

CITY OF ST. AUGUSTINE

City Commission Workshop Meeting
April 20, 2005

The City Commission met in a workshop session Wednesday, April 20, 2005, at 4:10 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Mayor George Gardner, and the following were present:

1. Roll Call:

George Gardner, Mayor/City Commissioner
Susan Burk, Vice Mayor/City Commissioner
Joe Boles, City Commissioner
Donald A. Crichlow, City Commissioner
Errol D. Jones, City Commissioner

Aggregation Task Force Members:

Irene Arriola
Donald A. Crichlow
Gerald Dixon
Philip McDaniel
Geoffrey Dobson, Attorney for the Aggregation Task Force

Absent:

Ronald Stafford

Staff:

William B. Harriss, City Manager
Martha V. (Nell) Porter, City Clerk
James P. Wilson, City Attorney
James Whitehouse, Staff Attorney
Jerry Masters, Commander
James Owens, Fire Chief
Karen Rogers Recording Secretary

2. Presentation and Public Hearing regarding the Proposed Aggregation Ordinance.

Mayor Gardner announced that staff was attempting to setup a television in the loggia for the benefit of the overflow attendees. He asked those in the Alcazar room to prepare to step outside once they had spoken in order to allow someone else to enter for the purpose of public input.

Mayor Gardner stated that the workshop was to address aggregate lots, and a citizen's task force had been researching the situation for over a year. He said that notices had been distributed in

neighborhoods suggesting that the City was going to take citizen's property away; however, if that was true they would not be meeting. He said the workshop was to hear the concerns of the citizens regarding a complex but important matter. He stated that no decision would be made by the Commission at that time.

Mayor Gardner stated that any zoning affected property rights. He explained that the City was composed of an abundance of small lots that had been platted before zoning went into effect in 1975. He said that under the current zoning most of those lots could be developed to a height of 35-feet. He said that well meaning citizens expressed fear

that their right to sell or build on their property would be restricted. He said that other citizens expressed fear that they would not be able to build that which provided the greatest return on their investment regardless of the impact on the character of the neighborhoods. He said that still other unaffected citizens sought the best solution to allow development while retaining the historic character of the neighborhoods.

Mayor Gardner reported that Vice Mayor Burk would be setting the ground rules for the speakers, as it was the intent of the Commission to hear everyone that wanted to be heard.

Commissioner Boles pointed out that the Aggregation Task Force had met often and were making the presentation to the Commission; therefore, he was there to learn about the ordinance as well. He said that he would not be prepared to vote on the matter at that time, and it would probably require a great deal more public input.

Commissioner Jones indicated that he was in attendance with an open mind and prepared to hear the concerns of the citizens. He added that he had some concerns about the ordinance, but he wanted to be certain that the citizens understood it thoroughly, as he did not want to divest the public of their property rights. He said that he respected investors; however, his primary concern was property owners that lived on their property and how the ordinance could affect their plans. He said that investment was always speculation coupled with the possibility of losing. He said that he would speak for himself and listen to the public.

Commissioner Burk instructed the public that if they wanted to speak to fill out a speaker card.

Mayor Gardner noted that Commissioner Crichlow was a member of the task force, and he would begin the presentation.

Commissioner Crichlow announced that the purpose of the proposed ordinance was to control growth, density and traffic in the neighborhoods and to determine where the future of RS-1 and RS-2 zoning would go. He said that in effort toward fairness the task force had tried to address all the details, and the ordinance had become somewhat complicated. He requested that the public remain focused on the overall intention of the ordinance while listening to the details. He introduced the task force members as follows:

1. **Irene Arriola** as representative from the Realtors' Association (selected by Mayor Gardner)
2. **Commissioner Crichlow** selected himself as representative from the City Commission
3. **Phil McDaniel** as the affected party representative (selected by Commissioner Burk)
4. **Jerry Dixon** as representative from the PZB (selected by Commissioner Lennon)
5. **Geoff Dobson** as zoning attorney to serve as an advisor to the task force (selected by The City Manager)

Commissioner Jones stated that he had not mentioned Mr. Stafford.

Commissioner Crichlow replied that Mr. Stafford had dropped out of the task force quite soon after the first meeting; therefore, he had not been a part of the ordinance development from the beginning. He said he believed that Mr. Stafford was unable to stay involved as a result of other commitments. He explained that the task force members would work as a tag-team to deliver the presentation. He added that they were

delivering the presentation graphically because understanding the format of a legal ordinance was difficult, and their intention was to make the ordinance as clear as possible.

Commissioner Crichlow began the power point projection presentation. He explained that the 1975 zoning only applied to newly platted property after that date. He pointed out that the ordinance applied to RS-1 and RS-2 zoning districts only. He said that nonconforming lots were smaller than the minimum lot size established by the 1975 zoning, which they were trying to use as the cap on development. He said they were trying to determine whether the public wanted to cap growth in the neighborhoods or let the development continue unobstructed. He said the problem as it currently existed was that one house built on a number of small nonconforming lots could be torn down and a house could be constructed on each of the small nonconforming lots. He referred to the projection to show the existing RS-1 districts in which the lots had to be 75-feet wide with 10,890 square footage and RS-2 districts in which the lots had to be 50-feet wide with 5,450 square footage and pointed out examples related to nonconforming lots and the potential increased density. He explained that aggregation meant bringing two lots together, and contiguous meant lots that were adjacent and under common ownership.¹

Commissioner Boles said that many people might not be aware of whether their property was in RS-1 or RS-2 zoning districts. He continued that in RS-1 the minimum lot had to contain 10,890 square footage, and in the example there was one house built on six platted nonconforming lots, but if the house was torn down, theoretically six

homes could be built on the six lots. He said that if there was a five foot setback on both sides and 25% lot coverage some of the lots could never be built on, but the problem increased as the lot size increased and the maximum height was capitalized. He stated that he was interested in defining the problem, as well as the solution to the problem.

Commissioner Crichlow said that the problem was the potential number of houses that could be built.

Commissioner Boles said that the task force was addressing the potential for small but tall houses squeezed in RS-1 and RS-2 neighborhoods. He said that no one would want to see that and almost no one would do that, but someone might.

Commissioner Crichlow used the example of condominiums that were being built rapidly, which were 22-25' feet wide and selling for high prices. He predicted that the potential problem he perceived had a big market.

Ms. Arriola stated that she had been asked to serve because Mayor Gardner believed that she could keep an open mind, which she had endeavored to do. She said that initially an ordinance had been drafted that met with tremendous public opposition, and the idea was for the task force to turn the ordinance into something that would accomplish density control without imposing heinous restrictions on the citizens while simultaneously being fair and balanced. She referred to the power point projection featuring an example of one house built on three nonconforming lots where currently the house could be torn down and three individual properties could be built. She said that the proposed ordinance would not allow the

¹ Presentation attached to original minutes

example, but at any time the lots could be replatted to conform.

Ms. Arriola referred to the projection and addressed two more examples in which single nonconforming noncontiguous lots could be transferred and/or built upon.

Commissioner Jones presented an example of nonconforming contiguous lots in which a house could not be built demonstrating an unfair situation, which inspired Commissioner Boles to present a similar example.

Commissioner Crichlow addressed Ms. Arriola and said that his understanding was not the same as hers, and they had a brief conversation indicating that they both had different ideas regarding the same example, which inspired some calling out from the audience.

Mr. McDaniel stated that as a group they were trying to achieve a balance while trying to maintain some integrity and beauty in the City neighborhoods. He emphasized that they had no desire to take away anyone's rights. He referred to the projected presentation and provided more examples of what could be done should the proposed ordinance be approved, and with each example he stressed the fact that nonconforming lots could be replatted to conform.

Mr. Dixon stated that a year and a half earlier when the task force began he was not enthusiastic about the ordinance, as he did not like government infringing on private sectors. However, he said that since that time his experience as a Planning and Zoning Board member convinced him that the ordinance was necessary, and he believed the proposed ordinance was fitting. He said that when they decided the minimum lot size in 1975 the idea was to keep the character of the neighborhoods; however, increased

property values had changed the pressure. He referred to the slide projection and said that a citizen might have bought extra lots to build a house for a child or a mother-in-law or strictly for investment purposes, and he provided some examples. He said that if one person owned three lots and two of the lots were conforming the third lot could be sold. He said that if the two lots did not meet the Code for lot coverage maybe the third lot could not be sold. He said that in some cases when a house was built after 1975 and met the lot coverage, but if the third lot was sold it would create a nonconforming situation.

Commissioner Boles questioned the situation.

Mr. Dixon clarified that if the house was built after 1975 and all three lots were necessary to meet the lot coverage and setbacks the third lot could not be sold; however, if the house was built before 1975 the lot could be sold. He explained that when an individual built on a nonconforming lot zoning modified the side setbacks, but the lot coverage remained the same percentage while the setback became less the smaller the lot was. He said that in the past year the PZB had addressed numerous cases where a house on a number of lots was torn down to build a number of houses. He said that under the Code the lots could be built, and he added that variances applied.

Commissioner Boles presented a situation where a person purchased a nonconforming lot adjacent to his property as an investment and homesteaded the property, but according to the ordinance the lot could not be sold.

Mr. Dixon disagreed with him saying that the lot had been acquired after the house existed; therefore, it could be sold.

Commissioner Jones questioned whether Mr. Dixon was certain of that.

Mr. Dixon further clarified for the Commissioner and stated that the real meat of the ordinance was to minimize tearing down one house on three nonconforming lots and building three houses. He said that numerous communities in Florida had handled the issue, and he reiterated that he had been against the ordinance initially. He said that the ordinance allowed construction and sale of nonconforming lots but the restriction was related to tearing something down.

A discussion resulted regarding the aforementioned example.

Commissioner Jones announced that he had greatly underestimated the public interest in the ordinance. He said that there were numerous people outside of the room and some had left because they could not get into the meeting; therefore, he proposed that they adjourn the meeting and reconvene in a larger facility at a future date so that everyone could attend, because all the public had the right to hear the same thing at the same time.

MOTION

Commissioner Jones MOVED to adjourn the meeting until a date certain in a larger facility to accommodate all those that wished to attend. Commissioner Boles SECONDED the motion.

Commissioner Burk stated that Commissioner Jones was misinformed about the ordinance just as she believed

that many people had been misinformed. She said that it had come to light that adjacent nonconforming lots could be sold and built on. (Statement was followed by a brief public outcry)

Commissioner Jones rebutted saying that was his reason for adjourning the meeting until they could all hear and gain a better understanding together.

Mayor Gardner said it was critical that all of the community be heard.

Mr. Harriss apologized that the TV in the loggia would not work unless the meeting was being televised live. He said that they would work to remedy the problem. He continued that he spoke with Dr. Abare at Flagler College who consented to allow the City to use the Flagler College Auditorium, but it was not equipped for audio and video purposes that evening.

Mayor Gardner questioned whether the motion should be for adjournment or recess.

Mr. Wilson stated that there was no date certain to reschedule the meeting; therefore, they should probably adjourn and reschedule.

MOTION APPROVED BY UNANIMOUS VOICE VOTE.

Mr. Harriss mentioned that the City had gone to extraordinary lengths to notify the public about the meeting; therefore, he requested that the public watch the newspaper for notices of rescheduling the meeting and the date would be posted on the website, but the City could not conduct the same extensive notification.

Commissioner Burk suggested that they announce the date during the subsequent City Commission meeting.

Mayor Gardner stated that they would keep the speaker cards that had been filled out for use during the next meeting.

Ms. Arriola said that a member of the audience requested that the City conduct the same type of mailing that they had for the current meeting.

Commissioner Burk said no, and justified it by saying that everyone that had an interest would know that the meeting date was moved and watch for the reschedule date.

Commissioner Boles said that was a way the local newspaper could be helpful, and he was certain that they would.

3. Adjournment

There being no further business, the meeting was adjourned at 5:07 p.m. ²

MAYOR

CITY CLERK

²Transcribed by Karen Rogers, Recording Secretary