

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting
February 2, 2021

The Planning and Zoning Board met in formal session Tuesday, February 2, 2021, at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Jon DePreter, Chairperson and the following were present:

1. Roll Call: Jon DePreter, Chairperson
Christina Opsahl, Vice-Chairperson
Grant Misterly
Sarah Ryan
Mike Davis
Carl Blow
William Masson

City Staff: David Birchim, Director, Planning & Building Department
Patrick Doty, Senior Development Review Planner
Denise May, City Attorney
Candice Seymour, Recording Secretary

2. General Public hearings for Items Not on the Agenda

The Board heard from the following members of the public:

- B.J. Kalaidi

3. Approval of Minutes

MOTION

Ms. Ryan MOVED to APPROVED the January 5, 2021 minutes as presented. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION:

AYES: Ryan, Blow, Masson, Davis, Misterly, Opsahl, DePreter

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

4. Variance

4. (a) 2021-0005 – Don Crichlow – Applicant

91 Oneida, LLC – Owner
93 Oneida St

To approve a variance to the required front and side yard setbacks within Residential, Single family-two (RS-2) zoning district.

Mr. Doty read the staff report and said based on a review of Section 28-29 and without the support of evidence to the contrary, staff finds that the Board may be able to **APPROVE** a variance to the required front and side yard setbacks in Residential, single-family-two (RS-2) zoning at **93 Oneida St / PIN 208010-0000**.

Don Crichlow reviewed the application.

Ex Parte Communication:

23 certified notices were sent, 3 were returned in favor, 2 returned opposed and 2 had comments.

Public hearing was opened; however, there was no response.

The Board discussed:

- Square footage of the structure would remain unchanged
- Request was an improvement to the current situation and would save the historic building
- Move would not meet front yard setback to save a tree and allow for parking at the rear of the property as well as matching setback of existing structures along the streetscape
- Concern for opposing letter which indicated financial harm

MOTION

Mr. Masson MOVED to APPROVE application 2021-0005 for a variance to the required front and side yard setbacks within Residential, Single family-two (RS-2) zoning district. The motion was SECONDED by Mr. Misterly.

VOTE ON MOTION:

AYES: Masson, Misterly, Blow, Davis, Ryan, Opsahl, DePreter

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. Use by Exception

**5. (a) 2021-0001 – Jeremiah Mulligan, Coquina Law Group, P.A. – Applicant
Elite Hospitality, LLC – Owner
N Ponce de Leon Blvd – PID #190200-0000**

To approve a use by exception for a single-family home, per RG-1, within Commercial, medium-two (CM-2) zoning district.

Mr. Doty advised that the application had a change of ownership after having been advertised and staff recommended a continuance until the new owner authorized the applicant to proceed and provided accurate information regarding ownership of the property.

Mr. Blow asked a question regarding the non-conforming status of the lot which staff confirmed was a buildable lot.

MOTION

Mr. Blow MOVED to CONTINUE application 2021-0001 to the March 2, 2021 meeting. The motion was SECONDED by Mr. DePreter

VOTE ON MOTION:

AYES: Blow, DePreter, Masson, Davis, Ryan, Misterly, Opsahl

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

**5. (b) 2021-0006 – Blake Souder – Applicant and Owner
78 Dumas St**

To approve a use by exception for off-site parking within the municipal parking garage for a short term rental.

Mr. Doty read the staff report and said based on a review of Section 28-29 & 28-151, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** a use by exception for off-site parking within the municipal parking garage for a two-bedroom short term rental at **78 Dumas St / PIN 207360-0000.**

Blake Souder reviewed the application.

The Board provided their ex parte communications.

25 certified notices were sent, 9 were returned in favor, and 1 had comments.

Public hearing was opened.

Alexandra Daugherty spoke in favor of the application stating that Mr. Souder was a good neighbor.

Charles Pappas asked that staff make clear how many parking garage permits had been given for businesses to use.

B.J. Kalaidi spoke against the application citing that the city garage was not the only option for parking.

Public hearing was closed.

The Board discussed:

- Neighboring vacant lot that could be used for parking would need to be converted into a commercial parking lot to allow for use by vacation rental property
- Renters previously parked along the street
- First Baptist Church parking was located across the street from the subject property
- Utilizing the vacant lot as parking was a violation of City Code and enforcement would be driven by complaint
- Parking garage passes did not guarantee a parking spot in the garage

MOTION

Ms. Opsahl MOVED to APPROVE Use by Exception application 2021-0006 for off-site parking within the municipal parking garage for a two-bedroom short term rental. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:

AYES: Opsahl, Masson, Blow, Davis, Ryan, Misterly, DePreter

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. Conservation Zone Development

6. (a) 2021-0002 – Ryan Carter, Carter Environmental Services – Applicant
Erik Worthmann – Owner
134 Pelican Reef Dr

To approve a reconfiguration of an existing dock and terminal platform to

extend the access pier, add three (3) boatlifts, and a ten (10') foot by twenty (20') foot floating dock accessed by a gangway within Conservation Overlay Zone 1. To approve the construction of a vinyl sheet pile retaining wall the width of the property landward of the mean high water line within Conservation Overlay Zone 2.

Mr. Doty read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the reconfiguration of an existing dock and terminal platform to extend the access pier, add three (3) boatlifts, and floating dock accessed by a gangway within Conservation Overlay Zone 1 and to approve the construction of a vinyl sheet pile retaining wall the width of the property landward of the mean high water line within Conservation Overlay Zone 2 at **134 Pelican Reef Drive / PIN 158571-4060.**

Ryan Carter reviewed the application.

The Board provided their ex parte communications.

11 certified notices were sent, 1 was returned in favor.

Public hearing was opened; however, there was no response.

The Board discussed:

- Request was not unreasonable based upon the surrounding docks as shown by the applicant
- Vinyl sheet-pile retaining wall would be landward of existing rock and would cause minimal impacts
- No retaining wall on neighboring properties as of the time of application
- Concern that the dock was too large and did not meet all criteria for approval

- Changes to the dock may require additional Board approval
- There was sufficient room for navigation around the docks
- Dock to the south was approximately 2,000 square feet
- Dock improvement would cause slight increase in tax assessment

MOTION

Mr. Blow MOVED to APPROVE Conservation Overlay Zone Development 1 and 2 application 2021-0002. The motion was SECONDED by Mr. Masson.

Mr. Misterly clarified that while he did support the bulkhead portion of the application, he would not support the motion due to the size of the dock.

VOTE ON MOTION:

AYES: Blow, Masson, Davis, Ryan, Opsahl, DePreter

NAYES: Misterly

MOTION CARRIED 6/1

**6. (b) 2021-0003 – Ryan Carter, Carter Environmental Services – Applicant
Alan Stevenson, Sta Beach Investments, LLC – Owner
34 N. St. Augustine Blvd**

To increase the size of a boat lift from 12' x 12' to 16' x 16' within Conservation Overlay Zone 1.

Ms. Ryan recused herself from hearing the application.¹

Mr. Doty read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the Board can APPROVE the construction of a 16' x 16' jet ski lift within Conservation Overlay Zone 1 at **34 N. St. Augustine Blvd. / PIN 213510-0000.**

¹ Form attached to original minutes

Ryan Carter reviewed the application.

The Board provided their ex parte communications.

22 certified notices were sent; however, none were returned.

Public hearing was opened.

B.J. Kalaidi was concerned for the setting of precedent should the application be approved. She also encouraged the Board members to speak louder into their microphones.

Charles Pappas encouraged the Board to speak into the microphones.

Public hearing was closed.

The Board discussed:

- Not enough material difference from the previous approval to deny the application
- Dock would not be longer, only difference from previous approval was the jet-ski lift size
- Typical size of modern jet-skis was larger than in the past

MOTION

Mr. DePreter MOVED to APPROVE Conservation Overlay Zone Development application 2021-0003 with the rationale that the extension of the dock from 12 x 12 feet to 16 x 16 feet does not make enough material difference to the previous approval to meet any criteria for denial. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:

AYES: DePreter, Masson, Blow, Davis, Misterly, Opsahl

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. (c) 2021-0004 – Ryan Carter, Carter Environmental Services – Applicant
GP Salt Run, LLC – Owner
435 Flagler Blvd

To approve the construction of a six foot (6') wide by six hundred twelve (612') foot long dock with three (3) boat lifts and a twenty seven (27') foot access gangway to a thirteen (13') foot by forty (40') foot floating dock, for an overall length of 645', within Conservation Overlay Zone 1.

Mr. Doty read the staff report and said based on a review of section 11-29, and without the support of evidence to the contrary, staff finds that the Board can **CONTINUE** a six foot (6') wide by six hundred twelve (612') foot long dock with three (3) boat lifts and a twenty seven (27') foot access gangway to a thirteen (13') foot by forty (40') foot floating dock within Conservation Overlay Zone 1 at **435 Flagler Blvd / PIN 218480-0000** based on the aforementioned concerns with the proposed design and configuration of the dock.

Ryan Carter reviewed the application.

The Board provided their ex parte communications.

54 certified notices were sent, 2 were returned opposed, and 1 had comments.

Public hearing was opened.

Clyde Murphree, representing Corona del Mar, stated he had no objection to the application.

B.J. Kalaidi spoke against the application stating the dock was too long.

Cindy Wasserbauer stated the dock was too long and impeded the scenic vistas for surrounding residents on the water. She asked that the Board consider that commercial boats may use such docks as well.

Scott Patreau, an owner of the subject property, noted that the proposed dock was shorter than the one immediately adjacent at the Cortez development. He noted that the zoning of the property was RG-1 which provided for multi-family use by-right. He added that he worked with the neighboring property owners and the City to find a solution that would fit everyone's need.

Public hearing was closed.

The Board discussed:

- Existing license agreement with the City to cross the right-of-way
- Length of the dock was predicated on the agreed-upon 95 foot setback from Corona del Mar's dock
- Neighboring property owners in favor of the request
- Potential to shorten the dock approximately 90 feet
- Agreement with Corona de Mar for 95 foot setback
- No public access to the propose dock
- Riparian lines to the south were based upon that dock's approved permits
- Right-of-way to the east of the property had never been vacated
- Desire to know more about the license agreement with the City to cross eastern right-of-way
- Distance with the neighbor that appeared to be bottlenecked was adequate for passage between the proposed and existing adjacent docks
- Recommendation to turn the docks 90 degrees to face east/west to try to shorten the dock
- Desire to see the shortest possible dock
- Possibility of turning the terminal end 90 degrees to mitigate length and width concerns

MOTION

Mr. DePreter MOVED to CONTINUE Conservation Overlay Zone Development application 2021-0004 to the March 2, 2021 meeting with the intent and goal to consider options to shorten the pier as discussed. The motion was SECONDED by Ms. Ryan.

VOTE ON MOTION:

AYES: DePreter, Ryan, Masson, Blow, Davis, Misterly, Opsahl

NAYES: NONE

MOTION CARRIED UNANIMOUSLY²

7. Rezoning, Use by Exception & Conservation Overlay Zone Development

7. (a) 2020-0127 – Ellen Avery-Smith, Rogers Towers, P.A. and Ryan Carter, Carter Environmental Services – Applicant Patris YC, LLC – Owner 110 Carver St E

To rezone the subject property from Residential Single Family-one (RS-1) to Residential Single family-two (RS-2). To approve a use by exception to allow for a neighborhood recreational facility. To approve the construction of a six foot (6') wide by three hundred one (301') foot long dock with a twenty foot (20') long access gangway to a twenty five (25') foot by eighty five (85') foot long dock within Conservation Overlay Zone 1. To approve the construction of a bulkhead within Conservation Overlay Zone 2.

Mr. Doty read the staff report and said staff does not make a recommendation regarding the rezoning of land; and, the requested use by exception for a neighborhood recreation facility and conservation overlay zone development for a bulkhead, pier and floating dock are a condition of the rezoning, therefore staff will not make a recommendation on these requests.

The Board discussed concerns regarding narrative changes that came after the deadline for submittal to be included in the meeting packet and that while the Board may not consider those changes, the Board would continue with the hearing to allow for public comment.

Ellen Avery-Smith, Stanley Paris, and Ryan Carter reviewed the application.

The Board provided their ex parte communications.

7 certified notices were sent, 0 were returned in favor, 2 returned opposed and 1 had comments. Additional e-mailed responses were included with the response packet and consisted of 58 in favor, 11 opposed and one e-mail from Chuck Meide detailing the historical significance for the site.

Public hearing was opened.

Justin Muller, Commodore of the Yacht club, spoke in favor of the application citing the positive influences of sailing.

Jeffery Black spoke in opposition to the application, cited poor experiences with the Yacht Club as a neighboring property owner, and was concerned with the Yacht Club gaining more property to manage.

Chuck Meide, director of the Lighthouse Archeological Maritime Program (LAMP), detailed the historical and archeological significance of the site surrounding the proposed dock. He was concerned with pilings and heavy equipment and recommended that there be archeological mitigation to prevent damage to the site.

Duffy Stedman was concerned with the commercialization of the Lighthouse Park area. He felt that additional traffic was a concern, though he was in favor of moving the kids off the beach and away from the existing boat ramp. He was concerned with access to the property, proposed to be

² Brief recess from 4:40p.m. to 4:50p.m.

through the Yacht Club parking lot, which may not always be available.

Anthony Boldt spoke in favor of the application stating that the application addressed a safety issue. He added that he was the committee chair for the youth sailing program and asked for the Board's support.

Roy Jaeger, who helped start the youth sailing program, spoke in favor of the application saying that youth sailors needed a safer location to launch boats and their activities would be compatible with the archeological site in the area.

Jeremiah Mulligan, representing the Black Family who lived adjacent to the subject property, felt that the use and conservation overlay zone applications should not have been included as they were predicated on approval of the rezoning. He noted that the owner of the property did not intend to operate the sailing center use but rather lease the property to the Yacht Club. He added that the rezoning allowed for additional density and was not appropriate in the neighborhood.

George Anthony Hill, II spoke in opposition to the application asking the Board to consider adjacent property owners.

Marrisa Burrier, Sail Director at the St. Augustine Yacht Club, spoke in favor of the application, citing the safety issues of the kids launching boats at the public boat ramp.

Patricia Walker spoke in favor of the application citing benefits to the children who participate in the youth sailing program.

John Granis spoke in favor of the application citing the benefits of yacht club sailing programs.

Debbie Wicker was against the rezoning and did not feel that the neighborhood recreation facility designation was not

appropriate for the proposed use as a youth sailing center. She gave a brief history of the property. She was concerned with lack of oversight on the property should the rezoning be approved. She suggested that the Yacht Club work with St. Johns County on a youth sailing program in another public location.

Dave Sweetak opposed the rezoning application, and was concerned with the new information submitted by the applicant after the deadline. He added that the use was not a community center but an extension of a private yacht club. He was concerned with traffic and parking congestion and that the use could harm his property values.

Cindy Wasserbauer was opposed to the rezoning as it increased the density of the property. She was concerned with the property reverting back to the Paris family with the new zoning. She was also concerned with the final plans for the property because no clear design had been presented to the neighborhood.

Barbara Dolan, former Commodore of the Yacht Club noted the benefits that Lighthouse Park residents enjoyed that were provided by the Yacht Club. She understood that the residents did not want boats parked on the right-of-way although the residents parked in the right-of-way due to limited parking throughout the neighborhood. She added that the Yacht Club parking lot was often used by residents as well and encouragement of residents to participate in Yacht club activities had not been well-received. She concluded that the Yacht Club had tried to be good neighbors to the Lighthouse Park Community.

B.J. Kalaidi stated the application should not be heard since procedure had not been followed. She spoke against the rezoning.

James Gajewski, President of the St. Augustine Yacht Club, addressed concerns made by the public. He added that he had

67 signatures from supporters of the application. He noted measures taken by Mr. Paris to ensure that the property was safe at the request of neighboring property owners. He addressed concerns regarding the changes in leadership of the Yacht Club with its yearly leadership changes. He said the proposed building would not become an adult club. He felt the request was the best and highest use of the property.

Charles Pappas noted that rezoning was permanent and that was his only concern. He believed there were other ways to achieve the proposed use, but rezoning was not an appropriate option.

Public hearing was closed.

Ms. Avery-Smith responded to public comments noting the following:

- Youth Sailing Program at Lighthouse Park had been operational since 2010
- The rezoning and use by exception could run with conditions that ensured that neighborhood concerns were addressed
- The property had a right to a dock regardless of use due to riparian rights
- Proposed dock would follow the same footprint as previously existing dock
- Applicant was willing to work with LAMP to mitigate threats to archeological resources
- Previous agreement between the City, Yacht Club, and Dr. Paris was dissolved between the parties equally
- St. Augustine Yacht Club was not a commercial enterprise and the goal was to remove the youth sailing program out of the Lighthouse Park boat ramp
- Request for rezoning was predicated on the fact that the current zoning did not allow a use

by exception for a neighborhood recreational facility

Ms. May noted that conditions could not be placed on a straight rezoning as applied-for. She added that a use by exception could have conditions; however, several of the proposed conditions were not rationally related to the proposed use as a neighborhood recreational facility and could not be conditioned and enforced.

Mr. Doty noted that should the building be demolished in part or whole, it would require review and approval by HARB since the building was over 50 years old.

Ms. May continued that the narrative provided by the applicant sounded more like a Planned Unit Development (PUD) narrative than a Use by Exception.

There was discussion regarding whether a PUD could have a sunset clause that would revert the PUD back to the previous zoning if the sailing school closed.

Mr. Birchim noted that the rezoning included non-conforming setbacks that would need to be addressed through a development agreement.

The Board discussed:

- There was no way, through a straight rezoning, to condition a reverter clause
- Applicant did not decide to rezone to a PUD because it was simpler and cheaper to apply for a straight rezoning
- Applicant would have to consider whether a PUD would be feasible for them
- Information submitted late had been presented by the applicant in the course of their presentation
- Lack of other options for the sailing school from those who object to the proposed location

- Concern for archeological impacts
- Neighborhood mistrust of the Yacht Club
- Traffic generated in the Lighthouse Park neighborhood was from tourists visiting the lighthouse, and use of public spaces such as the tennis courts and boat ramp
- History of the old lighthouse which may have been dismantled for materials in the past
- Proposed dock would likely not impact the archeological resources as it was proposed to follow previously existing dock footprint
- Safety for youth sailors was a concern at the boat ramp
- Sailing School was not a significant traffic generator
- Previous offer by the property owner to donate the property to the City for use by the Yacht Club
- The Black family's concern carried the most weight as being the most affected by the project
- Other suitable locations in the county could be problematic with limited public access to the water
- Desire to see a site and operational plan for the Use by Exception
- RS-2 zoning may not be too dense for the area based on existing conditions
- Desire to see more research regarding the archeological site
- A private youth sailing school did not meet the definition of a neighborhood recreational facility
- Most neighborhood concern was for the increased intensity of the zoning category
- Need and justification of the change was the safety of the children at the boat ramp, though there had been no reported accidents
- Desire to see how the request related to the existing fishing pier
- Program operated while school was out of session during the summer and on weekends

- Concern that big boats could utilize the proposed dock in the future which Yacht Club staff clarified was not possible due to the lightweight nature of the floating dock
- Dock size was related to the need to store the youth boats on the dock when not in use
- Cost to join the sailing camp
- Property was not intended for use as an events space
- Four uses a year by the neighborhood association did not make the use a recreation center for the community
- Majority of the neighborhood preferred that the property remain a residence
- Late information was in response to neighborhood concerns
- Neighborhood Association met in the current Yacht Club building as agreed-upon in the lease agreement with the City
- Recommendation that LAMP be engaged in the construction of a future dock to ensure the safety of any archeological resources
- Drawings submitted were sufficient in rationalizing the proposed size of the dock
- Concern for stretching the definition of the proposed use to justify intensifying the zoning

MOTION

Mr. Masson MOVED to RECOMMEND APPROVAL of application 2020-0127 to rezone the subject property from Residential Single Family-one (RS-1) to Residential Single family-two (RS-2). To approve a use by exception to allow for a neighborhood recreational facility. To approve the construction of a six foot (6') wide by three hundred one (301') foot long dock with a twenty foot (20') long access gangway to a twenty five (25') foot by eighty five (85') foot long dock within Conservation Overlay Zone 1. To

approve the construction of a bulkhead within Conservation Overlay Zone 2 as applied for. The motion was SECONDED by Mr. Blow

Discussion ensued regarding:

- Further information needed relating to the use by exception
- Preference to continue the application to work out details
- Clarifications of the approval, recommending approval of the rezoning, and approving the use and conservation overlay zone development pending Commission approval of the rezoning
- Most security to ensure the property remained a youth sailing school was through the original path of donating the property to the City

VOTE ON MOTION:

AYES: Masson,

**NAYES: Blow, Davis, Ryan, Misterly,
Opsahl, DePreter**

MOTION FAILED 1/6

MOTION

Mr. Misterly MOVED to RECOMMEND APPROVAL of application 2020-0127 to rezone the subject property from Residential Single Family-one (RS-1) to Residential Single family-two (RS-2). The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:

AYES: Misterly, Masson, Ryan

NAYES: Blow, Davis, Opsahl, DePreter

MOTION FAILED 3/4

MOTION

Ms. Opsahl MOVED to RECOMMEND DENIAL of application 2020-0127 to rezone the subject property from Residential Single Family-one (RS-1) to Residential Single family-two (RS-2). The motion was SECONDED by Mr. DePreter.

There was a brief discussion regarding approving the Conservation Overlay Zone application, since a dock could be constructed on the property regardless. There was Board consensus not to consider it.

VOTE ON MOTION:

AYES: Opsahl, DePreter, Blow, Davis

NAYES: Masson, Ryan, Misterly

MOTION PASSED 4/3

There was continued discussion regarding approval of the dock, which staff clarified was not a residential dock and had ties directly to the sailing academy use.

8. Other Business

8. (a) Discussion related to updating prioritized Land Development Code sections.

Mr. Birchim reviewed the subject. He added that if the Board wished to change the order in which amendments were brought to the Board for review and recommendation that members should contact City Staff. In response to Board questions, he advised that amendments would start coming before the Board in the Spring.

9. Adjournment

Having no further business, Mr. DePreter adjourned the meeting at 7:54 P.M.³



Jon DePreter, Chairperson

³ Transcribed by Candice Seymour