

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting November 2, 2021

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

1. Roll Call: Grant Misterly, Chairperson
Mike Davis, Vice- Chairperson
Sarah Ryan
Carl Blow
Charles Pappas

Absent: Jon DePreter, excused
William Masson, excused

City Staff: Amy Skinner, Deputy Director, Planning & Building Department
Jacob Fredriksson, Planning & Building Department
Julie Courtney, Historic Preservation Officer
Isabelle Lopez, City Attorney
Elyse Anderson, Recording Secretary

2. General Public hearings for Items Not on the Agenda

(None)

3. Approval of Minutes

MOTION

Ms. Ryan **MOVED** to **APPROVED** the October 5, 2021, minutes as presented. The motion was **SECONDED** by Mr. Blow and **APPROVED** by **UNANIMOUSLY VOICE VOTE**.

Modifications to the Agenda

Ms. Skinner stated item 6. (a) would be continued to the December meeting if approved by the Board. She said the agenda would be to continue 95 Dolphin Drive item number 2021-0140.

Mr. Blow **MOVED** to **CONTINUE** item 6. (a) 2021-0140 to December 7, 2021, meeting. The motion was **SECONDED** by

Mr. Pappas and **APPROVED** by **UNANIMOUSLY VOICE VOTE**.

Ms. Ryan recused herself from the vote

4. Use by Exception

4. (a) 2021-0142– Tyler Tebault & Micah Clukey– Applicant & Owner **251 San Marco Avenue**

To approve three (3) offsite parking spaces within 400 feet of the premises.

Ms. Ryan recused herself as the architect.¹

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 three (3) offsite parking spaces at 251 San Marco Avenue / PID 152080-0000

¹ Recusal form attached to minutes

Mike Clukey reviewed the application.

The Board provided their ex parte communication.

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

Public hearing was opened.

BJ Kalaidi said it was important how this was addressed since there would be off street parking. She said any future uses at 254 San Marco Avenue would need to meet the required parking.

Public hearing was closed.

Mr. Misterly stated asked staff if parking was leased from 254 San Marco Avenue was there something in place if redeveloped that would trigger looking at the parking since three spaces were rented.

Ms. Skinner stated business tax receipts would be reviewed for any use going into the location and would view any parking and zoning issue that could be associated with the location. She said any application that could add to the intensity of the area, staff would suggest coming to a Friday review. She said they could note that three parking spaces were leased to someone else.

The Board discussed:

- Not opposed to the application
- Across the street and thought it worked well
- Parking spaces would be used for employees only
- Clients would use parking on parcels applicant already had
- If additional approval was needed, applicant would return to PZB
- Certified Public Account (CPA) firm would occupy both first and second floor
- No subletting of space, owner only

- Lease had clause that could cancel within a 30 days'
- Concerned if applicant lost the lease or if sight was redeveloped
- Unsure if a CPA firm needed to have the required parking
- Parking requirements included both buildings on the property
- Applicant must submit the lease and business tax receipt
- If the lease lapsed, Code Enforcement could take action
- Would monitor 254 San Marco Avenue for proposed businesses in the space
- Applicant could apply for a variance if needed in the future
- Approval of the use by exception would run with the applicant only
- Additional parking was needed for the second floor
- Concerned that lease was month to month
- Other parking available in the area if needed

MOTION

Mr. Pappas MOVED to APPROVED Use by Exception application 2021-0142 with the condition that if the lease for any reason is no longer extended on a month-to-month basis applicant would have to contact the Planning and Zoning Department and also would be an owner/ user property and will not sublet the space. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION:

AYES: Pappas, Blow, Davis, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. Use by Exception/Variance

5. (a) 2021-0141– Karl & Brenda Baird — Applicant & Owner 115 La Quinta Place

To approve a use by exception for a special event venue as per RG-1, within Commercial, low-one (CL-1) zoning district. To approve a use by exception for offsite parking and a variance to the 400-foot distance requirement. To approve a variance to reduce the total parking requirement for the site.

Ms. Skinner read the staff report and said the board must make a determination for the use by exception of a special event venue per RG-1 within the CL-1 zoning district at 115 La Quinta Place/ PID 201920-0000.

If the board approves the use by exception, then the board must address the need for parking either by a permitted use by exception for off-site parking, as proposed with a variance to increase the 400-foot distance to the parking, and/or to approve a variance to reduce the total number of required parking spaces for this applicant at 115 La Quinta Place/ PID 201920-0000.

Ms. Skinner stated the special event venue was a permitted use in some areas and other areas was a use by exception. She said in CL1 special event was allowed as a use by exception as well as RG1.

Karl & Brenda Baird reviewed the application.

The Board provided their ex parte communication.

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

Public hearing was opened.

Tom Cavenall opposed the application and felt it was too much for the area. He stated

Riberia Street was congested and thought it would be dangerous. He said the building was a barn and favorable for weddings; however, there was no insulation, and the noise level would be loud. He said parking over 3,000 feet away was outrageous and it would cause issues for residents.

Anne Merwin opposed the application. She thought being an event venue and having alcohol late at night would raise the noise level. She stated 11:00 p.m. was too late in a residential neighborhood.

Jackie Hird opposed the application. She said she did not think the parking would work for an RG-1 and there had been issues with the Airbnb's in the area with the noise level.

Scott Goedert opposed the project because he had a commercial property near the area and said parking would be an issue. He said there was a lot of traffic on the weekend and thought the project should provide plenty of parking.

BJ Kalaidi opposed the application and thought the parking would be almost impossible at Riberia Street and La Quinta Place. She said shuttling people from the garage would not be feasible and thought it would cause issues for business already established, and the residents needed to be considered.

Lauren Giber stated as a resident of Lincolnville, parking, traffic, and congestion were concerns to the residents. She thought the project was not a bad idea for the space but thought that parking and the noise level would be an issue. She suggested contacting a church nearby to help resolve the parking problem.

Public hearing was closed.

Mr. Baird stated the barn would be insulated and the party would not be allowed to move into the street. He said they loved the neighborhood and the character of it and

thought this would be a low impact use. He said just having donut shop in the location would not be a sufficient source of income. He said he understood the parking garage was far but they would provide a shuttle service. He said they had spoken with the First United Methodist Church, and it looked positive but no answer as of yet.

The Board discussed:

- Neat concept for a mixed-use portion and retail
- Concerned with having an event space with testimony from residents about the noise
- Parking garage was not feasible
- Would rather have parking within 400 feet of the site
- Unable to support because of the parking issues
- Struggled with how it would impact the community
- City Code states it would be an 'accessory use' for an exception
- Applicant testified they would need to have the 'accessory use' for financial viability

Mr. Baird stated they read the City Code differently and thought they had three ways it would be allowed: permitted use by exception, or an accessory, or ancillary would grant them the ability to have the accessory use.

Ms. Skinner stated it was written that way but functioned in different ways, but all the stipulations that were in the suppletory section would apply. She said in RG-1 it stated it must be an 'accessory use to the principal use' of the facility.

Board discussion continued:

- Unable to support based on the code
- Unable to support the parking request being over 2,800 feet away
- Lot of options under CL-1 zoning

- Might be able to use one of barn buildings for parking in the future

Mr. Misterly asked if the Board needed to do a vote for the parking if the application for the Use by Exception was denied.

Ms. Lopez said only if the applicant wanted a vote, but she thought it was all related.

Mr. Baird stated they would withdraw the application for parking.

MOTION

Mr. Blow MOVED to DENY the Use by Exception 2021-0141 based on the fact that it does not meet the requirement of an exception, which was to promote public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare of the community. The motion was SECONDED by Mr. Pappas.

VOTE ON MOTION:

AYES: Blow, Pappas, Ryan, Davis, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. Conservation Zone Development

6.(a) 2021-0140–Rob Garrison– Applicant & Owner **95 Dolphin Drive**

To approve a new dock with a boatlift, gangway, and floating dock in Conservation Overlay Zone 1.

See motion under Modifications to the Agenda. Item 6(a) continued to the December 7, 2021, meeting and will be readvertised.

7. Rezoning

7. (a) 2021-0139 William Pitzalis. - Applicant & Owner c/o Old Florida Museum Holdings, LLC 66 Lewis Boulevard

To rezone the property from an expired Planned Unit Development (PUD) to Residential and general office-A (RGO-A).

Mr. Fredriksson stated Staff does not make recommendations concerning the rezoning of land. The Planning and Zoning Board makes formal recommendations to the City Commission regarding the rezoning of land.

William Pitzalis reviewed the application.

The Board provided their ex parte communication.

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

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

The Board discussed:

- No issue with the zoning thought to be reasonable
- Supportive as other properties had been rezoned in the area

MOTION

Ms. Ryan MOVED RECOMMENDATION agenda item 7. (a) 2021-0139 to rezone parcel at 66 Lewis Boulevard from the expired PUD to RGOA. The motion was SECONDED by Mr. Davis

VOTE ON MOTION:

AYES: Ryan, Davis, Pappas, Blow, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY²

8. Other Business

8. (a) Discussion and recommendation regarding an Ordinance to clarify Historic Architectural Review Board (HARB) demolition and partial demolition review applicability and procedures.

Ms. Skinner stated this was a continuation of discussion about the proposed Ordinance for demolition and partial demolition. She reviewed the updates from the last meeting with the Board.

Julie Courtney, Historic Preservation Officer, thanked the Board and provided a brief overview of the topic and the proposed Ordinance.

The Board discussed:

- Agreed with the sense of urgency on the topic
- City existed not just because of the history but also character
- Thought the character was disappearing
- Strong point was for HARB to review partial demolition and demolition design
- Hard for HARB to approve a demolition without design review
- Thought it would mainstream things for HARB and help the applicants
- City had provided information on the website to help answer homeowners' questions (FAQ's)
- Was trying to preserve the character
- Material did not have to be same, but replacements needed to look the similar

² Break from 3:19- 3:25

- This would help preserve the character
- Supported the Ordinance at previous meeting
- Staff provided a checklist
- Would want more specificity on the windows
- Was in favor of the flexibility of the materials but the details needed to be specified
- Casing should match in order to preserve the character of the building
- Provided more specific directions for homeowners
- Thought partial demolitions for noncontributing structures over fifty years should not go before HARB
- Questioned the 66% of demolition permits issued were in National Registered districts or potential district
- 66% did not include the partial demolitions
- If structure was not contributing thought, it should not be counted
- All were over fifty years old, but unsure of the amount that were contributing structures
- Nonhistorical structures should not have to be approved by HARB
- Understood having a safety net on demolitions but thought fifty years was arbitrary
- Sometimes unable to know if the structure was historical until reviewed for demolition
- Thought the list provided of contributing structures should be reviewed by HARB
- History was not always known until presented for a demolition
- Difficult for homeowners to be notified
- Struggled with fairness among neighbors in the same neighborhood by having two sets of standards
- Maybe able to have a more expedited approval for noncontributing at a staff level

- Thought creating more steps for homeowners to go through for a noncontributing structure below flood elevation increased the risk for property insurance
- Thought a checklist of criteria could be created to assist staff demo approvals
- Davis Shores had contributing structures and thought those should be saved
- Davis Shores had been surveyed and there were approximately 12 original structures, but it was not a designated district
- Thought Davis Shores could be a register district
- Concerned with expanding the historic districts to Anastasia Island
- Thought Davis Shores should not be considered historic as there was a lack of character
- Felt the Ordinance was a step in expanding HARB
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- HARB regulations had changed over the years and were now beyond the original intent
- Understood the general intent was to keep the historic character of the neighborhoods
- Overall, Ordinance seemed to be too big of a step
- Partial demolition had been defined
- Visual was defined as what could be seen from the street and should be stated in Ordinance
- Thought pamphlet said one thing and the Ordinance was different
- Provided reference to the responsibilities of HARB
- Each type of application qualifications was outlined
- Intent for each application was to be outlined for what was needed and submitted
- Thought Ordinance language was not clearly defined

Ms. Lopez stated the language could be updated and tightened up to indicate what could be reviewed by HARB.

Mr. Misterly stated he did not want homeowners to be held to the same standards as those in HP one. He said the way it was written it could be interpreted as that was what would be expected.

Ms. Lopez said there could be a separate subsection to show an itemization of what HARB already reviewed.

Discussion Continued:

- Thought Ordinance should be changed if it were to be intergraded or make a new subsection for clarity
- Page seven: Materials not accurate for review but should be changed to elements or appearance
- Addendum would be adopted with the ordinance and followed
- Materials should be consistent with the appearance and addendum provided clarity
- Windows would need to be the same form but would not need to be exact
- Extra language should be added, could change 'historic design' to 'historic appearance'
- The word 'appearance' was the intent because the word 'design' could be interpreted many ways
- This was only for the outside of the home not the inside
- Page nine was to illustrate the pieces and parts of a window
- Should show a more modern window next to the same illustration as to what would be acceptable
- Would homeowner need to prove hardship if product was not economically viable
- Preservation was to preserve the historic materials but would not be required in the National Register districts

- Education would be beneficial when restoring or replacing materials
- Wanted the Frequently Asked Questions (FAQ's) updated and included in the addendum
- FAQ's may not be needed if the Ordinance was softened but was needed the way it was written
- Thought it needed to be passed onto the Commission but wanted to add a sunset provision with specific period in order to have the ability to address any unknown concerns or issues
- If Ordinance were to cause undo harm could be eliminated or reviewed

Ms. Lopez said she thought the better route would be to add that the Ordinance would be reviewed and/or updated after a certain number of years. She said eliminating it would cause issues or incentivize homeowners to wait out the allotted time limit.

Mr. Blow questioned if this would create a private property rights issue, because it would take around 1,700 property owners who would be treated differently.

Mr. Davis stated he liked adding a sunset clause to the Ordinance when passed to the City Commission. He said he did not believe a year would be long enough and may need a year or two years to work through all the issues. He said no matter how much time was spent on the Ordinance, with each Board there would always be a problem that was not thought about. He said people would not understand what was being done regardless of how many times it was advertised until they need a permit. He commended the staff for all the efforts to notify the community.

Ms. Ryan asked if someone were to sell their property would this go into effect and could someone file a complaint with the Bert Harris Act.

Ms. Lopez stated that was a reality and any Ordinance including this one could subject the City to future law suits based on the Bert Harris Act. She said the Bert Harris Act was available to the current and future owners.

Mr. Davis asked if the Ordinance had an appeals process and would they be able to appeal to the City Commission

Ms. Skinner replied in the affirmative.

Mr. Pappas asked if it not a straight sunset clause could it be stated the ordinance had to be reviewed by HARB, PZB, and voted on by the City Commission after a certain period.

Mr. Davis stated he was in favor for having action by the Boards; however, he thought having a hard deadline that everyone would have to meet was beneficial.

Mr. Blow stated that having a hard deadline would ensure staff and the Boards would review to either update or to eliminate.

Ms. Lopez questioned what the public benefit would be for the Ordinance to expire or adding the sunset clause.

Mr. Blow stated it would keep the pressure on the regulator. He said he delt with hard deadlines and this would be an added pressure.

Ms. Lopez stated she understood mechanically, but philosophically she did not think there was any pressure. She said if it were to be adopted and within a few months repealed after push back from the community, the regulators would follow directions as instructed.

Mr. Blow thought this was a way to provide a sense of security to the 1,700 homeowners that would have this imposed upon them. He said by adding the sunset provision it allowed them to have more certainty.

Mr. Misterly stated he appreciated what was trying to be done by including the sunset provision, but he was unable to recommend this to the City Commission yet. He said he thought there would be a lot of confusion and concern from homeowners. He said he was not confident that the Boards comments could be incorporated because this had been the third time it had been reviewed and it was still not ready.

Mr. Davis said in his experience with new rules, he had never seen one be repealed. He said from the public side, they would have to learn to deal with the new Ordinance, but Mr. Blow presented a compromise to see how this would affect 1,700 homeowner, and see if it would work. Mr. Pappas stated if he was not opposed to adding the sunset provision.

Public Comment was opened.

Grear MacDonald, HARB Board member, felt the notes should be incorporated and thought the program was good. He thought it was very important to get the Ordinance correct before sending to the City Commission. He said seven out of ten people came for the historic fabric of the City. He said if you take away the heritage then there would no longer be tourism. He said he wanted a consensus before passing on to the City Commission and they should be the same team.

BJ Kalaidi stated she felt that whatever was wrong with the Ordinance needed to be made clear for the rest of the City and the people who it would affect. She felt the Ordinance was not ready to be passed on to the Commission.

Public comment was closed.

Ms. Lopes suggested working on the document with Ms. Courtney. She said this was drafted by the Historic Preservation department since there needed to be more technical information. She stated she would

work with Ms. Courtney and create a stand-alone section with stand-alone criteria.

Mr. Misterly stated that would accomplish what he felt was necessary. He said HARB was there to protect our historic heritage and outside the historic preservation districts there were historic structures that needed to be considered and HARB should be able to oversee that by having a criteria to go by. He said that captured the intent and the message that the Board was trying to send.

Ms. Courtney said the current Ordinance was broad and the intent was to narrow the scope of what would be reviewed for partial demolitions because currently, if the building was 50 years or older, it would have to be presented to HARB and they were only allowed to review it as demolition and not the design review of the property.

There was Board consensus to not recommend the Ordinance to the City Commission until it was revised.

Ms. Ryan asked if windows would trigger having to request approval from HARB.

Ms. Courtney stated it would be up to staff's interpretation. She said windows were a significant feature of a historic home. She said they try to work with the property owner and understand what would be done for the replacement and try to work from that angle.

Ms. Ryan stated she could support the sunset clause but felt it would need to be longer. She suggested five years and then review the ordinance at two and half. She said eighteen months or two years was not long enough because that would entice people to postpone their projects.

Mr. Davis agreed with the time frame for the sunset clause.

Ms. Lopez stated she would draft the Ordinance the way Board wanted and would add the sunset provision if asked. She said

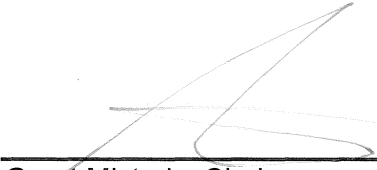
she was unsure if the City Commission would approve of the sunset provision, but she would draft it how they wanted as they were the recommending body.

There was Board consensus to have Ms. Lopez draft the ordinance and add in the sunset provision.

Ms. Lopez stated she would be able to present the revised ordinance most likely at the January 2022 meeting.

9. Adjournment

Having no further business, Mr. Misterly adjourned the meeting at 5:10 P.M.³



Grant Misterly, Chairperson

³ Transcribed by Elyse Anderson