CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting
September 5, 2023

The Planning and Zoning Board met in formal session Tuesday, September 5, 2023, at 1:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Mike Davis, Chairperson and the following were present:

1. Roll Call:	Mike Davis, Chairperson Charles Pappas, Vice- Chairperson Jon DePreter Carl Blow Christina Tucker Matthew Shaffer Ashleigh Barnes
City Staff:	Amy Skinner, Director, Planning & Building Department Jacob Fredriksson, Planning Manager, Planning & Building Tracey Mullins, Planner II, Planning & Building Isabelle Lopez, City Attorney Elyse Wiemann, Recording Secretary Michele Fudo, Recording Secretary

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2. General Public hearings for Items Not on the Agenda

BJ Kalaidi questioned the existing PUD at 24 Cathedral Place, and why it had been on the agenda and was not now.

Mr. Fredriksson advised comments were provided to the applicant and it was pulled to address those comments. It will be appearing in the future and will be advertised.

3. Approval of Minutes

Mr. Blow highlighted a possible error in a motion on page 4.

Mr. Davis asked that the minutes be checked for accuracy and be approved at a later date.

4. Modification and Approval of Agenda

Ms. Lopez advised that Mr. Whitehouse was delayed and had requested that his items be delayed until he arrived.

5. Variance

5. (a) 2023-0062 Continued from the August 1st Regular Meeting – Marshall Schneider – Applicant
c/o Schneider Consulting LLC
Lester Pelkey – Owner
c/o Pelkey Property Holdings LLC
8 Perpall Street – Applicant

To reduce the rear setback to allow for the construction of a second story addition within the Commercial Medium-Two (CM-2) 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 request to reduce the side yard setback requirements of 10 feet to 3 feet at 8 Perpall Street / PID 156490-0000 to allow for the construction of a second story dwelling unit.

Marshall Snyder reviewed the application.

The Board provided their ex parte communication.

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

Public hearing was opened.

Melinda Rakoncay spoke in opposition to the application and questioned if the property would be used for a short-term rental. She did not want to grant a variance if that was what it was for.

Public hearing was closed.

Mr. Shaffer asked for clarification regarding the location of the variance as the staff report referred to two side property lines.

Mr. Fredriksson advised the location to be the left side of the property on the north.

Mr. Blow observed that the purpose of the variance request was to add a second floor to the building. He asked if the structure was unable to support the weight of the addition would the applicant have to rebuild the entire structure in the same location using the variance or would they be required to meet current compliance standards. He said he was not in favor of issuing a variance of this size.

Ms. Lopez advised that the variance was specific to the land and the layout. She said if they had to rebuild, they would need to comply with the code as the terms of the variance would no longer be valid.
Board discussed:

- Water run off could negatively affect the neighboring properties
- Thought it could be more economical to apply for a variance rather than rebuilding
- Unable to differentiate between a residential building and a use for short-term rental
- No issue with adding the second floor to make a more livable space.
- Questioned if there was enough parking on property
- Parking would be reviewed during the building permit process
- Was a nonconforming lot by area which was a disadvantage and applicant was able to have two dwellings by code
- Observed that most homes in the area were two story and would not be out of place
- Felt this would not be contrary to the public interest.

MOTION

Mr. Depreter MOVED to approve application 2023-0062 as noted in board discussion and staff report that it meets the four criteria for the variance. The motion was SECONDED by Mr. Pappas.

<u>VOTE ON MOTION:</u>
AYES: DePreter, Pappas, Shaffer, Barnes, Tucker, Davis
NAYES: Blow
MOTION CARRIED 6/1

<u>5. (b) 2023-0073– Zlate Sipinkoski – Applicant c/o Cortesse's Bistro</u>
<u>Goce Sipinkoski – Owner</u>
<u>172 San Marco Avenue</u>

To approve a variance to off-street parking requirements.
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 location of off-street parking requirements 172 San Marco Avenue / PID 189630-0000.

Jon Groves and Goce Sipinkoski reviewed the application.

Ex Parte Communication:

(None)

9 certified notices were sent, 1 was returned in favor, 0 returned opposed and 0 had comments also additional emails in favor were received.

Public hearing was opened.

BJ Kalaidi questioned where the off-street parking would be located.

Melinda Rakoncay noted the parking would be provided from several places; however, asked if there were signed leases in place.

Public hearing was closed.

Mr. Davis noted there were letters of agreement in the packet.

Mr. Groves presented the rebuttal.

The Board discussed:

- Expressed concerns with the letters provided as there were no terms listed, would rather see leases
- Applicant had spoken to several places to gather parking spaces
- Felt there was ample parking on City properties nearby and questioned if a lease could be signed

Ms. Lopez advised that there was a long-term lease in place with the Armory, Library, and the Water Works building and the spaces were not available.

Board discussion continued:

- Suggested signage in the lot showing where parking was located
- Felt it met the criteria with seating capacity being larger than the parking; however, thought parking was being worked out in a positive way
- No issue approving with the condition that the applicant provide the leases to the City staff
- Questioned if there would be enough parking for lunch as the additional parking was available after regular business hours
- Felt a little more clarification would be beneficial regarding current seating compared to previous seating and the reason for the need for additional parking
- Concerned that patrons would park in the neighborhood rather than designated lots
- Thirteen spaces on the property currently

Mr. Grove advised the Board there were originally seventy-eight seats and they have expanded to 150 seats, which required them to have more parking. He told the Board that lunch business was not the issue and many patrons walked, however, most patrons came for dinner.

Mr. Fredriksson provided clarification regarding the variance for the Board. He said the variance was to reduce the parking to operate.

Ms. Lopez confirmed that this was not extra parking but that the spaces were being counted twice. She explained that future use would not apply to other applicants' variance would run with the applicant. She continued to advise that if the property were sold, the variance would not run with the land but would be specific to the owner and this use.

MOTION

Mr. Depreter MOVED to APPROVE the application 2023-0073- with the following conditions (1) that staff would receive and review the parking agreements and (2) that clear signage be posted to direct patrons to designated parking. The motion was SECONDED by Mr. Pappas

<u>VOTE ON MOTION:</u>
AYES: DePreter, Pappas, Barnes, Tucker, Blow, Davis
NAYES: Shaffer
MOTION CARRIED 6/1

<u>6. Use by Exception</u>

**6. (a) 2023-0067- Philip & Dee Castillo – Applicants c/o The Bart on Aviles
11 Aviles Street LLC – Owner
11D Aviles Street / PID 198950-0000**

To allow for the use of a cocktail lounge within the Historic Preservation-Two (HP-2) zoning district as a use by exception.

Ms. Mullins 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 the use of a cocktail lounge within the Historic Preservation-Two (HP-2) zoning district as a use by exception at 11 D Aviles Street / PID 198950-0000.

Philip Castillo and Dee Castillo reviewed the application.

The Board provided their ex parte communication.

15 certified notices were sent, 3 were returned in favor, 0 returned opposed and 3 had comments and a letter was sent in favor of the application.

Public hearing was opened.

Melinda Rakoncay spoke in opposition to the application and felt that Aviles Street was full of locations to drink without food and did not understand the reason for this request.

Aaron Jockers spoke in favor of the application and noted this was a unique location as it was an art studio. He said this was there to immerse the public into the culture and history of St. Augustine and the location supported local artists.

BJ Kalaidi questioned the hours of the operation for the property.

Public hearing was closed.

Mr. Castillo presented the rebuttal.

The Board discussed:

- Concerned with the proposed disposable drinkware and encouraged the applicant to use disposable drinkware that was able to be recycled
- Felt this did not promote the intent of the HP 2 district or Future Land Use (FLU)
- Questioned if a precedence was being set for art galleries in the area regarding the sale of bottled wine

Ms. Mullins advised the application was for selling wine and beer for onsite consumption as they were allowed to be a package store by right.

MOTION

Mr. Depreter MOVED to APPROVE the application use by exception 2023-0067 – The board has discussed the difference between a liquor store and a specialty shop, the applicant has agreed to hours of operation between 10am -10pm. The motion was SECONDED by Mr. Pappas

VOTE ON MOTION:
AYES: DePreter, Pappas, Barnes, Tucker, Blow, Davis
NAYES: Shaffer
MOTION CARRIED 6/1

**6. (b) 2023-0068 James. G Whitehouse, Esq. – Applicant c/o St. Johns Law Group
102 Bridge Street Land Trust – Owner
102 & 104 Bridge Street / PID 202540-0000**

To allow for the sale and consumption of alcoholic beverages with an alcohol by volume (ABV) content up to fourteen (14) percent on the premises within the Commercial Low-One (CL-1) zoning district as a use by exception.

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 at 102 & 104 Bridge Street / PID 202540-0000.

James Whitehouse reviewed the application. [1]

The Board provided their ex parte communication.

28 certified notices were sent, 9 were returned in favor, 0 returned opposed and 6 had favorable comments.

Public hearing was opened.

Jackie Hird questioned the parking requirements and if they were able to be met.

BJ Kalaidi asked if delivery trucks would be parked on the street. She said this was a problem and felt this should be addressed.

Public hearing was closed.

Mr. Fredriksson addressed the parking, and noted there were twenty-six spaces provided for a sixty-seat restaurant.

Mr. Whitehouse presented the rebuttal.

The Board discussed:

- Property changed ownership but would have the same use
- Loading and unloading did take place in the street which was not allowed
- Encouraged the new owner to find employee parking and work on the issue of the delivery trucks
- Felt the parking on site was sufficient

MOTION

Mr. Shaffer MOVED to APPROVE the application 2023-0068 – To allow for the sale and consumption of alcoholic beverages with an alcohol by volume content up to 14% at 102 & 104 Bridge Street be approved as a use by exception. The motion was SECONDED by Mr. Pappas.

VOTE ON MOTION:
AYES: Shaffer, Pappas, Barnes, Tucker, DePreter, Blow, Davis
NAYES: NONE
MOTION CARRIED UNANIMOUSLY[2]

7. Conservation Overlay Zone Development

7. (a) 2022-0057 Continued from the August 1 st Regular Meeting**Ryan Carter – Applicant c/o Carter Environmental Services, Inc. San Sebastian River LLC – Owner Florida Avenue & Julia Street / PID 107790-0010 & 107790-0110**

Ms. Tucker recused herself from the application.

To approve the construction of a new dock within Conservation Overlay Zone 1 and removal of significant Southern Red Cedar, Loblolly Bay, Sweetbay Magnolia, Southern Magnolia, Water Oak, Live Oak, and Laurel Oak trees within Conservation Overlay Zone 3.

Mr. Fredriksson read the staff report and said based on a review of section 11-29 staff finds that the board can APPROVE the construction of a new dock within Conservation Overlay Zone 1 and removal of eleven (11) significant trees within Conservation Overlay Zone 3 at Florida Avenue and Julia Street / PID 107790-0010 & 107790-0110. Any future plans that show significant tree removal other than the eleven (11) trees as part of this application will be required to obtain approval from the Planning and Zoning Board.

Ryan Carter, Jay Brown, Brian Borden reviewed the application.

The Board provided their ex parte communication.

No new certified notices were sent out.

[1] Presentation attached to original packet.

[2] Break from 2:33p.m.-2:51p.m.

Public hearing was opened.

The following individuals spoke in opposition to the application because of the tree canopy, dock on premises, vagueness of the application, and concern for wildlife and neighbors:

Marta Hern[3]
Elizabeth Smith[4]
Melinda Rackoncay
Maureen Long[5]
Dr. Arthur Colbert
Susan Creek
Rebecca Williams
Marsha Daniels
Carol Hilton

Public hearing was closed.

Mr. Carter, Mr. Brown, and Mr. Borden presented the rebuttal.

The Board discussed:

- Application was not for rezoning however; the concern was the density on the property
- Felt the dock was a minor request and would not affect the landscaping

Mr. DePreter questioned the twenty-two-inch oak between the townhouse parking and retention pond that was proposed to be removed, as well as the live oak tree next to the walkway, which would be saved.

Mr. Brown noted there was a storm pipe within four to five feet of the structural root plate of the tree and nothing could be done within nine feet of the tree leaving the tree unable to be saved. He pointed out the proposed walkway by the Live Oak would be elevated and the tree would not be impacted.

Discussion Continued:

- Expressed concerns with the height of the buildings regarding the trees and the retention or removal of same
- Questioned if trimming the trees to help the buildings height would affect the vigor and health of the trees.

Mr. Borden advised that the trees would be saved through proper procedures and care of the trees and trimming would not hinder the roots. He said there would be an assessment done in the field prior to any trimming being done.

- Staff had indicated this would not contribute to the flooding and could provide better infrastructure.
- Expressed concern that the site could be used for STR's, although this was not under the Boards purview
- Corner of Florida and Evergreen Avenues appeared that there were no trees over the parking lot or townhomes.
- Concerned that the tree canopy was being removed, asked if there would be new plantings in this area
- Questioned if Public Works had to review this prior to receiving a building permit

Mr. Brown advised that the only trees shown were ones that were significant but there were others on-site being saved, and other trees would be planted onsite.

Mr. Fredriksson confirmed that building permits would have to be issued prior to any tree removal.

Board discussed:

- Applicant had fulfilled many requests from the June Board meeting
- Noted that many more trees would not be removed from the property but did question a few to see if plans could be changed to ultimately save them
- Questioned the parking requirement

[3] Documents attached to the original packet
[4] Documents attached to the original packet
[5] Documents attached to the original packet

- Felt the cedar tree in the north parking lot could be saved
- Questioned if the walkway could be moved to save the Live Oak and Laurel Oak on the east side of the lot
- Questioned how much of the tree would be left when trimmed

Mr. Brown explained the twenty-two-inch oak could not be saved because of the placement of the storm pipe and pond. He noted the project required fifty-six parking spaces and those were provided. He said due to the construction of the stormwater retention basin and walkway, the Laurel and Live oak on the east side of the lot could not be saved. He said tree trimming assessments would happen in the field.

Board discussion continued:

- Noted that the tree table was more clear
- Had changes to reduce the impact on wetland
- The project was designed to drain into the retention pond, and the number of units had been reduced
- Thought that members of the community brought forth reasonable requests
- An unresolved issue was the canopy over the buildings
- Questioned if all six buildings were three stories with the redesign which could save surface area.
- Questioned if the buildings would have a sloped or flat roof
- Confirmed that townhouse building type four would be two stories and that all buildings would be on pilings

Mr. Pappas questioned if the dock would disturb the oyster bed.

Mr. Carter advised that the dock did not have an oyster bed under it and had been designed so that it would rest on the marsh bed.

Board continued:

Mr. Davis reminded all present that this Board could not resolve stormwater issues.

Mr. Davis questioned if staff was satisfied with the tree canopy and highlighted the south property drainage. He asked if any of the flood water was flowing across the proposed property to the San Sebastian River.

Mr. Fredriksson advised 389 trees were being preserved.

Mr. Brown indicated that flood water flow was not natural, but the plan was to try and offer to the City creative solutions to help to bring stormwater through their lot. He provided further clarification from the architect that only three buildings were thirty-five feet, buildings three, four, six, all others were two story.

Tracey Mullins advised that 33% or more when trimming a tree was considered removal.

MOTION

Mr. Depreter MOVED to APPROVE Conservation Overlay Zone Development 2022-0057 as it has for both the dock and the tree removal as we have discussed today. The motion was SECONDED by Mr. Blow

Mr. Pappas had comments regarding the tree that Ms. Barnes had requested be saved. Ms. Barnes specified the cedar tree on the north end of the parking lot.

MOTION

Mr. Depreter Amended the motion to APPROVE Conservation Overlay Zone Development 2022-0057 with the condition that the tree as discussed by Ms. Barnes would be retained that has been approved by the applicant specifically the 22-inch cedar. Mr. Blow seconded the modification.

Mr. Shaffer further commented that he felt the thirty-five foot trees would ultimately not be saved.

VOTE ON MOTION:
AYES: DePreter. Blow, Barnes, Pappas, Davis
NAYES: Shaffer
MOTION CARRIED 5/1

7. (b). 2023-0013 ~~Continued from the August 1 st Regular Meeting~~ Ryan Carter – Applicant c/o Carter Environmental Services Inc. Nancy & John Fout – Owner 164 Pelican Reef Drive

To modify an existing dock to change the existing boat lift to a 15' x 38' deck lift and remove the existing boat lift, approve an after the fact modification to the existing bulkhead impacting approximately 0.01 acres of wetlands within Conservation Overlay Zones 1 and 2 Page 2 of 308

Mr. Fredriksson read the staff report and said, based on a review of section 11-29, staff finds that the board can APPROVE the modification to an existing dock to change the existing boat lift to a 15' x 38' deck lift. Staff finds that the board can also APPROVE an after the fact modification to the existing bulkhead impacting approximately 0.01 acres of wetlands within Conservation Overlay Zones 1 and 2 contingent upon the applicant demonstrating CCM Policy 2.16.7 (no net loss of wetlands) will be met at 164 Pelican Reef Drive / PID 158571-0005.

As for the issue of Southern Red Cedar trees required in Pelican Reef and at 164 Pelican Reef Drive staff requests that the Board add a condition to the dock modification approval that the requirement of ten (10) Southern Red Cedar trees be planted before the issuance of a building permit.

Ryan Carter reviewed the application.

Ex Parte Communication:

(None)

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

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

Ms. Tucker requested clarification regarding dock modification.

Mr. Fredriksson advised it had been previously approved by the PZB in April.

The Board discussed:

- Reiterated that because of the bulkhead the wetlands were filled in and referenced the mitigation for the wetlands
- Noted that the Pelican Reef subdivision requires ten cedar trees onsite and there were none
- Applicant should have to provide information on where the cedar trees would be located and where they would remove pavers
- Should come back with a landscape plan unless staff could approve it based on today's standards

Ms. Tucker questioned where the trees would be planted as it appeared the property was covered with pavers. She asked if a condition could be added to remove pavers down to the current 70% impervious cover.

Ms. Lopez advised that the applicant would have to meet the criteria of the subdivision as well as compliance with current code requirements.

Mr. Davis questioned the cost for the remediation.

Mr. Carter said they were willing to submit an arborist report noting the locations of the cedar trees. He said as for the remediation, it was estimated at five thousand dollars. He suggested to have staff review the plans instead of coming before the Board again.

Mr. Fredriksson was willing to have staff review the criteria.

MOTION

Mr. Depreter MOVED to APPROVE the application 2023-0013 – with the following conditions: (1.) the applicant submit to city staff for approval a plan to remove the pavers to get to 30% pervious level, (2.) a plan to irradicate the Brazilian peppers; (3.) an arborist reviewed replanting plan for the 10 cedars and (4.) planting the required mangroves within a six-month period. The motion was SECONDED by Mr. Pappas

VOTE ON MOTION:
AYES: DePreter, Pappas, Shaffer, Barnes, Tucker, Blow, Davis
NAYES: NONE
MOTION CARRIED UNANIMOUSLY[6]

8. Rezoning

8. (a). 2023-0057 Continued from the July 5th Meeting James G. Whitehouse, Esq. for Ryan Dettra – Applicant c/o St. Johns Law Group Paul M. Meredith, P.A. – Owner 115 La Quinta Place

To rezone an approximately 0.64-acre property from Commercial Low-One (CL-1) to Planned Unit Development (PUD).

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

(1) The need and justification for the change.

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

(3) Consistency with the Comprehensive Plan.

(4) Compliance with Sec. 28-292 Standards and criteria for redevelopment and infill PUD developments.

James Whitehouse, Ryan Dettra reviewed the application.

The Board provided their ex parte communication,

Certified notices were sent for the prior meeting, emails were attached.

Public hearing was opened.

The following individuals spoke in opposition to the application regarding parking, traffic, increases in proposed application, intensity, and neighborhood concerns such as historic preservation:

- Bruce McGuire
- C.H. Hooks
- Cheryl Cavanaugh
- Jackie Hird[7]
- Marsha Chance
- Jon Cavenaugh
- Lauren Giber
- Melinda Rakoncay
- Nancy Pellicer
- Phil McDaniel
- Richard Bozard
- BJ Kalaidi
- Martha Mickler

The following individuals spoke in favor of the application notating the historical and educational value, and revitalizing the community:

- Richard Dettra
- Andy Handcock
- Stetson Dettra
- Heather Dettra

[6] Break from 4:51 p.m.- 5:04 p.m.

[7] Documents attached to original packet

Public hearing was closed.

Mr. Whitehouse and Mr. Dettra presented their rebuttal.

The Board discussed:

- PUD was required for the alcohol use above 14%
- Parking could be done by an exception or variance by location
- Was there anything in the code that defined need and justification
- Noted page thirteen section 28-286, purpose and intent did provide the information and it was noted in the staff report
- Promote urban infill and flexibility, meet changing needs, while respecting the quality and integrity of existing neighborhoods
- Did not feel the distillery was a need for the property
- Did not feel the burden of proof had been met by applicant
- Would move part of the building to create a sidewalk
- Proposed a crosswalk at the northwest side as traffic on Riberia Street was an issue, slowing it down would be a benefit
- Wished there was an easier way to restrict parking within neighborhoods
- Not opposed to parking being approved through other means but did not think a PUD was warranted
- Questioned if the proposal was consistent with the land use of the property
- Felt the proposal was an intensification of the allowable uses in the zoning
- Did not feel this would help with parking and agreed this would hurt adjacent businesses
- Felt this was not consistent with the surrounding area
- All items except for the distillery could be done in CL-1
- Thought it met the criteria for a PUD
- Thought the idea was great and applicant was successful, but unable to support as there was no parking
- Did not feel the site was large enough for a 100 seat restaurant
- Thought it would be a great project but not in this location
- Four buildings had dual uses, but there were a lot on one property
- Thought it was a great business plan and would be successful; however, would be incompatible with the surrounding businesses and in conflict with the future land uses
- Was difficult to follow with the provided documentation
- Thought this would have a negative effect on the community

MOTION

Mr. Shaffer MOVED to recommend city commission deny the rezoning of the .64-acre property from CL-1 to PUD at 115 La Quinta Place, rezoning request 2023-0057. The motion was SECONDED by Mr. Davis

<u>VOTE ON MOTION:</u>
AYES: Shaffer, Davis, Tucker, DePreter, Blow
NAYES: Barnes, Pappas
MOTION CARRIED 5/2

<u>9. Other Business</u>

9. (a). Reminder of a Special Planning and Zoning Board Meeting in September.

Mr. Fredriksson advised the special meeting would take place on September 19th at 1pm.

Ms. Lopez provided an update on the Shaffer property.

<u>10. Adjournment</u>

Having no further business, Mr. Davis adjourned the meeting at 7:25 P.M.[8]

Mike Davis, Chairperson

[8] Transcribed by Michele Fudo