

CITY OF ST. AUGUSTINE, FLORIDA

Aggregation Task Force Meeting

February 5, 2004

The Aggregation Task Force met in formal session on Wednesday, January 14, 2004 at 3:12 p.m., in the de Aviles Room at City Hall. The meeting was called to order by Commissioner Donald Crichlow and the following were present:

1. ROLL CALL

Members: Donald Crichlow, Commissioner Gerald Dixon, PZB member

Irene Arriola, Realtor

Philip McDaniel, Affected member

Ronald Stafford, Non-affected member

Absent Geoffrey Dobson, Zoning Attorney

City Staff: Mark Knight, Director, Planning and Building Dept.

Karen Rogers, Recording Secretary

2. Approval of Aggregation Task Force Minutes of December 15, 2003

The minutes of January 14, 2004 Aggregation Task Force meeting were approved as presented.

3. Discussion regarding the emphasis of the proposed ordinance

Mr. Knight distributed the most recent version of the proposed ordinance that was based on the discussion from the previous meeting as follows:

The proposed ordinance would not allow multiple homes to be built on non-conforming lots currently occupied or influenced, by a single residence. It would allow residential construction on a contiguous, non-conforming lot. However only one home could be built on adjacent non-conforming property, unless such adjacent property can be aggregated and re-platted into conforming lots in which event a home could be built on each resulting conforming lot.

Exception: Residential construction would not be allowed on a contiguous non-conforming lot if the existing home exceeds its allowable lot coverage by 33% or more in RS-2 (40% lot coverage) or 40% or more in RS-1 (35% lot coverage).

Likewise, only one home would be allowed on a non-contiguous, non-conforming lot or lots, unless the non-conforming lots can be aggregated and re-platted to form conforming lots. In which case a home would be allowed on each conforming lot.

This proposed zoning revision would apply to all RS-1 and RS-2 zoning except for the following neighborhoods, where residential construction is allowed on all non-conforming lots in accordance with the requirements for non-conforming lot construction.

Exempt Neighborhoods:

Ex: Lincolnville (geographic description)

Commissioner Crichlow noted that the attorney was also working on a version of the ordinance; however, he was not in attendance. He stated that the second paragraph of the ordinance was related to noncontiguous lots. He noted that at the end there was the reference to Lincolnville, because the area provided an example of a pattern for single nonconforming lots that could be built on.

Mr. Stafford stated that if they aggregated Lincolnville it would improve property values. He said that currently people were building tall homes on small lots that were out of character with the neighborhood.

Mr. Dixon stated that he supported the first paragraph of the proposed ordinance, and said that he could support building on nonconforming lots under certain circumstances. He suggested penalizing for building on nonconforming lots, such as limiting the height to two stories.

Commissioner Crichlow noted the *exception* paragraph

Some of the comments made during the task force discussion in an effort to determine all possible scenarios were as follows:

- If a property owner put a nonconforming lot in another family members name and then sold the lot the property would no longer be contiguous and the new owner could build on it; thereby, getting around the purpose of the ordinance.
- If two houses were to be built on two nonconforming lots the height should be limited to two stories and considering setbacks and percentages the house would be small; therefore, the property owner would be encouraged to build one house on the two lots.
- The aforementioned suggestion was a way of not taking away property owners rights, while providing a consistency to the neighborhood.
- Aggregation was not a way of preventing tall homes on small lots.
- Many of the people developing tall houses on small nonconforming lots were doing so for rental income, not to live in.
- Life styles had changed and people wanted bigger homes.
- The modifications under discussion could change who purchased nonconforming lots, which was not a bad idea.
- The ordinance could insure consistency for homeowners in the neighborhoods.
- Zoning determined where apartment buildings, boarding houses and multiunits could be built.

- Set a date certain for aggregating nonconforming lots and if the property owners did not sell their lots by that date they could only be sold with the understanding that one house could be built on continuous nonconforming lots.
- Setting a date certain for building on nonconforming lots was a potential legal problem, which could constitute "taking".
- Limiting height for building on nonconforming lots would not prevent density of structures nor decrease the number of cars.
- People were building larger homes not smaller homes.
- The task force should not be addressing height; they should be finding a way that two houses could not be built on two contiguous nonconforming lots, which would insure the pattern of the neighborhood.
- The task force had to have solutions to every possible scenario before bringing the proposed ordinance to the public.
- The size of a house was restricted by setbacks and lot coverage.
- Could they do a homestead or grandfather situation that provided a date for dealing with nonconforming lots?
- Aggregation could be done legally except when the intent of buying a lot was for investment purposes, which would amount to a "taking", but if the lot was combined with the home the lot would not be considered an investment.
- Absentee land owners with contiguous nonconforming lots had to be notified about the ordinance, and they would have to clarify or register whether the property had been purchased for investment, then the task force would be able to identify the properties they would be dealing with.
- There would be public outcry at having to register how citizens intended on using their property, or everyone would register that their property was bought for investment and defeat the purpose of the ordinance.
- There could be a legal problem with long term registration.
- Height should be a function of the percentage of nonconformity to maintain conformity of the neighborhood and it would take the "taking" out of the equation.
- Addressing the oceanfront property on Vilano Beach it was revealed that if the state of Florida told a property owner they could not build on their property the state would have to buy the land; therefore, the state of Florida put restriction on the property leading to some funny houses.
- People had discovered St. Augustine and that was why property values would continue to soar, and developers would want to maximize the lot coverage.
- If they could control the density per structure to a certain capacity it would be a good thing.
- They should think further about limiting the number of stories for structures on nonconforming lots.

Sue Campbell, 138 Orchard Road, stated that her understanding was the main concern was developed lots, or tearing down one house on four nonconforming lots and building four homes.

Commissioner Crichlow agreed it was the primary concern, and the next concern was unoccupied nonconforming lots.

Ms. Campbell questioned whether there were many unoccupied undeveloped nonconforming lots and whether they were contiguous lots.

Commissioner Crichlow replied that there were many nonconforming lots and many of them were contiguous.

Ms. Campbell stated that to make the situation fair they could modify the ordinance by changing the means of aggregation. She explained that currently they were aggregating by owner, but they could look at established land use and homestead exemptions. She said that established land use would automatically aggregate the lots. She explained that if a citizen owned three lots and built on two lots, the two lots with a structure on them were aggregated, but the third undeveloped lot was not aggregated because it was undeveloped; therefore, the property owner would be free to build on that third lot by considering any restrictions. She stated that it would be a good idea to add height constrictions by width etc. She said that would not constitute "taking away", because the aggregation would be by developed established land use.

Ms. Campbell referred to the first page of diagrams she had offered to assist the task force and said that the top half of the page indicated aggregation according to the current ordinance and the only way to divide them was through zoning. She referred to the bottom half of the page as property aggregated by land use.

A discussion was held regarding the different scenarios with and without consideration of limiting the number of stories or height of structures and using Ms. Campbell's diagrams.

Mr. Dixon stated that the best rules for real estate development were accomplished through economic mean and not through means of rule.

Ms. Campbell used Habitat for Humanity as an example and stated that if the organization acquired three contiguous lots they would no longer be able to build three affordable homes.

Mr. Stafford objected that the homes would be owned by three different people.

Ms. Campbell noted that the homes were held under Habitat for a while. She added that it would not happen a lot, but if aggregation was by ownership it would create a problem.

Commissioner Crichlow stated that Habitat would not buy property on Davis Shores.

Ms. Campbell said they would buy property in other subdivisions in St. Augustine City limits which would apply to the ordinance.

Commissioner Crichlow stated that they would not make it apply in that way. He said the neighborhood would determine whether the ordinance would apply to their neighborhood.

Ms. Campbell clarified that it would be a neighborhood ordinance and not a City ordinance.

Mr. Dixon stated that would be tricky.

Commissioner Crichlow stated that he had never meant for the ordinance to be across the board.

Carl Blow, 100 Santa Monica Boulevard, questioned what Ms. Campbell intended aggregating on.

Ms. Campbell replied that it was the established developed land use.

Mr. Blow stated that he had three nonconforming lots, and his house was built on two of them. He said the other lot was fenced with a pool.

Ms. Campbell questioned whether the three lots were homesteaded.

Mr. Blow's response was affirmative.

Ms. Campbell stated that would aggregate the lots automatically, and she continued that the only way to divide the property would be through zoning. She said that homesteaded property would be aggregated by the established land use, which left undeveloped free lots clear except for any guidelines. She said the situation was fairer.

Mr. Dixon stated that the problem probably did not exist with the homesteaded property; it was with property purchased for investment.

Ms. Campbell pointed out that the situation ended some of the "taking away", because the person having invested in four undeveloped lots had a right to sell the lots individually rather than be aggregated. She pointed out that the number of four contiguous empty lots was quite small; moreover, the lots would probably be sold two and two to accommodate a larger home.

Mr. Blow questioned whether he sold his house to a speculator, would the restriction that applied to him apply to speculator in order to protect the character of neighborhood.

Ms. Campbell suggested that he could not cement the character of the neighbor with the proposed ordinance. She said that a house on four lots could only be altered by demolition and reconfiguring the land through zoning, which would still increase density.

Commissioner Crichlow stated that he realized that density would be increased with rezoning. He referred to Davis Shores as their example and said that the ordinance could prevent double or tripling the density.

Ms. Campbell suggested that as the ordinance was written regarding aggregation it created a discriminatory situation.

Further discussion was held regarding potential scenarios.

Ms. Campbell pointed out that the task force did not want to harm regular residents. She said that they needed to control density to some extent and maintain

neighborhood character, which they could by using developed land use to maintain that character.

Commissioner Crichlow stated that there were some situations where three or four contiguous undeveloped nonconforming lots were owned, and the property owner could build three or four homes.

Ms. Campbell replied that the property owner should be able to, because if that person owned four nonconforming lots that were not contiguous they would have that privilege. She stated that currently the majority of people would want to buy two lots and build a bigger house.

Commissioner Crichlow stated that there were neighborhoods where every house occupied at least two lots, but if there were four nonconforming lots in that neighborhood that were undeveloped and four houses were built on them the situation would change the streetscape.

Ms. Campbell replied that history indicated that was not the case.

Commissioner Crichlow stated that he was referring to the history for the next 25-years.

Ms. Arriola stated that Mr. Dixon's idea regarding limiting the number of stories or height was good and the subject should be given more thought.

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B. J. Kalaidi, 8 Newcomb Street, questioned exactly what properties the task force was dealing with. She said that she had gotten some information from Jonathan Bryron, City Engineer, indicating the number of properties in City limits. She said that there were approximately 5,415 properties but 886 were not part of the mix making a total of 4,529 properties. She said that she still had not been given figures by the task force or anybody else indicating who was in RS-1 and RS-2. She said that based on the information she researched she had determined that there were 1,765 in RS-1 and 2,764 in RS-2, and approximately 4,529 properties within City limits that were nonconforming. She stated that the number had to be researched, and the public should be provided with a list of the actual properties that would be affected. She stated that she did not believe the information was that hard to get, and it should be available as soon as possible. She said that they could keep on having their meetings and talking to the Commission, but until that figure was made available to the public they were just batting the wind. She stated that any information the City sent to the affected public should contain something similar to the diagrams provided by Ms. Campbell, as what had been provided thus far was gobblety gook. She stated that an ordinance had to be succinct, and she suggested that they had to be careful. She concluded that she was concerned about density and how her neighborhood evolved.

Ms. Campbell stated that residents did care about their neighborhoods. She suggested that the task force stop looking at just Davis Shores and look at the matter City wide based on neighborhoods.

Ms. Arriola stated that they had broken the City down into neighborhoods. She said that there was a computer disk for her at public works that she would be distributing.

Mr. Stafford stated that the job of the task force was to develop something to take to the public.

Wilton Rooks, 151 Santa Monica Boulevard, clarified that aggregating by land use rather than by owner was actually more restrictive because of the legal description on file at the county.

Ms. Campbell clarified that it would depend on how the current owner was using the property.

A brief discussion ensued regarding homesteading.

Mr. Rooks suggested that combining height limitations with building on nonconforming lots could work, because in the case of a single nonconforming lot the owner would be allowed to build whatever he/she wanted.

Ms. Campbell said that aggregating by developed land use made the land owner responsible for how the land was used and how it was aggregated rather than penalizing him/her for owning contiguous nonconforming lots.

Commissioner Crichlow suggested that the task force figure out where they wanted to go with the ordinance. He said that every time they got close they got further away.

Ms. Arriola stated that each time they disagreed they actually got closer to their goal.

Mr. McDaniel stated that they needed to get some information to the public at some point.

Commissioner Crichlow questioned whether the task force wanted to pursue the homestead approach and address the issue of development of single nonconforming lots and add height limitation.

The consensus of the task force was that they wanted to think about it independently and dedicate a large portion of the next meeting to the matter.

Commissioner Crichlow stated that the Commission was curious as to what the task force was accomplishing; therefore, he wanted them to produce something soon.

Mr. Blow questioned whether Mr. Dixon's idea of height limitation should be in the proposed ordinance.

Commissioner Crichlow suggested using square footage.

Mr. Dixon used the example of the San Francisco Trans American building that had gotten around the ordinance having to do with square footage.

Ms. Campbell cautioned not to make a single nonconforming lot so restricted that it could not be used.

Ms. Arriola stated that the homestead issue was tricky. She said that Mr. Dixon's idea was worthy of thought as well as the matter of lot coverage.

Consensus was that the first paragraph and something along the lines of the second paragraph of the proposed ordinance regarding lot coverage should be included in the ordinance.

Commissioner Crichlow stated that he would rework the ordinance for discussion during the subsequent meeting.

4. Discussion concerning how to reach the public regarding the proposed ordinance

(Not discussed)

5. New Business

Commissioner Crichlow said that the Mayor had introduced an ordinance having to do with architectural controls for the entire City. He said that after discussion it had been decided to present the item to the task force for consideration and for determination of an approach to the problem. He said that they might decide on an overlay for the entire City and determine by different neighborhoods what they wanted for future development.

Mr. Dixon stated that during a joint workshop with PZB and HARB the members had voted unanimously that they did not support the Mayor's ordinance, as written, or the one dealing with design regulations. He said that he thought there might be a problem, and he suggested taking the matter to each neighborhood committee for discussion.

Mr. Stafford stated that he thought a response should come from each neighborhood.

Ms. Arriola stated that it had to come from each neighborhood.

Commissioner Crichlow stated that the matter could not be forced down anyone's throat.

Mr. Dixon stated that he had not heard anyone say there was a problem yet. He said that as an architect some designs offended him.

Commissioner Crichlow stated that there was nothing wrong with a 35-foot height limitation, but there were places where a 35-foot structure should not be built, but identifying them was the problem.

Ms. Arriola questioned how the architecture in the Abbot Tract could be defined.

Mr. Dixon stated that entrance corridor guidelines were enacted for protection from situations like the two hotels on San Marco and that ugly development across the street from Gypsy Cab Restaurant.

Commissioner Crichlow questioned whether under the entrance corridor guidelines the hotel could have still been built four stories.

Mr. Dixon stated that the hotel was 35-feet, but the guidelines would not have allowed the architecture.

Commissioner Crichlow stated that it was an easy fix by saying that nothing four stories could be built within the 35-foot height limit.

Mr. Dixon pointed out that the Ramada Inn was five stories, but it had been built in the 1960's.

Commissioner Crichlow stated that his home was 34-feet tall and there were a number of similar two story framed vernacular homes in the City; therefore, they could not prohibit them.

Mr. Dixon stated that he had a problem with houses that were out of scale on nonconforming lots. He said that height was not the issue but design was. He said that there had been a City ordinance in the works based on a Jacksonville ordinance that was geared toward modular housing, but the board had a hard time agreeing about the matter due to the potential affect on affordable housing.

Ms. Arriola stated that modular homes were protected by the state.

Mr. Dixon stated that he would rather have the neighborhoods say that there was a problem. He said the question was where the problem came from. He suggested that it was someone's opinion.

Mr. McDaniel compared the American Inn with the hotel Kanti Patel was building on north San Marco.

Commissioner Crichlow said that many people had a problem with the American Inn.

Mr. Dixon noted that as a PZB member he had turned down both projects, but the City Commission negotiated the deal that approved them.

Commissioner Crichlow stated that he had not negotiated anything to do with height. He said that the Commission had dealt with parking.

Mr. Dixon replied that if the Commission had taken some of the parking away it would have eliminated an entire story, as there was not enough density.

Commissioner Crichlow stated that he was proud of both situations as the neighborhoods had been elated, which was the bottom line.

Mr. Dixon questioned why there was a problem with them currently.

Ms. Arriola stated that they were hideous.

Commissioner Crichlow stated that they could not address those situations at that time or currently.

Mr. Dixon disagreed.

Commissioner Crichlow stated that he had not heard him complain about the height.

Mr. Dixon stated that the height was legal, but they were only that high because there were so many rooms, and they had that many rooms because they had that many parking spaces. He said that if they got rid of some of the parking spaces the developer would have gotten rid of some of the rooms making the building lower.

Ms. Arriola stated that as far as architectural design was concerned the matter would have to come from the community.

Commissioner Crichlow questioned whether the task force should address the Mayor's proposed ordinance at the next meeting. He said that they could reinforce the committee. He recommended adding Paul Weaver, an architectural historian, to the task force to help them work on the proposed ordinance.

Mr. Dixon reiterated that he had not heard there was a problem, and he did not want to write an ordinance for something that did not exist.

Commissioner Crichlow said that he did not want to write an ordinance, and he suggested that they discuss whether they wanted to take the matter on as a job or not.

Mr. McDaniel said that Mr. Dixon's point was whether there was a problem.

Commissioner Crichlow said the consensus was that there was no problem and the task force wanted no part of it.

Ms. Arriola said that was not what she meant, because there was a problem in her neighborhood.

Mr. Dixon reiterated that they had not heard the neighborhoods say so.

Ms. Arriola stated that the topic was so personal to each individual neighborhood, and she could not begin to render an opinion for the different neighborhoods. She said that she would bring the matter up during the Neighborhood Council Meeting the following week and get people involved.

Commissioner Crichlow suggested that they throw the matter back to George (Mayor Gardner).

Multiple conversations took place simultaneously.

Mr. Rooks stated that the Neighborhood Councils were the correct venue for the matter; however, the matter had to be framed better. He said that if it was thrown out as an architectural review issue the response would be scattered. He said that it was a presentation issue, which was one of George's (Mayor Gardner) weak points.

Mr. Stafford said that they would need some examples.

Ms. Arriola stated that every neighborhood would have its own example.

Mr. Rooks stated that if they framed the matter too broadly they would get the same reaction that Lighthouse Park had given 10-years earlier. He said that the matter had gone in the wrong direction because of the presentation.

Mr. Dixon stated that if the matter came from their level it would not get anywhere.

Mr. Rooks stated that the Lincolnville Association representative had gone before the Commission requesting help twice.

6. Discussion of Next Meeting Date

After discussion, the consensus of the task force was to hold the next meeting on March 4, 2004 at 3:00 p.m.

7. Adjournment

The meeting adjourned at 5:15 p.m.