

**MINUTES OF THE REGULAR MONTHLY MEETING OF THE COMPREHENSIVE PLANNING AND ZONING BOARD** of the City of St. Augustine Beach, Florida, held Tuesday, November 15, 2011, at 7:00 p.m. in the City Commission Meeting Room, City Hall, 2200 State Road A1A South, St. Augustine Beach, Florida, 32080.

**I. CALL TO ORDER**

Chairman Greg Crum called the meeting to order at 7:00 p.m.

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL**

BOARD MEMBERS PRESENT: Chairman Greg Crum, Vice-Chairman Alfred Guido, Michael Aulicino, Patricia Gill, Michael Hale, Steve Mitherz, Daniel Stewart, Senior Alternate Berta Odom, Junior Alternate Rachael Bennett.

BOARD MEMBERS ABSENT: None.

STAFF PRESENT: Gary Larson, Building Official; Doug Burnett, City Attorney; Max Royle, City Manager; Bonnie Miller, Recording Secretary.

**IV. APPROVAL OF MINUTES OF TUESDAY, OCTOBER 18, 2011 REGULAR MONTHLY MEETING**

Mr. Aulicino **MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MONTHLY MEETING OF TUESDAY, OCTOBER 18, 2011.** The motion was seconded by Mr. Stewart and passed 7-0 by unanimous voice-vote.

**V. PUBLIC COMMENT AND DISCUSSION**

Mr. Crum asked for public comment on any issue not on the Board's meeting agenda.

Bruce Wright, 118 15th Street, St. Augustine Beach, Florida, 32080, said an amendment to the City's recreational vehicle (RV) ordinance will be coming before the City Commission next month from Mr. Larson. He sent an email to Mr. Larson about a large RV that has been illegally parked in the side yard of the property at 209 11th Street, and was told by Mr. Larson his complaint was one out of a City population of 6,000. He feels if the owners of the RV want to keep the RV parked in the side yard of their residence on 11th Street, they should have to apply for a variance, and that the City's RV ordinance shouldn't be amended to allow them to keep it parked there, as it has been for weeks. Mr. Larson sent a letter to the owners to remove the RV within 30 days, but he thinks the

owners should have come before this Board for a variance, and that this should have nothing to do with the City Commission and/or amending the City's RV ordinance.

## **VI. NEW BUSINESS**

**1. ORDINANCE NO. 11-14**, passed on first reading, subject to requested revisions, by the City Commission at its regular monthly meeting held on Tuesday, November 7, 2011, this proposed ordinance amends Appendix A, Article VIII, Sections 5.01.01-5.01.07 of the City of St. Augustine Beach Land Development Regulations, to provide revised regulations for the removal and replacement of trees.

Mr. Larson said this ordinance was approved by the City Commission, with revisions, on first reading at its last regular monthly meeting. He recommended the Board forward a motion to approve final passage of the revised ordinance to the City Commission.

Mr. Crum asked for public comment.

Bruce Wright, 118 15th Street, St. Augustine Beach, Florida, 32080, said the biggest flaw he sees with the proposed ordinance is that if you don't get a permit to take down a tree, Mr. Larson will issue an after-the-fact permit, but he'd love to see people who start without a permit get fined. His neighbor took down numerous trees, including cedar trees. No one patrols on the weekends, and this is when a lot of trees get cut down.

Ms. Gill said they've been working on revising the City's tree ordinance since 2007. Unless anyone has any major concerns, she thinks the Board needs to recommend approval of the current revised ordinance, since the City Commission has approved it.

Mr. Guido said it should be noted that the Beautification Advisory Committee has also been directly involved in this, along with Mr. Lippi, the City's Tree Board Advisor, since the beginning, so he would concur with Ms. Gill.

Mr. Stewart made a motion to recommend approval of final passage of this ordinance as it has been submitted.

Mr. Mitherz seconded Mr. Stewart's motion.

Mr. Crum asked for any further discussion.

Mr. Hale said he thinks they're trying to create a problem here, and doesn't see any need for this ordinance. The City government is trying to stick its nose into private property, and if this ordinance is passed by the City Commission, property owners with trees should be given some kind of tax credit, because the City is telling them how to maintain the trees, and trying to legislate something that doesn't need to be legislated.

Mr. Guido said the purpose of the ordinance is to maintain some kind of community spirit to preserve the trees in the community. Oak trees that were at least 200 years old were

taken down in his neighborhood, without any discernable purpose for cutting them down, aside from the fact that the owners didn't want the shade in their driveway.

Mr. Hale said they were their trees.

Mr. Guido said they were not their trees.

Mr. Hale said yes, they were, as the trees are part of their property.

Mr. Crum called for a roll-call vote on the motion that was made.

Mr. Stewart **MADE A MOTION TO RECOMMEND THE CITY COMMISSION APPROVE FINAL PASSAGE OF THE REVISED DRAFT OF ORDINANCE NO. 11-14, AS SUBMITTED TO THE BOARD.** The motion was seconded by Mr. Mitherz and passed 6-1 by the Board by roll-call vote.

Mr. Aulicino	Yes
Mr. Guido	Yes
Mr. Stewart	Yes
Mr. Crum	Yes
Mr. Mitherz	Yes
Mr. Hale	No
Ms. Gill	Yes

## **VII. OLD BUSINESS**

**1. PROPOSED OVERLAY DISTRICT ORDINANCE REVISIONS,** for the Board's review and discussion of proposed revisions to Ordinance No. 08-30, which provides architectural and site requirements for new and remodel construction within the overlay district, consisting of that portion of the medium density land use district located east of A1A Beach Boulevard between 16th Street and F Street.

Mr. Crum said he took the liberty of cutting and pasting the existing overlay district ordinance to add a few things to it and delete a few things. He's not committed to any of the proposed changes, he just wanted to make the ordinance a little more orderly and understandable, and hopefully clarify it a little. He's absolutely open to any proposed revisions the Board and/or members of the public think will be good for the community.

Mr. Aulicino said he thinks Mr. Crum did a good job and congratulated him for it, as his revised draft is much more organized than the original ordinance.

Mr. Crum said the setbacks were in different places so he tried to group them all together. Also, some of the setbacks contradicted each other, so he hopes this is a starting point for cleaning the ordinance up.

Mr. Guido also congratulated Mr. Crum for the work he did to revise the ordinance. He said the changes Mr. Crum made address a number of objections he had to it, especially concerning the footprint, setbacks, and things like that.

Mr. Crum said he'll start with the purpose clause at the very beginning of the ordinance, which states, "The overlay will provide for the enhancement or replacement of existing nonconforming structures." To this he added, "The overlay also provides for new construction on vacant platted lots."

Ms. Gill said she totally objects to that, as she doesn't think the overlay should be for new construction at all. The original overlay ordinance passed in November 2008 says the purpose of the overlay is to provide for the enhancement of existing nonconforming structures located within the medium density land use district east of A1A Beach Boulevard between 16th Street and F Street, allowing owners or buyers to remodel based on existing setbacks, and structures deemed currently as nonconforming in accordance with the current Land Development Regulations will lose the nonconforming designation by the overlay. Further on, there is all this criteria saying you can't put anything on the first floor, which is the criteria for new construction, so in her mind, this is mixing up what the overlay was intended to do, and what new construction is intended to do. She appreciates Mr. Crum taking on this job, and thinks he's done a good job with the setbacks, but she feels it's wrong to include new construction in the overlay ordinance.

Mr. Crum said the Board had an application before it a few years ago for new construction, and at that point, he thinks there was consensus from the Board to add new construction to the overlay ordinance.

Mr. Aulicino asked Ms. Gill why she's against having new construction in the ordinance.

Ms. Gill said the City's Land Development Regulations already address criteria for new construction, so she thinks this is what should be followed. However, she's one-hundred percent for allowing homeowners to renovate old houses that have been in existence for years, within their current footprints, because they really can't be renovated now, as they're nonconforming. Section 3.08.00.A.7.e of the revised ordinance states, "For new construction, the lower level shall be used for only storage or a garage," and so on, but this is already in Section 5.03.07 of the Land Development Regulations, so she doesn't see any sense in putting it in the overlay ordinance, because it will only confuse people.

Mr. Mitherz said it's his understanding this is different because it applies to properties within the VE flood zone east of the Coastal Construction Control Line (CCCL), which are required to have structures with breakaway walls, no living space on the first floor, etc. In general, however, these things are not required for new construction on a vacant piece of property, and new construction on a property not within the VE flood zone east of the CCCL is allowed to have living space on the first floor.

Mr. Crum asked Mr. Larson's opinion as to whether or not the overlay district ordinance should include new construction.

Mr. Larson said he'd recommend leaving new construction in the ordinance. The Board may have a case, which was brought to his attention today, before it regarding a vacant lot that has an angular part of it deeded to an adjoining property. There are people interested in buying this lot, but without new construction included in the overlay ordinance, they really couldn't build anything on it, as it is pretty much an unusable lot.

Ms. Gill asked if the potential owners could apply for a variance to build on the lot.

Mr. Larson said there is no way to get a variance for new construction on a vacant lot, because that is a self-created hardship.

Mr. Crum said the advantages of using the overlay, instead of just relying on the setback requirements in the Land Development Regulations, are a reduction of the setback requirements to 15 feet for the front and rear setbacks. He asked if the side setbacks in the overlay are 10 feet, as they are in the Land Development Regulations.

Mr. Larson said that's correct.

Mr. Guido said he thinks one of the original purposes of the overlay was to make the vacant, nonconforming lots in the area the ordinance covers viable and buildable, as due to the setback requirements and lot sizes, a reasonable structure couldn't be built on them. Following the philosophy of "buyer beware," however, if you don't know the implications of what you're buying, you shouldn't be allowed to do things that are against City Code. He agrees with Ms. Gill that new construction doesn't belong in the overlay ordinance.

Mr. Crum asked if any of the other Board members feel that new construction doesn't belong in the overlay district ordinance.

Mr. Aulicino asked what harm it would cause to put new construction in the ordinance.

Ms. Gill said it defeats the whole purpose of the City's Land Development Regulations.

Mr. Aulicino said he doesn't see that, as he thinks the purpose of the overlay ordinance was to carve out a small portion of the City, on the east side of A1A Beach Boulevard between 16th Street and F Street, due to the unique circumstances in which the lots in this area were originally platted and houses were built on them, and create an addendum to the Land Development Regulations that would directly apply only to this area.

Ms. Gill said she'd then suggest, as she's already done four or five times, that the current ordinance be revised with separate sections for rebuilding nonconforming structures and new construction on vacant lots, so new construction isn't nonconforming, but is required to have breakaway walls, no first floor living space, etc. The lots might be nonconforming, but the overlay ordinance wouldn't give property owners who want to put up new construction on vacant lots anything but the existing, nonconforming lot.

Mr. Aulicino said these requirements are dictated by the Federal Emergency Management

Agency (FEMA), based on the location of the lot, and they're not something the City can override, even if it wanted to.

Mr. Larson said that's correct, these are federal regulations. The City has absolutely no jurisdiction over the federal government, which is what nobody seems to understand.

Ms. Gill asked why these regulations, which are in the City's Land Development Regulations, are repeated in the overlay district ordinance.

Mr. Aulicino said because the overlay ordinance encapsulates both new construction and remodeling and renovation for this unique land area, in one amendment. If you want to build or do something in this one area east of A1A Beach Boulevard between 16th Street and F Street, you can refer to this one ordinance, without having to also search through the Land Development Regulations, as the overlay ordinance is all-inclusive.

Mr. Crum asked if anyone else wants to remove new construction from the overlay ordinance, aside from Ms. Gill and Mr. Guido. There was no further consensus to remove new construction. He said they'll leave the references to new construction in the ordinance, and maybe look at having a new section that refers to new construction only.

Mr. Guido said one of the things the Board was concerned about was the 35-foot-high, three-story, square boxes that were being built. Mr. Crum has addressed in his revised draft, in the setback requirements for the first, second, and third floors, so the City doesn't end up with a bunch of structures that look like small water towers on 50-foot-wide lots. Going back to the original purpose of the ordinance, however, it wasn't to help people build on undeveloped lots, but to help people remodel or renovate the older homes built forty years or so ago, which really couldn't be done now, economically or feasibly, to bring them up to current building code standards and make them livable. Probably only ten percent or less of that whole overlay strip is eastward of the CCCL, so the bulk of this strip, and the bulk of what they'll be dealing with, is not within this zone, although most of the applications that have come before the Board have been for oceanfront properties.

Mr. Crum said hopefully, the Board will be able to revise the overlay district ordinance to give the owners of these lots some guidance as to what they can do. He thinks it's very important to note how the overlay district standards affect neighboring properties, because if someone wants to build 15 feet off the street but the neighbor next door has a house that is 40 feet off the street, that neighbor may not be happy with a house next door built only 15 feet off the street. He asked the Board members to consider whether or not they want to keep the current setbacks in the overlay district ordinance.

Roberta Odom, 7 11th Street, St. Augustine Beach, Florida, 32080, said at one time, she planned to do some construction on her home when she moved back to it. The CCCL runs right through the middle of her house, which is in the middle of her block, and though it doesn't run in a straight line all the way down the beach, but there are many lots and homes from F Street to 16th Street that are affected by it. She knows the lot Mr. Larson mentioned with the angular part of it deeded to an adjoining property, so if

specifications for these lots are not put in the overlay ordinance, she doesn't know what will happen with them. She initially agrees with Ms. Gill in that if you're going to build a new house, you fall under the guidelines of the Land Development Regulations, but lots like the one with the angular part of it deeded to an adjoining property won't be buildable if a provision isn't made for them in the overlay ordinance. As for construction height as you build up, her opinion is that the overlay ordinance does a good job with the height regulations, and she doesn't really have a problem with this, as she doesn't think the allowable building height of 35 feet is that high, or that the majority of property owners who might want to remodel their homes in the overlay district want to build up that high.

Mr. Crum said in the purpose clause of the overlay ordinance, he added the statement, "The overlay does not provide for the expansion of existing, nonconforming structures," which means that if a structure is built on the property line or within a five-foot setback from the property line, it cannot be expanded by building upward. He asked Ms. Odom if she thinks this should, or should not, be allowed.

Ms. Odom said personally, if she ever wanted to build up, her property falls into this category. All her neighbors' houses are also built right on their property lines, so as long as everyone is treated equally and fairly, she doesn't have a problem with expansion upward. She wouldn't want to expand her home to more than two levels, but that's her personal preference, as she thinks expanding to three stories on a five-foot setback is getting a little carried away. The majority of her home was built in 1958, so she doesn't even have a five-foot setback from her back property line, where she has a bungalow.

Rachael Bennett, 920 Saltwater Circle, St. Augustine Beach, Florida, 32080, said regarding homes in the overlay district built right on the property line, in the unincorporated parts of the County, the County's regulations say you can enlarge any part of a house that is conforming. So any part of a house that meets the required setback can be expanded and built up, but you can't enlarge a nonconforming part of a structure. She suggested this as a way to handle this in the City's overlay district ordinance.

Mr. Crum said that's kind of what he was thinking when he wrote the revisions to the ordinance. While the overlay does not provide for the expansion of existing nonconforming structures, if an expansion was done within the setbacks put forward in the ordinance, it would be fine. The overlay wouldn't allow a structure five feet off the property line to go up to three stories. To expand a structure five feet off the property line, the expansion would have to be built 10 feet off the property line. Part of the reason he put this in as a revision to the overlay ordinance was because the last overlay applicant who came before the Board wanted to build up in a nonconforming setback area.

Ms. Gill said she doesn't have any problem with allowing structures to be built up, as long as the expansion is within the current footprint of the structure.

Mr. Crum asked Ms. Gill how she feels about the sentence he added to the purpose clause of the overlay ordinance which says, "The overlay does not provide for the expansion of existing non-conforming structures."

Ms. Gill asked Mr. Crum what he means by the term "expansion."

Mr. Crum said by this he means building up.

Ms. Gill said by that definition, she doesn't like the sentence reiterated and added as a revision to the overlay ordinance, as she thinks some of the houses in this area are so little, the owners should be allowed go up. She thought one of the purposes of the overlay ordinance was to allow expansion within the current footprint.

Mr. Crum said so that's one negative vote for this addition.

Mr. Mitherz said he wasn't really happy with allowing nonconforming structures to be built up. He thinks there should be greater control over how much a nonconforming structure can be expanded, but perhaps the suggestion to allow expansion within conforming setbacks should be considered.

Mr. Aulicino asked if expansion of existing structures is what Mr. Crum tried to cover in Section 3.08.00A.5.a.2, which says, "In regards to existing structures, the current footprint of the home will be deemed acceptable and its location referred to as the 'existing setbacks' for the purposes of renovation or rebuilding but not for expansion purposes."

Mr. Crum said yes, he put this in as kind of an addition to what he added to the purpose clause, to try to clarify and define the meaning of "existing setbacks."

Mr. Aulicino said the gist of the question, then, is that if an existing structure is three feet from the property line, do they want to let the owners go up to three stories, with a three-foot setback off the property line, within the current footprint of the structure?

Mr. Guido said he doesn't understand the statement Mr. Crum put in the purpose clause which says, "The overlay does not provide for the expansion of existing, nonconforming structures," because that is exactly what the overlay ordinance does.

Mr. Crum said that's his question, as to whether the overlay should provide for the expansion of nonconforming structures, or just conforming structures, within the setbacks. As Ms. Bennett said, if a structure is built on the property line, you couldn't build the structure up on the property line, but you could build up with a 10-foot setback off the property line. It might look like a hat box, but it couldn't be expanded unless the second-story was moved over to meet the 10-foot setback requirement.

Mr. Guido said he agrees with that, but he doesn't agree with the wording of the statement added to the purpose clause.

Mr. Crum said he just threw this out there as a concept, as he knows the proposed revisions will need to be cleaned up and clarified so they are more understandable. However, his idea behind this is whether they want to allow homeowners to build up, or just remodel, nonconforming structures within their current footprints. If they are going

to allow nonconforming structures to be built up, do they want to require second- and third-story expansions to be moved over to conform to the required setbacks, he asked?

Mr. Guido said he thinks they're probably going to have to live with provisions for new construction in the overlay ordinance, as he doesn't know how they can get around this. Regarding the statement that was made earlier about treating everybody fairly, they are already treating the people in the overlay district more fairly than they're treating the rest of the community. It needs to be understood that this is a very special district in which, if applications are approved through the overlay process, they're making nonconforming uses conforming, which doesn't happen anywhere else, or in any other areas, of the City.

Mr. Crum said he thinks next time, he'll bring some visual drawings, so the Board members can see what he's talking about, and decide what is and isn't okay, and define these things in the ordinance. That way, the next time an overlay application comes before the Board, they won't have to go through two long meetings and an attorney brought in to appeal the Board's decision to deny the application to the City Commission.

Mr. Guido said he thinks they need to simplify the parameters of the ordinance a little bit more, so it's very clear that the expansion of nonconforming uses will not be allowed, but that expansion will be allowed on that part of an existing structure that is conforming. They probably need to start by restating what the purpose of the ordinance is and making the purpose clause of the ordinance quite clear, including some very general guidelines as to what will be permitted and what will not be permitted by the overlay ordinance.

Mr. Mitherz asked Mr. Larson if a new wall or footer would have to be put in for a lot of the older structures, in order to support a two or three-story expansion built back from the existing first-floor building wall or footer, within the required setback.

Mr. Larson said yes.

Mr. Mitherz said he understands that in the case of most of the older structures, you couldn't just drop back to a 10-foot setback and build a one-story structure up.

Mr. Larson said that's right. Also, depending on where a property is located, there is something called "substantial improvement," which is when the cost of an improvement exceeds fifty percent of the appraised building value. When this is tripped, other regulations kick in. For example, if you want to improve a nonconforming structure within a velocity flood zone, if you trip that substantial improvement level, the whole first floor of the building, if it is currently living space, is gone, and it goes to a garage.

Mr. Aulicino said so it is then just like new construction.

Mr. Larson said yes.

Mr. Mitherz said plus there is the added expense of having to put in a structural wall or footer to support a second, and possibly a third, level.

Mr. Larson said right.

Mr. Guido said the ordinance doesn't say you can't rebuild the first level of a nonconforming structure, it just says you can't expand it.

Mr. Mitherz said he understands that, but it involves a fair amount of expense to bring the first level of a nonconforming structure up to conforming standards. Then again, this is up to the owners of the property, as to whether they want to bear this expense.

Ms. Gill said she's not for making the owners of these properties go back to the setbacks required in the Land Development Regulations, because she wants to allow them to build within the framework of the original footprint of their structures.

Mr. Crum said that's a good point, because suppose there's a fire or a hurricane that tears down a one-story, nonconforming structure that was built one foot off the property line. Does the Board want to let the property owner rebuild the structure on the original footprint, and go up to three stories, if the owner wished to do so, he asked?

Mr. Guido said it would not be considered rebuilding at that point, because if the structure is more than fifty percent destroyed, it would be considered new construction. If a structure was only thirty percent destroyed, however, that could pose a problem.

Mr. Crum said in a case like this, does the Board think the property owner should be allowed to rebuild and expand within the footprint, and tick off the neighbors? He'd like this to be addressed in writing in the ordinance, so there is no argument about it, and it is clearly stated that this is something that is, or is not, allowed.

Ms. Gill said it's her understanding that interfering with the visibility of an oceanfront neighbor's property is something you can't legally do.

Mr. Crum said he's not saying it's legal or illegal, he's just saying it's going to tick off the neighbors. He asked if the Board wants to allow property owners to expand up within existing, nonconforming setbacks, or not.

Ms. Gill said that's fine with her, as long as the expansion is within an existing footprint.

Mr. Crum asked for public comment.

Bruce Wright, 118 15th Street, St. Augustine Beach, Florida, 32080, said on the ocean side of the Boulevard, there are many nonconforming properties, so he'd recommend going to five-foot side yard setbacks for new construction, and then he won't have to worry about motor homes parked in the side yards of these properties. This will save hours and hours of time, money, and aggravation, as people are going to come before the Board for variances to these lots every time, because most of them are only 50 feet wide.

Mr. Guido said Mr. Crum has given the Board something substantial to work on, and he

agreed the Board should do a little more homework on revisions to the ordinance, and come back with more thought on it next month. Then they can turn it over to Mr. Larson and the City Attorney to either do a brand new draft of an entirely new ordinance, and recommend the current ordinance be rescinded, or do a draft of an amended ordinance.

Mr. Hale said he's okay with allowing owners to build up on an existing footprint.

Ms. Odom asked everyone to give some thought as to what it's going to visually look like if these properties are allowed to expand upward and are layered, as she thinks a lot of these structures will look like they're hanging off a cliff. She thinks this would be just as offensive as building up and blocking the view.

Mr. Crum said this is something they need guidance on, because if they want to allow this, it needs to be written in the ordinance, so no one can argue about it. He asked for comments on the last sentence in the purpose clause of the ordinance, which states, "Structures deemed currently as nonconforming in accordance with the current Land Development Regulations will lose the nonconforming designation by the overlay."

Mr. Aulicino asked if this means that once the overlay ordinance is revised and passed, in all its bits and pieces, there will no longer be any nonconforming homes in the City.

Mr. Guido said no, because owners of nonconforming properties have to submit an overlay district application to renovate or remodel their property, come before the Board, and be approved in order to lose the nonconforming designation and become conforming. He thinks it also should be noted that overlay applications approved by the Board don't go to the City Commission for approval. The Board has final approval over overlay applications, and applications are only heard by the Commission if they are denied by the Board, and the Board's decision is appealed to the Commission by the applicants.

Mr. Aulicino said he thinks they need to agree that the purpose clause of the ordinance is well-stated, before they move on and examine all the following paragraphs in the ordinance relating to setbacks and everything else.

Mr. Crum asked everyone to think about what is currently in the purpose clause of the ordinance, including the additional sentence he put in which states, "The overlay does not provide for the expansion of existing, nonconforming structures," and discuss what they want to do about allowing expansion of existing structures in the overlay next month. Section 3.08.00.A.2, which he added to the ordinance, probably needs to be cleaned up a little. It made sense to him to add how he thinks the whole overlay approval process works, but he's not married to it, and he's open to suggestions about it, but he really doesn't want the overlay to be a way around the variance process. If an application doesn't meet the provisions of the overlay, it needs to be resubmitted as a variance.

Mr. Guido said they have to remember, in regard to variances, that for new construction, there is no hardship for a variance, as the hardship is self-imposed, and any remodeling to an existing structure by anyone other than the existing owner is also a self-imposed

hardship. The only variances they could be talking about in the overlay process would be for properties the existing homeowners wish to renovate, so he thinks it's a good idea to have what Mr. Crum wrote about the overlay approval process in the ordinance.

Ms. Gill said she was happy with this as well.

Mr. Crum said he also entirely added Section 3.08.00.A.3, which talks about situations that conform to the overlay, new construction built within the overlay setback requirements, and rebuilding of structures located within the overlay setback requirements or on the footprint of the last known existing structure.

Ms. Gill asked if this means structures destroyed by a hurricane, fire or something like that can be rebuilt located within the last known footprint of the destroyed structure.

Mr. Crum said yes. He asked Mr. Larson how he feels about allowing, for example, an oceanfront house built five feet from the property line and more than fifty percent destroyed to be rebuilt within the same footprint.

Mr. Larson said he'd like to allow it to be rebuilt within the same footprint, but if what was destroyed was a two-story home, that is what can be rebuilt, not a three-story home. The City has public records of existing structures, so what you had, you can rebuild.

Ms. Gill asked what other cities along the Florida coast do in regard to this problem.

Mr. Larson said most houses that are destroyed by hurricanes will have a remaining slab, and in most cases, you are allowed to rebuild what you had on this footprint.

Ms. Gill said she'd like the expansion of existing structures, which is referenced in this section of the revisions proposed by Mr. Crum, to be defined in the ordinance.

Mr. Crum said this section says a situation that conforms to the overlay is the "Expansion of existing structures with the caveat that the expansion must meet all required building codes and must be within the setbacks set forth in the overlay," but this verbiage could change, depending on what the Board wants to do with the purpose clause. He'd define expansion as the addition of any air-conditioned or covered square footage, building up, or out, so that it is anything that makes the existing structure bigger. This section also lists situations that do not conform to the overlay and therefore require applicants to go through the variance process. In Section 3.08.00.A.4, which references construction requirements, he added a definition for "footprint," which he copied from code.

Mr. Guido said he has a real problem with this, especially the last sentence, which really defines the footprint as enclosed previously existing covered patio space, garage space, carport space or other attached storage space. This says is that if someone has a carport that is four poles and a piece of canvas, they can build over that, or if they have a covered shed to store firewood, they can build over that. He'd take the covered carport space and attached storage space verbiage out of the footprint definition. He supposes you could

make a case for building over covered patio space, and he has no problem with building over garage space, but he doesn't think this should be extended for carports or sheds.

Mr. Crum said he was trying to figure out what they're going to call a footprint. It could be defined as a slab, but a slab isn't necessarily covered, as it could be an open patio that goes out to the edge of the property. He went with the idea of defining it as a permanently roofed or covered area, so it wouldn't just involve a paved space such as an uncovered patio or a driveway or something like that. He asked if the Board is okay with removing covered carport space and other attached storage space from the definition of "footprint."

Mr. Hale said he kind of likes this verbiage in the definition.

Mr. Guido asked Mr. Hale if he would allow someone to build up three stories over an outdoor shed or carport.

Mr. Hale said sure.

Mr. Stewart asked Mr. Guido if his concern is the texture of the covered material.

Mr. Guido said no, his concern is whether or not it is really a structure, because a shed could be covered with the same material as the roof on a house. He doesn't necessarily want to go back to defining a footprint as only heated and air-conditioned space, which is what the Board previously talked about, but he also doesn't want to get into the same situation they had with the last overlay application that came before them, in which the definition of "footprint" was argued because there is no clear definition of it in the ordinance. Mr. Crum has put verbiage in the definition that says the applicant must be able to demonstrate convincing evidence to the Board that a roof existed over the floor space that is in question in order to rebuild in that footprint.

Mr. Crum said if everyone is in agreement with this, he thinks they can try to define what would be a footprint a little bit more, what would be a permanent main roofline, and things like that, and have more on the definition at the Board's next meeting.

Mr. Aulicino said one thing he thinks they need to discuss if they're going to come up with a viable definition for "footprint" is whether a cement slab has footings and is sound enough to support building over it, which is something a slab for a carport, which might only be three inches of concrete or some gravel with a simplified roof over it, might not be able to do. In his view, a footprint you can build over has to have some character to it.

Mr. Guido said the most sensible and demonstrable definition of a "footprint" is the area of a structure that is heated and air-conditioned.

Mr. Larson said he'd like to read aloud a definition the Board might want to consider. "A building footprint is the outline of a total area of a lot or a site that is surrounded by the exterior walls of a building or portion of a building exclusive of courtyards. In the

absence of surrounding exterior walls, the building footprint shall be the area under the horizontal projections of the roof."

Mr. Guido said fine, he'll go along with that.

Mr. Crum said he's fine with this too, as long as the footprint is defined as the main structure of the roof, instead of something like a carport, which has just a little winged roof extending off the main structure. He asked for the Board's consensus on this definition, to which everyone agreed, by general oral consensus. In Section 3.08.00.A.5, which addresses setbacks, he took all the setbacks that are in the original ordinance, and moved them, by copying, cutting and pasting, into one spot. Section 3.08.00.A.5.a addresses setbacks for structures not located forward of the VE and/or CCCL, and Section 3.08.00.A.5.b addresses setbacks for structures located forward of the VE and/or CCCL. He changed a few things in the height setbacks, and added the statement, "All height setbacks shall be governed by Section 6.01.03 of the Land Development Regulations," because he thinks some of the height restrictions in the original ordinance are kind of bizarre, as they relate to the height of neighboring properties, which he is not a big fan of. He asked the Board to give some thought to the revisions he proposed to this section, and they'll discuss this section further at the Board's next meeting. Section 3.08.00.A.5.b says, "In regards to existing structures, the current footprint of the home will be deemed acceptable and its location referred to as the 'existing setbacks' for the purposes of renovation or rebuilding but not for expansion purposes. In fairness to the neighbors, expansion shall be dealt with through the variance process." This is something that could change, depending on the purpose clause of the ordinance. Front and rear setbacks are 15 feet, but the way the original ordinance reads, a 15-foot front setback is allowed only for a one-story structure. He asked Mr. Larson if this is right.

Mr. Larson said the way the current ordinance reads, you are allowed to have a front setback of 15-25 feet, for a one-story structure not exceeding 16 feet in height at the roof ridge. At the 25-foot front setback, you can start building up.

Mr. Crum said yes, but in another section, it says that a 15-foot front setback is allowed. He asked the Board members what they want the front setbacks to be. By general oral consensus, the Board agreed the front setbacks should be 15 feet. He asked Mr. Larson if the clause in the ordinance that says, "Structures shall be allowed a 15-foot front and rear yard setback providing that the structure is one level with a roof ridge not exceeding 16 feet in height to the 25-foot setback" is probably irrelevant, at this point.

Mr. Larson said yes.

Mr. Crum said he thinks everyone is in agreement with Sections 3.08.00.A.5.b.5 and 3.08.00.A.5.b.6, which state, respectively, "The area between the 15-foot and 25-foot front setback area shall be limited to two levels with the roof ridge not exceeding 27 feet," and "At the 25-foot front setback, a third level shall be allowed, not exceeding seventy percent of the second level." Section 3.08.00.A.5.b.7 requires a 10-foot side yard setback, but a member of the public suggested the side yard setbacks be reduced to five

feet. He asked how the Board members feel about reducing the side yard setbacks to five feet, so there would be 10 feet between structures on adjoining properties.

Mr. Stewart said he'll speak in favor of this, simply because the land is what's worth the money in the overlay area, and landowners want to put as much as they can on their land.

Mr. Crum asked if anybody else likes the idea of five-foot side yard setbacks.

Ms. Gill said this was done in a number of places, including Sea Colony, and Planned Unit Developments in the City, so it's not unheard of.

Mr. Crum said the Board could make the suggestion for five-foot side yard setbacks, and let the City Commission fight it out and see what everyone thinks.

Mr. Aulicino said as most of these properties only have about a 45-foot frontage, if a 10-foot setback is required on each side, you can only have a 25-foot-wide house, which is a pretty narrow home. To have any kind of living space in a home this narrow, you'd have to go up three stories, and then you have the classic shoebox structure, as Mr. Guido referred to, so allowing five-foot side yard setbacks may be something to consider.

Mr. Crum said this is something the Board can put out there, and of course, there will be a public hearing on any proposed revisions to the overlay ordinance, and a lot of discussion on it. He asked everyone to think about it, and they'll talk about it more at the Board's next meeting. He asked for feedback on Section 3.08.00.A.5.b.8, which allows five-foot rear or side setbacks for detached garages located adjacent to an alleyway.

Mr. Larson said he'd strike this from the ordinance revisions.

Mr. Crum said Section 3.08.00.A.5.b.9 states, "Front and rear porches will be allowed to extend the width of engineered design but cannot exceed eight feet in width from the main structure or to the 15-foot front setbacks to an allowed 10-foot rear setback. This shall apply to second and third levels of a structure. The use of 'gingerbread' effects shall be encouraged by the City for architectural styling." He said this was basically copied from another section. In Section 3.08.00.A.5.b.10, he changed the rear setbacks to five feet for screened porches, because the City recently passed an ordinance to change the rear setbacks for screened porches to five feet. If it is decided to change the side setbacks to five feet, this will also change the side setbacks for screened porches to five feet. He changed the maximum impervious surface coverage from forty percent to fifty percent in Section 3.08.00.A.5.b.13, because the Land Development Regulations allow fifty percent in medium density residential land use districts, which is the land use classification for properties in the overlay district. He added Section 3.08.00.A.5.b.14, which states, "Second and third level bump-outs for cantilevered decks and porches and architectural design features are allowed to extend three feet into allowable setbacks on sides of structures in the overlay district." He said the overlay district ordinance has sections that apply to oceanfront properties, properties in the VE flood zone, and normal properties, which don't fall into either of these categories. There were certain setbacks that were

only in the VE section, for some reason, and not in any of the other sections, so he thinks the setbacks allowed in Section 3.08.00.A.5.b.14 should also probably be put in the main setback section of the ordinance.

Mr. Larson agreed.

Mr. Crum said he also added Section 3.08.00.A.5.b.15, which allows a 15-foot front setback for oceanfront structures and defines the "front" as being the east side of the structure, as they wanted to define what would be considered as the front. Section 3.08.00.A.5.b.15, which states, "Vacated alleys shall be considered part of the property line when determining setbacks," is something he kind of threw in. He's open to discussion as to how the Board wants to deal with vacated alleys.

Mr. Larson said he'd consider vacated alleys as part of the adjacent property owner's property, but property owners cannot encroach into a vacated alley with a structure.

Ms. Gill said the only problem with this is that the property owners are paying taxes on vacated alleys adjacent to their properties.

Mr. Crum said he just copied Section 3.08.00.A.6, which refers to architectural requirements, from the original ordinance, but he cut a lot of things out of it, such as the setback requirements, and moved them to where he consolidated all the setbacks in the ordinance. Other than that, he really didn't change anything else in this section, or change anything in Section 3.08.00.A.7, which refers to site requirements.

Ms. Gill said the last sentence in Section 3.08.00.A.7.a says that landscaping will be reviewed and approved by the City's Planning and Zoning Board. She doesn't know why landscaping isn't given to the Beautification Advisory Committee (BAC) to review and approve, as the BAC certainly knows more about landscaping than this Board does.

Mr. Crum says he's fine with that, as this is what was in the existing ordinance.

Mr. Larson said he'd recommend striking this, and advised that landscaping should be at the prerogative of the owner.

Ms. Gill asked if Section 3.08.00.A.7.e is subject to compliance with the 14 pages that are in Section 5.03.07 of the Land Development Regulations.

Mr. Crum said yes. If Mr. Larson is happy with this, he is too. He asked for Mr. Larson's advice on Section 3.08.00.A.7.h, which refers to variances, because he doesn't understand why there is a variance section in the overlay ordinance. He asked Mr. Larson to review this section, and the Board can discuss it at next month's meeting.

Mr. Guido said he has a problem with Section 3.08.00.A.7.i, which states, "Requested variances will be reviewed by the Chief of Police, the Public Works Director, and the Building Official for recommendation to the Comprehensive Planning and Zoning

Board." Applicants who go through a variance hearing have the right to question any testimony, so are they going to have the Chief of Police and the Public Works Director there, he asked? He thinks Section 3.08.00.A.7.i should be struck from the ordinance.

Mr. Larson also advised striking this from the ordinance.

Mr. Crum said this was in the original ordinance, along with Section 3.08.00.A.7.j, which says that street side landscaping will be required. He said he thinks this is redundant.

Mr. Guido said yes, he doesn't think they can do a whole lot with landscaping if they're going to go with a five-foot setback.

Mr. Larson recommended Section 3.08.00.A.8, which refers to clustering, also be struck.

Mr. Crum said he didn't touch the section on clustering, but if the Board so agrees, they'll strike it from the overlay ordinance. He said he'll work on the revisions to the ordinance one more time, and the Board can review and discuss them again at its next meeting.

**2. CHANGES TO CITY'S LINE-OF-SIGHT OR INTERSECTION VISIBILITY STANDARDS**, for the Board's review and discussion of possible revisions to Section 6.06.06 of the City's Land Development Regulations, pertaining to intersection visibility standards.

Mr. Guido said he thinks the Board was looking for a very firm recommendation from staff on this, and they haven't gotten one. Mr. Chattin, the City's Public Works Director, didn't give the Board a specific recommendation as to what he'd like to change in the intersection visibility standards, and he thinks there's going to be a real problem with leaving the decision of sufficient visibility up to the Police Chief and/or Building Official, because these standards are in the Land Development Regulations to give the City something to refer back to for liability purposes. He understands why staff would like to change the current standards, as they are very sophisticated, but if staff is having problems with them, he suggests staff give the Board something very specific to deal with, as he's not comfortable trying to determine what the visibility standards should be.

Mr. Crum said he asked Ms. Vo to pull up what the City of St. Augustine has in the way of intersection visibility standards, and they are exactly the same as what this City has, word for word. He has no problem rubber-stamping and agreeing to whatever Mr. Chattin and Mr. Larson feel is necessary, but he doesn't know what that is.

Mr. Larson said this basically involves taking down a few palm trees along the Boulevard. The "Avenue of Palms" was a very nice idea, and it's a very attractive feature for the City, but it has become a complete nuisance, because palm trees are now in the way of visibility. Mr. Chattin has asked him to provide a memo as to which palm trees need to be taken out, which is something he needs to coordinate with the Chief of Police.

Ms. Gill asked why these palm trees were allowed to be planted where they would block

the view of traffic. Wasn't a master plan done for the "Avenue of Palms," she asked?

Mr. Larson said yes, a master plan was done that specified how many palm trees were supposed to be planted per block, and the spacing of the palms, which everyone followed. Now, however, the trees are growing taller and their trunks are getting thicker in diameter, and along with some of the landscaping that has been put in, they are creating hazards, and there are visibility problem all up and down the Boulevard.

Ms. Gill said there is another section in the Land Development Regulations, Section 6.02.04, which talks about visibility standards, and she thinks they need to look at this, along with the information the Board was provided with, relating to Section 6.06.06. At one time, she suggested some of the signs that have been put up affect visibility at intersections, but nobody cared to do anything about it.

Mr. Larson said this has all been checked, and he and the Police Chief both agree there are no problems, because you can see underneath the signs to see traffic coming.

Ms. Gill asked if you can see underneath these signs if you are 6'6" tall.

Mr. Larson said you are still sitting down in a car, so you can see underneath them.

Ms. Gill said she doesn't think this complies with the visibility standards in Section 6.02.04, but she likes the idea of asking staff for some definitive information as to how the visibility standards should be revised. Specifically, she'd like everyone to look at Section 6.02.04.H.1, which includes a map that shows an example of a clear visibility triangle with a distance of 200 feet on each side of intersecting street centerlines.

Mr. Guido said he thinks they also have to keep in mind that this doesn't just affect A1A Beach Boulevard. All of the neighborhoods have very large bushes that people have planted right on the corners of intersecting streets.

Mr. Larson said that is one of Mr. Chattin's problems. Is this landscaping something the Public Works Department should strip, or should the City require the property owners to take it down, he asked? There is an immense amount of cost involved in this.

Ms. Gill asked if the landscaping is on City property, in the right-of-way.

Mr. Larson said the City Commission will probably have to make that determination, and decide whether the Public Works Department should take the landscaping out. The City will then have to notify everybody that they will be removing the landscaping.

Mr. Guido asked what brought this about. Are they trying to fix something that isn't broken, he asked?

Mr. Larson said basically, what happened is that in the midst of doing the sewer project, the lift station at the corner of 3rd Avenue and D Street triggered the whole problem, due

to the fences that were put around the lift station because the neighbors did not want to look at it. The County landscaped the area, and the City had to tear all the landscaping out, and put in lower landscaping, and this is when Mr. Chattin suggested the visibility standards in the City's Land Development Regulations be revisited.

Mr. Guido said he doesn't understand why they want to tear up the whole rest of the City, because of this one incident.

Mr. Larson said as far as he is concerned, and this is just his opinion, the Chief of Police, Mr. Chattin, and he will address the issue, and strip what needs to be cut down, with the City Commission's approval.

Mr. Guido said Mr. Chattin's employees planted the palm trees, so if they want to move them, they ought to be able to relocate the ones they're having problems with.

Mr. Larson said they can move them, but they have to make sure they don't destroy the force mains underneath the tree roots, which have probably gotten into the mains by now.

Mr. Crum said it seems to him that Mr. Chattin is looking for some sort of guidance on how to change the visibility standards to make them work better for the City.

Mr. Larson said the first issue they ran into was the lift station, and then there are all the overgrown intersections in Coquina Gables.

Mr. Crum said in a revision of the visibility standards, is staff asking the Board to add something about how the City is going to handle the removal of landscaping blocking visibility, or is staff asking to recalculate what are considered to be visibility standards?

Mr. Larson said he can't speak for Mr. Chattin, but between himself and Mr. Royle, they can ask for more clarification, and email it to everybody.

Mr. Crum said he thinks the Board would like to hear what Mr. Chattin wants.

Ms. Gill said in some cases, the landscaping might not need to be completely removed, it might just have to be cut back. At one point, she called Mr. Chattin about the landscaping on one of the streets she lives by, because the bushes had grown up and she couldn't see around the corner, and Mr. Chattin came in and took down what needed to be taken down, and there was no major problem. However, she thinks the Board needs to know the extent of the problems, and what Mr. Chattin is looking at taking down, and whether he needs to go in and just totally destroy some people's landscaping.

Mr. Crum said if the landscaping is on private property, those people need to be notified and asked to remove it themselves, before the City comes in and tears it up.

Ms. Gill said even if the landscaping is on the public right-of-way, many of those streets are only 20 feet wide, when they're supposed to be 40 feet wide, so the right-of-way goes

way in, and the adjoining property owners feel it's part of their property. She thinks they're going to have an uprising when the landscaping is taken out.

Mr. Crum said he'd have a real problem with somebody coming in and hacking away at his landscaping.

Ms. Gill said she certainly would too, but she thinks in many cases the landscaping can be cut back, so you can see around it. Mr. Chattin needs to tell the Board what the problem is with the "Avenue of Palms," and they can deal with it, rather than drafting an ordinance that covers the entire City. She's not prepared to have everybody coming in and saying that the City destroyed their landscaping.

Mr. Crum asked for any other comments or feedback on this particular agenda item. There was none.

### **VIII. BOARD COMMENT AND DISCUSSION**

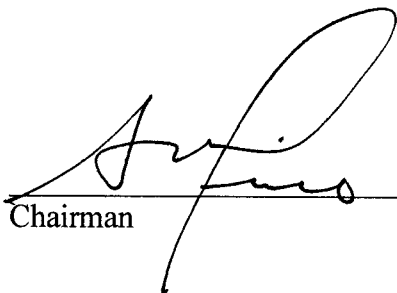
Mr. Stewart said he'd like to commend Mr. Crum for the work he did on the overlay district ordinance, and the effort he put into it.

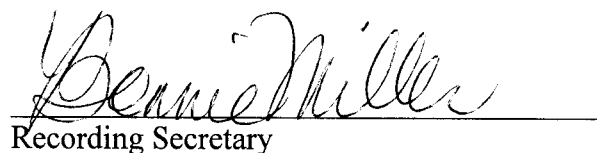
Mr. Mitherz seconded that, and said Mr. Crum deserves a lot of praise.

Mr. Royle said he has one announcement. There will be an energy-efficiency expo at the St. Johns County Pier Park on Friday, November 18, from 11 a.m. to 3 p.m. This is for people interested in energy-efficiency and saving money, and there will be exhibits on solar lighting, LED lights, and so forth and so on, and it's all free.

### **IX. ADJOURNMENT**

The meeting was adjourned at 8:35 p.m.

  
Chairman

  
Recording Secretary