CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting
April 5, 2022

The Planning and Zoning Board met in formal session Tuesday, April 5, 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 Carl Blow Charles Pappas
Absent:	Christina Griggs, Excused
City Staff:	Amy Skinner, Director, Planning & Building Department Jacob Fredriksson, Planning & Building Department Isabelle Lopez, City Attorney Elyse Wiemann, Recording Secretary

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2. General Public hearings for Items Not on the Agenda

(None)

3. Approval of Minutes

MOTION

Ms. Ryan MOVED to APPROVE the January 27, 2022, as presented. The motion was SECONDED by Mr. Blow and the MOTION CARRIED UNANIMOUSLY.

Ms. Ryan asked for the riprap installation to be clarified as the applicant had previously installed it.

MOTION

Mr. DePreter MOVED to APPROVE the February 1,2022 minutes as amended. The motion was SECONDED by Mr. Davis and the MOTION CARRIED UNANIMOUSLY.

MOTION

Ms. Ryan MOVED to APPROVE the March 1,2022 minutes as presented. The motion was SECONDED by Mr. DePreter and the MOTION CARRIED UNANIMOUSLY.

Ms. Skinner announced item 6(a) had requested to be continued; however, people were in the audience who wanted to speak regarding the item, but there was hesitation to discuss items that were to be continued. She said it was at the Board discretion on how they wanted to proceed. She advised the Board of the two items at the end of the meeting, Food Truck Ordinance Draft and Affordable Housing, would not be discussed but a date for a special meeting would be determined.

Ms. Skinner informed the Board a phone call from the prospective engineer had informed her he was able to provide information sooner than six months and perhaps the application could be continued to the following PZB meeting.

There was Board discussion regarding Item 6(a) and was consensus to leave the application on the agenda in place and discuss at that time as there were members from the public who wanted to speak.

Ms. Lopez advised that the Affordable Housing and Food Trucks discussions were proposed to take place on April 19, 2022, at 9:00a.m.

4. Variance

4. (a) 2022-0013– Kim Hartwick– Applicant & Owner
228 Riberia Street

To approve an increase in lot coverage to allow for a residential addition within the Open Land zoning district.

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 the lot coverage limit at 228 Riberia Street from 10% to 17% to allow for an addition to a single-family residence.

Kim Hartwick reviewed the application.

The Board provided their ex parte communication.

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

Public hearing was opened.

Lauren Giber spoke concerned about the height of the addition and said she was unsure if it would be a two-story or one-story. She said the owner had a driveway on the left side that had short-term rental RV's and was concerned if the addition was for herself or to be used as a short-term rental.

Public hearing was closed.

The Board discussed:

- Stormwater easement shown on survey to the left of the home with parking on the right
- Lot was large but mostly jurisdictional wetlands
- Seemed to be a modest addition
- Two story addition would be seventeen feet high with a loft
- No short-term rentals on the property
- Property was zoned open land on the west side of Riberia Street and other parts were rezoned to Residential Single-Family Two (RS2)
- Zoning in the area was mixed uses
- RS2 lot coverage was 30% and application was below the threshold
- Proposed plan to be built in the Conservation Overlay Zone area and why did application not trigger that type of approval
- Building was not more than 75-feet wide and 75% of the lot width the review for Conservation Zone Two would have been for the scenic vista
- Setbacks were measured to the marsh and could build up to the marsh line
- Lot coverage and density were only for the buildable areas
- Not reviewing the rear setback and there was an adjacent development closer to the jurisdictional line that the proposed addition would be
- Applicant had permit for Conservation Overlay zone approved a few months prior
- Could build to the bulkhead since approved
- Concerned with property being zoned Opened Land and construction would remove the view of the Marsh
- Code had requirements to protect the vista, but the applicant met the perimeters
- Home was a three-bedroom two bath and the addition would increase the home to be a four-bedroom three and half bathrooms

- Single Family homes were required to provide two parking spaces
- If used for Short-Term rental, parking would need to be addressed

MOTION

Mr. Pappas MOVED to APPROVE Variance 2022-0013. The motion was SECONDED by Mr. Blow.

Mr. Blow asked since the property had homestead exemption at what point would homestead exemption be lost if rooms were rented as a short-term rental.

Ms. Lopez replied the City did not regulate this; however, the current statue indicated it was done by percentages, but it was not a situation where you would lose all of it.

VOTE ON MOTION:
AYES: Pappas, Blow, DePreter, Davis, Misterly
NAYES: NONE
MOTION CARRIED UNANIMOUSLY[1]

5. Use by Exception

5. (a) 2022-0015– Michael Skjerning– Applicant & Owner
86 St. Francis Street, Apartment 4
To approve two (2) 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 two (2) short term rental offsite parking spaces in the municipal parking garage for 86 St. Francis Street Apartment 4 / PID 207800-0000.

Mike Skjerning reviewed the application.

The Board provided their ex parte communication.

27 certified notices were sent, 5 were returned in favor, 0 returned opposed and 0 had comments.

Public hearing was opened.

Blake Souder spoke in favor of the application and said he had owned the property across the street since 2009 and felt the applicant had done, a great job with the improvements.

Lauren Giber spoke in favor of the application and said the applicant was a good neighbor and took care of the building. She encouraged the Board to approve the application.

Public hearing was closed.

The Board discussed:

- Questioned why property next door to location could not be used as it was an open lot
- Property next door was not considered a commercial lot as it did not have the lighting requirement, was a gravel lot and was used by the church
- Unsure if the property next had extra spaces that could be used for the Short-Term Rental (STR)
- Other units in the home were STRs
- Lot next to home was used during peak hours at the same time the parking would be needed for the applicant

MOTION

Mr. Pappas MOVED to APPROVE Use by Exception 2022-0015 approval contingent on upon final approval of the STR application. The motion was SECONDED by Mr. Davis.

Mr. Blow said there was a lot off Dumas Street owned by the applicant and asked if that property could be developed for parking

[1] Ms. Ryan was absent from Vote

to avoid providing more spaces in the parking garage. He said the lot he was referring to was Parcel ID# 207780-0000

Mr. Skjerning explained this property would have a house built on it in the future. He said if the lot were used for parking it would be short term, and felt it was not suitable for parking.

Ms. Skinner noted there was parking on-site; however, there was not enough for all the Short-Term Rental units in the building, as they need eight spaces but only have six.

During roll call for the motion Mr. Pappas voted 'no' to the motion. Ms. Lopez advised Mr. Pappas he needed to withdraw his motion.

MOTION WITHDRAWN

Motion

Mr. DePreter MOVED to APPROVE Use by Exception 2022-0015 as it meets the criteria for Short- Term Parking. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:
AYES: DePreter, Davis, Ryan Misterly
NAYES: Pappas, Blow
MOTION CARRIED 4/2

5. (b) 2022-0016– Kevin Glover– Applicant
Kelsey Glover– Owner
76 Abbott Street

To approve two (2) 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 two (2) short term rental offsite parking space in the municipal parking garage for 76 Abbott Street/ PID 195010-0000.

Kevin Glover reviewed the application.

Ex Parte Communication: none

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

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

Mr. Davis asked if this application had been before the Board previously.

Mr. Fredriksson replied it had; however, the number of rooms had changed.

The Board discussed:

- Previously reviewed as a three-bedroom STR but was now a two-bedroom STR
- No place to park in front of the home and was not a good location for a STR
- STR impacted the residents who lived there full-time
- Understood the State law but was not in favor
- Property was RS2 zoning and could have one tenant per week
- Intensity and usage may have less people in the home during the week
- Concerned with the advertisement of the loft being shown online but had no way to enforce any of the STR
- Would only be renting as a two-bedroom
- Able to support as there were no other options
- Issue with the loft was a fire related issue and the Fire Marshal would have to determine the outcome

MOTION

Mr. Pappas MOVED to APPROVE Use by Exception 2022-0016 with the approval contingent on the final approval of the Short-Term Rental application. The motion was SECONDED by Mr. Blow.

Mr. Blow said the applicants only option was to use the parking garage and he was able to support the application.

VOTE ON MOTION:
AYES: Pappas, Blow, Ryan, DePreter, Davis, Misterly
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

5. (c) 2022-0019– Rebecca Geiger, c/o Bath Junkie – Applicant
Len Weeks, c/o Len Weeks Construction– Owner
58 Hypolita Street

To approve a use by exception for the sale of beer and wine.

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 to allow beer and wine sales at 58 Hypolita Street.

Len Weeks and Rebecca Giger reviewed the application.

The Board provided their ex parte communication.

13 certified notices were sent, 3 were returned in favor, 1 returned opposed and 3 had comments and two additional letters were attached.

Public hearing was opened.

Ron Mickler stated they had enjoyed Bath Junkie over the years; however, was unsure if adding beer and wine was a good option. He said if considered he felt the Board should add restrictions such as the times as it did not need to last until 10:00 p.m. He encouraged the Board to think about the other businesses with alcohol and said there were eighty places in the downtown area already and this could affect them.

Mr. Misterly reiterated the restrictions that the applicant had suggested:

- Restricted times from 10:00a.m.-10:00p.m.
- If applicant had three complaints within a year, would have to return to the PZB
- Would run with the applicant only

Mr. Mickler asked whose responsibility was it if the applicant received a complaint.

Ms. Skinner replied it would be handled by the Code Enforcement Division.

Lauren Giber spoke in opposition to the application and she felt having more locations in the area to serve alcohol was a slippery slope. She said restaurants had to meet requirements to have a liquor license. She said this was not a good addition to a saturated drinking town.

Shafer Weeks spoke in favor of the applicant and said it was not new, and had been previously approved; however, the applicant wanted to transfer it to a new location. He said he had known the applicants for a long time and the intent was not for a rough or rowdy bar, the intent was to create a space for their patrons while making specialty fragrances to have a crafted drink. He encouraged the Board to approve the application.

Christopher Gamble said the applicants were great neighbors and said he did not see a reason to not approve the application as it was only being swapped to the new location. He said there were a lot of rules and regulations that were being enforced and he questioned if they would be served by a soap producer or a bartender.

Public hearing was closed.

The Board discussed:

- Usage was mellow and would not be a full bar but ancillary to the business

- Approved previously and thought the conditions were important to keep in place
- Should be mindful of the residents in the area
- Hours should be kept from 10:00a.m.-10:00p.m.
- Bartender training had been proposed but had not been adopted by Ordinance and was not relevant
- If a business wanted to be open from midnight until two a.m., businesses would apply for a permit; however, they had not been approved by the Commission
- Applicant was willing to attend the bartender training if necessary
- Alcohol sales would be an ancillary service
- Was for the same business just different location
- More of an experience or event rather than a bar and would be controlled
- Capacity was around 20 customers which was the same as previous location
- Not many residents close by
- No outdoor seating and the sound would be contained

MOTION

Mr. Davis MOVED to APPROVE 2022-0019 to allow beer and wine sales as a permitted Use by Exception with three criteria: hours from 10:00a.m.-10:00p.m, the first three complaints within a 12 month period would have to return to the Board, and there would be no outdoor music. The motion was SECONDED by Mr. Blow.

<u>VOTE ON MOTION:</u>
AYES: Davis, Blow, Pappas, Ryan Misterly
NAYES: NONE
MOTION CARRIED UNANIMOUSLY[2]

<u>5. (d) 2022-0020– Jean – Pierre Klifa, c/o Fashion and Passion, INC. d/b/a St. Augustine Vine Room Applicant</u>
<u>Leonard R. Tucker Jr., c/o St. George Street Properties, LLC– Owner</u>
<u>21 Spanish Street</u>

To approve a use by exception for a cocktail lounge.

Mr. Fredriksson read the staff report and said based on a review of Section 28-2, and without the support of evidence to the contrary, staff finds that the Board can APPROVE a use by exception for a cocktail lounge at 21 Spanish Street/ PID 197350-0000.

Jean Pierre-Klifa and Richard Brooks reviewed the application.

The Board provided their ex parte communication.

8 certified notices were sent, 0 were returned in favor, 4 returned opposed and 4 had comments.

Public hearing was opened.

Martha Mickler spoke in opposition to the application and asked the Board to deny. She stated it was difficult for residents to live near a bar as there has been a bar on the north end of the street years prior. She said the Spanish quarter neighborhood was unique and was the last residential area on Spanish Street. She said as residents, they want the area to stay livable and safe for everyone to enjoy.

Mr. Misterly asked Ms. Mickler to provide any examples of how the bars had negatively impacted their area.

Ms. Mickler replied she would find trash, littler, and unwholesome products that had to

[2] Mr. DePreter absent for vote.

be cleaned up. She said she grew up on this street and it was a special place to her family.

Leonard Pellicer spoke in opposition to the application and the previous bar did not follow the conditions that had been set, which caused problems in the neighborhood. He said the patrons of the bar had little to no concern for the neighbors living there. He said St. Augustine has grown with people and businesses; however, too many bars.

Mr. Blow recalled the hour for 'last call' was different from the County but had been changed. He asked if there had been more disturbances when the 'last call' time was changed.

Ms. Skinner said the 'last call' time had changed when the Superbowl was held in Jacksonville, and it was to match St. Johns County and St. Augustine Beach but had not been changed back.

Mr. Pellicer said they had been back in the area for the past fifteen years, and there was trash, and litter that had to be picked up but there was no respect for the neighborhood and personal properties. He said the noise was very loud at night, and difficult to be in the area.

Christopher Gamble spoke in opposition to the application and felt there were too many places to drink in the area and this was advertised as a cocktail lounge. He said adding another space for this activity was not what the community needed or the businesses. He felt there was a better use of the space.

David Sellers, Jr., agent for the property, spoke in favor of the application and stated he had reviewed the lease from the applicant, and it was to serve beer and wine and have cheese plates. He said it was not similar the prior business that had been in the area, which was a cocktail lounge.

Lauren Giber spoke in opposition to the application and referred to the City's Vision Plan. She said the plan was to keep the downtown area livable and have commercial businesses. She said there were plenty of bars in the town there was no need for another one.

Nancy Pellicer spoke in opposition to the application and said she felt there were too many bars. She said St. George Street was no longer historic except for the outline of buildings. She said there needed to be limitations as to how to control the situation.

Public hearing was closed.

The Board discussed:

- Vast concern from the community about the number of bars in town
- Inappropriate location for a cocktail lounge
- Testimony from the community spoke volumes
- Application did not promote public health, safety, morals, and welfare
- Not be in favor of the application
- Street had historic character and felt it should be preserved
- Residents should be protected, and the City Plan was to promote residents living downtown
- Thought to table the application or deny based on the proposed Ordinance

Ms. Lopez advised the applicant had the right to have due process and the applicant had a right to apply and receive a decision. She said if there was a moratorium, that would be done with findings from the City Commission but as for this application, action had to be taken.

Discussion continued:

- Thought any business in the location could be profitable without alcohol
- Location had a quiet residential feel
- Home was currently vacant and not being used

- Second application for a wine bar from the applicant and questioned reason for the wine bar

Mr. Pierre-Klifa stated he understood preserving the residential feel as he lived downtown. He said it was not his vision for people to be drunk and he would not tolerate the drunkenness at his establishment. He wanted this for himself. He said it would be a place that was refined where people can come for a nice environment and not a bar like others on St. George Street; just a small low-key place. He said tourism needed to be served properly because that was what made St. Augustine special. He said the first floor would be open for around ten to twelve people maximum and the second floor would be his office. He felt the Board had the wrong impression and asked them to reconsider.

The Board continued:

- Plan showed twelve seats upstairs and twelve seats downstairs
- Plan had been updated to have only applicant's office upstairs
- Downstairs would be the wine bar
- There was a patio with the intent to have some outdoor seating either four or five tables
- Questioned what had been in the building over the past five years

Mr. Sellers said the previous tenant was Spyglass Tours and used it as an old hospital for children's tours but had been vacant for the past nine months.

Mr. Davis asked if outdoor seating would need to be approved.

Ms. Skinner responded it could be a part of the approval for the exception and limitations could be added.

Ms. Lopez said reasonable conditions could be added to mitigate the negative impacts on the neighborhood.

Mr. Misterly thanked the applicant for presenting a reasonable application and for thinking about the neighborhood by adding self-imposed conditions; however, Uses by Exception normally did not fit in a neighborhood but if they were controlled perhaps a few could work. He said he thought in this area of town, the threshold had been met of what could be supported between residential and commercial.

Mr. Blow thanked the applicant for his efforts and encouraged him to not be discouraged.

MOTION

Mr. Misterly MOVED to DENY Use by Exception 2022-0020for 21 Spanish Street a cocktail lounge was not appropriate in the area given the number of other bars and how it impacts public health, safety, welfare, morals, order, convenience, and appearance of the area based on testimony from the public and notices returned to the Board. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION:
AYES: Misterly, Blow, Pappas, Ryan, DePreter, Davis
NAYES: NONE
MOTION CARRIED UNANIMOUSLY[3]

6. Conservation Overlay Zone Development

6. (a) 2022-0005 Continued February 1, 2022– Jessica Shafer– Applicant & Owner 40 Hildreth Way

To approve a retaining wall/landscape feature adjacent to rip rap within Conservation Overlay Zone 1.

[3] Break from 4:05p.m.-4:20p.m.

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.

Mr. Misterly reiterated the applicants had requested a continuance since an engineer was unable to review their site for six months due to the extensive workload.
Jessica Shafer and Shane Shafer provided an updated and requested to continue to application.

Ms. Lopez asked how much time was needed for the engineer to provide the documents for review.

Ms. Shafer requested for the application to be continued for the next three months. She said this would allow time for the proper research to be completed and documents to be provided.

Ms. Lopez said a date certain for three months would be July 5, 2022.

Mr. Misterly asked for anything provided to be reviewed by the City's Public Works staff and provide an opinion to the Board. He said by continuing to the July meeting would provide them time as well.

Ms. Lopez advised by having a date certain such as July 5, 2022, advertisement would not have to be done again. She said if the application had to be advertised again it would be an additional cost.

The Board provided their ex parte communication.

31 certified notices were sent, 2 were returned in favor, 12 returned opposed and 13 had comments and additional emails were attached.

Public hearing was opened.

Claire Norris spoke in opposition to the applicant and said her property was adjacent to the applicant and the wall was affecting her property and she could not have a bulkhead. She had an issue with the City allowing the applicants to hire their own engineer, instead of conducting an impartial study. She stated she was under the impression the City had received funds to help mitigate the flooding and if the bulkhead were to be allowed then the City needed to protect the neighborhood. She felt the applicant should have to remove the wall.

Ted Mooney spoke in opposition to the applicant and provided a picture of the decorative wall as viewed from his property. He said the wall was significant and had been constructed; however, he was unsure how a hydrological survey could be provided. He said the wall should be removed and then have a study conducted to show the affects to the neighborhood. He urged the Board to deny the continuance.

Madeline Keyable questioned if construction was able to be done on weekends or holidays. She contacted the permit office and they indicated a permit had not been filed, and this had been going on since November. She said she needed a new fence and wanted to build an identical berm on her property and use the same materials. She stated she heard the application would be approved and if so, she wanted to file for a permit for the same thing.

Mr. Misterly clarified this was the process for applications and there was no indication the application would be approved.

Nancy Bertogli spoke in opposition to the application and said the flooding in their neighborhood had changed causing many issues for everyone. She stated this type of flooding altered the way people lived. She encouraged the Board to deny this application as they had in past similar situations and suggested to have the wall and riprap removed to restore the marsh back to its natural state. She said it was not right to build a wall at the expense of other properties and nature would provide a natural buffer. She asked the Board to deny the continuance as hurricane season was coming.

Tawny Kern spoke in opposition of the application and stated the owners had installed riprap and the berm without a permit. She said historically their neighborhood had not been approved to have bulkheads, and the wall and riprap should be removed, or a precedence would be set, and everyone would want to have it. She encouraged the Board to have the wall removed as hurricane season was approaching.

Jennifer Pastore spoke in opposition to the application and stated they were now land locked and the water was unable to get out causing more flooding and many more issues. She said this was an ongoing issue and a fragile neighborhood. She asked the Board to keep that in mind when making decisions. She asked the Board to protect their neighborhood.

Robin Mooney spoke in opposition to the application and stated at the last meeting she felt everyone agreed it was a bulkhead and not a decorative wall. She said one Board member indicated if the applicant had applied for a permit it most likely would have been denied. She said the applicant owned a construction company and for her to not know a permit was required did not make sense. She was concerned about her property, her neighbor's property, and how it would be affected. She said the construction of this wall was bad behavior and bad behavior should not be rewarded. She asked the Board to do the right thing and deny the request.

Charles Smith spoke in opposition to the application and said the damage had been done and the only solution would be to remove the wall and conduct a study. He reminded the Board that all the bulkheads in the neighborhood had been denied.

Public hearing was closed.

Ms. Lopez informed the Board the application had been noticed and if the Board acted today other than to continue, they should allow the applicant time to fully present the case. She said legally they would need to base their decision on the data, evidence, analysis, and testimony in the record. She said option two was to grant a continuance, and if so, there was a consensus to present in July. She said the applicant had the right to withdraw the application and regroup with a new application.

Ms. Skinner agreed those options were reasonable and said for the second lot of property, the applicant had been informed that an application was needed. She said in the future this application would need to be amended to include that property or a separate application would need to be submitted.

Mr. Misterly asked if the Board were to take action the activity was not permitted and was before the PZB and did that change anything. He said they had requested information to help assist in the decision but had not received any and was that justification for a decision or would the same process follow regardless.

Ms. Lopez said the same process would follow moving forward and that would be the Code Enforcement Board and PZB should make its decisions based on the criteria in the City Code.

Mr. Misterly asked if lack of evidence a reason to deny the application.

Ms. Lopez stated it was the applicant's responsibility to prove their case by the criteria in the code, and it was not about the permit. She said if they failed to prove each criteria in the code, it could be denied.

Mr. Davis asked which permit was not applied for. He said several residents were concerned about hurricane season and had asked the Board to require removal of the wall. He said he was unsure if removal of the wall was within the Board's purview.
Mr. Misterly said it would have been a Conservation Overlay Zone permit.

Ms. Lopez said should the Board deny the permit, it would then go before Code Enforcement where there was a possibility of liens, or instead of a lien would be able to remove the "thing" that was deemed a violation by Code Enforcement.

Ms. Skinner noted there would be pending code enforcement action based on the actions of the PZB. She said the City had to provide the respondent time to correct the violation, and the applicant was working to correct the violation. She informed the Board that Department of Environmental Protection (DEP) came to the site and determined this not to be part of their jurisdiction due to size of the project. She said the State says the City cannot predicate decisions or permits based on State requirements or any other State Agency. She said PZB was the Board that was to review Conservation Overlay Zones.

Mr. Davis stated he was not aware this had started in Code Enforcement.

Mr. Pappas said from his experience Code Enforcement would refer the application back to PZB for a decision, and once PZB reached a decision Code Enforcement would take the next step.

Mr. Davis said he understood hurricane season was coming and many neighbors were concerned about their property and the longer PZB waited to decide the worse it could be for the residence.

Mr. Blow reviewed the seventeen criteria and asked if the riprap approved by DEP.

Ms. Skinner said the DEP looked at the riprap issue and determined it was not within their jurisdiction.

Mr. Blow said at the last meeting the Board asked the applicant to provide engineering data. He said if the engineers report indicated the wall negatively impacted the flood plain or drained on to the adjacent properties that more than likely the application would be denied due to not meeting the criteria; however, he was in favor of a continuance.

Ms. Lopez reiterated the Board would listen to all the evidence and in theory if there was evidence at any hearing that helped the Board determine it did not meet the criteria that would be a potential basis for a denial.

Mr. Misterly stated he was concerned with how long it was taking to have a resolution and what outcome would be.

Mr. Pappas said the Board had asked for information; however, the applicant was not able make a full presentation. He said the Board received a letter prior to the meeting that indicated the applicant would not have the information but was torn since it was an after-the-fact application.

Ms. Ryan was reviewed the survey and wanted the wall placed on the survey because it looked to be hand drawn in and was concerned where the wall was on lot two. She said it was difficult to see on the survey.

Mr. Pappas recommended the applicant amend their application to include lot two. He said if the wall were approved on this lot, it did not mean it would be approved on the second lot. He felt it made sense to review both lots together.

Ms. Ryan asked if the wall were on the other side of the twenty-five-foot buffer would it be allowed, and which Conservation Overlay Zone was the wall in.
Ms. Skinner responded in the affirmative said the Conservation Overlay Zone Two had been amended to include these types of structures. She said she believed it started in Zone One and was within reason right on the jurisdiction line.

MOTION

Mr. Blow MOVED to CONTINUE the application 2022-0005 to July 5, 2022. The motion was SECONDED by Ms. Ryan

VOTE ON MOTION:
AYES: Blow, Ryan, Pappas, DePreter, Davis
NAYES: Misterly
MOTION CARRIED 5/1

Mr. DePreter explained his vote and said there was a two-fold situation one was a code infraction; however, he was unable to decide until he had the engineers report.

Mr. Davis suggested that the engineer come to the meeting since the issue was complex.

Ms. Lopez noted it was clear the burden of proof was on the applicant.

Mr. Blow said the engineer should address the before situation as well as the impact of the wall.

6. (b) 2022-0007 Continued from March 1, 2022– Jared Whetstone– Applicant & Owner
235 Coquina Avenue

To approve a new bulkhead 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 a new bulkhead within Conservation Overlay Zone 1 at 235 Coquina Avenue/ PID 223540-0070.

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

Brian Spur, representative for the application, reviewed the application.

Mr. Davis asked for the height of the bulkhead. He said he did not see an elevation provided. He stated there had been conservation with the City to have a seven-foot berm down Coquina Avenue to protect the area since it had flooding issues. He said he was trying to understand where the height was as it impacted what happened in the future. He believed Ruben Franklin, City's Public Works Director, indicated the height would be at seven feet. He said his issue was if it were at five feet, the applicant would want to add two feet later on but if it were built at eight feet, he would be higher than everyone else.

Mr. Spur replied it was three-foot face, however, there was no survey completed for the application, and the intent was to have no backfill in the yard. He said the cap would be level with what was there currently and consistent with the neighbor's wall.

Ex Parte Communication:

(None)

13 certified notices were sent, 4 were returned in favor, 0 returned opposed and 0 had comments.

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

The Board discussed:

- Would continue a bulkhead
- Felt applicant was doing the right thing by matching the other bulkhead on the other property

- Did not want applicant to come back at a later time requesting to be at seven feet
- Would be seven feet above sea level
- Trying to help applicant long term and it would set a standard going forward

MOTION

Mr. Davis MOVED to APPROVE Conservation Overlay Development 2022-0007 at 235 Coquina Avenue to approve a new bulkhead in Conservation Overlay Zone One at the height shown on their current plans but should in the future the City put a berm along Coquina Avenue, then they have a right to raise it to the height of the berm at that time. The motion was SECONDED by Mr. Pappas.

VOTE ON MOTION:
AYES: Davis, Pappas, Blow, Ryan, DePreter, Misterly
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

6. (c) 2022-0014– Nell Johnson– Applicant & Owner
0 McWilliams Street / PID 108920-0002

To approve the removal of a 24" dbh Red Cedar Tree in Conservation Overlay Zone 3.

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 DENY the removal of a 24" Red Cedar tree given the size of the property and potential options to build a single-family home at 0 McWilliams Street / PID 108920-0002.

Nell Johnson and Les Frenzell reviewed the application.

Ms. Skinner asked what ball and deadwood meant.

Ms. Johnson replied no it meant maintaining the health of the tree. She said the only tree in question was the twenty-four-foot Cedar tree.

The Board provided their ex parte communication.

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

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

The Board discussed:

- Homes were prefab from company in Miami
- Would be two feet above where the lot sits on a stem wall with a crawl space underneath; would have steel beams on the stem wall with no backfill
- Locked into the floor plan as it was ordered
- Drawing showed a fifteen-foot setback from McWilliams and could possibly shift toward McWilliams and no longer need a variance
  Would have to confirm they could shift it forward
- Was a positive to be on a stem wall with no backfill and would be beneficial to the remaining trees
- Would have footer a foot below and then four blocks high
- Could do a beam and bridge for the root system
- Thought trees would be impacted with a stem wall
- Normally would have an arborist to answer questions about trees
- Information provided seem to be sufficient as long as it was to scale when submitted it could be determined if it could be moved forward
- Wanted to keep the 'Old Florida' feel to the space
- Parking would be in the front and back of the two homes

- Could move the home over slightly as they owned two properties side by side and have a reduced yard setback
- Concerned if it were moved forward would impact the parking
- Drawing showed flexibility to move the footprint
- Could move three feet to the west to meet the ten-foot setback
- Felt that could work to move the homes closer together but would require re-advertising as that would be a different case
- Plenty of room to move the home to protect the tree
- Wanted to save the Cedar tree
- May have to install beams to not damage the root systems for the trees on the lot
- Would be difficult to obtain insurance with trees close to the homes
- Suggested having an arborist as they could provide more information about the trees onsite
- Could support a smaller setback on the west side and move closer to the road to not lose parking but would also require re-advertising
- Wanted to add a requirement to have an arborist report
- If within the setbacks for the other lot would not need a variance
- Suggested consideration of all the proposed structures
- Lot was open; problem was not the trees or the lot but fitting modular homes on them

Ms. Skinner suggested continuing the application to the June meeting to allow time for the documents requested to be collected and reviewed.

Mr. Frenzell agreed.

MOTION

Mr. DePreter MOVED to CONTINUED Conservation Overlay Zone Three Development 2022-0014 to the June 7, 2022 meeting with the consideration of moving the building and an arborist report that will ensure safety for the trees currently there to be protected.

Ms. Johnson said she would contact Steel Homes to reduce the square footage of the home on lot six and keep lot five the same and move the home on lot six forward so it would not encroach on the Cedar tree.

Mr. Misterly said if that worked out and they no longer needed a Variance they were able to withdraw the application.

The motion was SECONDED by Ms. Ryan.

VOTE ON MOTION:
AYES: DePreter, Ryan, Pappas, Blow, Davis, Misterly
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

6. (d) 2022-0017– Ryan Carter, c/o Carter Environmental Services– Applicant
Flagler College Inc.– Owner
1 Malaga Street

Mr. Davis recused himself from the application.[4]

To approve of a pile-support dock and floating platform including a gangway and floating kayak launch 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 pile-supported dock and floating platform including a gangway and floating kayak launch within Conservation Overlay Zone 1 at 1 Malaga Street/ PID 206440-0020.

[4] Recusal form attached to the minutes

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

Ryan Carter reviewed the application.

Ms. Lopez asked if the intent was for the students to rent the kayaks and if not, a Submerged Land Lease would be required if it did not fall within a residential use. She said it was a minimum revenue and was more of a procedural thing with the City and was done administratively.

Mr. Blow thought this would be used exclusively for Flagler College students and personnel and even if a fee was charged students were essentially residents, would it be necessary to have a Submerged Land Lease.

Ms. Lopez said procedurally everyone was treated the same and if it was determined to be revenue generating then they would need to obtain the Submerged Land Lease.

Ex Parte Communication:

(None)

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

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

The Board discussed:

- Felt there was no downside to the application
- Was in support of the application and thought it was a fantastic idea
- King Street bridge was being updated by Department of Transportation

MOTION

Mr. Blow MOVED to APPROVE Conservation Overlay Zone Development 2022-0017 and its determined by City Staff that it was revenue generating facility should return to the City to negotiate a Submerged Land Lease. The motion was SECONDED by Mr. Pappas

<u>VOTE ON MOTION:</u>
AYES: Blow, Pappas, Ryan, DePreter, Misterly
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

<u>6. (e) 2022-0018– Ryan Carter, c/o Carter Environmental Services– Applicant</u>
<u>Robert Ziadie– Owner</u>
<u>150 Pelican Reef Drive</u>

To approve of a modification of an existing single-slip dock by adding a 450 square foot aluminum floating dock with a gangway and additional decking for access.

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 modification of an existing dock by adding a 450 square foot aluminum floating dock with a gangway and additional decking for access within Conservation Overlay Zone I at 150 Pelican Reef Drive/ PIO 158571-4030.

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

Ryan Carter reviewed the application.

Ex Parte Communication:

(None)

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

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

The Board discussed:

- Dock to the north has two slips and a floating dock
- Dock in question had one slip and was asking for a floating dock
- Proposal was to add a 12x5 foot floater
- Docks were becoming larger in size
- Dock was inline or slightly smaller than other adjacent docks
- Was a large dock but no issue since others in the same area were around the same size
- Docks were becoming as large as residential homes which was a concern
- Dock met the criteria and was in favor of the application
- All docks exceeded 100-feet of frontage in Pelican Reef
- Would not affect dock to the south
- Home to the north could add a dock if they chose to and it would obstruct access to the proposed dock
- Needed to be a sturdy floating dock to withstand the boat wake

MOTION

Mr. Blow MOVED to APPROVE Conservation Overlay Zone Development 2022-0018. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:
AYES: Blow, Davis, Pappas, Ryan, DePreter, Misterly
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

6. (f) 2022-0021– Jeremy Marquis, c/o Marquis Latimer + Halback, Inc. Applicant
Robert Finvard, c/o Windward Shipyard Land Holdings, LLC and Winward Shipyard, LLC– Owner
117 Dockside Drive / 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, 134770-0000.

To approve tree mitigation on this approximately 38.63-acre site by retaining and relocating forty-four (44) red cedar, oak and palms trees and also planting fifty-six (56) new oak trees within Conservation Overlay Zone 3.

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 tree mitigation plan on this approximately 38.63 acre site by retaining and relocating 44 red cedar, oak and palm trees and also planting 56 new oak trees with Conservation Overlay Zone 3.

Jeremy Marquis, Elijah George, Carl Masters, and Bryce Underhill and Stephan Johansson reviewed the application.

The Board provided their ex parte communication.

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

Public hearing was opened.

James Whitehouse, counsel for an adjacent property owner, said the concern was the vagueness in the application. He said there was not many specifics and some items shown to the Board was on property that they did not own. He said they referred to their 'vision plan' and there was nothing specific. He said his client was concerned about protecting the site as he owned property next door. He reviewed the Code from the staff report and said the unknowns made it very unclear if the trees needed to be moved or removed.

Public hearing was closed.

Mr. Marquis responded to public comment and indicted the trees had been a critical guiding light for all the planning on the property, and the applicant was prepared to do it better. He said the canopy could be kept onsite and wanted to make it feel like they had been there for some time.

Mr. Johansson said the vision plan had not changed in the past two and half years and was in final review for the Civil Master Plan, and permit. He said this was the plan and was accurate to what would be built.

Mr. Masters added the background layers on the plans were from the Civil permit package and was under the second review with the City of St. Augustine, and was submitted to the Water Management District. He said the multi-family component had been submitted to the City and was under review.

The Board discussed:

- Elevation had to be at 10.5 feet to be out of the flood plain which was 3 feet above the existing grade
- Survival rate for relocation of the trees was around 95% success rate
- Average cost to move a tree ranged between $10,000- $100,000
- Plan showed where the relocations were and where they would be placed
- Area on plans in green showed the location where no development would be as that was a critical root zone
- Saplings to be removed to help with the canopy but was not opposed to keeping some
- Trees were being removed as shown but would be relocated
- Preserving four trees in the same place which were: 465,466,467 468
- 44 relocated trees and removing around 300 trees of varying sizes
- Would be planting 56 new trees to make up the credits needed
- Each site plan would be reviewed and would meet the landscape code
- Code encouraged relocation and preservation of trees when possible
- Trees would need to be removed or relocated since the site elevation was being raised
- Most of the density would be in the core of the property
- Site plan represented the project that was within the City limits
- Would be planting more trees as per code
- Trees from the County would be moved into the City limits and was unsure if they would be deemed transplants or new
- Viewed the site and felt there were some trees that were not healthy
- Applauded the idea of building higher than needed to be to be above elevation
- Site plan would not change roads, utilities, and storm water would stay the same
- Applicant advocated to keep the existing tree canopy and wanted to go beyond the requirement
- Proposal was not the most economical solution but was in development long term, and this was to preserve the history that new trees do not provide
- Cedar trees within the County were extremely important and would be transplanted and moved to the City limits
- Larger trees in the master plan were focal points in the master plan
- Felt a new standard was being set for future big developers
- Building would be parallel apart from the single-family residents
- Remove the parcels not pertaining to the project from the graphics when presenting new applications to the Board to avoid confusion

Mr. Johansson agreed to the higher number of trees and said he would plant 56 trees and to relocate 48 trees.

MOTION

Mr. Misterly MOVED to APPROVE Conservation Overlay Zone Three Development with it noted relocating 48 Red Cedar Oak and Palm Trees and

planting 56 new Oak Trees and retaining the 4 Live Oaks within Conservation Overlay Zone Three for application 2021-0021. The motion was SECONDED by Mr. Davis.

<u>VOTE ON MOTION:</u>
AYES: Misterly, Davis, Pappas, Blow, Ryan, DePreter
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

<u>7. Other Business</u>

<u>(a). To set a date for a Special Meeting of the Planning and Zoning Board to discuss and recommend an ordinance to establish regulations for mobile food vendors/food trucks and associated code revisions.</u>

<u>(b). To set a date for a Special Meeting of the Planning and Zoning Board to discuss and recommend potential code amendments to establish an Affordable Housing/Workforce Housing program for the City of St. Augustine.</u>

Mr. Misterly announced both topics would be scheduled for April 19, 2022 at 9:00a.m.

Ms. Skinner said the Food Truck discussion would take place first and a draft ordinance would be presented. She said for Affordable Housing, the staff would outline some issues that were seen but it would be a discussion.

There was discussion about a time certain for the special meeting and there was Board consensus to have the meeting from 9:00 a.m.-12:00 p.m. on April 19, 2022.

Mr. Blow asked if the Chamber of Commerce could be informed about the discussion regarding food trucks.

Ms. Skinner said she thought they should be aware of the issue but would send a copy of the Ordinance for them to review.

Mr. Davis noted the difficulty of trying to reach staff by calling (904) 825-1065. He said the number rings, and no one answers. He asked if there was a way to have a dedicated line for Planning and Zoning or HARB. He said over the past three years reaching someone had degraded.

Ms. Skinner said there was a phone tree to select a number based on subject matter and there was one person who took care of the front desk and phone. She said it was difficult to handle the volume of calls, but she would address it. She said the number on the certified notices were directed to Mr. Fredriksson and the email listed was sent to Mr. Fredriksson, Tracy Mullins and herself.

Ms. Skinner asked if the Board wanted to have a combined meeting with the Historical Architectural Review Board prior to the budget meeting to discuss priorities moving forward or would the Board rather have a report from HARB at a regular meeting.

There was Board consensus to have a report presented instead of having a joint meeting.

<u>8. Adjournment</u>

Having no further business, Mr. Misterly adjourned the meeting at 7:30 P.M.[5]

for

Grant Misterly, Chairperson

[5] Transcribed by Elyse Wiemann