

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting September 7, 2021

The Planning and Zoning Board met in formal session Tuesday, September 7, 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
Sarah Ryan
Mike Davis
Carl Blow
William Masson

Absent: Grant Misterly, excused

City Staff: David Birchim, Director, Planning & Building Department
Amy Skinner, Deputy Director, Planning & Building
Jacob Fredriksson, Senior Planner, Planning & Building
Isabelle Lopez, City Attorney
Elyse Anderson, Recording Secretary

2. General Public hearings for Items Not on the Agenda

- Mattie Rayford Harms

3. Approval of Minutes

(None)

4. Use by Exception

4. (a) 2021-0115 – Lolo Properties, LLC – Applicant **K Dawn, LLC – Owner** **31 San Marco Avenue**

To approve off street parking within 400 feet of the premises.

Mr. Fredriksson 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 use by exception for one (1)

offsite parking space for 31 San Marco Avenue at 27 San Marco Avenue / PID 194630-0000.

Nameer Jazrawi reviewed the application.

Ex Parte Communication:

(None)

12 certified notices were sent, 0 were returned.

Public hearing was opened.

Mattie Rayford Harms spoke in opposition of the application and thought short-term rentals were being rewarded. She stated that traffic and congestion were a concern. She said the public needed to have access to the parking and urged the Board to take that into consideration.

Alejandro Sanheza was opposed to the application. He said parking was not

available in the area, and the two spaces near the home were mainly used by delivery drivers and there was not enough parking in the area for the exception.

Public hearing was closed.

Mr. Jazrawi said there was plenty of parking in the trolley lot and he wanted to obtain one parking space from them. He said this was to help the guest feel welcome and enjoy the City's attractions and history.

Mr. Birchim clarified the applicant was not applying for street parking, or the City parking garage but for parking in a commercial lot to the south that was owned by Old Town Trolley.

The Board discussed:

- New owner needed an exception to be approved
- Previous owner had a parking space approved by the Board
- Not a short-term rental but a hotel room
- Could apply for off-site parking at the garage but wanted to stick with what had been previously used
- Could potentially make situation worse if denied
- Signage should be added to the space to identify that it was reserved
- Preferred this option rather than the City's parking garage
-

MOTION

Mr. Masson MOVED to APPROVE application 2021-0115 one required parking space be located off-site at 27 San Marco Avenue with the caveat that it would be pursuant to the agreement with Old Town Trolley previously referenced to space twelve and the space be appropriately marked. The motion was SECONDED by Mr. DePreter.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. Variance

5. (a) 20121-0110 – Stephanie and Lewis Burge– Applicant and Owner 18 Solano Avenue

To reduce the required side yard setback from 15' to 12' and the rear setback from 20' to 18' for a guesthouse.

Mr. Fredriksson 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-1) zoning at 18 Solano Avenue / PIN 220770-0000

Lewis Burge reviewed the application.

The Board provided their ex parte communication.

17 certified notices were sent, 1 returned opposed, 1 had comments, and three additional emails were received.

Public hearing was opened.

Leanna Freeman spoke in favor of the application and thought the request was very minor to make use of the property as it was built several years ago.

Public hearing was closed.

The Board discussed

- Good use of a variance to help save the red cedar tree
- Was a minor setback
- Had support from the neighbors

- The disadvantage for the variance was it the size, shape, or typography
- Application met the criteria
- Location of the cedar tree was not depicted

Mr. Burge showed a map to the Board and the exact location of the cedar tree was near a deck that had been built several years prior.¹

MOTION

Ms. Opsahl MOVED to APPROVE Variance 2021-0110 agenda item 5. (a) to approve a variance to the required rear and side yard setbacks within Residential Single Family 1 zoning district at 18 Solano Avenue as applied for. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. Conservation Zone Development

6. (a) 2021-0107 – Jennifer Coffindaffer – Applicant and Owner **87 Dolphin Drive**

To modify an existing dock, approve a new boat lift and a new floating dock in Conservation Overlay Zone 1.

Mr. Fredriksson 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 881 new square foot of dock within Conservation Overlay Zone 1 at 87 Dolphin Drive / PIN 219920-0000. By approval of this application, the City does not make representation, approval, or claim to riparian rights to any party.

¹ Map attached to packet

Brian Spahr, the agent for the property reviewed the application.

The Board provided their ex parte communication.

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

Public hearing was opened; however, there was none.

The Board discussed:

- Not an issue as it was a rebuild to the original dock
- Would improve the waterway
- Measurements were under the specs for the State permit rights

MOTION

Ms. Ryan MOVED to APPROVE agenda item 6. (a) 87 Dolphin Drive to approve Conservation Overlay Zone 1 approval to rebuild the modified dock. The motion was SECONDED by Ms. Opsahl.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. (b) 2021-0111 – Ryan Carter– Applicant **Kimberly Hartwick– Owner** **228 Riberia Street**

To approve a retaining wall in Conservation Overlay Zone 1.

Mr. Fredriksson 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 a 128' seawall at 228 Riberia Street PID 213280-0000.

Mr. Carter reviewed the application.

Ex Parte Communication:

(None)

16 certified notices were sent, 1 was returned in favor, 1 returned opposed, and 0 had comments.

Public hearing was opened.

Lauren Giber spoke in favor of the retaining wall but asked for her neighbor to coordinate with the contractor and to be courteous to everyone in the neighborhood by not blocking the street.

Kevin Priester was opposed to the application and referred to an article about erosion to the shoreline being caused by bulkheads. He felt this would cause flooding for the neighbors in the area due to the harden shoreline.

Public hearing was closed.

Mr. Carter responded to public comment stating this would secure the property in the event of a storm and a reasonable request to secure the shoreline. He said there could be a coordinated effort with the contractors when the construction took place.

The Board discussed:

- Wetland line was determined by the Florida Administration Code 62-340
- Wetland line was based on two of the three criteria: vegetation, soil, and water or evidence of water
- No other bulkheads in the area
- Older armors to the south of the property
- Towards the north, there were berms to armor the shoreline
- Bulkhead elevation was at five
- Fence may be needed if over 30-inches
- Application was a reasonable ask
- Thought concerns from public comment were valid but it was within State law
- All activity was in the uplands

- Purpose was to protect the property
- Natural marsh would be in front of the wall
- There would be eighteen inches of uplands that would erode overtime
- Overtime it would potentially become a bulkhead
- Need for the wall was preemptive
- People wanted to protect their property in order to not lose any
- Regarding criteria thirteen only smaller brush would be taken out, no protected, or specimen trees would be removed

MOTION

Mr. Blow MOVED to APPROVE Conservation Overlay Zone Development application 2021-0111. The motion was SECONDED by Mr. Masson.

Mr. DePreter stated in the future there would be a more comprehensive look into the wetlands that would provide more guidance but thought in this case he was in support of the application.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

**6. (c) 2021-0114 – Mary Beth Marek–
Applicant and Owner
19 Davis Street**

To remove one (1) significant tree (Hackberry) in Conservation Overlay Zone 3.

Item heard prior to 6. (b).

Mr. Fredriksson 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 removal of one (1) significant Hackberry tree at the subject property within

Conservation Overlay Zone 3 located at 19 Davis Street/PID 119920-0000 with the condition that mitigation of 2 deficits (equal to 4" diameter in tree replanting) is completed on site.

Mary Beth Marek reviewed the application.

The Board provided their ex parte communication.

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

Public hearing was opened.

Amy Secol spoke in opposition of the application and was concerned with the removing the tree. She stated a Hackberry was strong and provided shade, promoted wildlife in the neighborhood, and cleaner air. She stated if it was not a damaged tree it should not be removed. She stated there had been a Code Enforcement Officer that wanted to monitor some of the trees for over trimming.

BJ Kalaidi was opposed to the application and thought there was over building on Davis Street and questioned if the tree was damaged. She asked the Board if they had received a certified arborist report. She said if the Hackberry was a danger to the applicant's home it should be removed. She urged the Board to proceed with caution because the canopy was important.

Lauren Giber was opposed to the application as this was supposed to be the City of trees but the trees were being removed. She said trees should be taken care of and pruned correctly and questioned the Board about receiving a certified arborist report.

Michael Cubero was in favor of the application as he stated the tree was split and was on the property line about six feet from the applicant's home. He said the location and the condition of the tree was a hazard. He said there were other trees on

the property that the applicant wanted to preserve.²

Public hearing was closed.

Mr. DePreter stated that the public had asked for an arborist report, and he did not see a certified arborist report but did have an estimate for removal of the tree.

Ms. Marek stated she bought the home in 2019 and the home was canopied by an old oak tree, and when she spoke to the tree removal company she was under the impression, the tree company sent an arborist.

The Board discussed:

- Tree was on property when home was built
- Did not want to set a precedence with removing trees
- State could issue letter for removal if tree was dangerous to persons or property with an arborist report without approval from local government, permitting or mitigation
- Did not receive a certified arborist report
- City did not look at the entire lot for a tree count
- Would not support without an arborist report
- Would want to see tree trimming code violation if available
- Could use other option and handle at a State level

MOTION

Ms. Opsahl MOVED to DENY Conservation Overlay Zone Development 2021-0114 item 6. (c) to deny the removal of one significant tree a Hackberry tree in Conservation Overlay Zone 3 and RS1 zoning. The motion was SECONDED by Mr. Masson.

² Showed picture to Board attached to packet

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY³

7.Rezoning/Conservation Overlay Zone Development

7. (a) 2021-0108 – Ellen Avery-Smith Esq– Applicant

Flagler College, Inc- Owner

94 Cedar Street and 7 ML King Avenue – PID 201850-0000, 201860-0000 and 201860-0150

To amend an existing Planned Unit Development (PUD) and to remove one (1) significant tree (Laurel Oak) in Conservation Overlay Zone 3.

Mr. Birchim read the staff report and said Staff does not make recommendations concerning the rezoning of land. The Board is responsible for making a recommendation based on the following;

(1) The need and justification for the change.

(2) The relationship of the proposed amendment or rezoning to the city's general planning program and such comprehensive plans as may from time to time be adopted by the city commission.

(3) Consistency with the Comprehensive Plan.

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 removal of one (1) significant tree at the subject property within Conservation Overlay Zone 3 located at 7 ML King Avenue, PIO 201850-0000.

³ Break from 3:24 p.m. – 3:40 p.m.

Ellen Avery- Smith presented the power point presentation for the Board and reviewed the application.⁴

The Board provided their ex parte communication.

19 certified notices were sent, 4 were returned in favor, 2 returned opposed and 2 had comments. There were 2 emails attached.

Public hearing was opened.

Leanna Freeman spoke in opposition of the application. She stated the City had lost residents and the sense of community. She said her parent's home was the only home left on the north side of Cedar Street. She noted the current PUD for Flagler College housed 104 beds on an acre lot and the proposed PUD modification was to add an additional 100 beds on 0.2 of an acre. She stated there would not be enough parking to accommodate the students and this would increase the parking problems. She stated the only way to resolve this was to scale the project back.

Lauren Giber stated she was opposed to the application and did not want the college to invade anymore of Lincolnville and suggested building somewhere else within the County and transport their students to and from campus. She stated the parking was not sufficient to the college and the college did not provide anything to the community.

BJ Kalaidi spoke in opposition of the application and said that people were destroying the City and there was nothing wrong with the home they wanted to demolish. She told the Board to pay attention as the downtown area because it was being destroyed.

Maddy Rayford Harms stated there was a lack of faith in the College as a partner to

⁴ Attached to packet

the City's residents. She was opposed to the application.

Public hearing was closed.

Ms. Avery-Smith said the evolution over the last few years had changed but Flagler College was a beacon in the town, and it had brought many people to the City. She said the building was being used for administrative purposes and had been owned by the College for several years. She said the application was to add on to an existing PUD for an additional 100 beds and the parking was being provided in the other lots already established.

Dave Carson, CFO at Flagler College, spoke regarding the parking accommodations for the students, faculty, and guest. He stated they had decreased the student count by 300 but added around 600 parking spaces.

Mr. Blow asked if the project were approved how would the stormwater be addressed.

Rob Matthews, from Matthews Design Group, stated all stormwater would be contained on site with an under-ground chamber system under the parking lot.

The Board discussed:

- College was a good partner with the community
- Conflict in the parking numbers compared to real time parking
- PUD provided parking space information; Cedar southside lot for the existing PUD and 4 MLK Ave, 54 spaces and College gym/Auditorium, 79 spaces
- Timeframe was two years for construction and commencement within the next ten years
- Timeframe was to safeguard the college

- Would need to be opened by August 1st but with cost of materials, would wait until affordable
- Unsure of the need and justification since not expected to increase enrollment
- Living on campus increased graduation rates and retention and more educational value was provided to the students
- Off campus housing was not affordable or readily available
- Freshman were required to live on campus unless within a 30-mile radius and living with parents
- Parking would be an issue
- Flagler monitored the parking lots to assist students with parking assurance
- Parking lots named in PUD provided ample parking which met code
- Parking garage was not always open for students to use
- Dorm signage needed to be visible for parking
- Faculty, staff, commuter, and resident, and general (all students) parking lots were identified with signage
- Occupancy was at 92% to accommodate extenuating circumstances
- Wanted to avoid students hunting for parking spaces
- Provide a larger site plan to the Board with lots and spaces listed
- Students would need to buy a parking pass
- Parking spaces were based on students who bought parking permits
- Board consensus that a separate parking map needed to be provided
- Unless enrollment were to increase did not see need or justification for amendment
- At present time 1100/1200 beds and were not at full capacity
- Unsure if the parking lots would be able to provide the spaces needed for the additional beds

- Livability for residents was a concern in the neighborhood near the college
- Project might be too big of an ask if not able to fit on site
- Neighborhood would not be affected since using property owned by Flagler
- Was increasing the intensity and density
- Goal was to move more students out of the Model Land and Lincolnville area and back to the campus
- Rental rates increasing within the City making it difficult for students to find housing provided justification and need
- If left as CL-1 zoning, uses could cause more issues than a dorm
- People living on campus/downtown might not need as much parking
- Only around 1500 sq. ft. difference in the existing dorm and the proposed
- Buildings would be similar in size
- Rooms would be singles beds and a common space
- Would use laundry and storage in the existing building
- Applicant should modify the number of beds to what was realistic
- PUD should be clear and specific
- Parking permits were limited to number of spaces available
- No shuttle as campus was small and walkable
- Able to support as it followed the Comprehensive Plan
- Identify how many parking permits were distributed to the 104 students
- Students wanted to have single bedrooms
- Out of 2,360 students, 1,160 live on campus
- Timeframe was not feasible as a lot could change in ten years

Mr. DePreter provided a list of items from the Board that needed to be addressed:

- More specific parking map
- More specific occupancy rate in terms of rooms
- Six-year timeframe
- Provide parking process

Ms. Avery-Smith clarified that if more information about parking was provided that would not reflect the PUD as the PUD was not about parking campus wide but only the dorm. She said the PUD amendment was only for this particular property.

MOTION

Mr. DePreter MOVED to CONTINUE application Rezoning Conservation Overlay Zone Development 2021-0108 to the October 5, 2021, meeting to discuss the development window, more specific parking map, and more specific number of bedrooms in the facility. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

8. Other Business

8. (a) Discussion and recommendation regarding an Ordinance to establish an Impervious Surface Ratio (ISR) in residential zoning districts.

Amy Skinner, Deputy Director Planning and Building, presented the topic to the Board.

Board discussion:

- Master Plans communities were not included to meet the impervious ratio
- Those communities had master Stormwater plans
- Was there an exception if an existing property exceeded the maximum and were damaged could they

rebuild without losing property rights or became a zoning issue

- In the non-conforming section, owners were able to rebuild within the footprint if damaged
- Able to replace within one year
- Current properties would be grandfathered in even if over the 70% ISR
- Could apply for a Variance if needed
- Applied to any zoning district

MOTION

Mr. Blow MOVED to RECOMMEND Impervious Surface Ratio (ISR) for single family construction within any allowable zoning district and the Historic Preservation (HP) Districts 1,2, and 3 at 80% and HP 5 would be at 70%. The motion was SECONDED by Mr. Davis

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

8. (b) Discussion and recommendation regarding an Ordinance to update the Zoning Code, Chapter 28 Definitions section for Small- and Large-Scale Land Use Plan Amendments to refer to the Florida Statute definition, as amended from time to time.

Ms. Skinner presented the topic to the Board and said she recommended that instead of the 50 acres it would say 'to meet the Florida Statutes'.

Mr. Blow clarified on page three strike the 50 acres and add in to meet the Florida Statutes.

Ms. Skinner answered in the affirmative.

MOTION

Mr. Davis MOVED to RECOMMEND Ordinance 2021-XX to the City Commission. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

8. (c) Discussion and recommendation related to a new statutory requirement to include a Property Rights Element in the City's Comprehensive Plan.

Ms. Skinner presented the topic to the Board and noted the City wanted to move forward with just the statutory language requirement.

MOTION

Ms. Blow MOVED to RECOMMEND using the language submitted by staff. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

9. Adjournment

Having no further business, Mr. DePreter adjourned the meeting at 5:45 P.M.⁵



Jon DePreter, Chairperson

⁵ Transcribed by Elyes Anderson