CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting
May 4, 2021

The Planning and Zoning Board met in formal session Tuesday, May 4, 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 William Masson
Absent:	Carl Blow, excused
City Staff:	David Birchim, Director, Planning & Building Department Denise May, City Attorney Elyse Anderson, Recording Secretary

---

Modifications to the Agenda

Mr. DePreter announced that applicant-requested continuance of item 5(a).

MOTION

Mr. Misterly MOVED to CONTINUE application 2021-0040 to the June 1, 2021 meeting. The motion was SECONDED by Mr. DePreter

VOTE ON MOTION:
AYES: Misterly, DePreter, Masson, Davis, Ryan, Misterly, Opsahl
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

2. General Public hearings for Items Not on the Agenda

(None)

3. Approval of Minutes

Mr. DePreter asked that the motion for item 6(b) be checked, as he believed a condition for the applicant to be the sole employee had been omitted and staff advised they would review the audio and make changes as appropriate.

MOTION

Ms. Ryan MOVED to APPROVE the April 6, 2021 minutes as amended. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:
AYES: Ryan, Masson, Davis, Misterly, Opsahl, DePreter
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

4. Use by Exception

4. (a) 2021-0044 – Christopher Mury – Applicant and Owner
263 Riberia Street

To approve one (1) off-site parking space at 256 Riberia Street (Oasis Boat Yard) for a short-term rental.

Ms. Skinner read the staff report and said Based on a review of Section 28-2 & 28-151, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** a use by exception for one (1) off-site parking space within 400 feet of the premises for a short-term rental at **263 Riberia Street** / PIN 211800-0000.

Christopher Mury was available for questions.

Ex Parte Communication:

(None)

17 certified notices were sent, 1 was returned opposed and 1 had comments.

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

The Board discussed:

- Parking in close proximity to the rental was preferred over renting space in the parking garage
- Existing parking on the site was not sufficient for short term rental requirements
- Application met exception criteria for approval

MOTION

Mr. Masson MOVED to APPROVE application 2021-0044. The motion was SECONDED by Ms. Ryan.

VOTE ON MOTION:
AYES: Masson, Ryan, Davis, Misterly, Opsahl, DePreter
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

4. (b) 2021-0049 – Susan Bebry – Applicant
Ribossa Property Management, LLC – Owner
63 Saragossa Street

To approve three (3) parking spaces on Saragossa Street for a short-term rental.

Mr. Birchim read the staff report and said based on a review of City Policy and Section 28-2 & 28-151, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** a use by exception for two (2) parking hang tags for a short term rental at **63 Saragossa Street** with consideration for an additional one (1) offsite parking space to be located at the City Parking Garage, which would require readvertising and approval by the Board.

Susan Bebry reviewed the application.

Ex Parte Communication:

(None)

24 certified notices were sent, 1 was returned in favor, 3 returned opposed and 3 had comments.

Public hearing was opened.

Sonia Mayo testified that the rental was four individual rooms for rent, and not a single house for rent. She added that there had been no parking complaints in the area due to the listing which had utilized residential parking passes for the past 5 years.

Billy Dedmon Jr. provided evidence that the property had previously caused parking issues and had even blocked his driveway.

Joe Chesek spoke in opposition to the application stating that parking had historically been an issue on Saragossa Street, particularly during events. He felt that non-resident property owners should not be able to take parking way from year-round residents.

Barbara Tanner noted the scarcity of parking along Saragossa Street pre-Covid. She stated that guests who rent in the area leave their cars parked along the street the entire time of their stay, making it difficult for full-time residents to find parking. She added that she has been unable to use her own parking passes along the street because of vacationers taking up the spaces.

Guy Courter felt that all residential permit holders along Saragossa Street should be notified of applications such as this. He stated that the residential parking pass program was intended for residents and their guests and not renters from out of town. He felt vacationers should use the parking garage and spoke in opposition to the application.

Mattie Harms understood the concerns and impacts of short-term rentals. She felt the Board should be vigilant when considering approval of such applications.

Victor De Pallo said it was clear that parking passes should be granted only in the parking garage for vacation renters.

Nancy Pellicer noted that traveling down Saragossa Street was difficult with the cars parked along the street. She felt that off-street parking should be provided by the property owner or that guests should park in the garage.

Melinda Rakoncay felt that short term rentals were businesses allowed in residential neighborhoods. She noted the staff report which indicated a maximum of two residential parking guest passes. She added that state law limited the City's ability to regulate vacations rentals, parking was one way to regulate it. She said the city needed to do everything they could to protect residential neighborhoods from commercial encroachment.

Public hearing was closed.

Ms. Bebry responded to public comment stating that she had purchased the property as a vacation rental, she paid local taxes, and utilizing the driveway was infeasible as the rooms in the building were rented separately.

The Board discussed:

- Parking garage spots as an alternative to the residential guest parking passes since Saragossa Street was in close proximity to the garage
- Application did not meet criteria for approval
- Properties were not considered commercial enterprises and permanent residents had a right, per the parking rental program, to two parking spaces and two guest passes
- Seventy-four existing parking permits for the 31 existing spots on Saragossa Street
- Applicant may have a right to two guest parking passes as a property owner

- Application would need to be re-advertised and re-heard if changed to parking garage passes
- Denial of the application still left the applicant with the option to lease parking garage passes
- Application did not meet criteria for an exception

MOTION

Ms. Opsahl MOVED to DENY application 2021-0049 for three (3) parking spaces on Saragossa Street for a short-term rental at 63 Saragossa Street. The motion was SECONDED by Mr. Misterly.

VOTE ON MOTION:
AYES: Opsahl, Misterly, Masson, Davis, Ryan, DePreter
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

4. (c) 2021-0050 – Corinne Hardisty – Applicant
B & B Family, LLC – Owner
50 South Dixie Hwy, Suite 5

To approve a wholesale (non-THC CBD hemp products) business at this location

Mr. Birchim read the staff report and said based on a review of Section 28-29 and 28-209, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** a wholesale business **at 50 S. Dixie Highway Ste. 5** / PIN 1269750000.

Corinne Hardisty reviewed the application.

Ex Parte Communication:

(None)

14 certified notices were sent, 2 were returned in favor.

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

The Board discussed:

- No state regulation on the CBD products proposed for wholesale
- Applicant rented a suite in the property
- Condition that there be no direct sale of product to the general public on the property
- Application met criteria for an exception
- Recommendation to define "consumable" in city code

MOTION

Ms. Ryan MOVED to APPROVE Use by Exception application 2021-0050 for a wholesale (non-THC CBD hemp products) business at 50 S Dixie Highway with the exception that there be no store-front or public access/sales. The motion was SECONDED by Mr. DePreter.

VOTE ON MOTION:
AYES: Ryan, DePreter, Masson, Davis, Misterly, Opsahl
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

4. (d) 2021-0053– Daniel Brown – Applicant
Courtney and Jarrod Depries – Owner
90 DeHaven Street

To approve two (2) parking spaces in the municipal parking garage for a short-term rental.

Mr. Birchim read the staff report and said based on a review of Section 28-29 and 28-151, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** a use by exception for two (2) off-site parking spaces within the municipal parking for the short-term rental property at **90 De Haven Street**, PID#207560 0000.

Daniel Brown reviewed the application.

Ex Parte Communication:

(None)

25 certified notices were sent, 3 returned opposed and 3 had comments.

Public hearing was opened.

Billy Gowan said that parking restrictions were the most effective way to limit short-term rentals and spoke in opposition to the application.

Public hearing was closed.

The Board discussed:

- Applicant's limited parking options in the area made the parking garage the last resort
- Applicant should have been aware of parking deficiencies prior to purchase of the property for short-term rental use
- Concern that vacation rentals have been taking available workforce housing
- Parking in the area would be problematic at regardless of use
- Long distance from municipal garage could reduce the likelihood that guests would use the passes over seeking on-street parking
- Potential future state regulations that could supersede city ordinances
- Options of the applicant, if denied, included a variance request, appeal to the City Commission, or change of use to long-term rental
- Parking garage use for short-term rentals aligned with the City's Mobility Plan

MOTION

Ms. Opsahl MOVED to APPROVE application 2021-0053. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:
AYES: Opsahl, Masson, Ryan, Misterly, DePreter
NAYES: Davis
MOTION CARRIED 5/1

4. (e) 2021-0054– Windstar 195, LLC – Applicant and Owner
195 W. King Street, 16 Everett Street and PID#118550 0050

To approve a candy manufacturing and warehouse use at this location.

Mr. Birchim read the staff report and said based on a review of Section 28-29 and 28-209, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** a candy manufacturing and warehouse business at **195 W. King Street, PID# 118550 0000 and 16 Everett Street.**

Jeremy Marquis reviewed the application.

Ex Parte Communication:

(None)

19 certified notices were sent, 4 were returned in favor, and 2 had comments.

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

Jeremy Marquis responded to submitted written comments noting that the existing access along King Street and Everette Street would be used. He said that added jobs would be a benefit to the community. He added that operation hours had not been finalized; however, they were not expected to be unusual hours.

The Board discussed:

- Facility was not anticipated to be open to the public
- Property was surrounded by other commercial uses
- Clarification that LLC did not need to be verified to approve the application
- Concern that if the business were opened to the public, it would negatively impact parking and traffic
- Ample parking on the property for ancillary uses such as retail
- Recommendation that potential traffic problems be mitigated if the business became open to the public
- Board desire to see additional information from the applicant including hours of operation
- Existing parking would limit intensity of any future ancillary uses
- Allowable uses in Commercial Medium 2 (CM-2) could be more intense than the proposed use
- Adjacent properties were zoned CM-2

Mr. Marquis asked for Board guidance regarding traffic mitigation in the area.

MOTION

Mr. Masson MOVED to APPROVE application 2021-0054 for a candy manufacturing and warehouse business at that location. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:
AYES: Masson, Davis, Ryan, Misterly, Opsahl, DePreter
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

5. Conservation Overlay Zone Development

5. (a) 2021-0040 – R.E. Chip Mitchell – Applicant
California Trends, LLC – Owner
70 Florida Avenue

To approve the construction of a retaining wall in Conservation Overlay Zone 2.

Applicant requested continuance until June Meeting. See Modifications to the Agenda for motion continue.

5. (b) 2021-0045 – Martin Cicero – Applicant and – Owner
6 Coleman Drive

To remove two (2) significant trees (oaks) adjacent to a single-family home.

Mr. Birchim 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 removal of two (2) significant oak trees within Conservation Overlay Zone 3 located at **6 Coleman Drive** / PID# 192015-0000.

Martin Cicero reviewed the application.

The Board provided their ex parte communications.

14 certified notices were sent, 2 were returned in favor, and 1 had comments.

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

The Board discussed:

- Desire to see an arborist report for the condition of the trees; however, this was not required per code
- History of water oaks to weaken over time as they get larger which could damage the applicant's or the neighboring properties that they leaned towards

MOTION

Mr. Davis MOVED to APPROVE Conservation Overlay Zone Development application 2021-0045 to remove two (2) significant trees (oaks) adjacent to a single-family home. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:
AYES: Davis, Masson, Ryan, Misterly, Opsahl, DePreter
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

6. Variance/Conservation Overlay Zone Development

6. (a) 2021-0052 – Mark McConnel – Applicant and Owner
S. Leonardi Street (PID# 119920 0350)

Ms. Ryan recused herself as a business associate of the applicant. [1]

To remove two (2) significant trees (laurel oaks) and to approve a variance to encroach into the required side and rear yard building setbacks for a garage/guesthouse.

Mr. Birchim 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 can **APPROVE** a variance to encroach into the required side and rear yard building setbacks for a garage/guesthouse located at **S. Leonardi Street / PID# 119920-0350.** He noted that the tree removal portion of the application needed to be re-advertised and would be heard at a subsequent meeting.

Mark McConnel reviewed the application.[2]

Ex Parte Communication:

(None)

12 certified notices were sent, 1 was returned in favor, and 1 had comments.

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

The Board discussed:

- Trees D, E, and F would be protected if the variance were approved
- Construction would be stem-wall with crawl space
- Preference to see the entire application (tree removal and variance) at one time
- Applicant's creative solutions to stormwater retention were laudable
- Variance request met criteria for approval

MOTION

Mr. Masson MOVED to APPROVE Variance application 2021-0052 to encroach into the required side and rear yard building setbacks for a garage/guesthouse. The motion was SECONDED by Ms. Opsahl.

VOTE ON MOTION:
AYES: Masson, Opsahl, Davis, Misterly, DePreter
NAYES: NONE
MOTION CARRIED UNANIMOUSLY[3]

7. Rezoning

7. (a) 2021-0051 – Gary Davenport, PA – Applicant 36 Granada, LLC – Owner
36 Granada Street

To rezone the property from Commercial Low-one (CL-1) to Commercial Low-two (CL-2).

[1] Form attached to original minutes
[2] Presentation attached to original minutes
[3] Brief recess from 3:56p.m. to 4:11p.m.

Mr. Birchim read the staff report and said Staff does not make recommendations concerning the rezoning of land.

Gary Davenport, representing the applicant, reviewed the application.

The Board provided their ex parte communications.

8 certified notices were sent; however, none were returned. Additional submitted comments were provided with the meeting packet.

Public hearing was opened.

Bob Fajen spoke in favor of the application having attended the neighborhood meeting and noting that the applicant seemed to care about the area. He voiced concern with parking, but if the proposed staggering of business hours moved forward, parking may not be a problem.

Lauren Giber stated that the applicant should understand the zoning prior to purchasing a property. She added that changing the zoning could be detrimental to neighboring property owners. She spoke against rezoning applications in downtown St. Augustine, noting that approving the application may set a precedent to request similar rezonings.

Mattie Harms spoke against the application and stated the major concern of the application was the zoning of the property. She questioned whether the application met the expectations of the City's Vision Plan.

Mike Grossman was impressed by the applicant's neighborhood presentation and was in favor of a neighborhood coffeehouse/restaurant and hoped the business would succeed as an improvement to the neighborhood.

Patrick Crocetta was impressed by both the applicant's presentation and other locations of the business which he visited. He spoke in favor of the application.

Melinda Rakoncay was concerned about the zoning change which would intensify the zoning for the foreseeable future. She said the application was spot zoning and that similar applications had been denied. She noted that all other businesses in the area were CL-1, and if the application were approved, other businesses would apply. She felt that the business would not be a low-impact restaurant and she believed the proposed uses could easily operate under CL-1.

J.C. Sullivan felt that the applicant had given a lot of thought into being a positive addition to the neighborhood and spoke in favor of the application.

Judy Rente spoke in favor of the application, stating the proposed building and uses would be a positive contribution to the community.

Public hearing was closed.

Mr. Davenport noted that many speakers felt the facility was unique and would be a good addition to the area. He added that operating in CL-1 would require the businesses to be broken-up. He said that to maximize the use of the property, the rezoning was necessary.

James McGarvey, the developer for the property clarified the application, how the business would operate, and the intent to cater more to the local community rather than tourists.

The Board discussed:

- Concept was positive; however, there was a lack of need and justification for the change

- Justification for the change could be tied to the size of the building and how to maximize use of the existing building
- Adjacent CL-1 businesses were much smaller in square footage
- Application aligned with the Comprehensive Plan and City Goals in the following ways:
  - Revitalize the building
  - Preserve the character of the neighborhood
  - Help economic development
  - Encourage redevelopment
  - Discourage urban sprawl
  - Encourages mixed uses
  - Diversified the local economy
  - Aesthetic improvement
  - Compatible with urban character of the City
- Property was surrounded by commercial zoning and uses
- Nearby Dog Rose Brewery was zoned CL-2
- Possible alternatives to rezoning while still allowing proposed use
- A rezoning would allow for all uses approved under CL-2 zoning
- Possibility of a PUD application rather than a straight rezoning
- Concern for setting a precedent
- Other surrounding CL-2 zoned properties including the St. Augustine Record Building and the parking lot along Washington
- History of the Lincolnville commercial corridor in the area which included higher intensity uses than proposed
- Parking requirements
- Hours of operation would be 7:00 a.m.-11:00 p.m. split the coffee-shop, bakery, and restaurant
- Applicant was willing to place a deed restriction on the property that would preclude certain uses allowed in CL-2; however, City could legally not enforce deed restrictions
- Building was not intended to be used by the applicant as an events venue
- HARB would not review changes to the site
- Desire to attempt to match the surrounding architectural character
- Conditions could not be placed on a rezoning
- The long-term benefits may outweigh concerns of the rezoning
- Corazon Movie Theater failed after being denied the previous rezoning request to CL-2 and facing damage from several flooding events
- Applicant's willingness to engage with the community
- Approval of the rezoning would not guarantee that the proposed project would be developed
- Size and layout of the existing structure was more compatible with CL-2 zoning
- Property could be operated effectively under CL-1 zoning

MOTION

Mr. Davis MOVED to RECOMMEND APPROVAL of application 2021-0051 to the City Commission to rezone the property from Commercial Low-one (CL-1) to Commercial Low-two (CL-2) with the findings that it meets the criteria for a need and justification for the change, the relationship of the rezoning to the general planning program and consistency with the Comprehensive Plan. The motion was SECONDED by Ms. Opsahl.

<u>VOTE ON MOTION:</u>
AYES: Davis, Opsahl, Masson
NAYES: Ryan, Misterly, DePreter
MOTION FAILED 3/3, DEFACTO DENIAL

<u>8. Other Business</u>

Mr. Birchim advised that discussion item 8(b) required action by the Board; however, item 8(a) could be postponed. He recommended a special meeting to discuss the subject when the entire board could participate.

8. (a) Discussion of Building Code Task Force proposed Land Development Code Amendments

(Not discussed)

8. (b) Discussion and Recommendation of Change to the Definition of "Bar, cocktail lounge, saloon or tavern". (Sec. 28-2 Definitions)

Ms. May gave a brief overview of the subject.

The Board discussed the following:

- Concern that lumping "every place that one can serve and/or drink alcohol on site" encompassed restaurants as well
- Leave "primarily" in the code, to specify establishment that are devoted primarily to the service of alcohol
- Add "not clearly defined elsewhere in the code," to clearly delineate definition from other defined establishments that serve alcohol
- Referencing % of alcohol sales was not feasible

MOTION

Ms. Opsahl MOVED to RECOMMED APPROVAL of the revised definition of "Bar, cocktail lounge, saloon or tavern," with the suggested changes of leaving in "primarily in the business of," and adding the statement "and not otherwise defined in the code." The motion was SECONDED by Mr. Misterly.

VOTE ON MOTION
AYES: Opsahl, Misterly, Masson, Davis, Ryan, DePreter

Board Member Comments

Mr. DePreter announced the departure of Candice Seymour as the Recording Secretary for the Board and introduced Recording Secretary Elyse Anderson.

9. Adjournment

Having no further business, Mr. DePreter adjourned the meeting at 5:32 P.M.[4]

Jon DePreter, Chairperson

[4] Transcribed by Candice Seymour