

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting April 2, 2019

The Planning and Zoning Board met in formal session Tuesday, April 2, 2019, at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Karen Zander, Vice Chairperson and the following were present:

1. Roll Call: Karen Zander, Vice Chairperson
Sarah Ryan
Carl Blow
Jon DePreter
Christina Opsahl
Maurice Morrisette

Absent: Grant Misterly, excused

City Staff: David Birchim, Director, Planning & Building Department
David Harrell, Senior Development Review Planner
Isabelle Lopez, City Attorney
Robin DiAngelis, Recording Secretary

2. General Public hearings for Items Not on the Agenda

The Board heard comments from the following members of the public:

- B.J. Kalaidi

3. Approval of Minutes

Ms. Ryan asked that it be noted on page 3 of the March 7, 2019 minutes that the subject structure in item 5(a) was to be elevated on piers.

MOTION

Mr. Blow MOVED to APPROVE the March 5, 2019 and the March 7, 2019 minutes as amended. The motion was APPROVED BY UNANIMOUS VOICE VOTE.

Modifications to the Agenda

There was discussion regarding moving item 8(a) to a subsequent PZB workshop;

however, the Board determined to keep it on the agenda.

4. Use by Exception

4. (a) 2019-0012 – Gerald & Julie Ruling, Life's a Beach Auto – Applicant Vista Hotel IV Inc. – Owner 164 San Marco Avenue

To approve an exception to allow automobile rental and sales business on the premises.

Mr. Harrell read the staff report and said based on a review of Section 28-29, and without the support of evidence to the contrary, staff finds that the Board may **APPROVE** an Exception to allow automobile rental and sales business on the premises.

Gerald Ruling was available for questions.

The Board provided their ex parte communications.

5 certified notices were sent, and 1 was returned in favor.

Public hearing was opened.

Melinda Rakoncay noted that the applicant would be renting recreational vehicles such as bicycles and scooters and not conventional vehicles. She felt the location was not appropriate for such rentals as there was heavy traffic and the new FDOT intersection was just north of the subject location. She was concerned about the potential for accidents.

Charles Pappis was concerned about safety and parking.

Public hearing was closed.

Mr. Ruling noted they had ample parking for the business and the business was moving only two blocks down the road from where it had been for ten years.

There was Board discussion regarding the following:

- Parking requirements which were calculated as multi-use space and did not account for spaces taken by rental vehicles
- Previous exception on the property was for sales and repair services and covered a larger part of the parcel than the current application
- Ingress and egress to the property
- Safety concerns
- Exception at previous location
- Types of vehicles to be rented
- Traffic concurrency could not be a factor in Board decision
- Business would generate more vehicles in the area
- Office indicated in red was only portion of property that applicant was leasing
- Original staff parking calculation was for all businesses operating on property

- Rental vehicle capacity
- Retail sales component of business
- Previous use primarily operated off of US1

MOTION

Ms. Ryan MOVED to DENY application 2019-0012, 162 San Marco Avenue, to approve an exception to allow automobile rental and sales business on the premises because there is another similar rental business a short distance down San Marco Avenue, the location and relationship of the business to the neighborhood would not promote the public health, safety, welfare, morals, order, comfort, or appearance of the neighborhood. The motion was SECONDED by Ms. Zander.

The Board discussed:

- Denial included both rental and sales uses
- Concern for the adequacy of parking for all businesses on the property

VOTE ON MOTION:

AYES: Ryan, Zander, Opsahl, DePreter, Blow

NAYES: Morrisette

MOTION CARRIED UNANIMOUSLY

4. (b) 2019-0030 – St. Augie's Pizza – Applicant
4 G Partners RLLP – Owner
113 1/2 King Street

To approve an exception to allow sale of alcoholic beverages of not more than fourteen (14%) alcohol.

Mr. Harrell read the staff report and said based on a review of Section 28-29, and without the support of evidence to the contrary, staff finds that the Board may **APPROVE** an exception to allow the sale of alcoholic beverage of not more than fourteen percent (14%) alcohol located at

112 ½ King Street with the following condition:

1. Based upon the applicant's timetable for alcohol sales and service, alcohol sales cannot occur between the hours of 11:00 P.M. and 7:00 A.M.

Amy Bulone reviewed the application.

The Board provided their ex parte communications.

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

Public hearing was opened.

B.J. Kalaidi spoke in opposition to the application.

Public hearing was closed.

The Board discussed:

- Alcohol sales licensing and State monitoring of alcohol sales
- Hours of operation
- Existing capacity of sixteen seats
- Current concerns from Commissioners and Police Chief regarding number of establishments with alcohol sales in the City
- No alcohol sales for off-site
- No way to enforce alcohol sales only with purchase of food
- Alcohol sales would help improve food sales at the business
- Possibility of a condition that would have the applicant return if there were three code enforcement complaints submitted against the business

MOTION

Ms. Opsahl MOVED to APPROVE Use by Exception application 2019-0030, to approve an exception to allow sale of alcoholic beverages of not more than fourteen (14%) alcohol with the

conditions that the alcohol sales on the premises be from 11:00a.m. to 9:00p.m. on weekdays and 11:00a.m. to 10:00p.m. on Fridays and Saturdays, that the exception run with the applicant and was not transferrable, and that if three Code Enforcement actions occur within twelve months the applicant must come back before the Board for re-hearing of the exception. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION:

**AYES: Opsahl, Blow, Morrisette,
DePreter, Ryan,**

NAYES: Zander

MOTION CARRIED 5/1

5. Conservation Overlay Zone Development

**5. (a) 2019-0028 – Dan & Cynthia McEvoy – Applicant
Pierre D Thompson Rev. Trust Etal, & Thompson Brothers Realty Inc. – Owner
PIN#:1585600000 (Dock connects to 207 Coquina Avenue)**

To approve placement of an extended terminal platform on an existing dock in Conservation Overlay Zone 1.

Mr. Harrell 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** placement of an extended terminal platform on an existing dock in Conservation Overlay Zone 1 located at **PIN#: 1585600000.**

Dan and Cynthia McAvoy and Ryan Sparr reviewed the application.

The Board provided their ex parte communications.

100 certified notices were sent, 9 were returned in favor, 2 returned opposed and 2 had comments.

Public hearing was opened.

Martha Tica Walley was not opposed to the dock but was concerned about ownership of the subject property which she believed was owned by the City.

B.J. Kalaidi asked that the request be denied due to negative impact to environmental resources.

Christy Pepper asked for an explanation of what an extended terminal platform was and its uses.

Public hearing was closed.

The applicant explained that the terminal platform would be modified to allow for safer use.

Mr. Birchim explained that the terminal platform was simply the end of the dock which the applicant was proposing to widen.

Ms. Lopez addressed the concerns regarding ownership of the property noting that the Thompson family had been shown as owning and paying taxes on the subject parcel for decades.

The Board discussed that the applicant did not bring platform landward because they did not want to affect mangrove trees in the area.

MOTION

Mr. DePreter MOVED to APPROVE Conservation Overlay Zone 1 Development application 2019-0028 because it met objectives of conservation goals and based on staff analysis and recommendation. The motion was SECONDED by Ms. Ryan.

VOTE ON MOTION:

AYES: DePreter, Ryan, Morrisette, Opsahl, Blow, Zander

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. (b) 2019-0029 – Shore Builders Inc. – Applicant **Mary & Walter Soha – Owner** **84 Water Street**

To approve placement of a new dock with associated boat lift in Conservation Overlay Zone 1.

Mr. Harrell 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** placement of a new dock with associated boat lift in Conservation Overlay Zone 1 at **84 Water Street**.

Nick Yankopolus and Mary Soha reviewed the application noting there was no boat lift included in the application, only a mooring dock.

Ex Parte Communication:

None

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

Public hearing was opened.

Steve Hill spoke in support of the application.

Public hearing was closed.

The Board discussed:

- Application was well-presented
- Dock would not impede navigation along Hospital Creek as confirmed by Mr. Hill
- Proposed dock was slightly longer than previously existing dock

MOTION

Mr. DePreter MOVED to APPROVE Conservation Overlay Zone 1 Development application 2019-0029 as it meets the applicable codes and

ordinances specific to Conservation Overlay Zone 1 and including staff analysis and recommendation for approval. The motion was **SECONDED** by Ms. Ryan.

VOTE ON MOTION:

AYES: DePreter, Ryan, Morrisette,
Opsahl, Blow, Zander

NAYES: NONE

MOTION CARRIED UNANIMOUSLY¹

5. (c) 2019-0026 – Coastal Living Home Builders – Applicant
Solano Avenue Land Trust – Owner
PIN#:2208800030 (Lot immediately north of 9 Solano Avenue)

To approve removal of more than fifty (50) percent of the tree canopy, including three (3) preserved trees (Cedars) within Conservation Overlay Zone 3.

Mr. Harrell read the staff report and said based on a review of Section 11-29 and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** removal of more than fifty percent (50%) of the tree canopy, including three (3) preserved trees (Cedars) within Conservation Overlay Zone 3 with the following condition:

1. Permeable driveway pavers, grass pavers, or gravel to be used on the driveway construction and type/method shown on future building plans

Paul Hoffman reviewed the application.

The Board provided their ex parte communications.

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

¹ Brief recess from 3:38p.m. to 3:48p.m.

Public hearing was opened.

Bruce Norman felt that the Comcast utility pole located on the property should be moved rather than the nearby Cedar tree. He was concerned the addition of fill on the property would become a flooding hazard for neighboring properties.

Eric Smith spoke in opposition to the application citing concerns with removal of trees that add to the characteristics of the neighborhood and the construction of a project that would increase the risks of potential flooding in the area.

David Frizell he was against the application as presented and was concerned about the impact that the proposed two feet of fill dirt would have on the remaining trees on the lot.

Carolyn Smith was concerned with storm water run-off and felt the developer should provide an explanation of how the storm water would flow.

[inaudible] Antonatos spoke against the application.

Public hearing was closed.

Mr. Hoffman responded to public concerns noting that he had built 8 homes already in Davis Shores with no storm water run-off issues and he intended to be just as responsible with the subject property. He asked for further explanation as to why fill on the property was pertinent to his request for the removal of trees.

Mr. Birchim noted that part of the criteria for tree removal included the impact of tree removal on ground and surface water stabilization and water quality.

Mr. Hoffman explained that the proposed fill level was not as high as mentioned by the public. He stated that the maximum lot coverage of 29% under-roof with the staff recommendation for pervious pavers, and

proper grading of the lot would help save as many of the trees as possible as well as mitigate the potential for storm water run-off.

The Board discussed:

- Storm water requirements reviewed by staff
- Tree numbered three (3) would be too impacted by fill to save
- Possibility of utilizing pier or stem wall construction, as well as changing the configuration of the house to help save trees
- Lot aggregation rule and whether there was a previous structure on the lots
- Previous applications where site plans were altered to save trees
- Whether the utility pole would be kept or removed
- Recommendation that applicant work with an arborist to ensure safety and health of trees remaining on the property during construction
- Continuing the application to allow the applicant to gather further information and reconsider construction methods
- Applicant needed to provide:
 - Survey with utility pole and trees in the easement marked
 - Arborist report that outlined whether stem wall construction could or could not be used to save additional trees
 - Consideration of saving tree numbered one (1) in the rear of the property with site plan modification

Mr. Birchim noted that two surveys provided by the applicant showed tree numbered three (3) in different locations and asked that the applicant clarify whether the tree was along the property line or in the right-of-way.

MOTION

Ms. Ryan MOVED to CONTINUE Conservation Overlay Zone Development application 2019-0026, Solano Avenue Land Trust, to the May 7, 2019 meeting based on standards for review item (g): the ease with which the property owner or agent can alter or revise the proposed development or improvements to accommodate existing trees including the tree or trees proposed to be removed. The motion was SECONDED by Ms. Opsahl.

VOTE ON MOTION:

AYES: Ryan, Opsahl, Morrisette,
DePreter, Blow, Zander

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. Comprehensive Plan Amendment & Rezoning

6. (a) 2019-0031 – St. Augustine Shipyard, LLC & Greenwood Property LLC – Applicant and Owner
PIN #'s: 1342300000, 1342300010, 1279100000, 1279200000, 1280900000, 1280900010, 1279300000, & 1342300020
(Area roughly bounded by Iroquois Ave., Arapaho Ave., Diesel Rd., & San Sebastian River)

To amend the Future Land Use Map designations from Marine Industrial to Residential Medium Density / Mixed Use & to approve a rezoning from Planned Unit Development (PUD) to Residential General Office (RGO).

Mr. Harrell read the staff report and said if the Board **CAN** find there is a need and justification for the Comprehensive Plan Amendment and Rezoning and it finds that the Comprehensive Plan Amendment and Rezoning **DOES** support the general planning program then the Board **CAN** recommend approval of the Comprehensive Plan Amendment and Rezoning; however, if the Board **CANNOT** find there is a need and

justification for the Comprehensive Plan Amendment and Rezoning and it finds that the Comprehensive Plan Amendment and Rezoning **DOES NOT** support the general planning program then the Board **CANNOT** recommend approval of the Comprehensive Plan Amendment and Rezoning.

James Whitehouse reviewed the application.

The Board provided their ex parte communications.

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

Public hearing was opened.

BJ Kalaidi spoke in opposition of the application citing concerns for over-intensification of the property and negative impacts to the health, safety, and welfare of the neighborhood.

Public hearing was closed.

Mr. Whitehouse addressed public concerns stating that it was the property owners' intent to enhance the area and that plans were continuing as had been previously presented.

Mr. Whitehouse fielded questions and Board discussion ensued regarding the following:

- Ownership of the property was mixed
- Storm-surge map and property boundaries
- Need and justification for zoning and land-use changes which were described by the applicant as the ability to move forward with the project consistent with the approved zoning and land-use of the properties to the South
- Maintaining the working waterfront
- History of the existing PUD

- Definition of and uses that supported working waterfronts

MOTION

Ms. Opsahl MOVED to RECOMMEND APPROVAL to the City Commission of Future Land Use Map Designation Amendment application 2019-0031 to amend the Land Use from Marine Industrial to Residential Medium Density Mixed-Use and that the Board had determined there was a need and justification for the change, and the application aligned with the City's general planning program and was consistent with the Comprehensive Plan. The motion was SECONDED by Mr. DePreter.

VOTE ON MOTION:

AYES: Opsahl, DePreter, Morrisette,
Blow, Ryan, Zander

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

MOTION

Ms. Opsahl MOVED to RECOMMEND APPROVAL to the City Commission of Rezoning application 2019-0031 to Rezone from PUD to Residential General Office based on the application and determination that there was a need and justification for the change, and the application aligned with the City's general planning program and was consistent with the Comprehensive Plan. The motion was SECONDED by Mr. DePreter.

VOTE ON MOTION:

AYES: Opsahl, DePreter, Morrisette,
Blow, Ryan, Zander

NAYES: NONE

MOTION CARRIED UNANIMOUSLY²

² Brief recess from 5:29p.m. to 5:36 P.m.

7. Other Business

7. (a) Discussion and recommendation to amend the text of Future Land Use Policy 1.3 related to the definition of the Public/Semi-Public Land Use Category

Mr. Birchim presented subject and outlined three options with which the Board could proceed:

1. The text amendment contained in the memo included in meeting packet
2. Change the underlying Land-Use for each individual private property currently designated Public/Semi-Public; however, this option had the potential to greatly increase the intensity of use or more heavily restrict land use for some properties and non-conformities would have to be identified as an asterisk on the Future Land Use Map
3. Create a new Future Land Use category for private institutions

The Board discussed the following:

- Similar situation to option two (2) which occurred at the Lighthouse property
- Option three (3) would not change zoning
- If option two (2) was not accepted by property owners voluntarily, and involuntary Land Use Amendment on the part of the City could result in legal action
- No criteria for amending Future Land Use categories, only a process
- Third option provided less liability
- How to assign uses and densities under Option three (3)
- Some properties that previously had semi-public uses had to be amended since those uses have ceased on the properties
- No hard deadline to make such changes

- History of the Land Use Designation and changes made in 2006

The Board provided their ex parte communications.

Public comment was opened and the Board heard comments from the following members of the public:

- Michelle Van Doren
- Melinda Rakoncay
- Steve Hill
- Guy Van Doren
- Greg McCarthy
- Ellen Avery Smith
- Emily Genovar
- Nancy Noloboff
- Andrew Schumacher
- Patrick Thomas
- B.J. Kalaidi
- Ann Bohon Flanagan
- George Miller

The public commented on the following:

- Why churches were included in Public/Semi-Public Land Use from the start and what changes to the code caused the current inconsistencies
- Recommendation that the Board not make a hasty decision regarding the matter
- Consideration of property and business owners rights
- Concern for whether existing religious structures could be built back as existing
- Consideration for the rights of property owners with current inconsistent land use
- Concern for lumping diverse properties into a single Land Use Designation
- Desire for further information and clarification

- Concerns that language change could allow for commercialization of church properties

Public Comment was closed.

Ms. Lopez, at the Board's request, described possible legal liabilities that could occur with the change in Future Land Use Designation Language, the City's response to similar, past litigation. She also outlined State and Federal laws which protected religious institutions.

The Board continued discussion regarding the following:

- A timeline for reviewing potential Land Use changes to potentially align with Comprehensive Plan update
- Possibility of additional workshops or portions of the regular meeting set aside or discussion

There was Board consensus to add discussion to the April 25, 2019 PZB workshop

7. (b) Discussion and recommendation of Ordinance 2019-06 amending Section 28-4 Compliance with Regulations regarding design standards for entry corridors

Ms. Lopez presented the subject.

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

MOTION

Mr. Blow **MOVED** to **RECOMMEND APPROVAL** to the City Commission of the amendment to the ordinance as presented. The motion was **SECONDED** by Mr. DePreter.

VOTE ON MOTION

AYES: Blow, DePreter, Morrisette, Opsahl, Ryan, Zander

NAYES: NONE
MOTION CARRIED UNANIMOUSLY

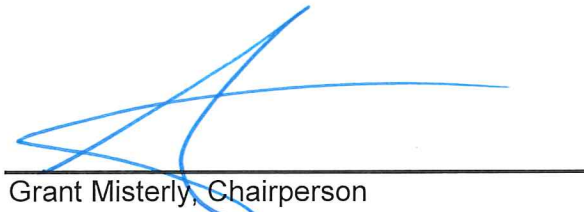
Board Comments

Ms. Ryan noted that there was a connection between one of her current clients and the owner of the property for item 4(a).

Ms. Lopez said she would check with the Commission on Ethics and see if she would be required to fill out a disclosure form for that application.

8. Adjournment

Having no further business, Ms. Zander adjourned the meeting at 7:05 P.M.³



Grant Misterly, Chairperson

³ Transcribed by Candice Seymour