drafted, or the Board may recommend disapproval pending a workshop, or the Board may approve parts of it, such as the reduction in rear setbacks, or whatever recommendations the Board wants to make, but a motion must be made.

Mr. Pranis said he will make a motion to recommend the City Commission not approve this ordinance.

Mr. King said he would like the motion to include the recommendation that further study be done on the issues, as he also is not ready to make a decision at this time.

Mr. Kincaid asked if the Board would be comfortable recommending that a workshop be held for further discussion. The Board agreed, by general oral consensus.

Motion: to recommend denial of Ordinance No. 21-04 to the City Commission, with a strong recommendation that a workshop meeting be held with the City Commission, Planning and Zoning Board, and SEPAC to further discuss and study the amendments to the LDRs as drafted in the ordinance. **Moved** by Mr. Pranis, **seconded** by Ms. Odom, **passed 7-0** by unanimous voice-vote.

REGULAR COMMISSION MEETING

MAY 3, 2021

X. PUBLIC HEARINGS

1. Ordinance 21-04, Second Reading, and First Public Hearing: to Amend the Land Development Regulations to Change Setbacks for Small Platted Lots and to Abolish the Overlay District Adjacent to A1A Beach Boulevard (Presenter: Brian Law, Building Official)

Mayor England introduced Item 1 and asked Building Official Law to come to the podium.

Building Official Law gave the history of this subject matter. In February, the Commission requested to bring back an ordinance that was proposed in 2019. In March, the language of the ordinance was clarified and in April there were more changes made by the Commission and to enable architectural profiling. The Comprehensive Planning and Zoning Board reviewed the ordinance and voted unanimously to reject it because no technical information was provided and asked if they could meet with the Commission.

Mayor England advised that it was a delay because the Board would like a discussion with the Commission regarding the ordinance.

Building Official Law advised that the Board had to make a motion to approve or deny, so they denied it. There was no information presented and no requests to change the ordinance.

Commissioner George advised that this ordinance does not allow the increase in impervious surface ratio but would allow a greater lot coverage.

Building Official Law advised that all lot coverage is limited to 35 percent. The current setbacks on a 50 x 93 lot strictly prohibit a building from getting to 35 percent. So, one code goes against another code to make the 35 percent coverage possible. The overlay district is problematic because staff rejects it because the owner is not complying with ten-foot side setbacks and 25-foot front and rear setbacks, but if the owner gives the City \$400 for a variance that goes to the Planning and Zoning Department, the owner could get approval. It looks like a discord in the codes.

Mayor England advised that no matter what the setbacks are, the house cannot be 35 percent lot coverage, which remains the same regarding the drainage, impervious surface ratio, and the lot coverage.

Building Official Law advised yes. He advised that all the Commission requested was to change the setbacks.

Commissioner George advised that the current setbacks preclude the owner from getting to the 35 percent lot coverage. She asked with the proposed changes, what would it allow the owner to get to.

Building Official Law advised the owner will be able to get to 35 percent and still move the building to save trees, etc.

Commissioner George advised that this gives the owner more creativity when developing the home.

Building Official Law advised that no one is recommending increasing impervious surface ratios or lot coverage.

Mayor England asked how many small lots are left in the City.

Building Official Law advised that there are about 80 small lots left in the City. The report he gave to the Commission advised that the 50 x 93 lots are being affected. The regular lots were designed to the standards as they were platted; however, these lots predate the platted lots.

Mayor England asked during the time when there were smaller side setbacks in the overlay district, plus the variances that have been granted, what percentage of small lots have already been built with the reduced setbacks.

Building Official Law advised that since he has been here in December of 2017 and Chapter 6 of the Land Development Codes was changed in June 2018 and then the moratorium lasted until October 2018. At that time there was sufficient influx of permits done to set in those setbacks. He explained that a lot of the buildings were already being designed at the time. He explained that the biggest problem is the overlay district. He remarked that he has a hard time denying the permit and then receiving \$400 for a variance and telling the Comprehensive Planning and Zoning Board they must approve it because it is written in the code. This ordinance would eliminate the overlay district. He discussed the wedding cake homes at 70 percent, which usually happens east of A1A Beach Boulevard and it has only been utilized once since 2016. He explained if the Commission changed the setbacks on the small, platted lots, those 50 x 93 lots would be irrelevant because of that one provision in the code. He recommended eliminating the overlay districts. He commented if the Commission in the future want an architectural theme it could be done later on A1A Beach Boulevard. He explained that there are proposed legislative changes that may remove architectural profiling in non-PUD's and single-family residences in Tallahassee. He advised that the beachside overlay districts would be eliminated anyway. He explained that there is one more reading if the Commission votes on this today or it could be tabled or remove.

Mayor England advised that the Comprehensive Planning and Zoning Board wanted to discuss the ordinance before the Commission voted on it.

Building Official Law advised that there is no more information to provide to the Comprehensive Planning and Zoning Board. He remarked that he does not like taking money for a sure thing to be approved.

Mayor England advised that there are two issues. First, any language changes to the ordinance and whether to delay making a motion on the ordinance to discuss this issue with the Comprehensive Planning and Zoning Board in a workshop.

Commissioner Rumrell asked if the Comprehensive Planning and Zoning Board approved and asked for the setbacks.

Building Official Law advised that the Board voted 5 to 2 on the same ordinance plus the changes the Commission has done on the last two months. He commented that no technical information was provided to the Board.

Mayor England requested changes on page 4, in the second whereas in the ordinance, to delete "height" and change to "lot coverage." On page 6, B.1.b., should be deleted.

Commissioner George advised that B.1 relates to decks and B.2 relates to auxiliary structures and that is why it is stated in both places. She suggested that on page 7, 2.e, should be renumbered to B.4 so that it covers all categories under Section B. She also suggested to remove the reference under B.1.b.

Discussion ensued regarding variance hardships for a deck and whether the City ever had one and what a deck definition would be.

Mayor England advised that on page 10 under architectural requirements, 5.c. discusses the 70 percent wedding cake building. She asked if the Commission wants that removed or to keep it in the ordinances.

Building Official Law advised that there are a couple of projects that are not utilizing that because they are using the exemption that the owner complied with the ten-foot setbacks, so they did not have to go to the Comprehensive Planning and Zoning Board.

Commissioner George advised that she cares more about vertical and horizontal articulation than the 70 percent rule. She explained that there are ways to complete that goal.

Building Official Law advised that would be another overlay district and complete overwrite of the codes. He explained that codes need to be written with the future in mind.

Mayor England explained that she does not want 35-foot-high three-story box homes.

Building Official Law advised that there are two homes that want to be built with an elevator on the roof after the 35-feet height.

Mayor England asked if the Commission wants to have in the ordinance uniformity of an architectural design of the buildings on A1A Beach Boulevard.

Commissioner Torres advised he wants to keep the 35-foot height requirement. He advised that the 70 percent he could give or take, it did not matter.

Commissioner Rumrell gave an example of the home behind the Kookaburra not being allowed to build a one-story building because of the setbacks.

Building Official Law advised that the homeowner applied for a variance and they were instructed to come to the Commission if they wanted to change the codes. He explained that they could not comply with the setbacks and get the home they wanted.

Commissioner Rumrell advised that this homeowner wanted to do less of an impact but was denied due to the setbacks. He agrees with what the codes say currently, and the previous Comprehensive Planning and Zoning Board voted for the same thing 5 to 2. He advised that

he agrees to leave it how it is because the 70 percent architectural design could change by the proposed legislation.

Vice Mayor Samora commented that architectural design standards cannot be done in three paragraphs and it takes hundreds of pages long. He explained trying to save a paragraph is hopeless.

Commissioner George advised that architectural design standards could be done separately and have workshops on it.

Mayor England asked if the Commission wants to have a workshop with the Comprehensive Planning and Zoning Board on May 18, 2021 at 6:00 p.m.

Commissioner George asked for public comments first.

Mayor England opened the Public Hearing. The following addressed the Commission:

Craig Thompson, 6 D Street, St. Augustine Beach, FL, SEPAC member, advised in the ordinance in one of the whereas's it says it may save trees, which is not true on small lots. He commented that on the west side of the Boulevard is where the tree canopy is and if houses are built on the root of the trees, they will die. Trees preserves the environment and water, and he would not like the trees encroached upon by buildings. He asked to pause on the ordinance.

Mayor England asked how to response to the small lots.

Craig Thompson advised that 80 percent of the small lots are on the west side of A1A Beach Boulevard. He explained that the overlay district was on the east side of A1A Beach Boulevard.

Commissioner George advised that the lots cannot get to 40 percent because of the other section of the code and disagrees that it would cause a risk. She said that the smaller lots are being burdened.

James Whitehouse, St. Johns Law Group, 104 Sea Grove Main Street, St. Augustine Beach, FL, advised that he represents several lot owners in St. Augustine Beach and he suggested that the lot coverage should be the same as before with the 35 percent lot coverage.

Commissioner George said that the Commission should respect the Comprehensive Planning and Zoning Board by listening to them. She suggested that the Commission move forward tonight and then have a workshop with the Comprehensive Planning and Zoning Board and then have a final hearing.

Mayor England closed the Public Hearing and then asked for the preamble to be read.

City Attorney Taylor read the preamble.

Motion: to approve the ordinance with the following changes: on the 2nd whereas remove the word height and replace it with lot coverage; in paragraph B.a. remove the last sentence starting with Any requested...; on page 7, 2.e, renumber to B.4 regarding a general sentence applying for a variance. **Moved by** Mayor England, **Seconded by** Commissioner George.

Commissioner Torres asked for discussion before the vote. He asked if the Commission is going to move forward with this ordinance or is the Commission going to have a workshop first with the Comprehensive Planning and Zoning Board.

Mayor England advised that the Commission could move forward with this reading of the ordinance and then have a workshop with the Comprehensive Planning and Zoning Board and then have a final reading of the ordinance at the June Commission meeting.

Commissioner Torres asked if this should go as a referendum in front of the residents because it effects so many people and because this Commission keeps changing it, which costs staff and Commission time.

Discussion ensued regarding that even if it goes as a referendum, it could be changed by a new Commission if they want it changed.

Mayor England asked for a roll call vote.

City Clerk Raddatz called the role.

MAYOR ENGLAND Yes

VICE MAYOR SAMORA Yes

COMMISSIONER GEORGE Yes

COMMISSIONER RUMRELL Yes

COMMISSIONER TORRES Yes

Motion pass unanimously.

Mayor England asked if the Commission is available for a joint workshop on May 18, 2021 at 6:00 p.m.

Commissioner Torres advised that he had a meeting on that day and could not attend. He requested an excused absence for this workshop from the Commission.

Mayor England advised that for the record that Commissioner Torres would be excused from this workshop.

Commissioner Rumrell thanked that three SEPAC members for coming to this meeting and giving their input.

Mayor England moved to Item 2.

ORDINANCE NO. 21-04

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE BEACH, FLORIDA AMENDING THE LAND DEVELOPMENT CODE OF THE CITY OF SAINT AUGUSTINE BEACH PROVIDING FOR A CHANGE TO THE SETBACKS AND REMOVAL OF THE OVERLAY DISTRICTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WITNESSETH:

WHEREAS, the City Commission reviewed the setbacks and finds that providing more flexibility with the setbacks may save trees and allow development consistent with the past and future visions for the City;

WHEREAS, the City Commission is not changing its protections for the environment and drainage management, as all property still is required to comply with height lot coverage and impervious surface ratios established by the City Commission;

WHEREAS, the City Commission continues to seek to promote consistent regulations and equal treatment of all its citizens and landowners and to amend or eliminate regulations which are conflicting;

WHEREAS, the City Commission finds that by changing the setbacks, the City will no longer have a need for Overlay Districts; and

WHEREAS, the City Commission hereby finds that adoption of this ordinance serves the best interest and welfare of the residents of the City of St Augustine Beach.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SAINT AUGUSTINE BEACH:

SECTION 1. Recitals Adopted: The recitals set forth above are true and correct and incorporated herein by this reference.

SECTION 2. Amend Section 6.01.03 of the City's Land Development Code Section 6.01.03 as follows:

Sec. 6.01.03. - Building setback requirements.

- A. Subject to paragraph B. and any other provisions of this section, no portion of any building may be located on any lot closer to any lot line or to the street right-of-way line than authorized in the table set forth in this section. This will apply to any subdivision that does not have setback modifications approved by the City Commission, and by approval of respective Homeowner's Associations.

Land Use	Front Yard	Side Yard	Rear Yard	Street Side
Single-family	25 ft.	10 ft.	25 <u>20</u> ft.	15 <u>12</u> ft.
<u>*Single-family on 50' x 93' platted lots</u>	<u>20 ft.</u>	<u>7.5 ft.</u>	<u>20 ft.</u>	<u>12 ft.</u>
Multifamily (2 to 8 units)	25 ft.	10 ft.	20 ft.	15 ft.
Multifamily (8 units or more)	35 ft.	15 ft.	20 ft.	15 ft.
Commercial	20 ft.	10 ft.	20 ft.	15 ft.
Other uses (same as commercial)	20 ft.	10 ft.	20 ft.	15 ft.

~~1. Single family setbacks in the overlay districts as described in section 3.08.00 shall be per the applicable overlay requirements.~~

~~21.~~ Roof overhangs for single family land use may project past the setbacks up to 18 inches.

~~3-2.~~ Flexible setback to save trees for single family land use:

- a. In all cases, the justification for a change in a setback requirement must be to save a significant tree, which per the Board's motion to approve this Application is defined as being eight (8) inches in diameter at breast height (DBH) or greater, as demonstrated on a site plan with a tree and topography survey.
- b. ~~Front and rear yard setbacks, currently required to be 25 feet in the front and 25 feet in the rear, shall be allowed to be moved forward or backward 7.5 feet as long as a total of 50 feet total for combined front and rear yard setbacks is maintained. Flexible setbacks shall be as per the table below:~~
- c. ~~Side yard setbacks, currently required to be 10 feet on each side, shall be allowed to be moved five feet to either side as long as a total of 20 feet total for combined side yard setbacks is maintained and a minimum of 15 feet is maintained between adjacent structures.~~

	<u>Setbacks as per section 6.01.03</u>	<u>Flexible Adjustment</u>	<u>Combined Total</u>
<u>Front/Rear Yard</u>	<u>25 ft/20 ft</u>	<u>7.5 ft/2.5 ft</u>	<u>Front and Rear = 45 ft</u>
<u>Front/ Rear Yard</u>	<u>20 ft/20 ft</u>	<u>2.5 ft/2.5 ft</u>	<u>Front and Rear = 40 ft</u>

<u>Side/Side Yard</u>	<u>10 ft/10 ft</u>	<u>5 ft/5 ft</u>	<u>Combined side = 20</u> <u>ft</u>
<u>Side/Side Yard</u>	<u>7.5/7.5 ft</u>	<u>2.5 ft/2.5 ft</u>	<u>Combined side = 15</u> <u>ft</u>

c. ~~d.~~—All requests for flexible setbacks to save trees must have the approval of the City's Building Official, the applicable Homeowners Association (if required) and the Comprehensive Planning and Zoning Board.

e. ~~Flexible setbacks are not applicable to the small platted lots described in section 3.08.00-Overlay Districts.~~

4. ~~3.~~ Certain architectural features, such as roofs over exterior doors, bump outs, bay windows, etc. may project no more than 2.5 feet including overhangs-into the required ~~10 foot side, 15 foot street side and the 25 rear and front setbacks~~ minimum setbacks as prescribed in section 6.01.03.A. These architectural features shall not exceed 25% of the wall that they are serving nor shall they be supported by the earth.

4. Any lot with a width of 50 ft. or less shall have a 7.5 ft. side setback.

B. Minimum setbacks for non-structural components of a structure.

1. *Decks:* Any deck less than twelve (12) inches above finished grade is not subject to setbacks requirements. However, this type of deck is not allowed within two (2) feet of an adjacent property line.

a. Any deck exceeding thirty (30) inches in height is subject to the setback requirements as specified in the table and is required to be permitted by the Building Department. If the main structure is built to the twenty (20') foot setback line, a deck less than thirty (30) inches is exempt from permitting and may encroach into the rear yard setback a distance not to exceed eight (8) feet from the principal structure and may encroach into the front setback a distance of five (5) feet from the principal structure. If the main structure is built to the twenty-five (25') foot setback line, a deck may extend twelve (12') feet into the rear setback and for the front, the deck may extend ten (10') feet into the front setback. ~~Any requested extension exceeding the setback encroachment allowed in this paragraph will require proof of a hardship, not self created, to apply for a variance to the Comprehensive Planning and Zoning Board of the City.~~

b. For second and third level decks, the allowable extension from the main structure built at the twenty (20') foot setback is five (5) feet into the front or rear setback from the main structure. For a structure built at the twenty-five (25') foot setback, the allowable extension is ten (10') feet into the front or rear setback. ~~Any extension greater than what is allowed in this paragraph will require proof of a hardship, not self created, to apply for a variance to the Comprehensive Planning and Zoning Board.~~

2. *Auxiliary structures:*

- a. This applies to features such as open-air arbors, trellises and free-standing tiki bars that do not exceed twelve (12) feet in height. These structures shall have a minimum setback of five (5) feet from the rear and side lot lines. Tiki bars are not allowed in front yards.
 - b. Screen rooms and patio covers are allowed to encroach a maximum ~~often of ten~~ (10) feet into the rear yard setback providing the roof line for the enclosure does not exceed twelve (12) feet in height and the addition to new or existing construction does not exceed the allowed impervious surface coverage as specified in the city's land development regulations. The screen room shall comply with the allowed side setbacks as established by these land development regulations.
 - c. Swimming pools and screen enclosures (regardless of whether or not enclosing a pool) shall be, at a minimum five (5) feet from the rear and side setbacks. This applies to the water line or the screen enclosure.
 - d. Storage sheds not exceeding eight (8) feet in width and twelve (12) feet in length shall be allowed a five (5) foot rear and side setback. Any storage shed exceeding ninety-six (96) square feet shall meet the same setbacks as specified in the table for new and existing construction. Storage sheds are not allowed in the front setback area.
 - e. ~~Application for a variance to any sub-section in this paragraph is allowed providing a self-created hardship is not the basis for the application.~~
3. *Minimum setbacks between buildings:*
- a. The minimum setback between adjacent structures shall be ten (10) feet except that no setback is required where an attachment easement has been created.
 - b. Distance shall be measured at the narrowest point between structures of the main living unit, principal structure, an allowable attachment or an accessory use or to the ordinary projections of chimneys or flues, not exceeding two feet (2) feet. The measurement shall be taken from the structures walls, not including overhangs.
 - c. Dry cleaning establishments must meet the required commercial setbacks and cannot be located in a shopping center where zero (0) setbacks are allowed between adjacent stores. The exception shall be where a facility is for pick-up only with no actual dry-cleaning performed within the facility.
4. Variances to Section 6.01.03(B) of the City's Land Development Code require a hardship which may not be self-created and must comply with all the requirements of Section 10.02.00 of the City's Land Development Code.

(Ord. No. 18-08, § 1(Exh. 1), 7-2-18; Ord. No. 20-02, § 6(Exh. 1), 3-2-20; Ord. No. 21- , § 6(Exh. 1), _____)

SECTION 3. Repealing of City's Overlay Districts. The City Commission repeals and amends Section 3.08.00:

Sec. 3.08.00. Overlay districts. Reserved.

~~A. — Beachside medium density overlay district: There is hereby created an overlay district within that portion of medium density land use districts located East of A1A Beach Boulevard and lying between 16th Street and those portions South of F Street and North of Ponce Landing.~~

~~1. — Purpose: The overlay will provide for the enhancement or replacement of existing non-conforming structures located within the medium density land use district. The overlay also provides for new construction on the vacant, platted lots within the district. Structures currently deemed non-conforming in accordance with the current land development regulations will lose non-conforming designation by the overlay.~~

~~2. — Approval: The comprehensive planning and zoning board of the city shall be responsible for reviewing all applications. The board shall be required to approve any and all applications that clearly meet the requirements set forth in this section. Consequently, the board shall be required to deny any and all applications that do not meet the requirements of this section. Applications that do not meet the requirements can be addressed by the variance process or the city's appeal process. Approval is not required if all other sections of the Land Development Regulations are adhered to nor is a comprehensive planning and zoning review required.~~

~~a. — Upon review by the comprehensive planning and zoning board of an overlay application, if the application does not meet the requirements of this section, the board shall advise the applicant which items are found to be non-conforming and the applicant shall be provided the opportunity to correct the non-conformities and schedule a second hearing before the board. There shall be no additional fees for the second hearing.~~

~~b. — If the second review is not approved, the board shall advise the applicant of the non-conformities and advise the applicant of their right to appeal the board's decision, as well as their right to apply for a variance if the non-conformity can not be corrected. Any appeal by the applicant shall be in the same manner as appeals from approvals or denials of a final development approval. Any and all fees shall apply to the appeal and shall be paid by the applicant.~~

~~c. — Situations that conform to the overlay:~~

~~(1) — New construction is allowable using the setbacks requirements within this section with the caveat that construction shall conform to applicable building codes set forth by local, state and federal agencies that dictate construction in this geographical area.~~

~~(2) — The re-building or re-modeling of structures located within the overlay district on the footprint for the existing structure.~~

~~(3) — Expansion defined by the city is any increase in square footage of a structure and must meet all applicable building codes and shall be within the setback allowances set forth by this section.~~

- d. ~~Situations that do not conform to the overlay: Situations that can not meet the requirements of this section will require the owner to use the city's variance procedure with applicable fees paid by the applicant.~~

3. ~~Construction requirements:~~

- a. ~~Code: All applicable requirements within the current edition of the State of Florida adopted Building Codes and Federal flood requirements and Florida Department of Environmental Protection requirements will mandate new, re-construction or re-modeling work. This section also sets specific requirements for property seaward of the coastal construction line and specific requirements based on the flood insurance maps for the city.~~
- b. ~~Footprint definition: For purposes of re-construction or re-modeling proposals that involve additional square footage being added to a structure, "building footprint" means the total foundation area for an existing structure, not including decks, patios or stairways outside the living area(s). Non-living space such as detached garages, carports and storage sheds shall not be given consideration as part of the footprint calculation for expansion of a existing structure in the overlay district. Should an applicant request from the board, approval to construct over a questionable space, the applicant must have evidence that a roof existed over the floor space that is in question in order to re-build over that footprint.~~
- c. ~~Building height: The building height shall be measured in accordance with Section 6.01.03 B.4.~~

4. ~~Setbacks: For residential Lots, the setbacks shall be twenty-five (25') front and rear, side ten (10) feet, and street side fifteen (15) feet for new construction.~~

- a. ~~For an existing structure, the existing footprint shall be considered acceptable and its location referred to as "deemed acceptable" for renovation and re-building.~~
- b. ~~Second and third level decks will be allowed to extend to the engineered width of a structure and encroach five (5') into the front and rear setback. Second and third level articulations will be allowed to encroach into side setbacks three (3') feet but in no case may be closer than five (5') feet from the property line. Enclosed articulations are limited to twenty-five (25%) per cent of the width of the elevation they are located on.~~
- c. ~~Screened porches will be allowed a five (5') rear setback and a ten (10') side setback providing impervious surface coverage does not exceed 50% of the total lot square footage and the maximum height is less than twelve (12') feet.~~
- d. ~~Swimming pools or screened pool enclosures will be allowed a five (5') rear and side setback. Note if a pool is built to the five (5') foot setback and later the owner desires to screen the pool, the screen will not be permitted into the five (5') foot setback.~~
- e. ~~For oceanfront homes, the East side of a property is considered as the front.~~
- f. ~~Vacated alleyways will be considered part of the property but no construction shall be allowed in this vacated portion of the lot. Setbacks on a vacated alleyway~~

will be measured from the centerline of the alley. Setbacks on an open alleyway shall be measured from the alley line.

~~g. Flexible setbacks to save trees~~

- ~~1. In all cases, the justification for a change in a setback requirement must be to save a significant tree, which per the Board's motion to approve this Application is defined as being eight (8) inches in diameter at breast height (DBH) or greater, as demonstrated on a site plan with a tree and topography survey.~~
- ~~2. Front and rear yard setbacks, currently required to be 25 feet in the front and 25 feet in the rear, shall be allowed to be moved forward or backward 7.5 feet as long as a total of 50 feet total for combined front and rear yard setbacks is maintained.~~
- ~~3. Side yard setbacks, currently required to be 10 feet on each side, shall be allowed to be moved five feet to either side as long as a total of 20 feet total for combined side yard setbacks is maintained and a minimum of 15 feet is maintained between adjacent structures.~~
- ~~4. All requests for flexible setbacks to save trees must have the approval of the City's Building Official and the applicable Homeowners Association (if required) and the Comprehensive Planning and Zoning Board.~~

~~5. Architectural requirements:~~

- ~~a. The use of detail will be encouraged by the city to assist in architectural styling.~~
- ~~b. Exterior colors shall be in accordance with the color palettes adopted by the city for community standards.~~
- ~~c. All structures exceeding two (2) levels are required to reduce the third level living space to be a maximum of seventy percent (70%) of the first floor space including conditioned space, garages, unconditioned enclosed space but in no case, shall be larger than the second level. Porches are not included in the calculation of living space nor are porches included in the third level seventy percent (70%) calculation.~~

~~6. Site Requirements:~~

- ~~a. Landscaping shall be at the owner's discretion. The city shall require that landscaping enhances the aesthetics of the streets and neighborhoods. The city recommends the use of native or Florida friendly plants. An inter-mixing of grasses, xeriscape plants and ground cover such as mulches, gravel, pine straw is required.~~
- ~~b. Connection to St. John's County Utility is required.~~
- ~~c. For lots located in the Velocity Zones, any fill added to the lot will require a professional engineer to design the fill procedure and materials. The procedure will be acceptable to the city and approved by the Florida Department of Environmental Protection.~~

~~B.—Overlay for residential lots platted prior to the adoption of the Land Development Regulations: There is hereby created an overlay district encompassing residential lots platted before the date of this Code.~~

- ~~1.—Purpose: The overlay will provide for the enhancement or replacement of existing non-conforming structures located within the Platted Lots District. The overlay also provides for new construction on the vacant, platted lots within the district. Structures currently deemed non-conforming in accordance with the current land development regulations will lose non-conforming designation by the overlay.~~
- ~~2.—Approval: The comprehensive planning and zoning board of the city shall be responsible for reviewing all applications. The board shall be required to approve any and all applications that clearly meet the requirements set forth in this section. Consequently, the board shall be required to deny any and all applications that do not meet the requirements of this section. Applications that do not meet the requirements can be addressed by the variance process or the city's appeal process. Approval is not required if all other sections of the Land Development Regulations are adhered to nor is a comprehensive planning and zoning review required.~~
 - ~~a.—Upon review by the comprehensive planning and zoning board of an overlay application, if the application does not meet the requirements of this section, the board shall advise the applicant which items are found to be non-conforming and the applicant shall be provided the opportunity to correct the non-conformities and schedule a second hearing before the board. There shall be no additional fees for the second hearing.~~
 - ~~b.—If the second review is not approved, the board shall advise the applicant of the non-conformities and advise the applicant of their right to appeal the board's decision, as well as their right to apply for a variance if the non-conformity can not be corrected. Any appeal by the applicant shall be in the same manner as appeals from approvals or denials of a final development approval. Any and all fees shall apply to the appeal and shall be paid by the applicant.~~
 - ~~c.—Situations that conform to the overlay:~~
 - ~~(1) New construction is allowable using the setbacks requirements within this section with the caveat that construction shall conform to applicable building codes set forth by local, state and federal agencies that dictate construction in this geographical area.~~
 - ~~(2) The re-building or re-modeling of structures located within the overlay district on the footprint for the existing structure.~~
 - ~~(3) Expansion defined by the city is any increase in square footage of a structure and must meet all applicable building codes and shall be within the setback allowances set forth by this section.~~
 - ~~d.—Situations that do not conform to the overlay: Situations that can not meet the requirements of this section will require the owner to use the city's variance procedure with applicable fees paid by the applicant.~~

~~3.—Construction requirements:~~

- a. ~~Code: All applicable requirements within the current edition of the State of Florida adopted Building Codes and Federal flood requirements and Florida Department of Environmental Protection requirements will mandate new, re-construction or re-modeling work.~~
 - b. ~~Footprint definition: For purposes of re-construction or re-modeling proposals that involve additional square footage being added to a structure, "building footprint" means the total foundation area for an existing structure, not including decks, patios or stairways outside the living area. Non-living space such as detached garages, carports and storage sheds shall not be given consideration as part of the footprint calculation for expansion of a existing structure in the overlay district. Should an applicant request from the board, approval to construct over a questionable space, the applicant must have evidence that a roof existed over the floor space that is in question in order to re-build over that footprint.~~
 - c. ~~Building height: The building height shall be measured in accordance with and not exceed thirty five (35') feet above the requirements of Section 6.01.03.B.~~
4. ~~Setbacks by minimum lot size:~~
- a. ~~Small Platted Lots:~~
 - 1. ~~For residential Lots with a maximum lot size of 4,650 square feet, maximum lot depth of 93' feet and lot width of 50' or less, the setbacks shall be twenty (20') front and rear and sides are allowed seven and a half (7.5') feet for new construction.~~
 - 2. ~~For an existing structure, the existing footprint shall be considered acceptable and its location referred to as "deemed acceptable" for renovation and re-building.~~
 - 3. ~~Second and third level decks will be allowed to extend to the engineered width of a structure and encroach five (5') into the front and rear setback. Second and third level articulations will be allowed to encroach into side setbacks three (3') feet but in no case may be closer than five (5') feet from the property line. Enclosed articulations are limited to twenty-five (25%) percent of the width of the elevation they are located on.~~
 - 4. ~~Screened porches will be allowed a five (5') rear setback and a ten (10') side setback providing impervious surface coverage does not exceed ratio by district for the total lot square footage and the maximum height is less than twelve (12') feet.~~
 - 5. ~~Swimming pools or screened pool enclosures will be allowed a five (5') rear and side setback. Note if a pool is built to the five (5') foot setback and later the owner desires to screen the pool, the screen will not be permitted into the five (5') foot setback.~~
 - 6. ~~Vacated alleyways will be considered part of the property but no construction with a permanent foundation shall be allowed in this vacated portion of the lot. Setbacks on a vacated alleyway will be measured from the~~

centerline of the alley. Setbacks on an open alleyway shall be measured from the alley line.

~~b. Standard Platted Lots~~

- ~~1. For residential Lots with a lot size greater than 4,650 square feet, minimum lot depth of 93' feet and lot width greater than 50' feet, the setbacks shall be twenty-five (25') front and rear, side ten (10) feet, and street side fifteen (15) feet for new construction.~~
- ~~2. For an existing structure, the existing footprint shall be considered acceptable and its location referred to as "deemed acceptable" for renovation and re-building.~~
- ~~3. Second and third level decks will be allowed to extend to the engineered width of a structure and encroach five (5') into the front and rear setback. Second and third level articulations will be allowed to encroach into side setbacks three (3') feet but in no case may be closer than five (5') feet from the property line. Enclosed articulations are limited to twenty-five (25%) per cent of the width of the elevation they are located on.~~
- ~~4. Screened porches will be allowed a five (5') rear setback and a ten (10') side setback providing impervious surface coverage does not exceed 50% of the total lot square footage and the maximum height is less than twelve (12') feet.~~
- ~~5. Swimming pools or screened pool enclosures will be allowed a five (5') rear and side setback. Note if a pool is built to the five (5') foot setback and later the owner desires to screen the pool, the screen will not be permitted into the five (5') foot setback.~~
- ~~6. Vacated alleyways will be considered part of the property but no construction shall be allowed in this vacated portion of the lot. Setbacks on a vacated alleyway will be measured from the centerline of the alley. Setbacks on an open alleyway shall be measured from the alley line.~~
- ~~7. Flexible setback to save trees for single family land use~~
 - ~~a. In all cases, the justification for a change in a setback requirement must be to save a significant tree, which per the Board's motion to approve this Application is defined as being eight (8) inches in diameter at breast height (DBH) or greater, as demonstrated on a site plan with a tree and topography survey.~~
 - ~~b. Front and rear yard setbacks, currently required to be 25 feet in the front and 25 feet in the rear, shall be allowed to be moved forward or backward 7.5 feet as long as a total of 50 feet total for combined front and rear yard setbacks is maintained.~~
 - ~~c. Side yard setbacks, currently required to be 10 feet on each side, shall be allowed to be moved five feet to either side as long as a total of 20 feet total for combined side yard setbacks is maintained~~

~~and a minimum of 15 feet is maintained between adjacent structures.~~

- ~~d. All requests for flexible setbacks to save trees must have the approval of the City's Building Official, the applicable Homeowners Association (if required) and the Comprehensive Planning and Zoning Board.~~

~~5. Site Requirements:~~

- ~~a. Landscaping shall be at the owner's discretion. The city shall require that landscaping enhances the aesthetics of the streets and neighborhoods. The city recommends the use of native or Florida friendly plants. An inter-mixing of grasses, xeriscape plants and ground cover such as mulches, gravel, pine straw is required.~~
- ~~b. Connection to St. John's County Utility is required if available.~~
- ~~c. For lots located in the Velocity Zones, any fill added to the lot will require a professional engineer to design the fill procedure and materials. The procedure must be acceptable to the city and approved by the Florida Department of Environmental Protection.~~

~~(Ord. No. 18-07, § 1(Exh. 1), 5-7-18)~~

SECTION 4. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 5. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

SECTION 6. This Ordinance shall take effect ten (10) days after passage, pursuant to Section 166.041(4), Florida Statutes

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Saint Augustine Beach, Florida this ____ day of _____, 2021.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 2021.

MAYOR

Published in the _____ on the _____ day of _____,
_____, 2021. Posted on www.staugbch.com on the _____ day of _____,
2021.