



MINUTES

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

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

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

I. CALL TO ORDER BY MAYOR ENGLAND

Mayor England called to order the joint workshop at 6:00 p.m.

II. PLEDGE OF ALLEGIANCE

Mayor England led the Pledge of Allegiance.

III. ROLL CALL

Commission Present: Mayor England, Vice Mayor Samora, Commissioner George, Commission Rumrell and Commissioner Torres.

Comprehensive Planning and Zoning Board Members (CPZB) Present: Chairperson Kincaid, Vice Chair Odom, Members: Sarris, Longstreet (Absent), Pranis, King, Einheuser (Absent), Tisdall (Absent), and Babbitt (Absent).

Sustainability & Environmental Planning Advisory Committee (SEPAC) Members Present: Chairperson Krempasky, Vice Chair Bandy, Members: Thomson, Kaczmarzsky, Cloward (Zoomed), and Candler (Absent).

Also present were: City Manager Royle, Assistant City Attorney Taylor, City Clerk Raddatz, and Building Official Law.

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)

Mayor England introduced Item IV.a. and asked Building Official Law for a staff report.

Building Official Law advised that Ordinance 21-04 was brought back to the Comprehensive Planning and Zoning Board (CPZB) in March. The CPZB unanimously denied Ordinance 21-04 at their meeting and requested a meeting with the Commission to discuss the reasons why they denied it. He stated that the Commission passed this in April and May so the final reading would be in June.

Mayor England advised that the Commission wanted to have fair policies for all lot owners. She mentioned that in the past the larger lots received different setbacks than the smaller lots. The

Commission would like this to be the same for all lots without changing the 35% impervious surface ratios on any lots.

Building Official Law advised that was correct; the small, platted lots would still have 35% impervious surface ratio.

Mayor England advised that the Commission wants equal treatment for setbacks and have the impervious surface ratio to remain at 35%. She explained that flexibility on setbacks is given to save trees or for extenuating circumstances.

Building Official Law advised he objects to residents going to the CPZB and being denied, but then the residents pay \$400 for the overlay district and the CPZB has to approve the setbacks.

Mayor England advised that the overlay district was created because so many residents had small lots on the eastern side of the Boulevard were coming for variances to the CPZB without hardships.

Chair Kincaid, CPZB, advised that his concerns were that residents did not want the bigger houses with smaller setbacks next to their neighbors.

Vice Chair Odom, CPZB, asked how many lots were left to be developed.

Building Official Law advised according to the Property Appraiser there were approximately 88 undeveloped lots. He explained that if there was a natural disaster or if the homes were 50% destroyed for some reason like fire, a lot of the homes would then be nonconforming and would have to be smaller. He advised that the Building Department would not say the homes were nonconforming unless there was a disaster.

- Discussion ensued regarding what was a nonconforming lot; what was a hardship and whether to have the overlay district remain so there would not be more homes showing nonconforming after a disaster.

Commissioner George explained that if the overlay district was removed from the code, the owners would not be entitled to a reduced setback if there was a disaster.

Building Official Law advised that that was correct. He explained that the codes are not designed to keep nonconforming structures after a disaster.

Mayor England advised that when the Commission changed the setbacks to ten feet, then the homes that had the 7 ½ feet were nonconforming.

City Attorney Taylor advised yes.

Vice Mayor Samora asked if that would be the same for those who received a variance for the overlay district.

Building Official Law advised that any variances or the overlay district will run with the life of the structure, so they would not be nonconforming.

Mayor England asked if the variances and overlay district lots that were approved and destroyed by a disaster would not be applied to the 50% rule but could stay within the granted setbacks.

Building Official Law advised that he would have to speak with City Attorney Taylor regarding that.

Chair Kincaid advised that property owners came to the CPZB with no hardship, but wanting to change the rules, and so CPZB asked them to go back to the Commission if they want to change the rules.

Mayor England advised that when they changed the setbacks to ten feet and when it was approved by the Commission, she was concerned that a lot of variances would be requested, which was what happened. She advised that when some lots required 7 ½ feet and other required ten feet, the Commission tried to even it out to make it fair.

Commissioner George advised that when this happened and the ordinance was changed, she remembered personally that she was confused about the overall calculations on those lots. At this point she is supportive of the change because of the disparity in treatment between the lots. The reason why she wanted it changed previously was because of the impervious surface ratios and she was trying to keep the environment protected and property rights. She explained that this ordinance is fair for everyone and does not create a disproportionate burden on the smaller lots.

Member Thomson, SEPAC, showed Exhibits 1 and 2. He explained at a prior meeting, which 40 or more people attended, they asked for a moratorium on the setbacks and asked that the City hire a planner. He explained that Ms. Haga was hired as a consultant for \$70,000 and she went through all the Land Development Codes (LDR's). In 2010 – 2014 there was an economic incentive for people to build larger homes to rent. He does not understand the current drive to pass this ordinance. There is a difference between the east side and west side of the Boulevard because the east side has more commercial with residential and the west side has more residential. He advised that this ordinance was a broad zoning change and should have a planner to advise the City on this. He gave definitions of zoning rights and property rights. He objected to decks and architecture extending off the sides, back, or front of the homes because the decks should be part of the calculations on impervious surface ratios.

Discussion ensued regarding whether calculations would be the same for a large or small lot; having both small and large lots should have the same standards; disagreeing with the planning; and why are solid decks in the air counted against the impervious surface ratio.

Commissioner George advised that Mr. Thomson is saying if the property owner builds out to the maximum and has bump outs and flexible setbacks to save a tree that would be a different calculation for impervious surface ratio. She explained that the code does not deviate from the 35% impervious surface ratio. This is only giving the builders and owners more options to save trees or not make a square box for a building. Those are the motivations to have diversity and aesthetics on the street and still preserve the environmental protection.

Mr. Thomson advised that the ordinance is too broad and not well stated. He explained that there is a disadvantage to bringing a building closer to the neighbor's home. He advised that it would be an economic disadvantage for a homeowner who is renovating a home than new construction to build closer on the setbacks.

Commissioner George advised that this is not about economic interest; otherwise, the Commission would have to give the developers what they want.

Mr. Thomson remarked that the Commission needs to analyze the adverse effect on the grand change of the historic neighborhoods with canopies that have already been established. He advised the Commission allowed three years to change the setbacks and a small percentage are now nonconforming homes.

Member Kaczmarzsky, SEPAC, advised that he has been studying environmental sciences for over 20 years with a lot of focus on sea level rise and global warming impacts. Environmental scientists are concerned with the impact that the environment is having with humans. The main recommendations on the Vulnerability Study presented to the Commission is to increase impervious surface ratios, increase the ability of landscape to absorb the heavy rainfall and this ordinance goes in the opposite direction. He advised that the Vulnerability Study says to respect the vulnerability of the nuisance flooding and storm induced flooding in combination with sea level rise. The study points out many areas in the City that are vulnerable to sea level rise. The conclusion of the study was that the City needs a better level of protection in short-term sea level rise and warned that there may be significant impacts from sea level rise in the near future. Many cities in Florida have approved the recommendations of studies regarding sea level rise and yet this ordinance is clearly going against the recommendations of our City's Vulnerability Study. He advised that the Commission will be accountable for the damage that will be done if this ordinance is passed. He suggested that the City reassess the ordinance and read the Vulnerability Study more carefully before passing this ordinance. The study says to reduce the intensity of development and increase setbacks over time, which is the opposite of this ordinance. The study says to retain public easements between properties so that rain can be absorbed and not vacate alleyways. He suggested not paving over the rights-of-way and to educate the public on what can happen in the future with sea level rise and flooding. Green infrastructure like trees can mitigate flooding. He advised that the City will be at risk and a burden to the residents if this ordinance is passed.

Mayor England advised that the Commission is not changing the lot coverage and asked why a larger lot gets to build at 35% lot coverage and a smaller lot could not.

Mr. Kaczmarzsky advised that all of us have good arguments. He advised that the Commission is concerned for individuals, but he is concerned about the whole community and the environment that all the people who live here have. He explained giving less impervious surface throughout the community would put the City at risk.

Commissioner Rumrell asked then those owners who have small lots are not a part of the community according to what Mr. Kaczmarzsky is saying. He agrees with Mr. Kaczmarzsky if the 35% impervious surface ratio was changed, but it is not being changed. He explained that there are 88 lots and hundreds with redevelopment or renovations in the future.

Building Official Law advised that these lots were the City Platted Center Lots in the code, which is in the center of the City.

Commissioner Rumrell explained that the owners are denied by the CPZB, but then the owners can do it if they pay \$400 for a permit on the overlay district.

Building Official Law advised yes, which he objects to. He explained that decks do not count as lot coverage because decks are a horizontal, paved, or a surface without a roof. So, without the solid floor it is impervious.

Mayor England opened the Public Comments section. The following addressed the Commission:

Dr. Sandy Bond, 1117 Steven Compass Road, St. Augustine, FL, explained that she was involved with the CPBZ discussions and asked if the lots that have built over the years have 35% land coverage.

Commissioner George advised that some are smaller than 35% land coverage.

Ms. Bond advised that they can be built to 35% land coverage then. She suggested to make sure that there were no adverse impacts on the neighbors when building and if they are going to be built closer to their neighbor there will be adverse impacts.

Mr. Kincaid had an example that came to the CPZB of a 4,600 square foot house east of the Boulevard and they would have been able to build on the smaller lot with the overlay district.

Mayor England advised that their lot coverage would be limited to 35% and their ISR would be limited to the same for any other lot in the City. She agrees that if the City needs more trees or stormwater drainage, then the Commission should address it. It is not fair to the smaller lots not to be able to build to the 35% lot coverage.

Mr. Pranis asked then if that would be an economic hardship if they cannot build to 35% lot coverage.

Mayor England advised no, it is not an economic hardship or any other legal hardship. There are various reasons for the ordinance.

Mr. Pranis asked if this has to do with variances and hardships.

Mayor England advised it has nothing to do with variances and hardships.

City Attorney Taylor advised that the Commission is setting policy, so they are not having to establish hardship, but they are trying to set a standard for everyone in an ordinance.

Mr. Kaczmarzsky asked for two standards depending on the lot size and have the owners meet the setbacks for the lot size.

Commissioner George advised that the Commission wants to be fair with all lot sizes.

Mayor England advised that Mr. Kaczmarzsky is trying to reduce the lot coverage and ISR for smaller lots.

Mr. Kaczmarzsky agreed.

Commissioner George advised that that would be a slippery slope. If anything changes the ISR, it would happen more and then it could hurt the environmental aspects of the City. She does not see the possibility or fear of making new policy.

Mayor England advised if the Commission changes the code for large and small lots then the Commission would be making a lot of nonconforming buildings in the small lots.

Mr. Kaczmarzsky advised that the Commission should change their mind sets.

Commissioner George advised that maybe all lots should be reduced to 20% maximum coverage and how do you think that would go over in the community.

Mr. Kaczmarzsky said that the Commission has the power to set two standards.

Commissioner George advised that the Commission must stay within the confines of what the people want too. The Commission cannot just go by one faction of the community.

Mr. Kaczmarzsky said then you will have the whole community flooded.

Commissioner Rumrell advised that there would be sea level rise anyway regardless of building or not building. He explained that it is mother nature that the City is fighting.

Mr. Kincaid advised that there was an incompatibility and there will be an increase on smaller lots from 27% to 35% land coverage.

Commissioner Rumrell advised yes, but if they are in the overlay district, they pay \$400 and they are approved.

Building Official Law advised that the Commission is not asking for an increase in the ISR. The lot coverage is only the first basis of the impervious surface ratio.

Mr. Kaczmarzsky advised that if the ordinance is passed the Commission would decrease the ISR.

Building Official Law advised no, the Commission would not be decreasing the ISR. He explained how they calculate impervious surface ratio.

Mayor England advised that the standards for lot coverage, impervious surface ratios, etc. needs to be fair to all residents. The Commission is trying to treat the small lots the same as large lots at 35%. The Commission has heard the Boards' concerns and their comments, and they will think about them before the final decision has been reached.

Discussion ensued regarding what the tree canopy provides to the City; how to calculate the allowable areas; roof runoff and overhangs; and it being illegal to give an incentive by decreasing the building permit fees but having some kind of incentive.

Vice Mayor Samora asked to discuss whether to delete the overlay district. He explained that there are several nonconforming houses that are in the overlay district and if it is deleted, would there be a problem rebuilding the home in its footprint.

Building Official Law advised that the nonconforming code in the Land Development Code is specific and does not to allow structures to go on permanently. The overlay district was formed for an approach to bring one design section to it. On page 17, Number 2, there was a sentence added which means that there is no purpose of the overlay as written. He suggested to look at the A1A Beach Boulevard overlay district and have standards for the corridor. The purpose of the code is to bring the building into compliance.

Vice Mayor Samora asked about the setback on page 18.A. He asked if a building were burned to the ground could the owner rebuild at the same footprint as previous.

Building Official Law advised that his staff did not have the authority to grant that. It would have to go to the CPZB and have a public hearing for it to be approved.

Vice Mayor Samora asked if that would give the CPZB approval to allow that?

Building Official Law advised that he does not have a problem with leaving the overlay district and it would not stop the ordinance from moving forward.

City Attorney Taylor advised that he would have to know what the Commission means by rebuilding because renovations would already be allowed as a grandfathered structure. Those type of questions should go through CPZB as a variance process to decide if a nonconforming building that has been there a long time should be left to stay and grant a variance individually for the lot or deny it and bring everything into conformity. He suggested doing this case by case individually.

Building Official Law advised that the Land Development Code states the same as the Florida Building Code as 50% damage and usually results in a demolition and rebuild.

Mr. Thomson advised that he would keep the overlay district.

Mayor England opened the Public Comments section. The following addressed the Commission:

Sandra Krempasky, 7 C Street, St. Augustine Beach, FL, read an email from Carolyn Karger (Exhibit 3).

Ted Hellmuth, 3 15th Street, St. Augustine Beach, FL, advised that he has built a home with 7 ½ foot setbacks on the east side of the Boulevard. He explained that storm runoff will not change and that there is a tree ordinance to protect trees. He remarked that he does not want a larger home next to him and asked for the 35% coverage on small and large lots.

Mike Stauffer, 1093 A1A Beach Blvd., St. Augustine Beach, FL, advised that he has been an advocate for the 20-foot front and back setback and 7 ½ foot side setbacks for the small lots. The reduce setbacks gives flexibility.

Joe McAnarney, 1005 Blackberry Lane, St. Johns County, FL, retired architect advised that he agrees to have an equal standard for all but make the setbacks 10 feet so there is continuity and also make the lot coverage not to exceed 35%.

Sandy Bond, 1117 Compass Row, St. Augustine, FL, agrees with Mr. McAnarney and advised that there should be a smaller house on a smaller lot.

Mayor England closed the Public Comments section. She advised that the Commission has heard good comments and they will take them into advisement. She moved on to Item IV.b.

- 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)

Mayor England introduced Item IV.b. and asked Building Official Law for a staff report.

Building Official Law advised that this is an attempt to reduce what the Commission sees every

month in order for the Commission to do other business matters. CPZB is very confident and can handle the condition use permits, mixed use districts, development review, etc. and asked that this goes back to the CPZB to handle and have the authority to approve.

Mayor England advised that it is a good suggestion. She suggested giving the CPZB guidelines from the Commission first before CPZB takes over the Land Development Review. She asked that SEPAC and CPZB work on the Vision Plan, parking, parkettes, conditional use permits, etc. If everyone works together then it would be good.

Building Official Law pointed out that SEPAC is a non-land use Board. He explained that his department deals with private property and SEPAC deals with public property. If the Commission wants SEPAC to be a policy making Board, then the code would have to be changed by the City Attorney.

Mayor England advised that they could have input.

Commissioner George advised that it is a good idea with guidelines. The code is ambiguous, and the Commission should work on the guidelines.

Building Official Law advised that the CPZB start small such as outdoor dining. He explained that owners do not want to come to two meetings and speak.

Mayor England asked staff to do a whitepaper on guidelines for the CPZB.

Commissioner Rumrell agrees with giving CPZB authority and if the owner wants to appeal, they can come in front of the Commission. He likes the whitepaper approach.

Vice Chair Odom advised that it is the same process and believes it is not a good use of the Commission's time.

Commissioner George agreed and said that when the public wants to comment on a matter, they probably do not want to go to two meetings, and they might not be sure which meeting to speak at.

Vice Mayor Samora agrees that there are some items that could be given to the CPZB, but there are items that he was glad that came to the Commission because they were sensitive and took months for the Commission to agree on.

Building Official Law advised that he would like to relinquish outdoor dining first to the CPZB after the budget season is over.

Vice Mayor Samora asked for a list for what is needed to give the CPZB authority.

Mayor England asked for the Vision Plan to be done for the Boulevard with the Commission giving their visions for the Boulevard.

Building Official Law suggested having Jennifer Thompson as a planner learn the cases under Bonnie Miller and having Ms. Thompson go to school for her ACIP degree. He advised that she will be presenting the cases to the CPZB and will be attending the Northeast Florida Planners Council.

Mayor England asked if there was anyone opposed to moving forward with this. Being no comments for opposition, Mayor England suggested moving forward.

Mr. Pranis agreed with Mayor England's suggestions to move forward with the Vision Plan.

Mr. Thomson suggested that the Forestry Plan should be codified in the Land Development Regulations. He advised that there is a gap in putting these plans in the Land Development Regulations. He requested a contact person.

Mayor England suggested writing the SEPAC recommendations with staff's help and then it should go to CPZB and then to the Commission for approval.

Chair Krempasky advised that SEPAC needs direction on what to do. She explained that they hire consultants, and the recommendations are not moving forward.

Mayor England asked SEPAC to put it in writing and give it to the CPZB who will review it with SEPAC and then bring it to the Commission who will then have the City Attorney put it in legal ease.

Building Official Law advised that SEPAC could design landscaping for the parkettes, and they have the money in the Landscaping Fund of approximately \$35,000. He suggested that Public Works is involved because they must maintain the landscaping. He suggested also hiring a landscape architect to do the project.

Mr. Thomson advised that SEPAC needs to codify the Forestry Plan into the Land Development Regulations. He explained that SEPAC is trying to mitigate flooding in the area and how to keep the existing trees.

Building Official Law said that his staff goes to great lengths to save the trees that they can. One of the issues is that construction cannot be within 15 feet of the tree because of the root system. Construction equipment is hard to get on a small lot and if the equipment hurts a tree there could be a complaint that we are not following our own Land Development Regulations if the Forestry Plan is codified. It could limit development and have the City sued for going against the City's rules. He explained that the Land Development Code is not best practices, it is the law. He said that he is not against adopting a separate document.

Mayor England requested that SEPAC put their thoughts and ideas in writing so they can be discussed with the CPZB and then come to the Commission for approval.

Commissioner George summarized that City Manager Royle should facilitate SEPAC to get funding from the Tree Fund to hire a landscaping architect to work with SEPAC and Public Works to get recommendations and also asking SEPAC to create a To Do List for consideration of new ordinances to go to CPZB and then the Commission. (very long rambling sentence)

City Manager Royle advised if there is a recommendation from SEPAC to codify the Land Development Regulations, then SEPAC should write it up and give it to the Building Department. The Building Department will put it on the CPZB agenda and discuss it with SEPAC and the CPBZ can send it then to the Commission.

Mayor England closed the Public Comments section and Mayor England moved on to Item IV.c.

- c. Communication/Relations Between the City Commission and the Two Boards (Presenter: Max Royle, City Manager) (discussion for IV.c is shown below in IV.d?)
- d. Other Topics of Mutual Concern/Interest (Presenter: Max Royle, City Manager)

Mayor England introduced Item IV.c. and asked City Manager Royle for his staff report.

City Manager Royle asked if any of the Boards want more communications.

Mayor England asked for discussion from the Commission, CPZB, and the SEPAC members.

Commissioner Rumrell requested that a member from SEPAC and CPZB come to the Commission meeting to answer any questions that they may have regarding agenda items because they are such an integral part of what the Commission does.

Mr. Kincaid advised that he has come to the Commission meetings and did not feel that the CPZB was adding any value to the meeting.

Discussion ensued regarding giving the CPZB unofficial minutes available before the Commission meetings; having the CPBZ or SEPAC members call the Commission individually if they have any concerns; having the Commission ask CPBZ or SEPAC members questions individually; waiting all night for an item on the agenda and then the item was not discussed; adding the Committees or Boards at the beginning of the agenda; and the Commission appreciating the CPZB and SEPAC's time and the members volunteering; whether any Boards need training.

Commissioner Torres asked for Chairperson notes from SEPAC and CPZB so the Commission could get things faster. He advised that he would not want to add any more items to the agenda at this point.

Building Official Law asked that the Chairs send the comments to him or the City Manager so that it would not go directly to the Commission.

City Attorney Taylor advised that if more than one member of any Board comes to the Commission meeting it needs to be acknowledged in the public notice and agenda.

Ms. Krempasky requested that their secretary send a To Do List to their Committee members so that they know what to accomplish before the next meeting.

City Attorney Taylor explained that the Sunshine Law would not be violated if a SEPAC member prepares a To Do List and staff distributed it to SEPAC members.

Discussion ensued regarding the process that SEPAC needs to do to have an ordinance done.

Commissioner George asked if any Boards need training.

Chair Krempasky advised that she will start on the Vision Plan for A1A Beach Boulevard with the CPZB.

Mayor England asked to start a whitepaper on the undeveloped lots and parkettes on the

Boulevard and the Vision Plan.

Commissioner George asked to think about the incentives for environmental protections.

Mayor England thanked everyone for attending.

Commissioner Torres appreciated the Board members volunteering and their time and as a new Commissioner he has learned from their input and other members' experience that were brought up tonight.

Mayor moved to Item V.

V. ADJOURNMENT

Mayor England asked for a motion.

Motion: to adjourn to meeting. **Moved by** Commissioner George, **Seconded by** Commissioner Rumrell. **Motion** passed unanimously.

Meeting was adjourned at 8:23 p.m.

A handwritten signature in blue ink, reading "Margaret England", written over a horizontal line.

Margaret England, Mayor

Attest:

A handwritten signature in blue ink, reading "Beverly Raddatz", written over a horizontal line.
Beverly Raddatz, City Clerk