

# Town of Melbourne Beach

## PUBLIC NOTICE

### AGENDA

#### PLANNING & ZONING BOARD MEETING

#### TUESDAY, DECEMBER 3, 2024 @ 6:30 PM

#### COMMUNITY CENTER – 509 OCEAN AVENUE

**Board Members:**

Chairman David Campbell  
 Vice-Chairman Kurt Belsten  
 Member April Evans  
 Member Dan Harper  
 Member Gabor Kishegyi

**Alternate Board Members**

Alternate Todd Albert  
 Alternate Jason Judge

**Staff Members:**

Town Manager Elizabeth Mascaro  
 Town Clerk Amber Brown  
 Building Official Robert Bitgood

PURSUANT TO SECTION 286.0105, FLORIDA STATUTES, THE TOWN HEREBY ADVISES THE PUBLIC THAT: In order to appeal any decision made at this meeting, you will need a verbatim transcript of the proceedings. It will be your responsibility to ensure such a record is made. Such person must provide a method for recording the proceedings verbatim as the Town does not do so. In accordance with the Americans with Disability Act and Section 286.26, Florida Statutes, persons needing special accommodations for this meeting shall, at least 5 days prior to the meeting, contact the Office of the Town Clerk at (321) 724-5860 or Florida Relay System at 711.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF MINUTES**
  - A. November 12, 2024 minutes
4. **NEW BUSINESS**
5. **PUBLIC HEARINGS**
6. **OLD BUSINESS**
  - A. Discussion on Town codes related to fill and building height
  - B. Discussion on accessory structure requirements
  - C. Discussion on code revisions to 9A Landscaping and Trees
7. **PUBLIC COMMENT**

Please limit comments to items that are not on the agenda
8. **REPORTS: TOWN MANAGER AND TOWN ATTORNEY**
9. **ITEMS TO BE ADDED TO THE AGENDA FOR FUTURE MEETINGS**
10. **ADJOURNMENT**

# Town of Melbourne Beach

## MINUTES

### PLANNING & ZONING BOARD MEETING

### TUESDAY, NOVEMBER 12, 2024 @ 7:00 PM

### COMMUNITY CENTER – 509 OCEAN AVENUE

**Board Members:**

Chairman David Campbell  
 Vice Chairman Kurt Belsten  
 Member April Evans  
 Member Dan Harper  
 Member Gabor Kishegyi

**Alternate Board Members**

Alternate Todd Albert  
 Alternate Jason Judge

**Staff Members:**

Town Manager Elizabeth Mascaro  
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#### 1. CALL TO ORDER

Chairman David Campbell called the meeting to order at 7:17 p.m.

#### 2. ROLL CALL

Town Clerk Amber Brown conducted the roll call.

**Present:**

Chairman David Campbell  
 Vice Chairman Kurt Belsten  
 Member Dan Harper  
 Member Gabor Kishegyi  
 Alternate Todd Albert  
 Alternate Jason Judge

**Staff Present:**

Town Manager Elizabeth Mascaro  
 Building Official Robert Bitgood  
 Town Clerk Amber Brown

**Absent:**

Member April Evans

### 3. APPROVAL OF MINUTES

#### A. September 3, 2024 minutes

**Vice Chairman Kurt Belsten made a motion to approve; Alternate Todd Albert seconded; Motion carried 5-0.**

### 4. NEW BUSINESS

#### A. Discussion on Town codes related to fill and building height

Building Official Robert Bitgood spoke about this item was brought up in Commission meetings. The Code says a minimum of 18 inches above the crown of the road but does not have a maximum.

Member Dan Harper asked if the topographical survey is historical and would be able to fix the issue. Code 7A-55 constrains you and the only way to get above that is if your grade is higher than 18 inches over the crown of the road, then you're going to measure your 28 feet from that. Anytime your grade is below 18 inches that's all you're going to get. 18 inches from the crown plus your 28 feet.

Building Official Robert Bitgood spoke about the topographical survey is provided as part of the building permit and would be current, so fill could have already been added.

Alternate Todd Albert spoke about 7A-55 (a) says at least 18 inches above the crown. However, it does not have a maximum, so someone could put 5 feet of fill then start the finished floor.

Building Official Robert Bitgood spoke about someone could do a stem wall up to three or four feet then the 28 feet starts from the finished floor. According to FEMA, the elevation is based on the finished floor of the occupied dwelling space.

Member Dan Harper spoke about the definition of the height of the building. The finished floor is not the starting point of the 28 feet. Based on the definition you measure from the highest of the minimum land elevations, which is the crown plus 18 inches. Not from a stem wall or the finished floor

Building Official Robert Bitgood spoke about the ordinances need to be rewritten, but be careful if you set a maximum because it could effect flood insurance rates.

Chairman David Campbell spoke about having the Town Planner come up with the language needed to satisfy FEMA and still take everything else into account.

Member Gabor Kishegyi spoke about the goal is to come up with language to define how to measure 28 feet and where do you measure that from without affecting FEMA or flood insurance.

Member Dan Harper spoke about the Town Commission is concerned about excessive heights.

Alternate Jason Judge spoke about there being a minimum of 18 inches from the crown of the road, but no maximum, so it should be relatively simple to come up with language to define the maximum height.

Building Official Robert Bitgood spoke about the Town Planner and Planning and Zoning has to work together to come up with the language.

Member Dan Harper spoke about looking at several past building plans and all but one of them followed his definition.

Alternate Todd Albert provided a document that broke down steep slope guidance and spoke about slopes and the impacts on properties.

Building Official Robert Bitgood spoke about the property that was brought up on Third. The fill that was brought in was to level the property as it lost part of the property in the river.

Alternate Jason Judge spoke about that house sitting high before it was torn down, so he can see adding fill to level the property.

Building Official Robert Bitgood spoke about how when the owner leveled out the property they had to meet the water retention requirements.

Alternate Todd Albert spoke about the fill that was put on a property was the property next to the one on the river.

Chairman David Campbell spoke about getting language from the Town Planner.

***Bruce Larson – 1507 Pine St – Spoke about the purpose a long time ago for the height limits was to prevent a third story to prevent density issues. Get a bulk fill regulation and address the quality of the fill. Managing this is the right way to go about it.***

## 5. PUBLIC HEARINGS

## 6. OLD BUSINESS

### A. Discussion on accessory structure requirements

**Member Dan Harper made a motion to defer this agenda item until Member April Evans is present; Vice Chairman Kurt Belsten seconded; Motion carried 5-0.**

### B. Discussion on code revisions to 9A Landscaping and Trees

Member Dan Harper spoke about the Commission requested a definition of tree density which he has included in the packet.

Chairman David Campbell spoke about some lots in Town where it would be impossible to maintain the tree density. Having a metric from before construction and after construction would be impossible.

Alternate Jason Judge spoke about there are situations it would be impossible to do. What about having a minimum number of trees.

Chairman David Campbell spoke about the minimum number of trees is smarter.

Vice Chairman Kurt Belsten spoke about liking the 50% native.

Member Dan Harper spoke about not being in favor of the 50% native landscaping. If you look around the community there are very few yards with native plants.

Town Manager Elizabeth Mascaro spoke about this has come up before. Florida natives are very limited. Whereas Florida friendly is what most people have. So many things you see are Florida friendly, but not Florida native. EAB and UCF have used Florida friendly lists. Most landscaping around here is Florida friendly not Florida native.

Member Dan harper spoke about looking around Town and very few people are interested in having Florida native. It would be an overreach to require new residents to do all landscaping Florida native.

Alternate Todd Albert spoke about being in favor of Florida friendly. There are very few landscapers that do Florida native.

Member Dan Harper spoke about the next step is to go to the Commission to clear up the ambiguity and establish some measurement.

Chairman David Campbell spoke about being in favor of requiring 8 trees.

Town Manager Elizabeth Mascaro asked Alternate Todd Albert about the previously provided ordinance from Winter Park.

Alternate Todd Albert spoke about how they had an approved tree list, and a metric to determine how much in diameter needed to be replaced. Thought Winter Parks ordinance was fair and fit with sustainable growth.

**Member Dan Harper made a motion to inform the Town Commission our recommendation with respect to replacement of trees, to clear up the ambiguous tree for tree and density issues, just**

**to refine that to be a minimum of eight trees, and leaving in that any oak has to be replaced with another oak;**

Building Official Robert Bitgood spoke about oak for oak, minimum of eight trees off the list that will comprise of Florida friendly or Florida native.

Alternate Jason Judge spoke about oak for oak, hardwood for hardwood, and palm for whatever you want.

**Member Dan Harper amended his motion to oak for oak, eight tree minimum, and Florida friendly; Alternate Todd Albert seconded;**

**Member Dan Harper amended his motion to a minimum of eight trees, oak for oak no matter how many are on the lot, hardwood for hardwood no matter how many are on the lot, create a list for Florida friendly, must be 100% Florida friendly, and palm trees do count towards the eight; Alternate Todd Albert seconded; Motion carried 5-0.**

*Bruce Larson – 1507 Pine St – Spoke about including a list of what you cannot plant. This is just addressing new builds, so what about existing structures that needs to be addressed here as well. Tree replacement should apply to all tree removal permits.*

Alternate Todd Albert spoke about if someone is below the minimum tree requirement and turn in a tree permit they should have to plant to bring them up to the minimum requirement.

Member Dan Harper asked if a tree cutting permit for an oak would require the person to replace it with another oak.

Building Official Robert Bitgood spoke about it depending on how many trees are currently on the lot. If the lot is pretty much empty then they are asked to replace a tree for tree. However, as an example if they already have 27 palms and 4 pines and other threes then no they are not asked to replace tree for tree.

Alternate Todd Albert spoke about the Code should be homogenous, so if someone is below the minimum requirement and is taking down one they should have to replace it with a couple of trees.

Building Official Robert Bitgood spoke about being careful not to conflict with what the State passed last year allowing a tree to be removed if it poses a threat to any type of property.

Alternate Jason Judge spoke about if someone is already close to the minimum requirement they should have to plant to maintain the minimum requirement.

## **7. PUBLIC COMMENT**

*Bruce Larson – 1507 Pine St - Spoke about using hyperspectral imagery and LiDAR you can get specific species of trees and exact height of the land as it is today.*

- 8. **REPORTS: TOWN MANAGER AND TOWN ATTORNEY**
- 9. **ITEMS TO BE ADDED TO THE AGENDA FOR FUTURE MEETINGS**
- 10. **ADJOURNMENT**

**Vice Chairman Kurt Belsten motioned to adjourn; Member Gabor Kishegyi seconded; Motion carried 5-0.**

The meeting adjourned at 8:11 p.m.

**ATTEST:**

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**David Campbell**  
Chairman

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**Amber Brown, CMC**  
Town Clerk

Memo To P&Z Board

Subject: Building height measurement

From: Member Dan Harper

*Issue*—the current ordinance stipulating the method to measure building height is being interrupted by contractors in two ways resulting in an inconsistent application.

Method 1.—28ft in height measured from the finished floor.

Method 2.—28ft in height measured from the crown of the road plus 18”.

History—Below are examples of conflicting interpretations.

- 504 4<sup>th</sup> new 3 car garage, finished floor used
- 202 2<sup>nd</sup> Ave., measured from crown plus 18”
- 526 Sunset, measured from finished floor
- 306 Ave B, measured from crown plus 18”



Applicable Ordinance references (see enclosed):

Section 7A-55 (b)

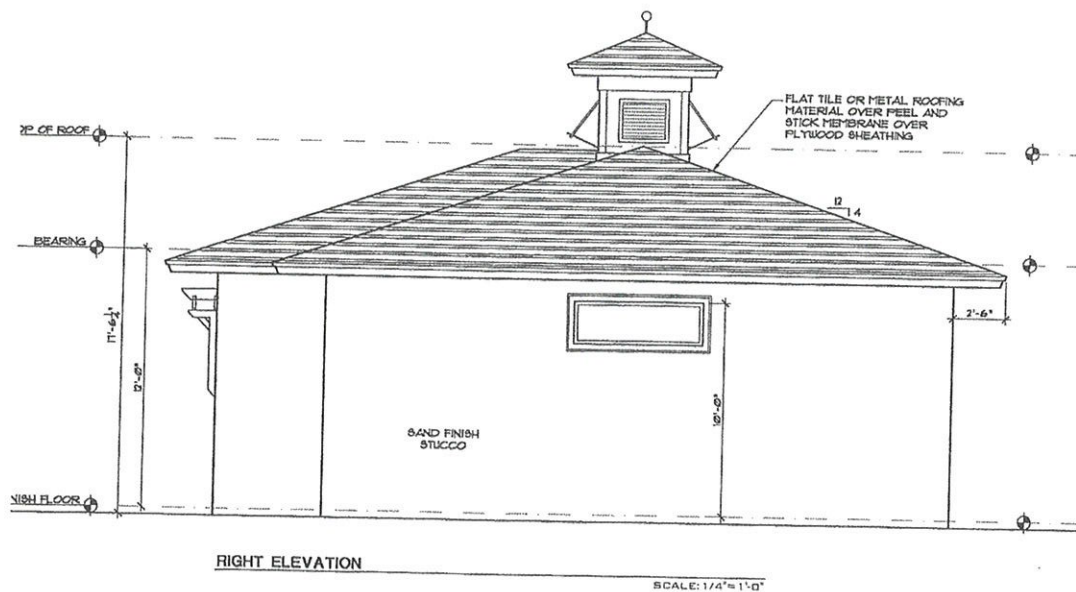
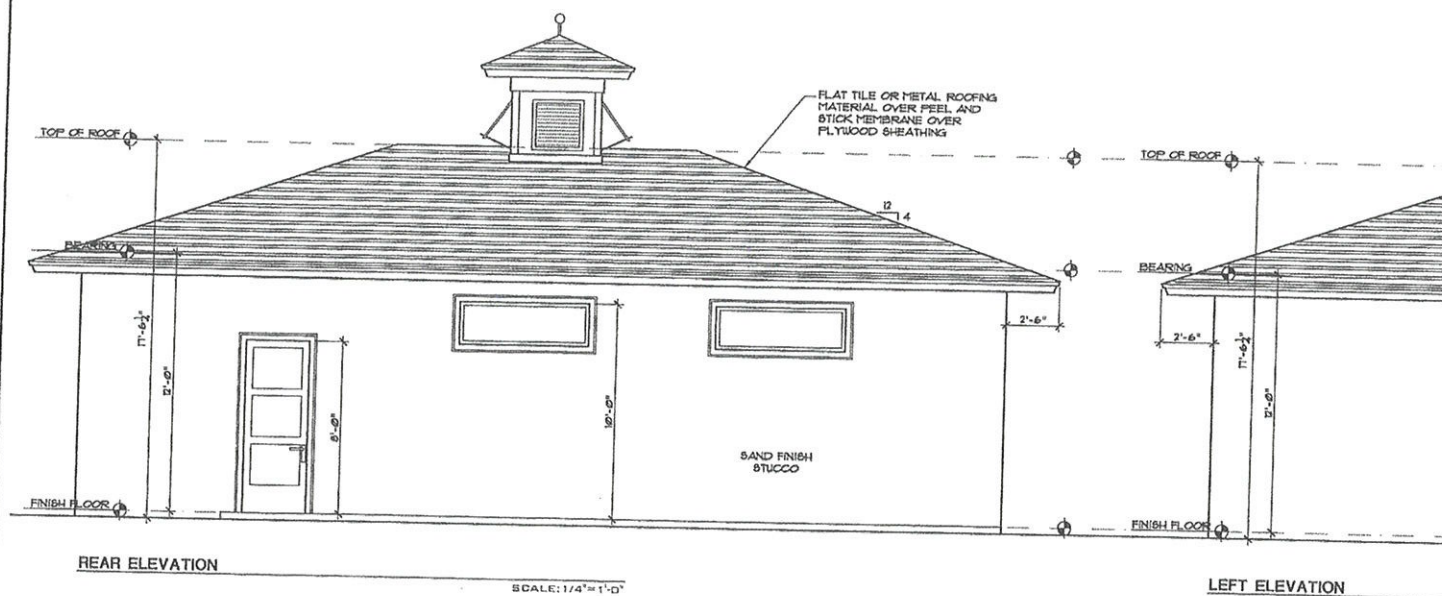
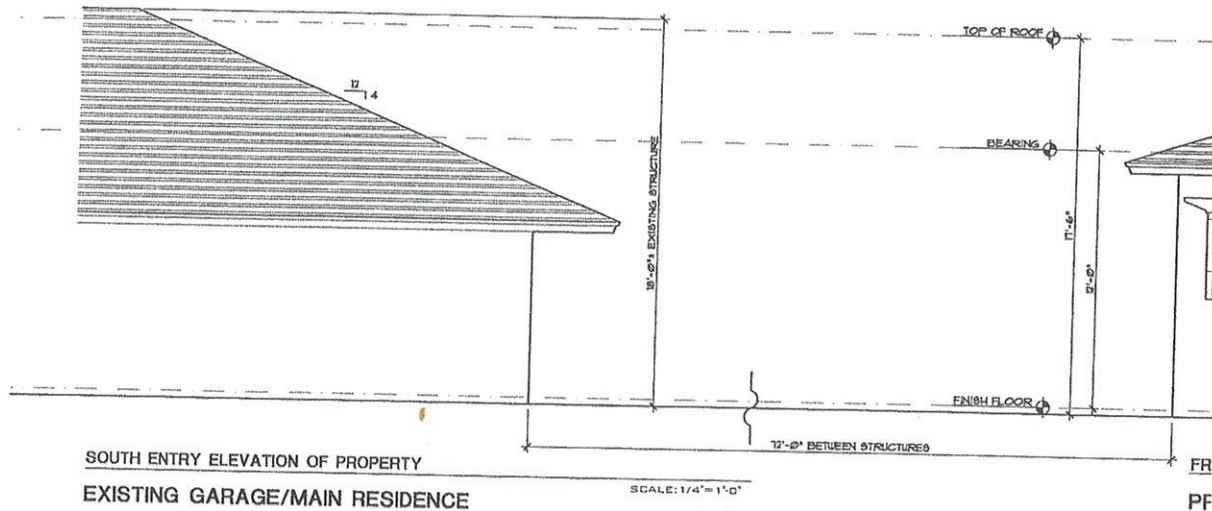
Definitions section-Height of Building

Other—MB building official has expressed concern about height measurement implications for Flood Insurance compliance.

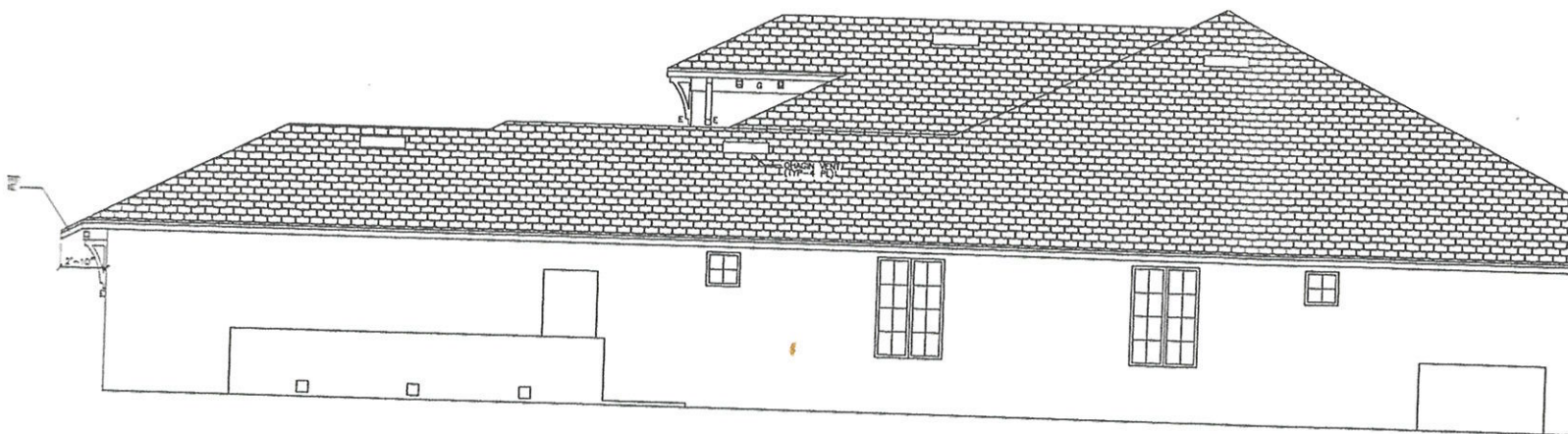
Recommendations—(1) obtain opinion from Town Planner as to the intended method of measurement and draft clarifying ordinance wording, (2) obtain opinion from Town Planner as what if any Flood Insurance concerns need to be incorporated into height measurement ordinance.

504 4<sup>th</sup> NEW 3 CAR GARAGE

MEASURED FROM FIN. FLOOR

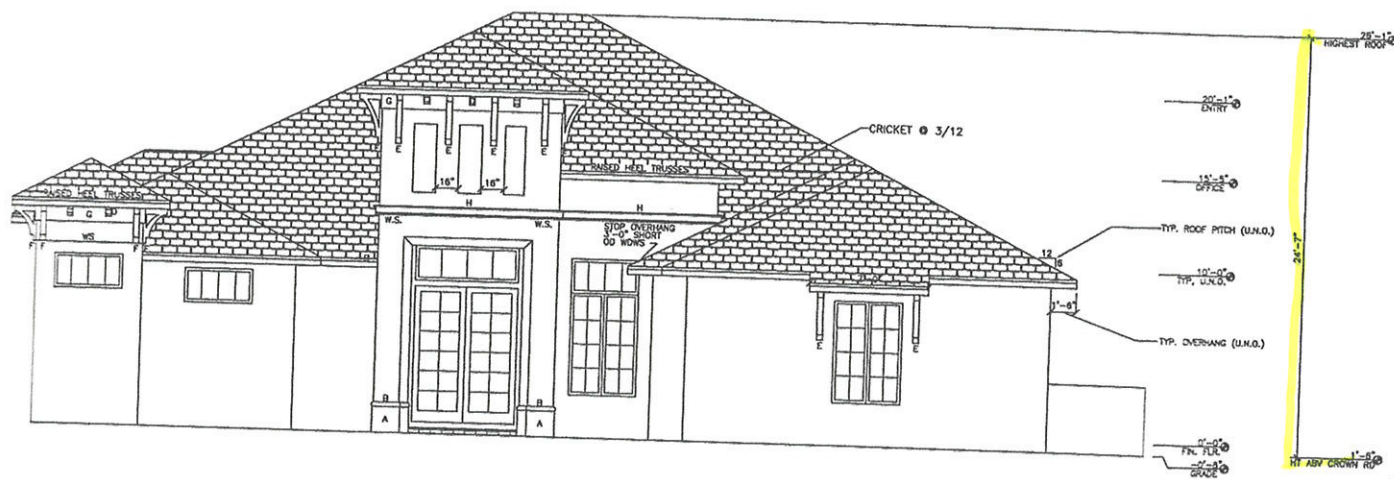


202 2nd AVE  
 MEASURED FROM CROWN + 18"



RIGHT ELEVATION

SCALE: 1/4"=1'-0"



FRONT ELEVATION

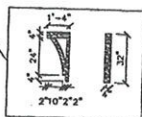
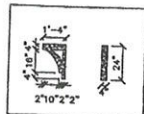
SCALE: 1/4"=1'-0"

1.6 ABOVE CROWN

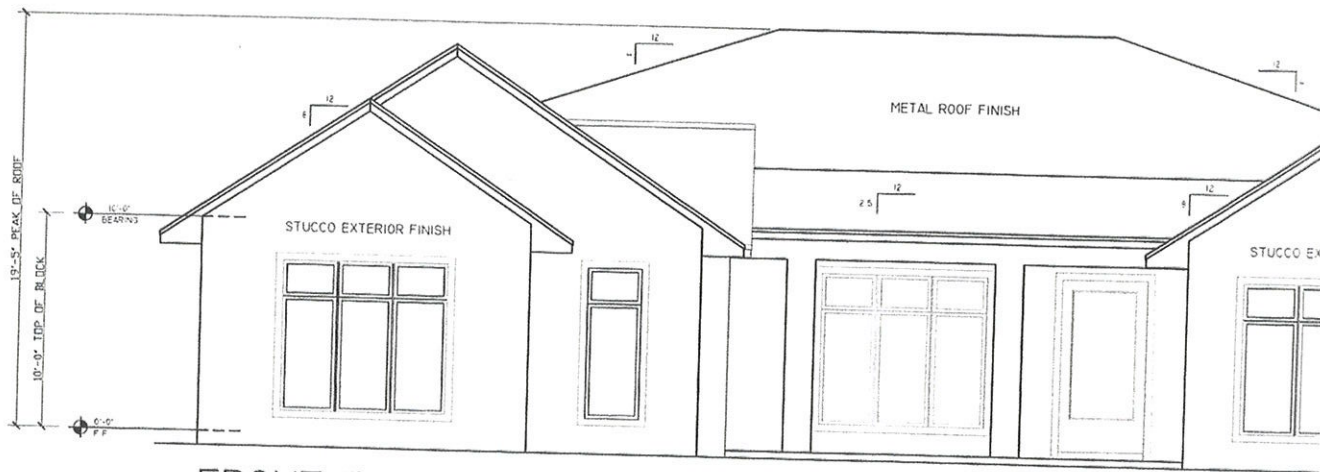
NOTES:  
 1. KEEP SKEED (W.S.) AT HORIZONTAL BLOCK TO FRAME TRANSITIONS.  
 2. CONTROL JOINT (C.J.) AT VERTICAL BLOCK TO FRAME TRANSITIONS.

BAND & TRIM SCHEDULE:

- A) 1"x18" D.C.C.
- B) 3" DIA FOAM HALF CIR
- C) 4"x8" DECORATIVE FOAM BEAM
- D) 4"x6"x18" FOAM CORBEL
- E) 4"x32" DECORATIVE FOAM BRACKET
- F) 4"x24" DECORATIVE FOAM BRACKET
- G) 1"x10" D.C.C.
- H) 6" FOAM/D.C.C. CROWN MOLD

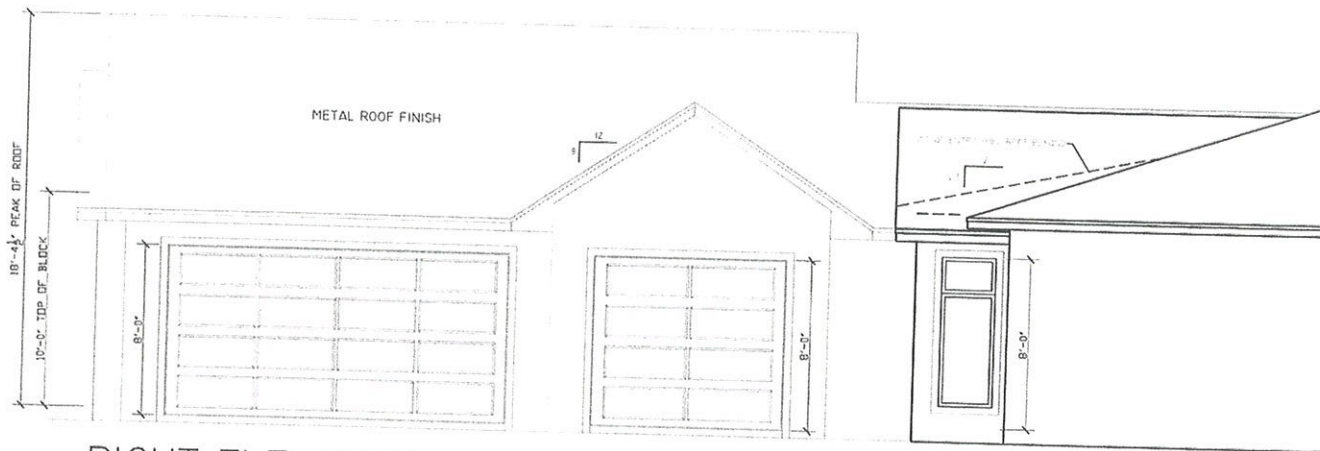






### FRONT ELEVATION

SCALE: 1/4" = 1'-0"



### RIGHT ELEVATION

SCALE: 1/4" = 1'-0"

526 SUNSET

MEASURED FROM FINISHED FLOOR

#### GENERAL NOTES

1. THESE DRAWINGS WERE PREPARED WITH THE ASSUMPTION THE CONTRACTOR/OWNER BUILDER IS KNOWLEDGEABLE OF COMMON CONSTRUCTION PRACTICES.
2. THE CONTRACTOR/OWNER-BUILDER SHALL REVIEW DRAWINGS FOR ACCURACY AND INTERPRETATION. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE DESIGNER PRIOR TO CONSTRUCTION.
3. THE FOUNDATION PLAN SHALL BE VERIFIED BY THE CONTRACTOR/OWNER-BUILDER TO CORRESPOND WITH THE FINAL ENGINEERED TRUSS LAYOUT.
4. DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALE.

DO NOT SCALE DRAWINGS

#### DESIGN CRITERIA

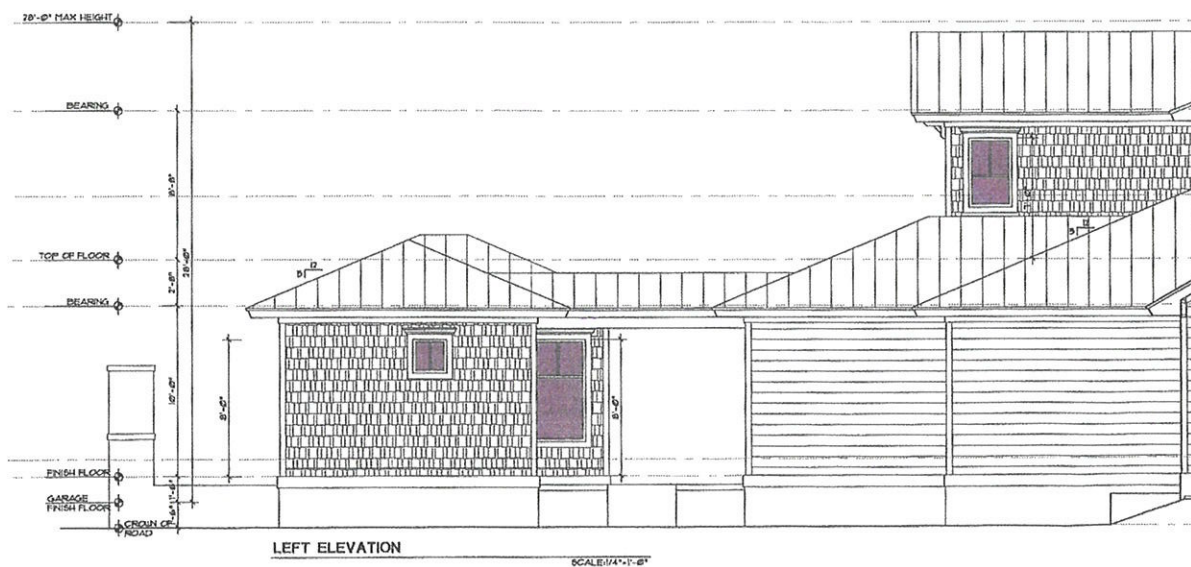
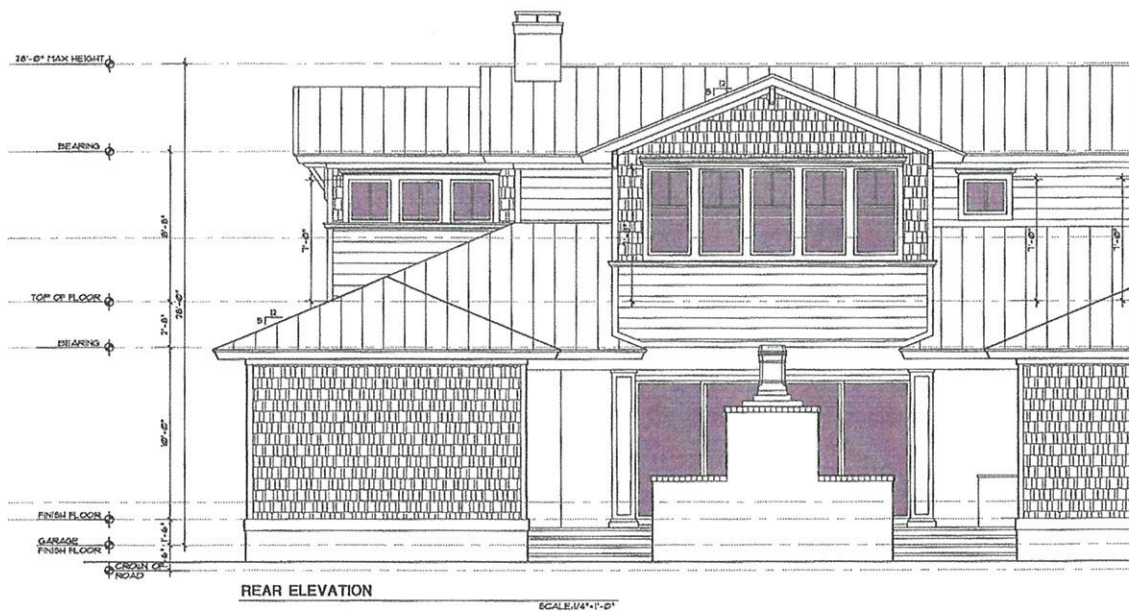
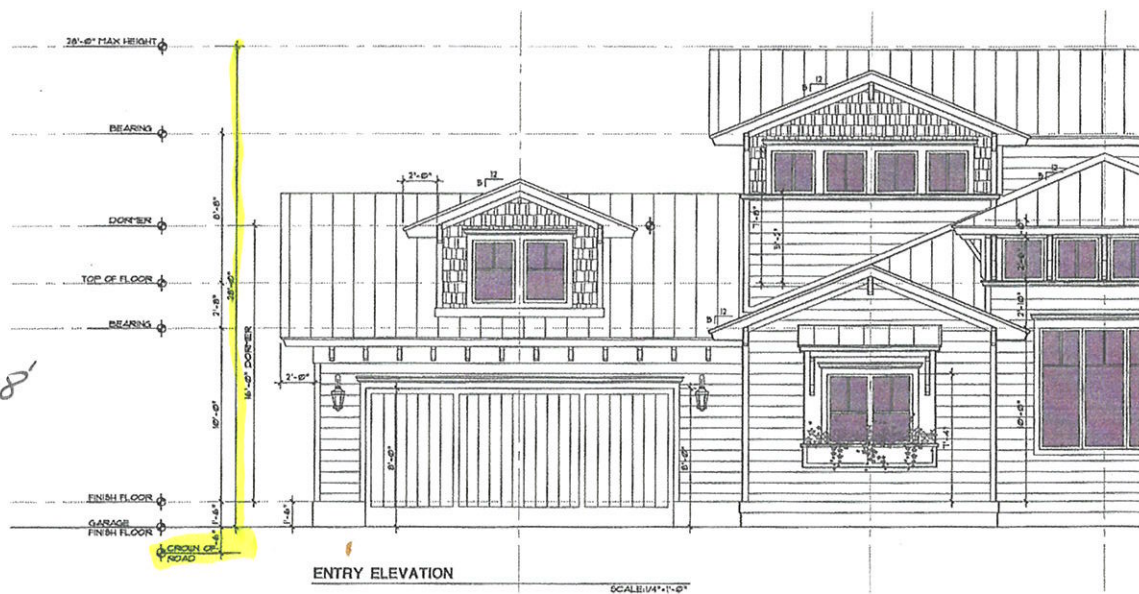
FULLY ENCLOSED	
WIND SPEED	160 MPH
EXPOSURE	D
BUILDING CATEGORY	TWO (2)

306 AVE B

MAX = CROWN + 1.5' + 28'

MEASURED FROM

CROWN + 18"





(75 Code, Appendix A, Art. VII, § 5) (Ord. passed 9-26-72; Am. Ord. 76-3, passed 8-10-76; Am. Ord. 85-7, passed 11-12-85; Am. Ord. 97-04, passed 3-16-98; Am. Ord. 2006-12, adopted 8-14-07; Am. Ord. 2008-09, adopted 11-19-08; Am. Ord. 2017-05, adopted 12-20-17)

#### § 7A-54. REDIVISION OF LOTS.

Any lot or group of lots shall be redivided in a manner to leave a lot or lots of a size which cannot be used because of the inability to meet the remaining requirements of the Land Development Code.

(75 Code, Appendix A, Art. VII, 6) (Ord. passed 9-26-72; Am. Ord. 2017-05, adopted 12-20-17)

#### § 7A-55. BUILDING CONSTRUCTION.

(a) All buildings shall be constructed with the lowest floor level at least 18 inches above the crown of the highest street perpendicular to the foundation to which the property abuts. When an applicant for a building permit submits plans for review by the Town of the proposed construction, the building plans of the principal structure shall be fully dimensioned sealed to-scale drawings, clearly showing street elevation, existing property elevation, proposed finished floor elevation, FEMA flood zones and elevation, and maximum height.

(b) All buildings shall be elevated as required by federal, state and local minimum elevations. The greatest of the minimum elevations stipulated by any of the governmental agencies with jurisdiction shall be required. Any elevation of a building above the required elevation will be included in the measurement of building height. In the absence of higher federal or state elevations, the Town of Melbourne Beach requires minimum building elevations to be measured from a point 18 inches above the crown of the street on which the property abuts. In the event the existing grade of a property is higher than 18 inches above the crown of the road or higher than federal or state requirements then the building height shall be measured from the existing grade.

(75 Code, Appendix A, Art. VII, § 7) (Ord. passed 9-26-72; Am. Ord. 2004-01, adopted 9-15-04; Am. Ord. 2006-08, adopted 8-30-06; Am. Ord. 2017-05, adopted 12-20-17)

#### § 7A-56. PROHIBITED CERTAIN COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS.

One commercial vehicle of not more than 3/4-ton capacity may be stored in any private garage in a residential district. Space shall not be leased for a commercial vehicle.

(75 Code, Appendix A, Art. VII, § 8) (Ord. passed 9-26-72; Am. Ord. 2017-05, adopted 12-20-17)

#### § 7A-57. ACCESSORY STRUCTURES.

(a) (1) No accessory structure shall be erected in any front yard. Unless specifically defined in this chapter, no accessory structure shall be erected in any side yard. Except as otherwise provided by this chapter, no accessory structure shall exceed the height of the main structure. Unless specifically allowed in this chapter, no accessory structure other than a utility shed shall be constructed within 15 feet of any lot line.

(2) Accessory structures may be constructed simultaneously with, or following the construction of the main building and shall not be used until after the principal structure has been fully erected. Erection of tents as accessory structures is prohibited. No home occupation or business may be conducted in any accessory structure. No accessory structure which contains living quarters shall be constructed on any lot.

(b) Accessory buildings erected on lots fronting on two streets shall conform to main structure setbacks for the rear yard.

(c) Trailers may be used for the storage of equipment during construction provided such trailers are used only during the construction period. A temporary trailer permit shall be required for all structures, and shall be renewable every six months.

(d) Utility sheds may not be larger than 120 square feet in floor area and 10½ feet in height. Utility shed foundations should be no higher than 8 inches above ground level. Sheds shall be screened from the front and side streets. Screening shall be accomplished through landscaping, fencing or a combination of the two. Sheds must be behind the rear of the front line of the principal structure. On any corner lot, the shed must be both behind the rear of the front line of the principal structure and behind the building line of the side of any structure abutting any street. Utility sheds are limited to one shed per 10,000 square feet of lot area. Sheds may be placed on the side or rear property line. The roof line has to be within the lot line of the property.



**HEIGHT OF BUILDING.** The distance measured from the highest of the minimum land elevations or structural member elevations, for construction, that are required by federal, state, or local government regulations based on flood protection, proximity to the coast, or other standards required to protect the health, safety, and welfare, to the highest point of the roof or building facade, whichever is higher, excluding attachments, and architectural features, that are specifically allowed by the Land Development Code.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure, or of a fence.

**HISTORICAL TRAFFIC GROWTH MAP.** A map or maps prepared by the Town Manager, showing the preceding three years' increase or decrease in average annual daily traffic on various state, county and Town arterial and collector links, based upon traffic counts and which provide the information to be used in projecting the background traffic during the buildout period of the proposed project.

**HOME OCCUPATION.** Any activity carried out for gain by a resident and conducted in the resident's dwelling unit. (See § 7A-62 Home Occupations for requirements.)

**HOTEL.** A commercial establishment providing lodging, meals, and other guest services. In general, to be called a **HOTEL**, an establishment must have a minimum of 13 letting bedrooms, which must have attached (en suite) private bathroom facilities.

**IMPERVIOUS SURFACE.** A surface which has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes most conventionally surfaced streets, roofs, sidewalks, parking lots, wet pond surface areas at normal or control elevation and other similar non-porous surfaces, including area covered by all primary and accessory structures (excluding utility sheds) and swimming pools.

**INTENSITY.** A measurement of the amount of development either allowed or existing on a property typically expressed as density (units per acre) for residential uses and floor area ration (FAR) for non-residential uses.

**ITE.** The Institute of Transportation Engineers.

**LAND.** The earth that lies above mean high water mark for land subject to tidal inundation and ordinary high water line for land adjacent to freshwater bodies.

**LAND DEVELOPMENT REGULATION.** A ordinance regulating any aspect of development, including any Town zoning, rezoning, subdivision, building construction, site planning, sign regulation, landscaping or other regulations controlling the development of land.

**LANDWARD.** In a direction away from the Atlantic Ocean.

**LEVEL OF SERVICE.** An indicator of the extent or degree of service provided by, or proposed to be provided by, a public facility based on and related to the operational characteristics of the public facility.

**LINK.** The portion of a major thoroughfare between two major intersections or between a major intersection and the end of the thoroughfare, or between a major intersection or end of the thoroughfare and the Town limits.

**LIVING AREA.** The minimum floor area of a dwelling as measured by its outside dimensions exclusive of carports, porches, sheds and attached garages.

**LIVING QUARTER.** See **DWELLING UNIT**.

**LIVING UNIT.** See **DWELLING UNIT**.

**LOCAL ROAD.** A residential street providing service which is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property.

**LOT.** A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, uses, developed, or built upon.

**LOT CORNER.** A lot or parcel abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees.

**LOT COVERAGE.** That portion of any lot, parcel or tract of land which is covered by the principal structure.

**LOT DIMENSIONS.**

**From:** [TODD ALBERT](#)  
**To:** [Melbourne Beach Town Clerk](#)  
**Subject:** Re: Additions to the December PNZ Meeting  
**Date:** Monday, November 25, 2024 11:15:51 AM

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Hi Amber,

One of the thoughts that Bruce of Pine Street brought up at the last meeting was related to the revised tree replacement ordinance for “new” building that we passed. It was to discuss and revise the tree ordinance related to removing and replacing a solo or several tree(s) and making the two ordinances consistent with one another.

An other item for the coming meeting would be to finalize discussion on defining what is the buildable space and size behind a house. This was April’s idea to pursue that we deferred to this coming meeting.

All this said, I will not be able to attend the coming meeting on December 3. Hope it is productive!

Have a great Thanksgiving!  
Todd Albert

Sent from my iPhone



Memo to: Planning & Zoning Board

Subject: Tree replacement requirements for new house construction

From: Member Dan Harper

History—at our last meeting we unanimously voted to make changes to the tree replacement ordinances for new house construction. Specifically, we voted to require a minimum of 8 trees be required on the post construction site. Additionally, we required the replacement of all oak trees with another oak. The oaks would be counted towards the required 8 minimum.

Recommended revisions to applicable ordinances:

Section 9A-6 b(2)---Delete the last sentence, “The green areas left after all building and parking lot requirements have been met shall contain a tree density equal to or greater than the existing on the overall site before the beginning of construction.”

## Section 9A-7 (c)

### Existing wording;

Minimum replacement standards for new construction. Any trees that are removed for new construction shall be replaced by the same or similar species. Specifically for mature oak trees replacement of one (1) similar species for each tree removed shall be required which at a minimum will attain an overall height of a least twelve feet (12`) and have a trunk caliper of at least two inches (2") at planting, measured four and one-half feet (4.5`) above grade.

### Proposed new wording;

Minimum replacement standards for new construction. After construction is completed, the lot must have a minimum of eight (8) trees planted. Any oak trees removed during construction must be replaced with another oak. The oak replacement trees at a minimum must attain an overall height of a least twelve feet (12`) and have a trunk caliper of at least two inches (2") at planting, measured four and on-half feet (4.5`) above grade. Any oaks replaced are to be counted towards the eight (8) tree minimum.



(3) The location of all trees on the site designating the trees to be retained, removed, relocated, or replaced. Groups of trees in close proximity may be designated as clumps of trees with the predominant type and estimated number and average diameter noted. Only those trees to be removed, relocated, or replaced must be named (common or botanical name) on the site plan;

(4) The tree information required above shall be summarized in legend form on the plan and shall include the reason for the proposed removal, relocation, or replacement; and

(5) An application involving developed properties may be based on drawings showing only that portion of the site directly involved, and adjacent structures and landscaping or natural growth incidental thereto.

(b) Application review. Upon receipt of a proper application, the Building Official shall review the application, which will include a field check of the site and referral of the application to others concerned as necessary, to determine any adverse effect upon the general public welfare, adjacent properties, or Town services and facilities.

(75 Code, § 22-19(b), (c)) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23) Penalty, see § 9A-12

#### § 9A-6. ON-SITE INSPECTION.

(a) On-site inspection. Prior to the issuance of a permit for tree removal or relocation, the Building Official or his agent shall conduct an on-site inspection to determine whether or not such a removal or relocation conforms to the requirements of this chapter.

(b) Issuance.

(1) Removal. No permit shall be issued for tree removal unless one of the following conditions exists:

a. The tree is located in a buildable area or yard where a structure or improvements may be placed where inability to remove the tree would unreasonably restrict the permitted use of the property and the tree removal has been authorized by the Town as part of a site plan review;

b. The tree cannot be relocated on or off the site because of age, type, or size of tree;

c. The tree is diseased, dead, injured, in danger of falling, too close to existing or proposed structures, interferes with utility service, creates unsafe vision clearance, or conflicts with other ordinances or regulations; or

d. It is in the welfare of the general public that the tree be removed for a reason other than set forth above.

#### *TREE DENSITY PROVISION*

(2) Relocation or replacement. As a condition to the granting of a permit, the applicant may be required, where practical, to relocate the tree being removed or be required to replace the tree being removed with a tree somewhere within the site of the type that will attain an overall height of at least twelve feet (12') and have a trunk caliper of at two inches (2") at planting, measured four and one-half feet (4.5') above grade. The green areas left after all building and parking lot requirements have been met shall contain a tree density equal to or greater than that existing on the overall site before the beginning of construction.

(75 Code, § 22-19(d)) (Ord. 75-3, passed 5-27-75; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23) Penalty, see § 9A-12

#### § 9A-7. MINIMUM TREE PLANTINGS.



(11) Landscape material should be drought tolerant to the extent practical and feasible. A water source shall be available to ensure the plant material can be watered while it is being established and during drought occurrence. Automatic irrigation systems may be utilized.

(12) Currently developed sites that do not meet the landscape requirements will not be considered non-conforming. Landscaping consistent with the regulations shall be installed at these sites, to the extent practical, as redevelopment occurs. Unless complete reconstruction or rehabilitation that results in closure of a building or buildings for a period of over six months occurs, full compliance with this section shall not be required.

9A-7 (c) Minimum replacement standards for new construction. Any trees that are removed for new construction shall be replaced by the same or similar species. Specifically for mature oak trees, replacement of one (1) similar species for each tree removed shall be required which at a minimum will attain an overall height of at least twelve feet (12') and have a trunk caliper of at least two inches (2") at planting, measured four and one-half feet (4.5') above grade. *Tree for Tree*

(d) Maintenance of trees and landscaping. If the removal of any tree or landscaping from any lot causes the number of remaining trees or vegetative species to fall below the minimum standards required by this section or as reflected on any approved site plan or landscaping plan for said lot, replacement trees or vegetative species meeting the requirements of this section or any approved site plan or landscaping plan shall be re-planted on the lot within thirty (30) days after removal.

(75 Code, § 22-20) (Ord. 75-3, passed 5-27-75; Am. Ord. 87-13, passed 9-22-87; Am. Ord. 2008-08, adopted 9-3-08; Am. Ord. 2009-03, adopted 4-15-09; Am. Ord. 2017-05, adopted 12-20-17; Am. Ord. 2023-01, adopted 3-15-23) Penalty, see § 9A-12

#### § 9A-8. TREE PROTECTION.

(a) Protection of trees during land-clearing.

(1) Trees that are retained during land-clearing can be applied toward total tree requirements for the property. Prior to land-clearing, on-site protection must be initiated by constructing suitable protective barricades around trees to prevent mechanical damage. Barriers should be constructed around individual trees or groups of trees that are susceptible to mechanical damage. Prior to any land-clearing activity, a visual inspection of the site will be made by the Building Official before a land-clearing permit is issued. The land-clearing permit must be posted on-site. Only land-clearing is permitted within the drip line of the tree to be protected.

(2) On-site protection of trees may be barriers consisting of two-by four-inch lumber or flag rope and stakes visible to workers and equipment operators, but far enough from the tree to prevent soil compaction and large enough to include the area within the drip line of the tree (drip line refers to the outer edges of tree limbs and branches).

(3) Should a deep filling around a tree be necessary, a dry well, retaining wall or terracing may be required. Procedures for these are available in the site planning and tree protection regulations available at the County Extension Office.

(b) Attachments to tree. No attachments or wires other than those of a protective nature shall be attached to any tree.

(c) Tree survival. Trees must survive on-site in a viable condition. Trees failing to meet this survival requirement must be replaced within 45 days after a written notification is received by the property owner from the town.

(d) Landscaping prohibition. Plants included on the current Florida Noxious Weed list – Rule 5B-57.007 in Florida Administrative Code.