

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting February 1, 2022

The Planning and Zoning Board met in formal session Tuesday, February 1, 2022, 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
Jon DePreter
Sarah Ryan left at 6:25pm
Carl Blow
Charles Pappas
Christina Griggs

City Staff:

Amy Skinner, Director, Planning & Building Department
Jacob Fredriksson, Senior Planner, Planning and Building
Isabelle Lopez, City Attorney
Barry Fox, Short- Term Rental Manager
Elyse Wiemann, Recording Secretary

2. General Public Comments for Items Not on the Agenda

- Ed Slavin
- James Whitehouse

Modifications to the Agenda

During public comment Mr. Whitehouse informed the Board that item 6(b) was not ready to present at the meeting and asked for a continuance.

Mr. Misterly asked the Board if there were any objections to moving Item 6(b) forward in the agenda and hearing public comment.

Mr. Pappas suggested keeping general public comment open to hear the public feedback and then moving Blackbox forward to the first item.

Ms. Lopez advised against that since Item 6(b) was a quasi-judicial hearing but suggested, since Mr. Whitehouse was present the Board could hear the public comment within that hearing time.

Mr. Blows asked if someone from the public spoke today about the item and not present at next month's meeting what would happen to their testimony.

Ms. Lopez said their testimony would be on the record, but the challenge would be some of the facts could be different when it would be heard.

Mr. Pappas suggested proceeding with the agenda as presented.

Mr. Misterly felt the item was late on the agenda and should be moved in order for the public

Ms. Lopez advised reorganization of the agenda in order to have public comment for those who were present.

Mr. Misterly reiterate the applicant had requested a continuance to the March 1, 2022 meeting. He said from reviewing the packet the applicant had not updated their information from the past meeting.

MOTION

Mr. Blow MOVED to APPROVE the modification to the agenda by moving Item 6. (b) to be the first item to be heard. The motion was SECONDED by Mr. Pappas and the MOTION CARRIED UNANIMOUSLY.

3. Approval of Minutes – Regular Meeting January 4, 2022

MOTION

Ms. Ryan MOVED to APPROVE the January 4, 2022 minutes as presented. The motion was SECONDED by Mr. Davis and the MOTION CARRIED UNANIMOUSLY.

4. Preliminary Plat Approval

**4. (a) 2022-0001 Scott Borowski – Applicant
c/o Clary Associates
Douglas G. Maier – Owner
c/o Ponce Associates LLC
4000 US Highway 1 N**

To approve a preliminary subdivision plat at 4000 US Highway 1 N, Maderia subdivision, east of Pinteroisco and Pescado Drives and west of the Tolomato River to create ninety-eight (98) conforming lots and sixteen (16) tracts.

This is an existing Planned Unit Development, Madeira, that includes up to 749 residential units. The proposed subdivision plat is for the next phase of single-family development lots.

Mr. Fredriksson read the staff report and said based on a review of the applicable city codes, and without the support of evidence to the contrary, staff finds that the Board can APPROVE the preliminary subdivision plat (replat) at 4000 US Highway 1 N /PID 073430-0031, 073430-0032, 073430-0033 & 073430-0000.

Ms. Skinner stated she provided additional items for the Board to review about the preliminary plat. She stated the highlighted area on the map labeled “*under construction*” was the area under consideration. She said there were twenty-one acers that were approved as commercial but was vacant. She said platting was a State function but was in the Code for the PZB to review to confirm lots were the minimum lot size, which staff confirmed, and the plat was approved. She said moving forward, it had to meet the State requirements in order to file the plat. She said once the City Commission approved the plat then it could be recorded according to State statues.

Ellen Avery-Smith, Dough Maier, Scott Borowski reviewed the application.

The Board provided their ex parte communication.

123 certified notices were sent, 4 were returned in favor, 13 returned opposed and 11 had comments.

Public hearing was opened.

Sophie Tredor said she had been informed there would be a buffer or wall between her property and theirs and wanted to know if that was still the intent. She was concerned about the removal of the trees. She said the trees had affected her property leaving a hole in her shed roof and was concerned if they would maintain them.

Mr. Misterly said the plat they were reviewing was surrounded by properties in Maderia. He asked if she lived there.

Ms. Tredor said her property was right next to the Maderia property on Ocean Boulevard and her property and Maderia were separated by a swale.

Ms. Skinner stated her property was on the north side of Maderia and was outside the City limits within St. Johns County, but not near the plat area.

Brenda Hine spoke in favor of the application and was not opposed to the plat or growth but was concerned with the effects on the wildlife. She said she hoped the City was inspecting what was taking place as there had been many trees removed. She said the concern regarding the bridge was it had low lighting and she wanted to ensure people's properties were being considered and not negatively impacted.

Jose Rivera spoke concerning the removal of the trees and asked why the developer removed more vegetation than expected. He said there was one entrance into Maderia and the construction traffic was causing damage to the roads and suggested a construction entrance.¹

Paul Hamill stated he came across a wildlife area along the intercoastal and the area along the marsh that would be developed and wanted to understand why. He said he was concerned that about the area behind the pond since there was a lot of wildlife and trees and asked if there was a way to conserve this location.²

William McClure said he was concerned with the water and the upland buffer and wanted to know if as a resident, could he be notified if there were any changes or should he be more observant.

Mary Senese spoke in favor of the application but was concerned with protecting the wildlife, because the buffer the developer was intending to put in was small and felt the wildlife would not be able to survive.³

Rachel Brumsey said she understood when moving to the area there would be additional construction; however, they were removing more vegetation than expected. She stated she was told there was supposed to be a construction entrance but as of now there was not and was concerned with the safety

and congestion. She asked if the City had considered adding a light at the entrance with all the traffic.

Ed Slavin spoke in opposition of the application and said developers had ruined the town. He felt the original developer had provided false and misleading statements to St. Augustine City Commission and felt there should be an investigation. He thought the application should be postponed for the next six months to have leverage over the developer.

William Payne asked if there were any plans to leave the oak trees in place.

BJ Kalaidi said even though the Board was there to decide on the plat, it was obvious that the trees and other questions from the community needed to be answered. She felt the lawyer and developer should have answered these questions prior to the meeting since it was not in the Boards purview.

Steve Peterson stated his concern about the proposed entrances into the subdivision would displace oak trees and the wildlife. He felt there should be a way to have an agreement with the developers to protect the marsh.

Claudia Connelly was concerned with the wildlife and felt the area needed to be protected and should stay natural. Public hearing was closed.

Ms. Avery- Smith addressed the public comment stating the comments heard were unrelated to the area plat under Chapter 177 Florida Statutes; however, the map had been approved twenty years ago and showed where the preserved wetland would be, where the access points were located, how the development would occur from the north to the south, the pond areas, and the commercial property locations were

¹ Attached to packet

² Attached to packet

³ Attached to packet

protected by the property owners association. She said all these documents were public record. She said the tree removal was due to arsenic and other remediation of contamination that was from the old golf course; others were removed with permission from St. Johns River Water Management districts due to being a nuisance; however, others were removed for construction of homes and amenities. She said with the removal of the tree's, others were planted on lots. She said a traffic signal would be coming but would be done when warranted by the Department of Transportation (DOT).

Mr. Misterly asked if this was the same plat that had been in place the entire time without changes.

Ms. Avery-Smith said it was part of the Planned Unit Development (PUD) site plan and was part of the zoning and matched the PUD site plan.

Mr. Maier said it had not been decided if single family or multi-family homes were to be built in the location but had been approved for multi-family homes. He said they were unsure of what the market would be in like in future and it was left open.

Mr. Misterly asked if after a decision had been made, would they need to modify the PUD to match.

Mr. Maier said modification of the PUD was not needed for any future development as they were under their cap with any future development with 749 lots approved, and they would be below that even if they did multi-family.

Mr. Misterly asked if there was an approved site plan to show what would be done in the PUD.

Ms. Avery-Smith stated the PUD did not require that, but she did not have the PUD text in front of her and would have to confirm.

Mr. Misterly asked if they could provide more information to the public on who to contact regarding questions and concerns within the property.

Mr. Maier advised all the information for the property manager and Community Development District manager was located on the website at maderiastaugustine.com.

Mr. Misterly stated tree removal was normally decided by the PZB and questioned how they were being removed without PZB approval.

Ms. Skinner said there were some as part of the PUD, other that had to be remediated due to the arsenic which was permitted through the Department of Environmental Protection (DEP) process.

Mr. Maier said the entire golf course and the maintenance area was remediated but they were required to mix the existing soil and cap with two feet of clean material per the DEP. He said most of that had been done except the final institutional controls which were the roadways, and concrete that provide additional capping in those locations.

Mr. Misterly asked because of the DEP permit was there a blanket permit for the removal of the trees.

Ms. Skinner replied that was correct She said they had approval to remediate and clean up the site. She said there had been inquiries about the upland buffers tree removal, the building official and the construction inspectors for the Public Works Department have been to the site and the Public Works inspector determined they were working within their permit for utilities.

Ms. Avery-Smith explained they were removing Chinese Tallow and Brazilian Pepper trees approved by the Water Management District. She said the upland buffers were under the conservation easement and could only be touched with

permission from the Water Management District.

The Board discussed:

- If there was a bulkhead or setback in the Conservation Overlay Zone area would it be heard by the Board
- Anything that deviated or was added to the plan would return as an individual application
- Robinson Creek would have a bulkhead as seen in the engineer drawings and it was approved by the City
- There were 256 house permits to date
- Encouraged developer to have neighborhood meeting to address the concerns
- Developer had preserved 300 acres to the east
- Was there a tree survey and were they trying to preserve the trees
- PUD text allowed for deviation in order to preserve trees
- Older map shown seemed to differ from what had been shown today, but was an internal concept map
- Previous elevation was at seven and roads now were between nine to twelve
- Same number of lots and was consistent with the PUD text
- Encouraged the developer to have a construction entrance
- Piece of land in the northeast corner near the airport would not be developed
- Bridge would be completely rebuilt, and parcel would be preserved per the PUD
- Should have a buffer between lots 40 and 40b
- Buffer south of lot 149 was very thin but was natural
- Final approval of plat came from City Commission
- Buffer language in PUD needed to be confirmed
- Environment was different from when PUD was approved and timeframes for developments should be added

- Different regulations applied when conservation easement was added to the property
- Remediation had been done overtime
- After phase one was completed transfer to the City for the park would take place
- Builder's sales provided easement information and it was on the website

MOTION

Mr. Blow MOVED to APPROVE the Preliminary Subdivision Plat 2022-0001. The motion was SECONDED by Mr. DePreter.

Mr. Misterly asked Mr. Blow to add that the buffers would be reviewed by the City before passed on the City Commission.

Mr. Blow AMENDED the MOTION to include the buffers would be reviewed before passed on to the City Commission. Mr. DePreter SECONDED the AMENDED MOTION.

VOTE ON MOTION:

AYES: Blow, DePreter, Pappas, Griggs, Ryan, Davis, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY⁴

5. Use by Exception

5. (a) 2022-0002 Garrett Tatoul – Applicant
Dawn Cardamone – Owner
33 Bernard Street

To approve two (2) parking spaces in the City parking garage for a short-term rental. To approve off-site parking within the overall property as a permissible use by exception.

Ms. Skinner reviewed the parking code for Short-term rentals and said if parking could not be provided on-site as required then the applicant was able to provide parking within

⁴ Break from 4:02p.m.-4:13p.m.

400-feet or an alternative could be the parking garage or the neighborhood residency permit parking program. She stated she spoke to the Building Official and Fire Marshal and rooms could be locked when renting but had to meet the life safety and building code requirements; however the Board was unable to limit the amount of rooms rented based on the parking. She said staff encouraged applicants to find alternative parking elsewhere instead of the garage.

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 two (2) short term rental offsite parking space in the municipal parking garage for 33 Bernard Street / PID 192590-0000.

Garrett Tatoul reviewed the application. He stated he had looked for alternative parking and was still trying to reach out to others.

Ex Parte Communication:
(None)

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

Public hearing was opened.

BJ Kalaidi thanked the staff for keeping the public informed on how many spaces were in used in the garage and said if this continued, the tourist would not be able to park.

Melinda Rakoncy encouraged the Board to try and find other ways to solve the parking issues. She felt the garage would not be utilized as Bernard Street was too far away. She said guest should be notified of the parking situation. She said the City parking garage was not a good solution.

Public hearing was closed.

Mr. Misterly asked if the City was able to have a short-term rental parking rate for the garage.

Ms. Lopez replied the City was statutorily and case law required to add fees for only administrative cost because the City could not profit off it or use as a punitive measure.

The Board discussed:

- On-site parking was not available
- House was from lot line to lot line
- Thought house should not be an Airbnb
- Applicant pursued other options for parking
- Commercial Medium-Two (CM-2) zoning was too intense for property
- Property was advertised with street parking
- Advertising should be consistent with the Code; however, unable to regulate parking on public street
- Perhaps use neighbors' home for parking if allowed
- Deemed a commercial business and parking elsewhere should be a commercial lot not a neighbors' home

Ms. Ryan asked if the short-term committee was able to revise the rules as there seemed to be more and more issues.

Ms. Lopez informed her that the committee had disbanded after their report and would have to be recreated by the City Commission or they could direct staff to review other issues. She said currently, the legislature had a pending bill that eliminated the City from requiring parking and the City Commission was waiting for further information.

MOTION

Mr. DePreter MOVED to APPROVE Use by Exception 2022-0002 as the use by exception meets the Code as written. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION:

**AYES: DePreter, Blow, Pappas, Griggs,
Davis, Mysterly**

NAYES: Ryan

MOTION CARRIED 6/1

**5.(b) 2022-0003 Garrett Tatoul – Applicant
Kelsey Glover – Owner
76 Abbott Street**

**To approve three (3) parking spaces in the
City parking garage for a short-term
rental.**

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) short term rental offsite parking space in the municipal parking garage for 76 Abbott Street / PID 195010-0000.

Garrett Tatoul reviewed the application. He informed the Board that he contacted the commercial lot nearest him for additional parking and was unsuccessful.

Ex Parte Communication:

(None)

24 certified notices were sent, 0 were returned in favor, 3 returned opposed and 1 had comments.

Public hearing was opened.

Melinda Rakoncy spoke in opposition to the application and said the rental listing provided false information about how many bedrooms were available and parking when advertised. She said people needed to know before renting the property there was no parking on-site and they would not be able to use the street.⁵

Public hearing was closed.

Mr. Tatoul said he would speak with the owner about updating the information on parking in the advertisement if approved.

Ms. Lopez advised the Board that per Florida Building Code, it was per bedroom and was not related to an actual bed. She said per the Building Code there had to be a secondary emergency egress either through a window or door. She said the listings were monitored by City Code Enforcement staff and the City Fire Marshal carried out the inspections.

The Board discussed:

- Tried to obtain parking within 400-feet
- No residential parking program on the street
- Could only have one rental per week since zoned Residential Single Family-Two (RS-2)
- Property had to register as vacation rental
- Per applicant knowledge, property had fire inspection
- Floor plan and site plans were required for short-term rentals
- Unsure if Board should approve without knowledge of how many bedrooms within property
- Could add condition "pending results from Fire Marshal" before approval on two or three parking spaces
- Concerned with property advertisement

Mr. Tatoul stated the property was registered as a vacation rental and was operational.

Mr. Davis asked if the Board was able to require the applicants to provide the building and fire inspection before presenting to the Board.

Ms. Lopez replied there had been a bit of a back log but did not see a reason why the inspections could not be presented.

⁵ Attached to packet

Mr. Pappas stated he wanted more documentation: short-term rental application, floor plan, and the inspections.

Ms. Lopez said from a legal standpoint these requirements could be added.

Barry Fox, Short-Term Rental Manager, informed the Board that the property had been denied for failure to have the inspections completed. He said the application had been submitted in May 2021 and in October 2021 the inspections were still incomplete and was denied.

MOTION

Mr. Davis MOVED to DENY the Use by Exception 2021-0003 because it has not passed any of its inspections for fire safety and did not know the number of bedrooms that are in the building. The motion was SECONDED by Pappas.

VOTE ON MOTION:

AYES: Davis, Pappas, Blow, Griggs, Ryan, DePreter, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. (c) 2021-0172 Ellen Avery-Smith Esq. – Applicant

Continued January 4, 2022

Windward Shipyard Land Holdings, LLC and Windward Shipyard, LLC – Owner (Portions of Diesel Road, Dockside Drive, Shipyard Way and S. Ponce de Leon Blvd. aka “the Shipyards”)

PID 127910-0000, 128090-0010, 134230-0011, 134230-0030, 134390-0000, 134390-0010, 134340-0000, 134600-0000, 134230-0000, 134230-0020, 134410-0000, 134630-0000, 134650-0000, 134760-0000, 134770-0000

To approve off-site parking within the overall property as a permissible use by exception.

Mr. Fredriksson read the staff report and said based on a review of Sec. 28-371 and 28-372, and without the support of evidence to the contrary, staff finds that the Board can APPROVE a use by exception for off-site parking at the St. Augustine Shipyards as per the amended Development Agreement.

Ellen Avery Smith, Carl Masters, and Stefan Johansson reviewed the application.

The Board provided their ex parte communication.

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

Public hearing was opened.

BJ Kalaidi said she knew the application would be approved but hoped the applicant would keep everyone inside the development. She said in the City Mobility Plan there would be a walkway from King Street to State Road 312. She said this would be an attraction and hoped the parking would be contained.

Public hearing was closed.

The Board discussed:

- Restaurant would have access from Shipyard Way, a paved road built by applicant
- Restaurant received parking permit independently from applicant association
- Development was based around building a parking garage
- Financial burden to other commercial business to use parking should be addressed for future developments
- Map had been clearly updated to identify parcels in development
- Property zoned Residential General Office (RGO) and had a commercial property owners association
- Restaurant had recorded access over the road

Mr. Blow asked if the amount of parking for the restaurant met the City code.

Ms. Skinner said after further review, the restaurant added additional seats and they were short seventeen parking spaces. She said originally they were approved for a certain amount of parking spaces and between November 2019 and May 2020 an application was submitted requesting sixty-eight additional seats which was approved without reviewing the parking issues; however, this took place when City Hall was closed due to COVID. She said at that time the entire property was owned by one owner and she was unsure of private parking conversations.

Discussion continued:

- Windward was willing to lease parking if able to reach an agreement
- Questioned the parking count accuracy
- Development agreement for the Windward properties required parking and tracking tables for every use
- Could build vertically if more parking were needed
- Property Owner Association document required each user to provide code compliant parking
- City Commission approved agreement required a parking tally and how it was allocated towards the uses for the City to know the accurate count
- Restaurant was an existing non-conforming situation
- Questioned how the City would keep track of the leases within the parcel
- Everything inside the development would meet code requirements
- If developer over builds parking or a parking garage, leases should be submitted in order to not double count
- Did not want to have parking garage to mitigate other businesses parking issues
- Would be a walkable community

MOTION

Mr. DePreter MOVED to APPROVE Use by Exception 2021-0172 with the condition, as agreed by applicant, that if any other parking is leased out, that would be include in the tally that the City has as it meets our Code. The motion was SECONDED by Mr. Misterly.

Mr. Blow wanted to confirm the applicant was comfortable with the condition and was not obligated to provide parking to anyone.

Mr. DePreter said that was why it was "if" they do there would be a tally but were not obligated.

VOTE ON MOTION:

AYES: DePreter, Misterly, Pappas, Blow, Griggs, Ryan, Davis

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. Conservation Overlay Zone Development

6. (a) 2022-0005 Jessica Shafer – Applicant/Owner 40 Hildreth Way

To approve a retaining wall/landscape feature adjacent to rip rap within 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 a new landscape feature per the applicant within Conservation Overlay Zone 1 at 40 Hildreth Way / PID 151151-0010.

By approval of this application, the City does not make representation, approval, or claim to riparian rights to any party.

Jessica Shafer reviewed the application.

The Board provided their ex parte communication.

31 certified notices were sent, 2 were returned in favor, 12 returned opposed and 12 had comments.

Public hearing was opened.

Clare Norris spoke in opposition to the application and said the barrier wall was existing and large. She said construction was still taking place, and water was unable to be disbursed.

Ted Mooney spoke in opposition to the application and stated it was a marsh bulkhead and did not want the bulkhead to have any adverse to his property or his neighbors. He said there was a continuous wall on both the applicant's property. The applicant had one property listed for sale which listed as a "marsh bulkhead" in place. He asked what would be the hydrologically effects of the bulkhead. He said another concern would be when the neighboring properties wanted to protect their homes by building a bulkhead.

Patrick Cod spoke in opposition to the application and said there had been many trees removed from the property and then construction of the wall started. He called the City regarding a permit and the City sent an inspector and he was told construction had stopped but the applicants were to obtain a permit. He said he felt the wall was not decorative.

Madelyn Keeble spoke in opposition to the application and she said if the wall was approved she would want to replace her fence with the same material; however, she knew she would displace the water from her yard onto her neighbors. She said if it was allowed, everyone would want to have the same type of wall and felt it would create a hydrogeology issue.

Jayne Marchesan spoke in opposition to the applicant and stated there was a lot of

concern in the neighborhood with flooding. She said she was not concerned with the wall causing flooding on her property because she felt the wall would not hinder water from finding a way in and she approved of the wall but stood with the community about the flooding .

Mary Ann Rosenthal spoke in opposition to the application said she had lived on the street for around twenty years and had seen the street change over time due to global warming and bulkheads being added. She was upset that the wall was not permitted prior to being built and it was not decorative. She felt flooding was an issue for the City and encouraged the City to address the bulkhead issues and asked the Board to deny the application.

Robin Mooney spoke in opposition to the application and said the property for sale by the applicant advertised having a bulkhead on the property. She said the neighborhood was concerned with flooding and how it would affect their property. She asked where the other application for the second lot was as that had a bulkhead. She was concerned with neighbors wanting to add similar bulkheads.

Tawny Kern spoke in opposition to the application and said her concern was with protecting the Conservation Overlay Zone and said the flooding in the area was terrible. She was concerned with the length of the bulkhead on the two properties. She said she was concern with the precedence this was setting and the natural shoreline and mangroves were a great protection.

Jim Springfield spoke in opposition to the application and said there was the same type of request a few weeks back on Seminole Drive and it was denied. He said if this would have been a normal application and not an after-the-fact, he felt it would have been denied. He encouraged the Board to deny the application.

Public hearing was closed.

The Board, Ms. Shafer, and Staff discussed:

- Wall was for landscaping purposes only and not structural
- Wall material Tremron blocks backfilled with coquina
- Riprap installed previously by applicant
- Wall did not prevent water from entering property
- Wall was in the twenty-five-foot buffer
- Department of Environmental Protection (DEP) approved the riprap, but not the wall
- Applicant requested meeting with DEP to show no damage to neighboring properties
- Les Thomas, Architect, did a site visit and confirmed no footing, no mortar, water was able to flow freely
- Applicant was unaware of the need for a permit
- Met with DEP about the riprap not the wall
- If not approved would become a code enforcement issue by fees or a lien on the property
- Should focus on the seventeen criteria in City Code
- Unable to require State permitting before coming before the Board per State Statute
- consider Tremron blocks as a semi-pervious material that needed maintenance
- Unsure if the riprap had been approved by the City in an after-the-fact application
- Wanted the history of the riprap and the outcome
- Understood concerns with the flooding
- In pursuit of Back Bay study but was updating the Stormwater Master Plan
- City Commission directed staff to review conservation zones and the impacts of retaining walls/bulkheads versus natural shoreline; City was actively working on the issue
- Riprap was installed in 2016 and DEP and Curtis Boles, Code Enforcement Officer, both approved of it

- Was told it would protect the wetlands and her property
- Wall was similar to riprap and was unaware of permit need
- Other applications with Tremron blocks were considered to be retaining walls

Ms. Ryan asked what the threshold was in Conservation Overlay Zone One.

Ms. Skinner stated any development along the water to the most jurisdictional line was supposed to be Conservation Overlay Zone One, and how the riprap would change that but she would review the code for a more specific definition but this was also affecting the wetlands and the adjacent waterbodies.

Discussion Continued:

- Seemed to be a massive bulkhead
- Wall was in front of the riprap and was not encroaching
- Not enough evidence provided to determine if it was a bulkhead
- Wall went around plant beds to hold in mulch and dirt
- Coquina was added to the wetland side of wall
- Lose coquina was recommended by DEP
- If wall was approved was back fill allowed

Ms. Skinner stated the Flood Plain Manager and Building Official would need to review it because you could not create a situation where there was water trespass and if the flood plain changed they would need a flood plain permit from the City.

Discussed Continued:

- With hurricane Matthew flooding was up to US1 but was less with Irma
- Wall height was three feet to the top
- Felt applicant created a berm and unsure of the impacts on the neighbors
- Original purpose of the riprap was to protect property and wetlands

Ms. Shafer said she thought no permit was needed for the riprap and that was why she did not request a permit for the wall as it was the same product.

Ms. Lopez said in Section 11-28 of the City Code it stated the *"Planning and Zoning Board should review all applications for development in Conservation Overlay Zone One"*, which was any development activity. The Discussion Continued:

- Riprap and wall both should have been reviewed by Board and permitted
- Unsure if they would have been approved if reviewed by Board
- Water would impact neighbors if water needed to flow out quickly
- Seemed to be a large construction project rather than decorative
- Unsure if application met the criteria
- Requested a topographical survey indicating how the water would flow
- Asked to provide a flood plain and grading plan
- Should have penalties for after-the-fact projects
- Applicant needed to prove case and how it was beneficial

Mr. Misterly reviewed a list of what the Board requested: history of riprap, specs on blocks identifying their precocity, outcome from DEP meeting on February 9th, survey on water flow, and something signed and sealed by an engineer to prove no impact on neighbors, and should meet the 17 criteria per Code.

Mr. Misterly said there were two options how the Board could vote, or it could be continued, and he recommended it be continued perhaps two meetings out in order to gather all information requested by the Board.

Ms. Shafer said she wanted to continue the application.

MOTION

Mr. DePreter MOVED to CONTINUE Conservation Overlay Zone One 2022-0005 with the criteria as follows: specifications on the blocks, the installation and saturation from behind the wall, and outcome of meeting with DEP, survey with the water flow, and something signed and sealed by an engineer with expertise in the area addressing the seventeen criteria that were in the Code.

Mr. Misterly said the Board used the seventeen criteria to judge the application and City staff could provide the seventeen criteria if she did not have it. He said an engineer would be able to review the entire project and see how it all worked to tell how it could or could not impact things.

Mr. Davis said the survey would look at the adjacent properties to indicate how the water was flowing.

Mr. Blow felt the riprap should be located on the survey and how it was in relation to the twenty-five-foot buffer and the jurisdictional wetland line.

The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

AYES: DePreter, Davis, Pappas, Blow, Griggs, Misterly⁶

NAYES: NONE

MOTION CARRIED UNANIMOUSLY⁷

6. (b) 2021-0156 Blackbox Design – Applicant

Continued January 4, 2022

Kevin Vandyke – Owner

**0 Magnolia Avenue / PID 191930-0010
(4/54 MIRAMAR PT OF LOTS 1 & 15 &
RIPARIAN RIGHTS TO HOSPITAL CREEK
(EX R/W IN DB227/354) OR3832/574).
Approximately one (1) acre east of 39 May**

⁶ Ms. Ryan left before vote

⁷ Break from 6:52p.m.-7:03p.m.

Street and south of May Street/Vilano Causeway at the Hospital Creek Bridge.

To approve a new bulkhead and gangway for a twelve (12) boat slip marina within Conservation Overlay Zone 1.

Item heard before 4(a)

Mr. Fredriksson read the staff report and said based on a review of section 28-2 staff finds that the board can DENY the construction of a marina at 0 Magnolia Avenue / PID 191930-0010 due to the complete lack of facilities and services for the refueling of watercraft which is a requirement of a marina.

James Whitehouse requested to have a continuance to the March 1, 2022 PZB meeting since they were unable to update the information for the Board.

The Board provided their ex parte communication.

23 certified notices were sent, 1 were returned in favor, 3 returned opposed and 2 had comments and additional email attached.

Public hearing was opened.

BJ Kalaidi encouraged the public to come back to the March 1, 2022 as it was very important for them to be heard.

Christopher Park spoke in opposition to the application and was disappointed that they had not updated their information as the public was under the impression, they would be able to. He said the applicant misrepresented One Radio Road, as it was a condominium with a private dock and not a commercial marina. He thought what they had presented did not qualify as a marina and asked the Board to deny the application.

Sandy Lenney spoke in opposition to the application and said there had been nothing but noise and congestion over the past five

years, and this was not the right place for this development. She said there was a variety of reasons this should not be in this location.

Melinda Rakoncy spoke in opposition to the application and said that at the previous meeting the applicant requested a continuance and she felt they were being disrespectful to the Board and the public by waiting until today to ask for another continuance. She said the property was zoned for open land and this was not allowed.

Ed Slavin spoke in opposition to the application and thought the Board had many reasons to deny. He said the applicant was unprepared and it was disrespectful to the Board. He felt if the project were approved it would be a public nuisance and he felt St. Augustine needed to be preserved and protected.

Doug Morse spoke in opposition to the application and said the application had many concerned and the land was zoned open land. He said the proposal had not been updated and they needed to address the community concerns and if not, it should be denied.

Public hearing was closed.

Mr. Whitehouse said they were trying to address the community concerns and they were currently waiting on the revised plans, which was the reason they were asking for a continuance to the March meeting.

The Board discussed:

- Questioned if the Board should continue the item when City staff recommended denial
- Should provide continuance to the following meeting since applicant was unable to present
- Public came to speak on application
- Applicant was not at the meeting

MOTION

Mr. Blow MOVED to CONTINUE to the March 1, 2022 PZB meeting. The motion was SECONDED by Mr. DePreter.

Mr. Misterly advised Mr. Whitehouse the application needed to be updated at the next meeting because he felt the Board nor the public would be willing to entertain it if it was not.

VOTE ON MOTION:

AYES: Blow, DePreter, Griggs, Ryan, Davis, Misterly

NAYES: Pappas

MOTION CARRIED 6/1

7. Comprehensive Plan Land Use Map Amendment, Rezoning and Variance

**7. (a) 2022-0004 Billy Zeits – Applicant
c/o Flagler Multifamily LLC
Flagler Multifamily LLC – Owner
0 San Sebastian View PID 084560-0020 & 084560-0010**

To approve a request to change the Comprehensive Plan land use designation on the property from Residential Low Density Mixed Use (RLD-MU) to Residential Medium Density (RMD) and a compatible rezoning from Residential Low-one (RL-1) to Residential General-one (RG-1). This application includes a variance request to allow stacked parking spaces as required parking spaces for the multifamily development.

Staff does not make recommendations concerning amending the land use of property. The Planning and Zoning Board makes formal recommendations to the City Commission regarding changing the land use.

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.

The Planning and Zoning Board should make a motion regarding a recommendation to designate the land use of the property at 0 San Sebastian View / PID 084660-0020 & 084560-0010. The applicant requests Residential Medium Density.

The Planning and Zoning Board should make a motion regarding a recommendation to rezone the property at 0 San Sebastian View / PID 084660-0020 & 084560-0010. The applicant requests rezoning from Residential low-one: RL-1 to Residential general-one: RG-1 which is compatible with Residential Medium Density.

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 variance to allow for stacked parking spaces to count towards the minimum parking requirements for 0 San Sebastian View / PID 084660-0020 & 084560-0010.

Billy Zeits and Fremont Latimer reviewed the application.

Mr. DePreter asked how the density had changed.

Mr. Zeits said the density approved was 336 units and they were changing the land zoning of the developable footprint and everything else would be the same. He said the new density if approved would be 510 units. He said in December there was discussion regarding a traffic signal and wanted to provide an update. He said it was under review and should be completed in summer/fall and installed in 2023.

Ms. Skinner said the traffic study was prompted by US 1 since it was a DOT road.

Mr. Latimer said they had building permits for the first six units and the site permit as that

would not change regardless of the configuration.

Mr. Misterly said any future building permits would fall under the Mobility Ordinance and would be paid upon pulling permits.

The Board provided their ex parte communication.

24 certified notices were sent, 0 were returned in favor, 2 returned opposed and 2 had comments.

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

The Board discussed:

- Project was isolated
- Beyond the project did not see any negative impact or harm
- Increasing the number of rental units available
- No downside to the public or City
- Growing rapidly with apartments in area
- Housing Prices would be between \$1,600- \$2,200 and premium units available
- Unsure of the density increase
- Would provide more housing inventory
- Downside would be the increase in population within the county
- Parking would be contained within the development
- Site had not been changed or the impact to the preservation zones
- Questioned the need and justification for the change

Mr. Latimer said the development footprint was compact. He said the entire site was sixty plus acres, but around twenty acres were undeveloped due to conservation, especially on the south side. He said there was a third of the site that was untouched, and the remediation of the soil on the east side.

Mr. Pappas said his concern was the density with the congestion, although they were not changing the footprint. He asked the reasoning behind changing the density.

Mr. Zeits said the firm started around four years ago and they build single family homes and apartments and tried to provide obtainable housing. He said they were able to review the need in the community and the intent was to serve the community and more density in this footprint with major transportation corridors, managed by multi-municipalities with a traffic signal coming would be the best place to provide density in Northeast Florida.

Mr. Blow asked if the impacted soil was where the old maintenance yards were, and the solution was some removal and then capping the rest.

Mr. Zeits said the action plan allowed for capping and the large berm was part of the railroad, landscaping, and noise buffer, with remediation as approved by DEP. He said if capped with asphalt, building pad or two feet of clean fill, the DEP would approve it and it would need no further action.

MOTION

Mr. DePreter MOVED to RECOMMEND APPROVAL to the City Commission, Comprehensive Plan Land Use Amendment 2022-004 for a request to change the Comprehensive Plan use designation of property from Residential Low Density to Residential Medium Density. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

AYES: DePreter, Davis, Pappas, Blow, Griggs, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

MOTION

Mr. DePreter MOVED to RECOMMEND APPROVAL for Rezoning on 2022-0004 from rezoning from Residential Low One to Residential General One. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

AYES: DePreter, Davis, Pappas, Blow, Griggs, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

MOTION

Mr. DePreter MOVED to APPROVE the Variance request to allow stacked parking spaces as required parking spaces for the multi-family development, conditioned on the approval on both the future land use map and the rezoning request to the City Commission. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

AYES: DePreter, Davis, Pappas, Blow, Griggs, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

8. Other Business

8. (a) Planning and Zoning Board discussion and recommendation regarding an ordinance to update regulations related to home-based businesses and associated code revisions.

There was Board consensus to move discussion to the next meeting.

8. (b) Planning and Zoning Board discussion and recommendation regarding an ordinance to establish regulations for mobile food vendors/food trucks and associated code revisions.

Ms. Skinner said this was an ongoing project and the revisions was due to statutory

changes. She said the Florida Legislator changes prompted the City to react and they had to be more specific about food trucks and where they were allowed, and additionally the City wanted to codify the process in which a food truck was approved within the City limits. She said there was a process but not in the City code. She said with the legislative updates, it provided the City with an opportunity to update the City Code.

Mr. Davis said it would be very helpful to the Board since noone owned a food truck for the public to provide as much information as possible.

Public hearing was opened:

Dawn Watkins, founder of the St. Augustine Food Truck Co-Op, said there were twenty-two trucks in the Co-Op, and they had monthly meetings to help the new and existing Food Truck owners to understand the rules and regulations. She thanked the Board for allowing Food Trucks to be in the City, and said they wanted to keep the revenue within St. Johns County.

Mr. Misterly said there would likely be a draft Ordinance and encouraged Ms. Watkins to distribute it amongst the Co-Op members.

Ms. Watkins said they have not had a moment to collect the comments from everyone.

Ms. Lopez asked for comments be sent to the Planning Staff before the next PZB meeting on March 1, 2022.

Maria Maresca said there were around 35 to 40 food trucks within the City, and they appreciate everything the City did and felt it was beneficial to have regulations and the more refined the better.

Salvatore Iuliano had been Food Truck owner for the past two years and thought it needed to be under control.

Margaret Espinal said the Food Truck industry had changed her life and felt that there was enough for everyone and hoped it would stay within the City.

Jason Watkins said they wanted to keep St. Augustine a global destination for culinary tourism and felt there were other food business that were regulated but not reflected in the regulations from the City. He thanked the Board for listening and hoped for a great relationship moving forward.

Ms. Lopez said the current draft was available on the main website, but they had planned on reviewing the Ordinance and making some substantial updates.

BJ Kalaidi asked how the legislative changes would make the City change what was being done. She felt there had been some problems and wanted the City to follow through with the enforcement.

Public hearing was closed.

Mr. Blow asked the Co-Op to provide their bylaws for staff and the Board as he felt they would be beneficial. He voiced his concern with maintain a level the playing field between those who rented spaces for restaurants and food truck operators.

Mr. Misterly said this would come before the Board with an update and feedback from the community.

Mr. Pappas asked several questions about marinas and if the usage need to match the upland zoning, or could they automatically have one of the listed uses if it did not match the zoning.

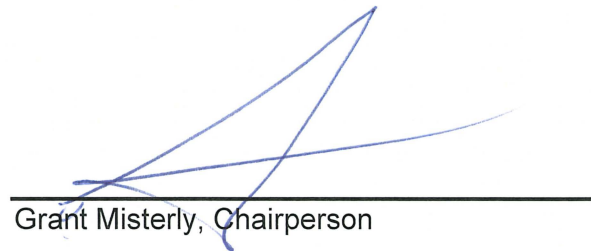
Ms. Skinner said if it were included in the definition of marina then it would be allowed as part of the marina; however, the question would be if it was an accessory to the marina or not. She noted the definition of marina included various accessory uses.

Mr. Pappas asked with regard to marinas, was there any type of proof to indicate an auxiliary use.

Mr. Blow said in the definition, there were factors that determined if it were a "real marina" by having certain items, like, fueling station, sanitary pump out system, or offer repairs.

9. Adjournment

Having no further business, Mr. Misterly adjourned the meeting at 8:07 P.M.⁸



Grant Misterly, Chairperson

⁸ Transcribed by Elyse Wiemann