



**CITY OF ST. AUGUSTINE CITY COMMISSION
REGULAR MEETING AGENDA
MONDAY, FEBRUARY 26, 2024 - 5:00 PM**

ALCAZAR ROOM

1. CALL TO ORDER

- ◆ Roll Call
- ◆ Moment of Silence and Pledge of Allegiance

2. ADMINISTRATIVE ITEMS

- ◆ Modification and Approval of REGULAR AGENDA

3. SPECIAL PRESENTATIONS, RECOGNITIONS AND PROCLAMATIONS

- 3.A. Proclamation 2024-07:** Proclaiming March 4-10, 2024 be designated as Flood Awareness Week in the city of St. Augustine. *(N. Sikes-Kline, Mayor)*

4. PUBLIC COMMENTS FOR GENERAL PUBLIC COMMENTS OR FOR AGENDA ITEMS NOT REQUIRING A SEPARATE PUBLIC HEARING

- ◆ 3 minutes per individual

5. CONSENT AGENDA

6. APPEALS - PUBLIC HEARING REQUIRED

- 6.A.** Review of the existing record and reconsideration of the appeal application in light of the Court's order regarding a retaining wall/landscape feature at 40 Hildreth Way and 0 Hildreth Drive. *(I. Lopez, City Attorney)*
- 6.B.** Appeal of approval by the Planning and Zoning Board of a Conservation Overlay Zone Development Permit regarding a dock modification at 11 Magnolia Avenue. *(A. Skinner, Planning and Building Director)*

7. GENERAL PUBLIC PRESENTATIONS, ITEMS OF GREAT PUBLIC IMPORTANCE, AND OTHER ITEMS REQUIRING PUBLIC HEARINGS

(PRESENTATIONS (MAXIMUM OF **10** MINUTES PER PRESENTATION)). PRESENTATIONS FOR COMMISSION MEETINGS MUST BE PRESENTED TO THE CITY MANAGER FOR APPROVAL NO LATER

THAN TEN (10) WORKING DAYS PRIOR TO THE NEXT CITY COMMISSION MEETING. A PRESENTATION SUPPORT SERVICES REQUEST (AVAILABLE ON THE CITY'S WEBSITE) MUST ACCOMPANY ALL PRESENTATIONS.

- 7.A. General Public Presentations**
- 7.B. Items of Great Public Importance**
- 7.C. Other Items Requiring Public Hearing**

8. ORDINANCES AND RESOLUTIONS - PUBLIC HEARING REQUIRED

- 8.A. Ordinances - Second Reading**
- 8.B. Ordinances - First Reading (only if required by law)**
- 8.C. Resolutions - Public Hearing (only if required by law)**

9. ORDINANCES AND RESOLUTIONS – NO PUBLIC HEARING REQUIRED

9.A. Ordinances - First Reading

- 9.A.1. Ordinance 2024-04:** Amends the existing design of the building for the existing Planned Unit Development (PUD) at 36 Granada Street and 8 DeSoto Place to enclose a courtyard. *(A. Skinner, Director Planning and Building)*

9.B. Resolutions

10. STAFF REPORTS AND PRESENTATIONS

- 10.A.** Review of memorial plaque for former Mayor George Gardner at Herbie and Annette Wiles Park on East Park Avenue and its proposed location. *(D. Birchim, City Manager)*
- 10.B.** Noise Ordinance update. *(A. Cuthbert, Assistant Police Chief)*
- 10.C.** Request for approval of License Agreement between the City and St. Johns County Cultural Events Inc. regarding the Sing Out Loud festival. *(M. Breidenstein, Assistant City Manager)*

11. ITEMS BY CITY ATTORNEY

12. ITEMS BY CITY CLERK

13. ITEMS BY CITY MANAGER

14. ITEMS BY MAYOR AND COMMISSIONERS

15. ADJOURN

NOTICES: In accordance with Florida Statute 286.0105: "if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." ***In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the individual or agency sending notice not later than seven days prior to the proceeding at the address given on the notice. Telephone 904-825-1007; 1-800-955-8771 (TDB) or 1-800-955-8770 (V) via Florida Relay Services. The materials prepared and presented are part of the City's ongoing Florida Public Records and Government in the Sunshine compliance and are not intended to be relied upon or to reach investors or the trading markets.

CONSENT AGENDA - FEBRUARY 26, 2024

- CA.1.** Preview of upcoming Commission meetings.
- CA.2.** **THE FOLLOWING ORDINANCES ARE TENTATIVELY SCHEDULED FOR SECOND READING ON MARCH 11, 2024:**
- **Ordinance 2024-04:** Amends existing PUD
- CA.3.** **Reminder of Upcoming Meetings:**
- March 11, 2024, 5:00pm, Regular City Commission meeting
 - March 25, 2024, 5:00pm, Regular City Commission meeting
 - April 8, 2024, 5:00pm, Regular City Commission meeting
 - April 22, 2024, 4:00pm, Community Redevelopment Agency meeting
 - April 22, 2024, 5:00pm, Regular City Commission meeting
- CA.4.** **APPROVAL OF MINUTES FROM PRIOR COMMISSION MEETINGS: NONE.**
- CA.5.** **RELEASES OF LIEN FOR UNIT CONNECTION FEE MORTGAGE(S): NONE.**
- CA.6.** **PROPOSED PROCLAMATIONS, CERTIFICATES OF APPRECIATION/RECOGNITION. (COMMISSION APPROVAL REQUIRED). (TO BE READ AT A SUBSEQUENT MEETING). NONE.**
- CA.7.** **NOTIFICATION OF PROCLAMATIONS/CERTIFICATES OF RECOGNITION ISSUED: NONE.**
- CA.8.** Approval of the nomination of Regina Gayle Phillips for the 2024 Adelaide Sanchez Award for Historic Preservation Education and Interpretation. *(B. Blonder, Commissioner)*
- CA.9.** Release of Code Enforcement Lien: 118 Lincoln Street - Direct Home Buyer 1, Inc.

End Consent Agenda



Est. 1565

City of St. Augustine

La Lealísima y Valerosa Ciudad de San Agustín de la Florida

PROCLAMATION

WHEREAS, the City of St. Augustine has experienced severe weather in the past in the form of extreme rainfall or tropical system events resulting in flooding throughout the City, and this flooding has caused damage and flood losses to homes and buildings in all areas whether they are high-risk special flood hazard areas or low to moderate risk flood zones; and

WHEREAS, the City of St. Augustine is a voluntary participant in the National Flood Insurance Program that provides residents with the opportunity to protect themselves against flood loss through the purchase of flood insurance at reduced insurance premium rates as well as setting higher regulatory standards to reduce the flood risk and potential flood damage to their property; and

WHEREAS, the reduction of loss of life and property damage can be achieved when appropriate flood preparedness, control, and mitigation measures are taken before a flood; and

WHEREAS, public education and awareness of potential weather hazards and methods of protection are critical to the health, safety and welfare of residents; therefore, the Florida Floodplain Managers Association (FFMA), have declared the week of March 4-10, 2024 as Flood Awareness Week to promote awareness and increase knowledge of flood risk, the availability of flood insurance, flood protection methods, and how to prepare for emergencies.

***NOW, THEREFORE,** the City Commission of the City of St. Augustine, Florida, proclaims **MARCH 4-10, 2024,** be designated as **FLOOD AWARENESS WEEK,** and further encourages the citizens of St. Augustine to increase their knowledge of how to protect themselves and their property from flooding.*

***IN WITNESS WHEREOF,** I hereunto set my hand and do cause the Seal of the City of St. Augustine to be affixed this 26th day of February in the year of our Lord two thousand twenty-four and the four hundred and fifty eighth year of the founding of St. Augustine, the Nation's Oldest City.*

2024-07

Nancy Sikes-Kline, Mayor

"Most Loyal and Valorous"

Title conferred upon the Presidio of St. Augustine by King Philip V of Spain, November 26, 1715

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: Mayor, Vice-Mayor, and Commissioners

DATE: February 15, 2024

RE: **HEARING OF APPEAL ON REMAND OF PLANNING & ZONING BOARD'S DENIAL OF A CONSERVATION OVERLAY ZONE 1 PERMIT – CASE NO.: 2022-0005 & 2022-0043 (40 HILDRETH WAY AND 0 HILDRETH DRIVE)**

On August 8, 2023, a Court order was issued quashing the City Commissions Order to deny a retaining wall/landscape feature adjacent to rip rap at 40 Hildreth Way and 0 Hildreth Drive. A copy of the Order is enclosed.

This is a hearing on remand pursuant to the Court's instructions in its Order. The judge cannot directly issue the permit; therefore he ordered the City to hold this hearing and apply the substance of his decision. This hearing is to reconsider the Applicant's existing appeal application in light of the Court's order.

Procedure:

Public comment will be taken, and the Applicant may make a brief presentation based on their existing appeal application. This is not a hearing to bring up new evidence, but to review the existing record, apply the court Order, and make a final determination.

Thank you.

/s/ Isabelle C. Lopez

Isabelle C. Lopez
City Attorney

/s/
Attachment

Cc: James Whitehouse

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
ST. JOHNS COUNTY, FLORIDA

CASE NO.: AP22-0005
DIVISION: 55

JESSICA BLAIR SHAFER,
Petitioner,

vs.

CITY OF ST. AUGUSTINE, FLORIDA,
Respondent.

ORDER GRANTING PETITION FOR WRIT OF CERTIORARI

THIS CAUSE came before the Court on Petitioner Jessica Shafer's Petition for Writ of Certiorari. [DIN 3]¹ The Court has reviewed and considered the Petition and the relevant appendices thereto, the Response to the Petition [DIN 20], and the Reply [DIN 30]. Being fully advised in the premises, the Court finds as follows:

Petitioner seeks to quash the City of St. Augustine Commission's ("City" or "Commission") denial of Petitioner's applications for conservation overlay zone development permits for a decorative landscape wall, rendered on October 12, 2022. The Court has jurisdiction to hear this Petition pursuant to Rules 9.030(c)(3) and 9.100, Fla. R. App. P.

¹ Reference to the court file are made by identifying the Docket Identification Number ("DIN") for the filing references. *E.g.* [DIN 1]

Standard

The decision of a county or city regarding land use permitting is a quasi-judicial function, not legislative, and thus, reviewable by the courts via certiorari. *Broward County v. G.B.V. Int'l, Ltd.*, 787 So.2d 838, 843 (Fla. 2001). In reviewing the City's decision, the Court must consider: (i) whether procedural due process was afforded to the parties; (ii) whether the essential requirements of law were observed; and (iii) whether the findings and judgment are supported by competent, substantial evidence. *Haines City Cmty. Dev. v. Heggs*, 658 So.2d 523, 530 (Fla. 1995)(citing *City of Deerfield Beach v. Vaillant*, 419 So.2d 624, 626 (Fla. 1982)). The Court is not entitled to reweigh the evidence or substitute its judgment for that of the agency or local government. *See Dep't. of Highway Safety and Motor Vehicles v. Trimble*, 821 So.2d 1084, 1085 (Fla. 1st DCA 2002). The Court is restricted solely to the record of the proceeding below and can only consider facts presented at that proceeding. *Battaglia Fruit Co. v. City of Maitland*, 530 So.2d 940, 943 (Fla. 5th DCA 1988). The Court's certiorari review power does not allow the Court to direct the lower tribunal to take any action but is limited to quashing the order being reviewed, if appropriate. *See City of Kissimmee v. Grice*, 669 So.2d 307, 309 (Fla. 5th DCA 1996)(citing *ABG Real Estate Dev. Co. of Florida, Inc. v. St. Johns County*, 608 So.2d 59 (Fla. 5th DCA 1992)). *Bd. of County Commissioners of Brevard County v. Snyder*, 627 So.2d 469 (Fla.1993), sets forth the controlling rules

concerning the burden of proof and quality of evidence in zoning cases. Specifically, *Snyder* holds that a landowner seeking to rezone property has the burden of proving his or her proposal is consistent with the comprehensive plan, after which the burden shifts to the City to show that maintaining the existing zoning accomplishes a legitimate public purpose. *Id.* If the landowner meets his or her burden, the City must show there was substantial competent evidence presented to the Commission to support its action. *Id.* at 476. *See also G. P. V. Int'l. Ltd.*, 787 So.2d at 842.

Here, Petitioner had the initial burden of showing that the applications met the requirements of the relevant ordinance. If met, the burden shifted to the Respondent to provide competent, substantial evidence that rebuts the presumption. Petitioner argues that the City's denials of her applications were not supported by competent, substantial record evidence.

On first-tier certiorari review, the Court's task is to review the record for evidence that supports the agency's decision, not that rebuts it—for the Court cannot reweigh the evidence. *Id.* As indicated in *Dusseau v. Metro. Dade County Bd. of County Comm.*, 794 So.2d 1270, 1275-76 (Fla. 2001), as long as the record contains competent, substantial evidence to support the City's decision, the decision is presumed lawful.

Additionally, lay witnesses may offer their views in land use cases about matters not requiring expert testimony. *Metro. Dade County v. Blumenthal*, 675

So.2d 598, 601 (Fla. 3d DCA 1995). For example, lay witnesses may testify about the natural beauty of an area because this is not an issue requiring expertise. *Blumenthal*, 675 So.2d at 601. However, lay witnesses' speculation or comments about unfavorable impacts of a proposed land use permit such as traffic or pollution are not considered competent, substantial evidence. *Pollard v. Palm Beach County*, 560 So.2d 1358, 1359–60 (Fla. 4th DCA 1990). For example, lay witnesses' opinions that a proposed land use will devalue homes in the area are insufficient to support a finding that such devaluation will occur. *See City of Apopka v. Orange County*, 299 So.2d 657, 659–60 (Fla. 4th DCA 1974). There must be evidence other than the lay witnesses' opinions to support such claims. *See BML Invs. v. City of Casselberry*, 476 So.2d 713, 715 (Fla. 5th DCA 1985); *City of Apopka*, 299 So.2d at 660.

Procedural and Factual History

Petitioner appeals the City's denial of her applications for conservation overlay zone permits for her existing decorative landscape wall on her property.² Section 11-29 is the applicable City code provision which states in relevant part:

Sec. 11-29. - Standards for review.

(a) Permits for structures and uses located within Conservation Overlay Zone 1 shall be issued only for such structures and uses which have received permits under provisions of applicable federal and state regulations and will be issued only for those structures and related uses

² Petitioner's decorative landscape wall was constructed without first obtaining a permit from the City. Although not a desirable practice, as discussed below, nothing in the existing City code prohibited a landowner from seeking a permit after such an improvement had been installed.

such as fishing piers and catwalks, boardwalks, boat docks, boathouses, boat ramps, marinas, and marine railways, as well as dredging and filling, which are determined to be to the benefit of the public as a whole and which are determined as having no significant negative impact on natural systems, by either individual or cumulative effect. The planning and zoning board is authorized to impose limitations in the nature and manner of construction and/or use so as to avoid damage to adjacent salt marshes and the vegetative communities contained therein, to eliminate any harm to the animal, fish or shellfish contained therein, to avoid blocking or disrupting vistas and scenic opportunities, and to enhance those vistas and scenic opportunities which are determined to benefit the public as a whole.

...

(c) Applications for development in Conservation Overlay Zones shall be evaluated according to the following criteria:

- (1) Site specific conditions.
- (2) The site's relationship to adjacent properties, bodies of water and surrounding conservation zones.
- (3) Natural and proposed drainage patterns.
- (4) Effect of point and nonpoint discharge in the marine environment.
- (5) Proposed soil stabilization and erosion control methods.
- (6) Impact on floodplain.
- (7) Impact of development on vegetative and animal communities.
- (8) Potential for contaminated drainage, storage of pollutants and the use of poisonous chemicals and materials.
- (9) Effect of shade on vegetation and shellfish.
- (10) Effect of boat wake and boat traffic on manatees, vegetation, shellfish and wildlife, as well as shoreline erosion.

- (11) Impact of development on shoreline by linear feet and percent of site.
- (12) Impact of development on vistas and scenic opportunities by linear feet, height, mass and percent of site.
- (13) Existing amounts of native plants and proposed retention and use of native plants for landscape and open space purposes.
- (14) Impact of development on plant and animal habitat and potential loss in acres and percent of site.
- (15) Impact of development on water quality. Water quality objectives will be presumed to have been met if runoff water is routed to a surface water management system permitted by the St. Johns River Water Management District or to a treatment facility that is equivalent to the water quality treatment criteria (water retention/detention) of the water management district. (An engineer or landscape architect licensed in the State of Florida is required to certify that the treatment facility is equivalent to the district's criteria.)
- (16) Impact of development on shellfish and on commercial and sport fish and waterfowl.
- (17) Specific conditions applicable to docks. . . .

Petitioner's initial application for approval was submitted to the City in response to a City Code Enforcement investigation of Petitioner's backyard project at adjacent-attached properties from Petitioner's residence. (TAB N: p.9-11, City Staff Chronology).³ Petitioner installed the decorative landscape wall in the backyard of her property uplands as part of a backyard beautification project at her home. Additionally, as noted by Petitioner, her environmental wetland scientist, and within the survey notes of the Florida Department of Environmental Protection

³ References to "Tabs" are to Petitioner's Appendix [DIN 4, 6-15].

(FDEP) meetings, the property already contained rip-rap rock, just landward of the marsh, that had been located along the width of her property prior to the placement of this stacked block decorative landscape wall; thus, based upon the location outside the wetlands and the perviousness of the decorative landscape wall, she initially assumed a permit was not needed. (TAB I: p. 11-12, Feb 1 Minutes; p.232-234, FDEP 2016 Investigative reports; and TAB J: Feb 1 Transcript, p.3, 31-42). According to the record, Petitioner testified that placement of the decorative landscape wall was an attempt to beautify her backyard from the view of the rip-rap. (Tab J: *Id.*). The landscape wall was initially installed on Petitioner's property at 40 Hildreth Way. It was not until Petitioner put her adjacent lot at 0 Hildreth Way on the market that City Code Enforcement and the FDEP came to her property, based upon complaints as to "the installation of a wall in the wetlands." (TAB J, *Id.*). After investigation, the FDEP found that the wall was in the uplands, outside of the wetlands. City staff determined that the wall was in a Conservation Zone and informed Petitioner that she needed to make application for a conservation overlay zone permit to maintain the wall. (TAB J, *Id.*).

An application with attached documents signed on December 15, 2021, was submitted by Petitioner to the City's Planning and Zoning Board ("PZB") for a "decorative landscape wall on the back of the property to hide a rip-rap wall that was approved by the DEP." (TAB N, p. 9-30). The application was scheduled to be heard

by the PZB at their regularly scheduled February 2022 meeting. Within that application, (TAB N, p.9-30), Petitioner provided evidence including a description of the landscape wall and justification, as well as a survey showing its location. Further, Petitioner supplemented her submission with a certified attestation from architect Les Thomas, dated January 21, 2022, which stated that the wall “does not touch the existing permitted rip rap;” “the wall is made of Tremron Blocks that are simply stacked;” and “there is no mortar in the joints and there is no concrete footing under the wall.” Mr. Thomas further stated that “the Tremron block is pervious to allow water to flow through and water can also seep through the joints;” thus, he concluded “without a footing as hindrance the water can flow in both directions.” Mr. Thomas closed with “the wall acts as an aesthetic cover to the rip-rap behind it.” (TAB E).

In preparation for the Feb. 1, 2022, PZB meeting, the City's planning staff analyzed the application request, including the Petitioner's architect report and findings, and found it met the requirements for approval. The City's staff found in its “staff analysis” that Petitioner satisfied each of the 17 code criteria, concluding:

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 151 151-0010.

(TAB B, p.6).

The application was heard at the Feb. 1, 2022 PZB meeting. The City's Senior Planner read the staff report with their expert staff analysis and recommendation for approval. (TAB B, p. 1). Petitioner added confirmation of the above request and justification, followed by the Chair reading several comments into the record, including several that stated they opposed the request "until expert study by DEP confirms there will be no adverse impact," and others that stated "the marsh lagoon floods every flood tide" and this is definitely going to cause "flooding, flooding opening a can of worms." (TAB J, p.4-6). Then, the PZB moved to public comment, which consisted of several speakers that expressed their opposition and concerns regarding the wall. The public commenters asserted the wall would have a deleterious effect on their property and the area due to contributing to flooding in the area. (TAB J, p.6-20).

Petitioner's next-door neighbor also spoke at that PZB meeting and stated, that while she too was concerned with flooding in the area, she didn't view the subject wall as concerning or contributing to the flooding, and she supported approval of the permit. (TAB J, p.20-21).

No expert or fact-based lay opinion testimony was offered at the meeting that contradicted the City's expert staff analysis that the project met the 17 criteria and should be approved, or contradicted Petitioner or her architect's testimony. (TAB J, p.31-69)

The City's attorney cautioned the PZB at that meeting that "there's a Florida statute that says we cannot require state permitting before they come before our board," and "the focus of the questions and the criteria should be the 17 [code] criteria. . ." (TAB J, p.36)

The PZB then proceeded to give Petitioner a list of additional things it wanted to see, notwithstanding the recommended approval by its City's staff, including: a "history of the rip-rap;" "some specs on the blocks — identifying their porosity," "outcome of the meeting with DEP;" a "survey;" and finally, "something signed and sealed from an engineer with expertise in this area . . . who says this is not going to impact your neighbors the way this water moves" and "addressing the 17 criteria that our board looks at." The PZB continued the matter with those directives to their April 5, 2022 meeting. (TAB J, p.55-74)

The matter next came back to the PZB on April 5, 2022. The Chair asked the City staff for their report and recommendation, who again, reiterated their analysis that the matter met the 17 code criteria and recommendation for approval. (TAB K, p.8-12; TAB C) Following the staff report, Petitioner requested a continuance to be able to secure the additional information requested by the PZB at the February meeting. (TAB K) The PZB continued the matter seeking the same requested information as previously outlined. (TAB K, p.8-12)

The matter next came before the PZB on August 2, 2022. Prior to that meeting, Petitioner secured the services of a professional engineer (TAB F), an environmental scientist (TAB G), and a specific purpose survey (TAB H). The City's staff did not have the opportunity to review those materials prior to the August 2, 2022 meeting because of its late submission prior to the meeting (TAB L). Nevertheless, the PZB allowed Petitioner to submit her responses to its earlier requests at that meeting. At the August 2, 2022 meeting, the City staff again stated Petitioner still met the 17 code criteria, but this time concluded in their final report that since the staff did not have time to review Petitioner's expert's reports they changed their recommendation to a denial. (TAB N: p.9-11, City Staff Chronology). At that meeting, Petitioner discussed the expert materials that she submitted in response to the PZB's earlier request. (TAB M, p.2-6 and TAB D, E, F, G & H). Petitioner had her environmental scientist discuss the concerns and spoke of the evidence that she provided as requested. (TAB D, E, F, G & H). Petitioner's environmental scientist Jonathan Summerfield, testified regarding the project, his dealings with DEP including their findings that this wall was appropriate and did not infringe on the wetlands, and how the project met the City's 17 code criteria. (TAB M, p.5-6; p.41-51; p.55-60).

At that final Aug. 2, 2022 PZB meeting, once again many of the same commenters appeared and spoke, again expressing their concerns with flooding,

their interpretations of the code and regulations, their lay opinions that this was a bulkhead that this was in the wetlands, and that this was initially built without first obtaining a permit. (TAB M, p. 10-36). There was no evidence that mentioned, contradicted or contravened the expert evidence from City's staff that the proposal met the 17 code criteria for approval, or the reports and testimony of Petitioner's architect, engineer, and environmental wetland scientist.

Each of the PZB members proceeded to make comments on their thoughts and opinions, which included a continued expression that they required additional information, or that they did not trust the evidence provided and they wanted more information, even given the City's staff evaluation and Petitioner's expert testimony. Some of the commentary from the Board included: PZB member Pappas stating, "the rip-rap wall needs a City permit. I don't care about the DEP... I'm on the City. This needs a City permit." (TAB M, p.69). PZB member Depreter followed stating, "I agree with you. The City never permitted the rip-rap, period. And now we're talking about the wall, so my understanding is you need Army Corps. of Engineers, but you also need City approval..." *Id.* Both did not mention the expert City staff evaluation of the 17 code criteria provided, or the fact the City's staff addressed the rip-rap as aforementioned. PZB member Griggs stated that she believed that the engineer "in order to evaluate the drainage patterns on the site and even for the engineer to properly evaluate it, they would have needed topography...so I feel like

that is something that is still needed for me to feel comfortable moving forward.” (TAB M, p.48). She continued that she wanted the “specification sheets for the Tremron blocks,” despite the expert evaluations provided by an architect and engineer evaluating the blocks. (TAB M, p.51). She concluded by stating that she felt they should have submitted “a groundwater flow report” for consideration, (TAB M, p.54) even though neither the Code, nor the previous instructions to Petitioner, required such a report. Finally, PZB member Misterly said of the expert evidence presented, including the engineer’s report, “it does not satisfy for me that the 17 criteria were met,” and he wanted a more detailed report and evaluation by the “City public works department with expertise in drainage and stormwater.” (TAB M, p.63-65).

The PZB ultimately voted to deny Petitioner’s application. Petitioner proceeded to appeal the denial to the City Commission, as provided for within the City Code. (TAB N). A hearing on the appeal was conducted in front of the City Commission on Oct. 10, 2022. At that hearing, the City Commission allowed the City’s administrative staff to give a summary of the proceedings before the PZB and the evidence presented, including the three expert staff reports finding that the proposal met the City’s 17 code criteria and the recommendations for approval; the reports and testimony Petitioner’s architect engineer, wetland scientist, and the specific purpose survey. Petitioner then argued her appeal to the City Commission.

The City Commission allowed public comment as required, but the City's Attorney reminded them that no further evidence was to be submitted or considered. The City Commission received many of the same public comments as presented before the PZB.

Following a rebuttal by Petitioner's counsel, the City Commissioners commented on the application. Four commissioners stated their concerns, including noting that they were not comfortable with this application because, "I am concern[ed] . . . about the potential for setting a precedent within our conservation overlay zones by which construction is completed in advance of the permitting process," and "I agree about the after the fact, that makes it difficult (to approve)." (TAB P, p.87-93). Another commissioner stated she was "finding it difficult to call some of these (expert) reports credible," (TAB P, p.93). The City Commission ultimately denied the appeal and permit. (TAB P, p.89-94).

Analysis

Petitioner argues the record supports finding competent, substantial evidence supports approval of her applications. On first-tier certiorari review, the Court's task is to review the record for evidence that supports the agency's decision, not that rebuts it, for the Court cannot reweigh the evidence. The record before this Court contains no competent, substantial evidence, that supports the City's decision to deny Petitioner's applications. The lay commenters before the PZB and City

Commission surmised that the wall would cause more flooding in the neighborhood. There was no foundation for those opinions which were in contrast to the City's own experts, and the Petitioner's architect, engineer, and wetlands scientist; therefore, the testimony in opposition cannot be considered competent, substantial evidence.

The City responds to the petition asserting that it did not find Petitioner's experts and evidence credible. Once Petitioner put forward competent, substantial evidence that she met the criteria in the Code, the burden shifted to either the City or a third-party to put forward evidence how she did not. The City's own staff report stated that based on its review and "without the support of evidence to the contrary" that Petitioner met the 17 criteria for approval for her applications for permits. The City argues in its brief that Petitioner's experts' reports were not credible for numerous technical reasons; however, the City is not permitted to supplement the record with after-the-fact arguments, especially without the proper record foundation. Allowing the City, to base its denial on the standard that it just does not believe Petitioner's experts and evidence without any foundation for that belief, would negate the burden shifting requirement found in *Broward, supra.*, and lead to arbitrary and capricious decisions.⁴ Sitting in its quasi-judicial function, rather than

⁴ Although not necessary to consider for the purposes of this Order, some City and PZB members focused on factors, such as whether this permit was being applied for after-the-fact, instead of the 17 criteria in the City's Code. The determination should be made solely based on the factors stated in the City's Code. While beginning construction, in a conservation overlay zone without a permit should have consequences, the consequences should be determined by the City in its legislative function in development of its Code and not in an *ad hoc* manner during the permitting process.

its legislative function, the City's conclusion denying the permits must be based on competent, substantial evidence based on the record before this Court. The City's denial of Petitioner's applications was not supported by competent, substantial evidence, and thus, its Orders must be quashed.

Accordingly, it is:

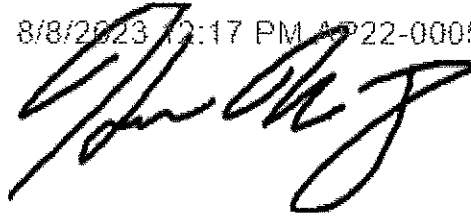
ORDERED AND ADJUDGED that:

1. The Petition for Writ of Certiorari is hereby GRANTED.
2. The "Order Affirming on Appeal the Planning and Zoning Board Decision and Denying an Application for a Conservation Overlay Zone Permit to Allow a Wall at 40 Hildreth Way; Case No. 2022-0062; Application No. 2022-0005" is hereby QUASHED, and this cause remanded to the City for its determination consistent with the provisions of this Order.
3. The "Order Affirming on Appeal the Planning and Zoning Board Decision and Denying an Application for a Conservation Overlay Zone Permit to Allow a Wall at 0 Hildreth Way; Case No. 2022-0062; Application No. 2022-0043" is hereby QUASHED, and this cause remanded to the City for its determination consistent with the provisions of this Order.

DONE AND ORDERED in chambers, in St. Johns County, Florida, on 08 day of August, 2023.

The fact the wall had been initiated prior to obtaining a permit is not a criteria enumerated in the current City Code for determination of an application.

8/8/2023 12:17 PM AP22-0005

A handwritten signature in black ink, appearing to read "Howard M. Maltz", is positioned above the printed name and title.

e-Signed 8/8/2023 12:17 PM AP22-0005

HOWARD M. MALTZ

CIRCUIT JUDGE

Copies furnished to:

James G. Whitehouse, Esq.
Isabelle Lopez, Esq.

**CITY OF ST. AUGUSTINE
APPLICATION TO APPEAL OFFICIAL, BOARD
OR STAFF DECISION**

CHECKLIST FOR COMPLETION OF APPLICATION

Appellant Name - John and Glise Kimbaga
Address of Property (Subject of the Appeal) - 11 Magnolia Avenue
Project Number - 2022-0094

YES NO



Has the applicant fee been paid?



Has line 4, application to appeal determination of the following been completed?



Has line 5, applicant name and contact information been completed?



Has line 6, legal description of property under appeal been completed?



Has line 7, street address of property under appeal been completed?



Has line 8, appellee contact information been completed?



Has line 9, description of action being appealed been completed?

If no, what information is necessary to complete this section? _____



Has line 10, date of action being appealed been completed?



Has the appeal been filed within the required time according to City Code?



Has line 11, description of impact of action on appellant been completed?

If no, what information is necessary to complete this section? _____



Has line 12, specific grounds for the appeal been completed?

If no, what information is necessary to complete this section? _____



Has line 13, specific action being requested been completed?

If no, what information is necessary to complete this section? _____



Is line 14, agreement been completed?



Has line 15, signature of appellant been completed?



Has a transcript been submitted to accompany this appeal application?



Is the appellant an aggrieved party?

Comments:

City Attorney

Date

**CITY OF ST. AUGUSTINE
APPLICATION TO APPEAL OFFICIAL, BOARD
OR STAFF DECISION**

CHECKLIST FOR COMPLETION OF APPLICATION

Appellant Name -	<u>Michael H. Ingram</u>
Address of Property (Subject of the Appeal) -	<u>11 Magnolia Avenue</u>
Project Number -	<u>2022-0094</u>

YES NO

- | | |
|-------------------------------------|--|
| ☒ | Has the applicant fee been paid? |
| ☒ | Has line 4, application to appeal determination of the following been completed? |
| ☒ | Has line 5, applicant name and contact information been completed? |
| ☒ | Has line 6, legal description of property under appeal been completed? |
| ☒ | Has line 7, street address of property under appeal been completed? |
| ☒ | Has line 8, appellee contact information been completed? |
| ☒ | Has line 9, description of action being appealed been completed? |
| | If no, what information is necessary to complete this section? _____ |
| | _____ |
| | _____ |
| | _____ |

- | | |
|-------------------------------------|--|
| ☒ | Has line 10, date of action being appealed been completed? |
| ☒ | Has the appeal been filed within the required time according to City Code? |
| ☒ | Has line 11, description of impact of action on appellant been completed? |
| | If no, what information is necessary to complete this section? _____ |
| | _____ |
| | _____ |



Has line 12, specific grounds for the appeal been completed?

If no, what information is necessary to complete this section? _____



Has line 13, specific action being requested been completed?

If no, what information is necessary to complete this section? _____



Is line 14, agreement been completed?



Has line 15, signature of appellant been completed?



Has a transcript been submitted to accompany this appeal application?



Is the appellant an aggrieved party?

Comments:

City Attorney

Date

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim, AICP
City Manager

DATE: February 15, 2024

RE: **Appeal of a Planning and Zoning Board (PZB) Action – Approval of Conservation Overlay Zone 1 Development at 11 Magnolia Avenue**

Chronology

11 Magnolia Avenue

- An application was submitted by Ryan Carter, Carter Environmental Services, Inc. on behalf of the property owner Fountain of Youth Prop, Inc. to the Planning and Zoning Board (PZB) for “a proposed dock modification that includes 4 new boat lifts accessed by catwalks as well as an observation deck....Total dock and lifts area over open water will be approximately 11,472 sq. ft. The height of the dock will be 5’ above Mean High Water.” signed on November 17, 2022.
- The application was heard by the PZB at their regularly scheduled February 7, 2023, meeting. The application included conservation overlay zone requests for the boat slips with lifts and a new observation deck to the south.
- The PZB approved the application with conditions.
 - The conditions included that: the 4 boat slips are for personal use of the property owners only;
 - the city archaeologist will evaluate the impact of the proposed development; and
 - staff will determine the need for a submerged land lease.

Staff Notations

- The applicant was granted approval by the PZB for the construction of the boat slips with lifts and a new public observation deck to the south.
- Within a timely fashion two (2) separate appeal applications were submitted.
- The first appeal application was submitted by John and Elise Kulaga (Represented by James G. Whitehouse, Esq.) owners of 5 Radio Road.

- The second appeal application was submitted by Michael H. Ingram, who identified 1 Radio Road, Unit 201 as his address on the application, however this name is not listed as the current property owner of this property/unit on the St. Johns County Property Appraisers website.
- It is the city's understanding that the subject property owners (Fountain of Youth Prop, Inc) and the appellants engaged in conversation to attempt to resolve any dispute.
- The city has been notified that the attempts to resolve any issues have ceased, and that the appeal application should proceed to the City Commission.

Appeal Applications

The first appeal application describes the grounds for this appeal stating that the PZB's approval of the application impacts the adjacent property owners at 5 Radio Road.

It describes a significant impact to their ability to use Hospital Creek because it is constrained in nature, it will impact their scenic vista, and it increases the impact of the existing significant dock structure on the surrounding properties and the creek environment.

The appellant requests that the City Commission evaluate the appeal and overturn the PZB approval.

The February 2023 PZB hearing included public testimony from the applicant, and members of the public. All procedural aspects of the PZB hearing were correctly followed and the written orders accompanying these hearings were properly notated.

A verbatim transcript has been included in the appeal application.

The second appeal application describes the grounds for this appeal stating that the PZB's approval of the application impacts the adjacent property owners at 1 Radio Road, Unit 201. Based on the appeal application the appellant indicated that they were an adjacent property owner.

It describes a significant impact to their ability to use Hospital Creek because it is constrained in nature, and it will impact their scenic vista.

The appellant requests that the City Commission evaluate the appeal and overturn the PZB approval.

The February 2023 PZB hearing included public testimony from the applicant, and members of the public. All procedural aspects of these PZB hearing were correctly followed and the written orders accompanying these hearings were properly notated.

A verbatim transcript has been included in the appeal application.

City Commission Options

As the City Commission considers the appeal applications, if it is determined that one or both appellants have standing the City Commission has three (3) options:

1. Uphold the Planning and Zoning Board (PZB) decision;
2. Reverse the Planning and Zoning Board (PZB) decision; or
3. Remand the issue back to the Planning and Zoning Board (PZB).

For your information find attached the original PZB application, the PZB Staff Report and Order. Also find attached each appeal application filed.

Please place this appeal on the February 26, 2024, City Commission Agenda. If you have any questions, please let me know.



Amy McClure Skinner, AICP
Director
Planning and Building Department

Application Submittal for 11 Magnolia Avenue



CITY OF ST AUGUSTINE
APPLICATION TO PLANNING AND ZONING BOARD

Application Fee: \$165 (plus advertising costs) Project Number: 2022-0094

Receipt Number: 2523227 Meeting Date: 02/07/23

Advertising Costs: \$ _____ Paid On: _____ Receipt Number: _____

1. NAME OF APPLICANT: RYAN CARTER Contact Number: 904-540-1786

Business (if applicable): CARTER ENVIRONMENTAL SERVICES, INC

Address: 42 MASTERS DR City: ST. AUGUSTINE State: FL Zip: 32084

E-Mail Address: RYAN@CARTERENV.COM

2. NAME OF PROPERTY OWNER: _____ Contact Number: 904-829-3168

Business (if applicable): FOUNTAIN OF YOUTH PROP INC

Address: 17 CORDOVA ST. City: ST. AUGUSTINE State: FL Zip: 32084

E-Mail Address: binningers@bellsouth.net

3. LEGAL DESCRIPTION OF PROJECT PROPERTY:

Lot: 4-55 FOUNTAIN OF YOUTH PARK

Block: 2 & WILLIAMS ST TO PONCE DELEON BROADCASTING IN OR 77/406

Subdivision: FOUNTAIN OF YOUTH PARK

Parcel Number: 1916000000

4. PROJECT STREET ADDRESS: 11 MAGNOLIA AVE

5. SPECIFIC PROPOSED USE: TOURIST ATTRACTION

6. ACTION REQUESTED:

☒ Conservation Zone Development ☐ Appeal of Staff Determination

☐ Exception ☐ Land Use Plan Amendment

☐ Variance ☐ Rezoning

☐ Other: _____

7. DESCRIPTION OF ACTION REQUESTED: PZB APPROVAL FOR A COMMERCIAL DOCK MODIFICATION

8. JUSTIFICATION FOR ACTION REQUESTED: PLEASE SEE OVERLAY ZONE DEVELOPMENT SUPPLEMENT

9. IF APPLYING FOR A VARIANCE, PLEASE COMPLETE THE FOLLOWING AND EXPLAIN THE SITUATION FULLY ALONG WITH PROVIDING DOCUMENTATION:

(a) Does the property because of size, shape, topography or other physical conditions, suffer singular disadvantage, which disadvantage does not apply to other properties in the vicinity: _____

(b) Can you establish that this disadvantage causes the owner to be unable to make reasonable use of the affected property: _____

(c) Can you establish that this disadvantage does not exist because of conditions created by the owner or applicant: _____

(d) Can you establish that granting of the variance will not be contrary to the public interest; will not adversely affect other property in the vicinity; and will be in harmony with the spirit, intent and purpose of this Section: _____

10. PREVIOUS APPLICATIONS:

Has any application been submitted to the Planning & Zoning Board concerning any part of the subject property within the past year?

☐ Yes ☒ No If yes, please give date and final disposition below.

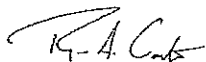
11. AGREEMENT:

In filing this application, I understand that it becomes a part of Public Record of the City of St. Augustine and hereby certify that all information contained herein is accurate to the best of my knowledge.

Application must be signed by both applicant and property owner if different. Letter of authorization must be submitted in absence of the property owner's signature or where an authorized agent signs in lieu of either property owner or applicant.

Florida Statute 286.0105 states that a person appealing any decision by this board at any meeting regarding this application may need a verbatim record of the proceedings which includes testimony and evidence upon which the appeal is to be based.

IMPORTANT NOTICE: When the hearing date has been set and a legal notice has been published or posted, the applicant must be prepared to present the request at the scheduled hearing date. If the applicant requests a continuance, the decision to grant or deny the request for continuance will be decided by a vote of the Board at the scheduled hearing date. The applicant, or a duly authorized representative with authority to bind, should be present at the scheduled hearing date to answer questions from the board regarding the application. If the board votes to deny the request for a continuance, the hearing on the application will go forward, whether or not the applicant is present, and could result in a denial of the application if the Board finds that the application and supporting documents submitted prior to the meeting do not meet the criteria of the Code.



Signature of Applicant

11-16-22

Date



Signature of Property Owner

11-17-22

Date



**CITY OF ST. AUGUSTINE
DEVELOPMENT PERMIT APPLICANT WAIVER**

The applicant acknowledges and agrees to waive the limitation of three requests for additional information by the City of St. Augustine, pursuant to Chapter 166.033, Florida Statutes.

The applicant acknowledges and agrees that the City offers weekly Friday Review development review meetings, as well as, department specific applicant meetings with its reviewing staff at any point in the application process to attempt to resolve outstanding issues. The applicant is responsible for scheduling any requested meetings with City staff directly.

The applicant acknowledges and agrees that if after three unresolved submittals the applicant elects to proceed with final approval or denial proceedings, the applicant must request so in writing to the City.

RYAN CARTER

Print name of applicant

A handwritten signature in black ink that reads "Ryan Carter".

Signature of applicant

11-16-22

Date



Owner's Authorization For Agent

CARTER ENVIRONMENTAL SERVICES is/are hereby authorized TO ACT ON BEHALF
OF FOUNTAIN OF YOUTH PROP INC, the owner(s) of those lands described within

☒ the attached application, or ☐ described within the previously filed
Application number: _____, and as described in the attached deed or
other such proof of ownership as may be required, in applying to the City
of St. Augustine's Planning & Zoning Board, located at:

BY: Joan Binninger
Signature of Owner
JOAN BINNINGER
Print Name of Owner
904-829-3168
Telephone Number

State of Florida

County of St Johns

Signed and sworn before me on this 17th day of November, 2022

By Joan Binninger who physically appeared and is
personally known to me.

Identification verified:

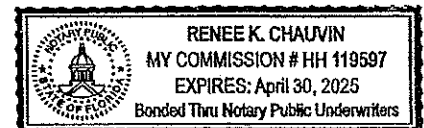
Oath sworn: _____ Yes X No

Notary Signature:

Renée K. Chauvin

My Commission expires:

4/30/2025



Attachment 1
Overlay Zone Application Narrative

**Fountain of Youth Dock Modification
Overlay Zone Development Application Supplement
December 2022**

This narrative is intended to supplement the Conservation Overlay Zone Development Application for a proposed dock modification that includes 4 new boat lifts accessed by catwalks as well as an observation deck. The proposed dock will allow the patrons of the Fountain of Youth Archeological Park access to Matanzas Bay. Total dock and lifts area over open water will be approximately 11,472 sq. ft. The height of the dock will be 5' above Mean High Water. Please see attached plans for detailed dimensions.

The construction proposed in this application would occur on lands located within Conservation Overlay Zones 1 and 2, as defined in Section 11-27 of the City Code. Section 11-29(a) of the Code sets forth certain criteria for structures located within Conservation Overlay Zones. The applicant has complied with each of those criteria, as detailed below:

1. *The proposed work will have a benefit to the public as a whole.*

This is a private dock. Public benefits may be economically related through construction activities and marine/boating related purchases.

2. *The proposed work will have no significant negative impact on natural systems (including adjacent salt marshes and the vegetative communities contained therein), by either individual or cumulative effect.*

There is no salt marsh vegetation in the current proposed dock or observation deck.

3. *The proposed structures will not block or disrupt any vista or scenic opportunities.*

No boat houses are proposed. Dock height will be similar to neighboring docks and comply with Federal and State regulations.

4. *The proposed work will enhance vistas and scenic opportunities for the benefit of the public as a whole.*

The approval of the dock will give the public the benefit of renting a boat during operating hours and observe the vistas and scenic opportunities in the vicinity.

Applications for development in Conservation Overlay Zones are to be evaluated according to certain criteria set forth in Section 11-29(c) of the City Code. The owner has complied with each of those criteria, as detailed below:

1. *Site specific conditions.*

This property has approximately 1,365 feet of Hospital Creek frontage. The property and adjacent properties utilize sea walls and are elevated from the coastline. Mangroves and marine vegetation are present in the region but not in the footprint of the proposed structures.

2. *The site's relationship to adjacent properties, bodies of water and surrounding conservation zones.*

The property sits on the Hospital Creek and is adjacent to other single-family homes and multi-family units to the North & South.

3. *Natural and proposed drainage patterns.*

Drainage will not be altered by the proposed works.

4. *Effect of point and non-point discharge in the marine environment.*

Point and non-point discharge will not be altered.

5. *Proposed soil stabilization and erosion control methods.*

Soil and erosion control may be necessary during construction, such as silt fences and turbidity barriers, but impacts will be temporary and no long-term erosional impacts will take place.

6. *Impact on floodplain.*

There is no impact on floodplains associated with this application.

7. *Impact of development on vegetative and animal communities.*

Vegetative impacts: There are no anticipated vegetative impacts as salt marsh, mangroves, and sea grass are not present. Also, the dock will minimally shade a small area of open water, but will be built as required by state and federal agencies, five feet or higher above mean high water.

Lighting of the open water areas at night: The proposed works will be lit with low-level, directional lighting that greatly minimizes the amount of light intrusion into the open water.

Increased noise from day users: Minimal noise associated with business operations boating activities.

8. *Potential for contaminated drainage, storage of pollutants and the use of poisonous chemicals and materials.*

There will be no storage of pollutants or the use of poisonous chemicals and materials

9. *Effect of shade on vegetation and shellfish.*

Effects of shading on vegetation are not anticipated. Negative effects to shellfish, if any, should be minimal, with potentially positive impacts in the form of additional substrate for shellfish to colonize.

10. *Effect of boat wake and boat traffic on manatees, vegetation, shellfish and wildlife, as well as shoreline erosion.*

The proposed dock site is located in a channel of water in Hospital Creek Matanzas Bay. Due to the tight and confined nature of the Hospital Creek channel it is difficult to During low tide sand/mud bar banks are exposed which limits the potential impact on animal, vegetation and erosional forces of any boating activities. Additionally, a seawall armors the existing Fountain of Youth property. Use of the dock by the owners will not affect any *manatees, vegetation, shellfish and wildlife or shoreline erosion.*

11. *Impact of development on shoreline by linear feet and percent of site.*

Not applicable.

12. *Impact of development on vistas and scenic opportunities by linear feet, height, mass and percent of site.*

Not applicable.

13. *Existing amounts of native plants and proposed retention and use of native plants for landscape and open space purposes.*

Not applicable.

14. *Impact of development on plant and animal habitat and potential loss in acres and percent of site.*

Not applicable.

15. *Impact of development on water quality.*

Not applicable.

16. *Impact of development on shellfish and on commercial and sport fish and waterfowl.*

- a) The effects of the proposed project on commercial and sport fish are as follows:

Positive: The proposed new dock supports will provide shelter for larval, juvenile, and adult fish.

Negative: Extremely small loss of juvenile habitat from the placement of approximately 48 new pilings for the dock construction.

- b) The effects of the project on shellfish are as follows:

Positive: The pilings used to construct the dock/lift additions could be colonized by barnacles, oysters, and mussels. This will be an addition of habitat.

Negative: None

- c) The effects of the project on water fowl are as follows

Positive: The additional dock area could be used as a resting place or perch for many water fowl.

Negative: Extremely small loss of foraging habitat.

17. Dock specifications:

- a) *No boathouse, roofed structure or wall shall be constructed on any dock.*

There are currently no proposed plans for any boathouse, roofed structure or wall within the dock.

- b) *The deck of any private boat dock shall not exceed six (6) feet in height above the mean high water line.*

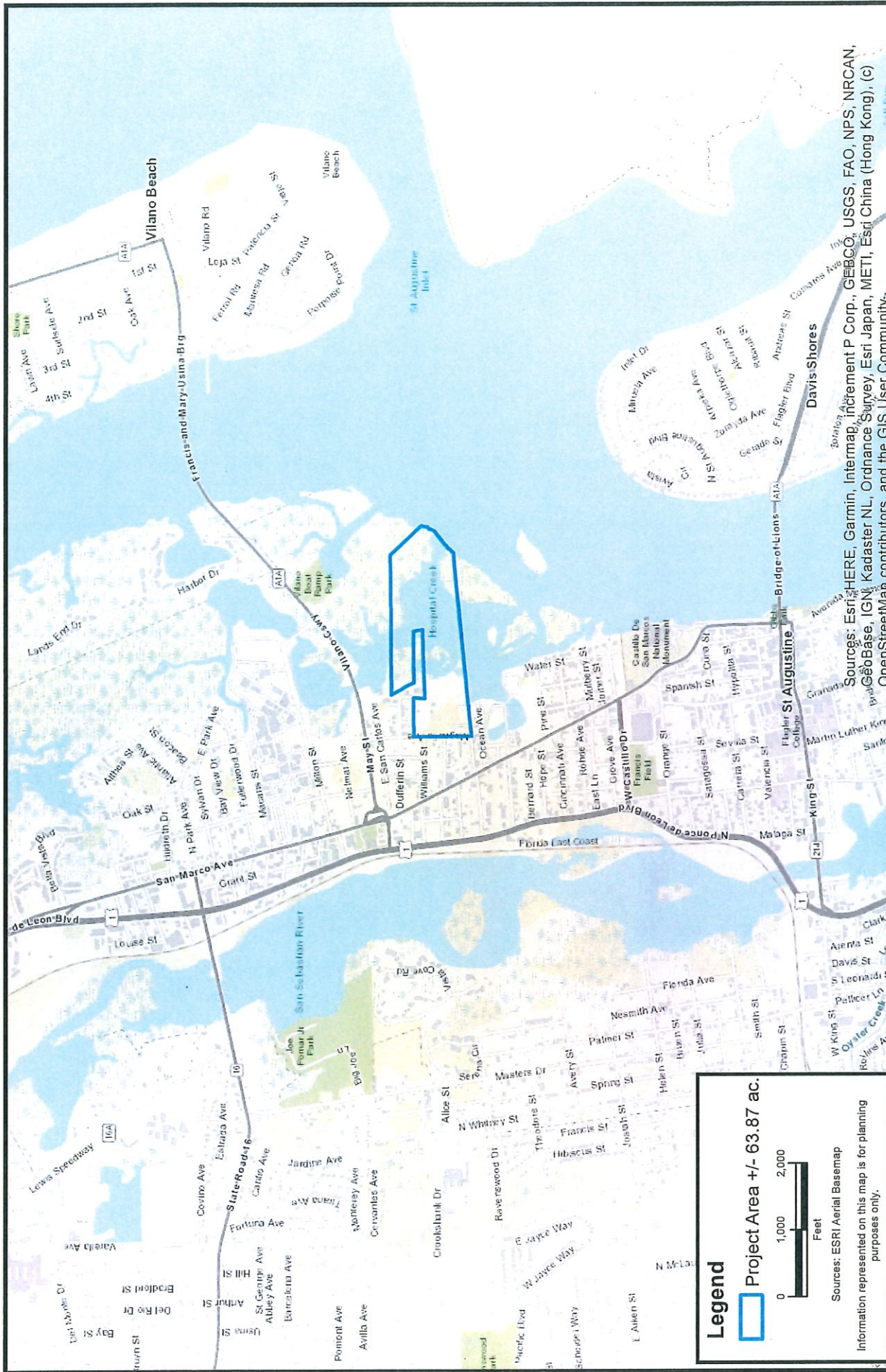
The deck will not exceed 6' above MHW, with a proposed height for the newly constructed dock being 5' to match the existing dock profile.

- c) *Boatlifts shall have a maximum capacity of 12,000 pounds and shall be low-profile or no-profile.*

Boat lifts will be low-profile and not exceed 12,000 pounds.

Attachment 2

Overlay Zone Application Graphics



Legend

Project Area +/- 63.87 ac.

0 1,000 2,000 Feet

Sources: ESRI Aerial Basemap
Information represented on this map is for planning purposes only.

CARTER ENVIRONMENTAL SERVICES, INC.  42 Masters Drive St. Augustine, FL 32084 904-540-1786 www.carterenv.com		Location Map Fountain of Youth Dock Modification		
Project:	5.22483	St. Augustine, FL	Date: Nov 23 2022	Figure: 1



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Legend

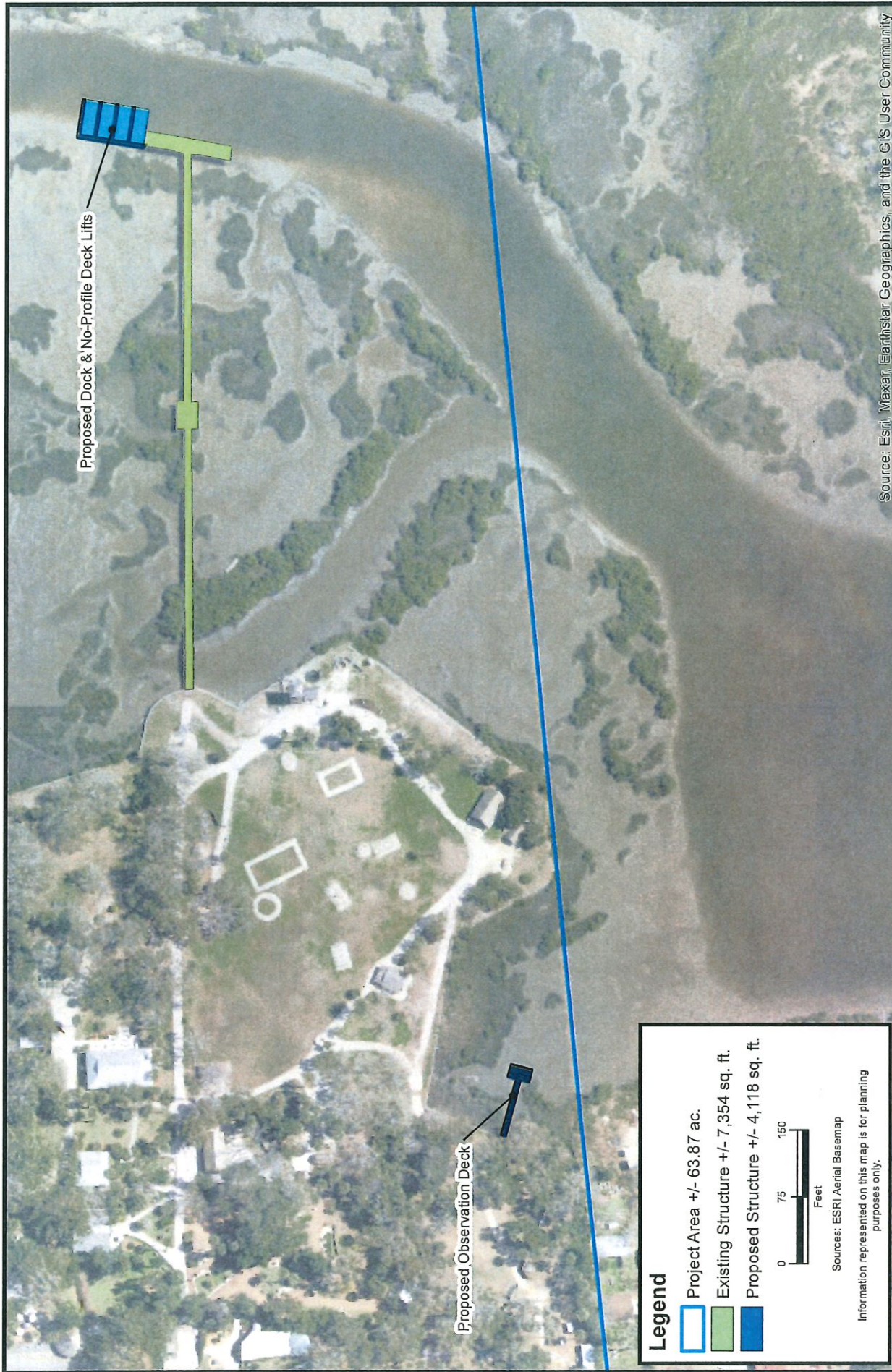
Project Area +/- 63.87 ac.

0 175 350
Feet

Sources: ESRI Aerial Basemap

Information represented on this map is for planning purposes only.

CARTER ENVIRONMENTAL SERVICES, INC.  42 Masters Drive St. Augustine, FL 32084 904-540-1786 www.carterenv.com		Current Aerial	Fountain of Youth Dock Modification	Date: Nov 23 2022	Figure: 2
Project: 5.22483		St. Augustine, FL			



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Legend

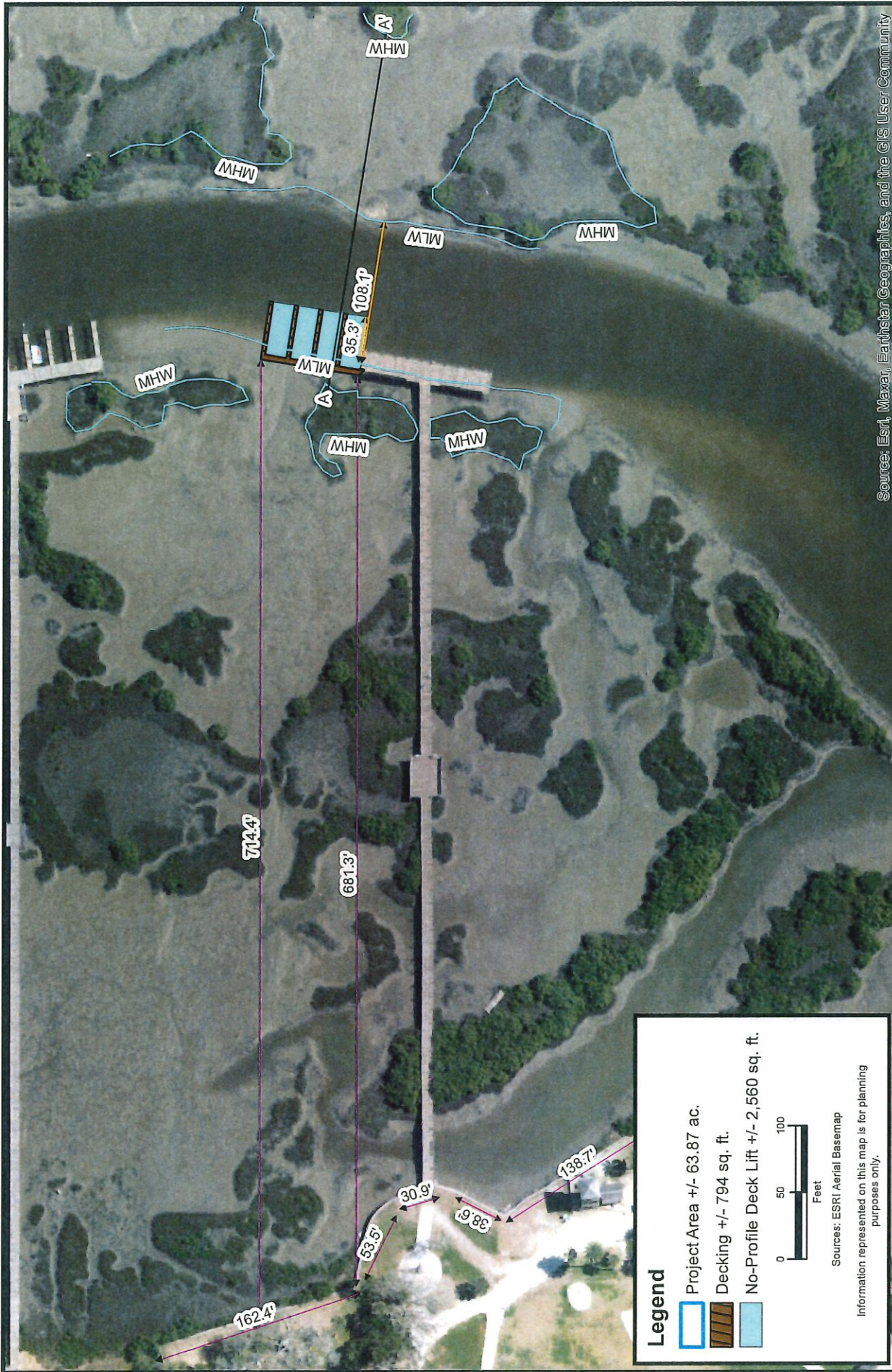
- Project Area +/- 63.87 ac.
- Existing Structure +/- 7,354 sq. ft.
- Proposed Structure +/- 4,118 sq. ft.

0 75 150
Feet

Sources: ESRI Aerial Basemap

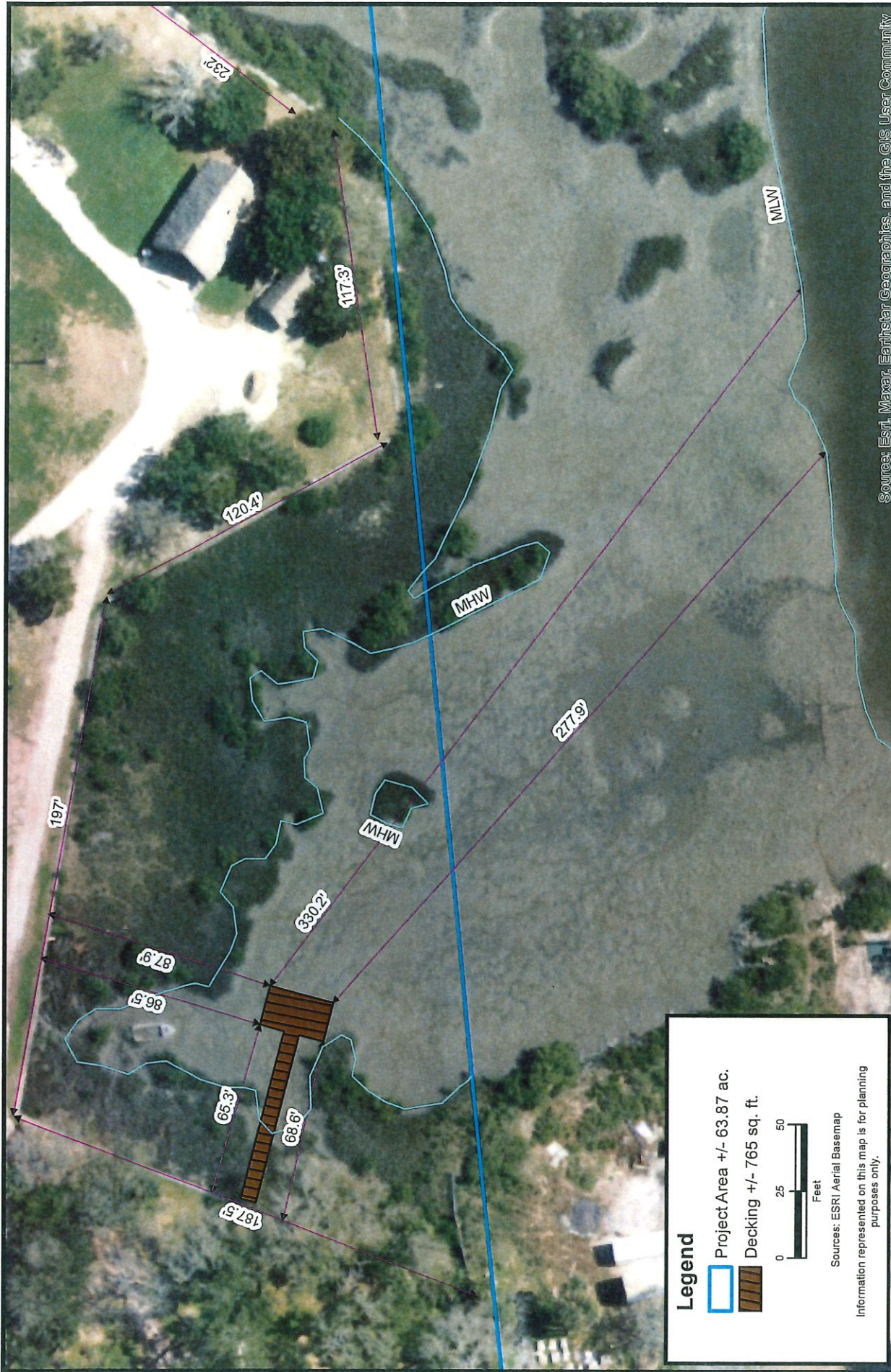
Information represented on this map is for planning purposes only.

CARTER ENVIRONMENTAL SERVICES, INC.  42 Masters Drive St. Augustine, FL 32084 904-540-1786 www.carterenv.com		Existing/Proposed Structures Fountain of Youth Dock Modification			3
Project: 5.22483	St. Augustine, FL	Date: Nov 23 2022	Figure:		



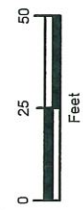
Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

	Figure: 4a
Proposed Dock & No-Profile Deck Lift Alignment Fountain of Youth Dock Modification	Project: 5.22483 St. Augustine, FL Date: Dec 12 2022
CARTER ENVIRONMENTAL SERVICES, INC.  42 Masters Drive St. Augustine, FL 32084 904-540-1786 www.carterenv.com	



Legend

- Project Area +/- 63.87 ac.
- Decking +/- 765 sq. ft.



Sources: ESRI Aerial Basemap

Information represented on this map is for planning purposes only.

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

CARTER ENVIRONMENTAL SERVICES, INC.

42 Masters Drive
St. Augustine, FL 32084
904-540-1786

CES

www.carterenv.com

Proposed Observation Deck Alignment

Fountain of Youth Dock Modification

Project:

5.22483

St. Augustine, FL

Date: Nov 23 2022

Figure:

4b



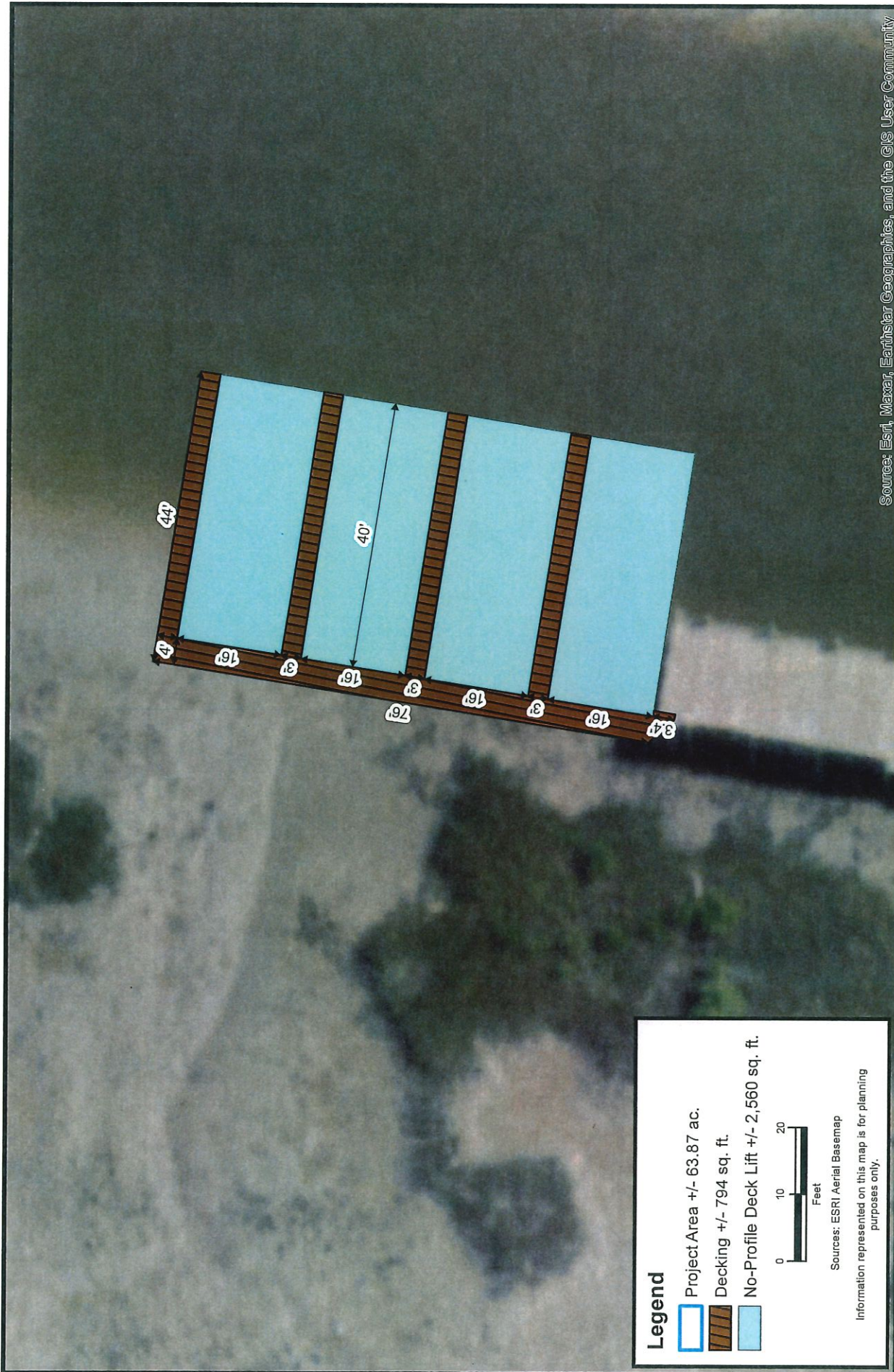


	Figure: 5a
Proposed Dock & No-Profile Deck Lift Dimensions Fountain of Youth Dock Modification	Date: Nov 23 2022
CARTER ENVIRONMENTAL SERVICES, INC. 42 Masters Drive St. Augustine, FL 32084 904-540-1786 www.carterenv.com	Project: 5.22483 St. Augustine, FL



Proposed Observation Deck Dimensions

Fountain of Youth Dock Modification

Project: 5.22483

St. Augustine, FL

Date: Nov 23 2022

Legend

Project Area +/- 63.87 ac.

 Decking +/- 765 sq. ft.

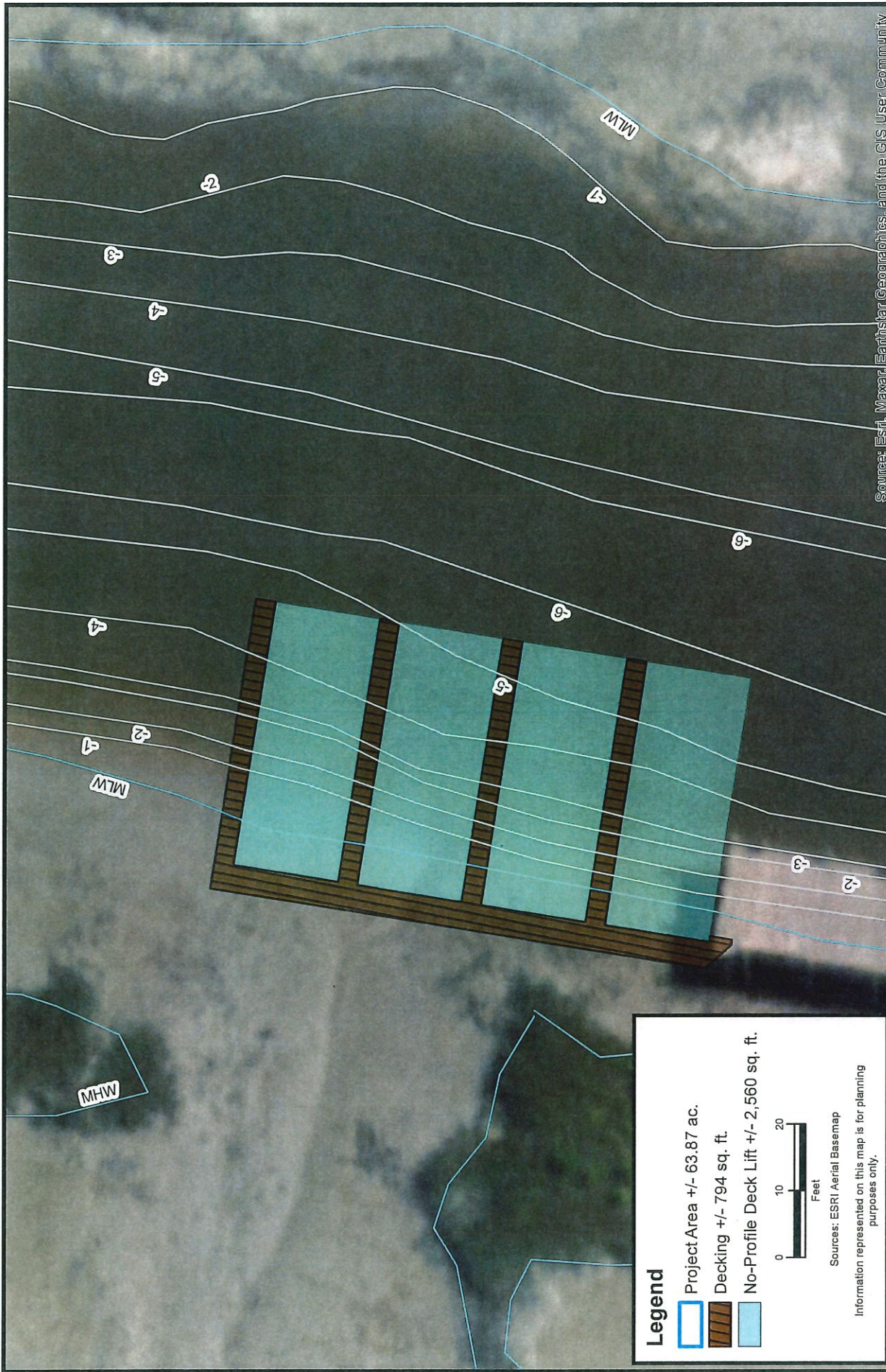
Sources: ESRI Aerial Basemap

Information represented on this map is for planning purposes only.

**CARTER ENVIRONMENTAL
SERVICES, INC.**



42 Masters Drive
St. Augustine, FL 32084
904-540-1786



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Legend

- Project Area +/- 63.87 ac.
- Decking +/- 794 sq. ft.
- No-Profile Deck Lift +/- 2,560 sq. ft.



Sources: ESRI Aerial Basemap
Information represented on this map is for planning purposes only.

CARTER ENVIRONMENTAL SERVICES, INC.

CES
42 Masters Drive
St. Augustine, FL 32084
904-540-1786
www.carterenv.com

Bathymetric Assessment

Fountain of Youth Dock Modification

Project:

5.22483

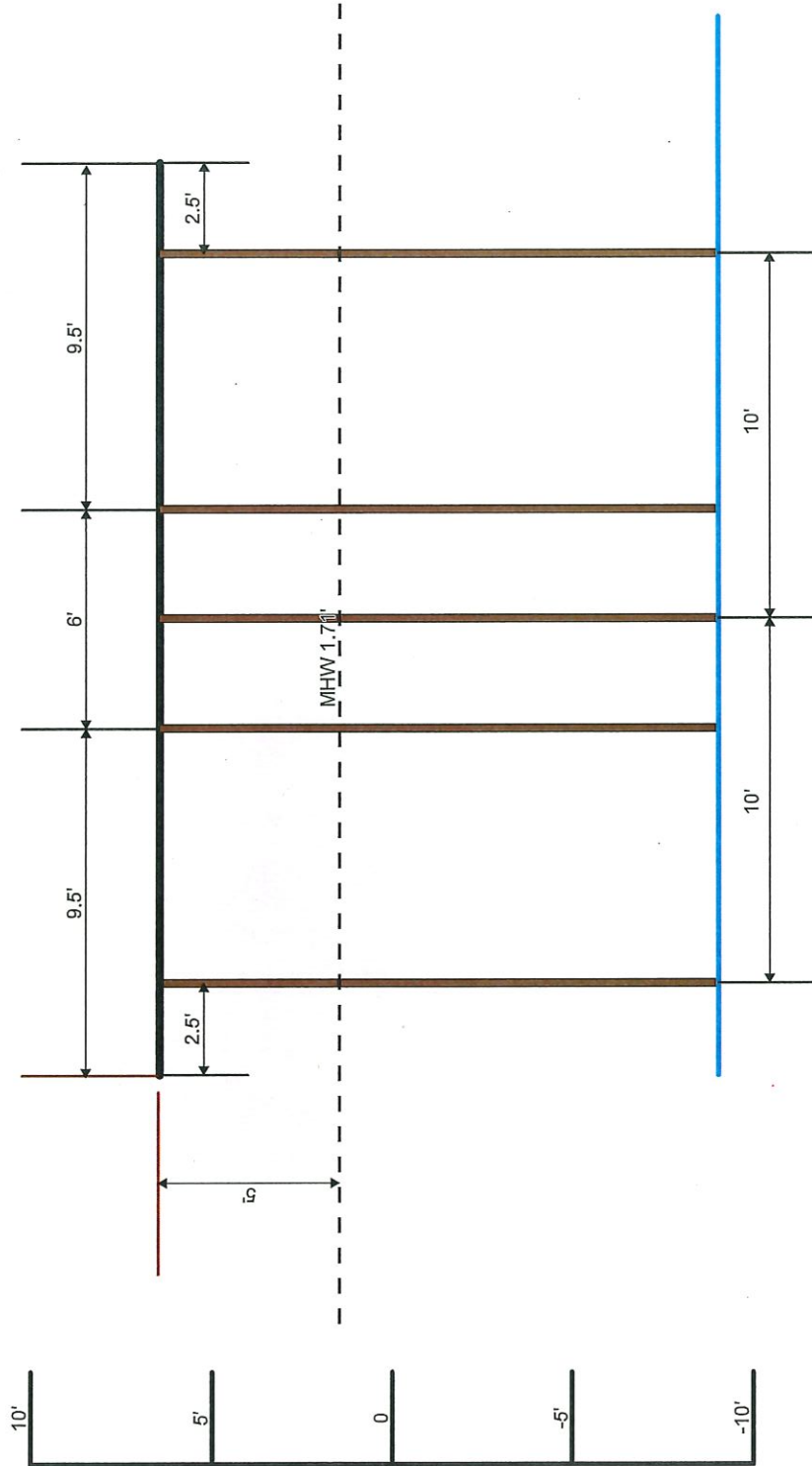
St. Augustine, FL

Date: Dec 12 2022

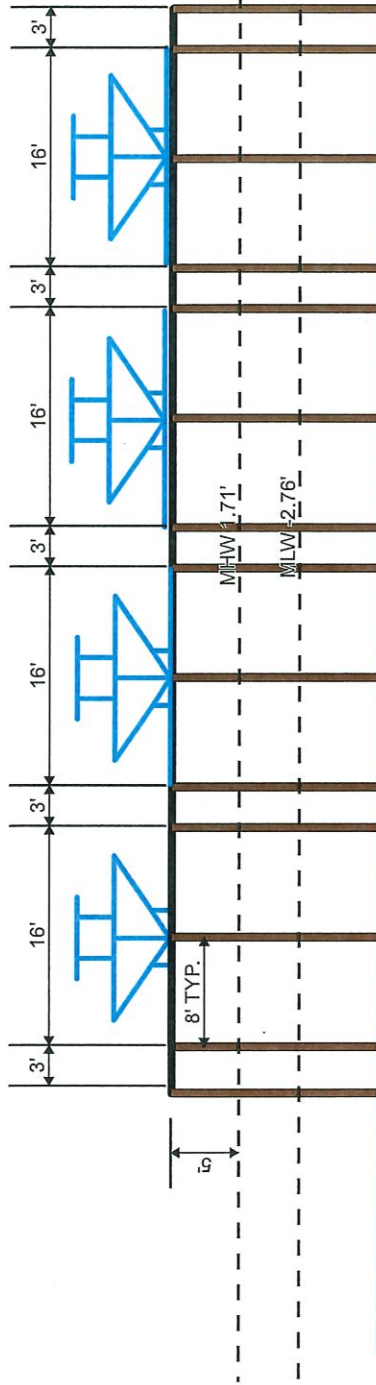
Figure:

6





Proposed Observation Deck Cross-Section View
Fountain of Youth Dock Modification



CARTER ENVIRONMENTAL
SERVICES, INC.

42 Masters Drive
St. Augustine, FL 32084
904-540-1786



www.carterenv.com

Proposed Dock Profile View

Fountain of Youth Dock Modification

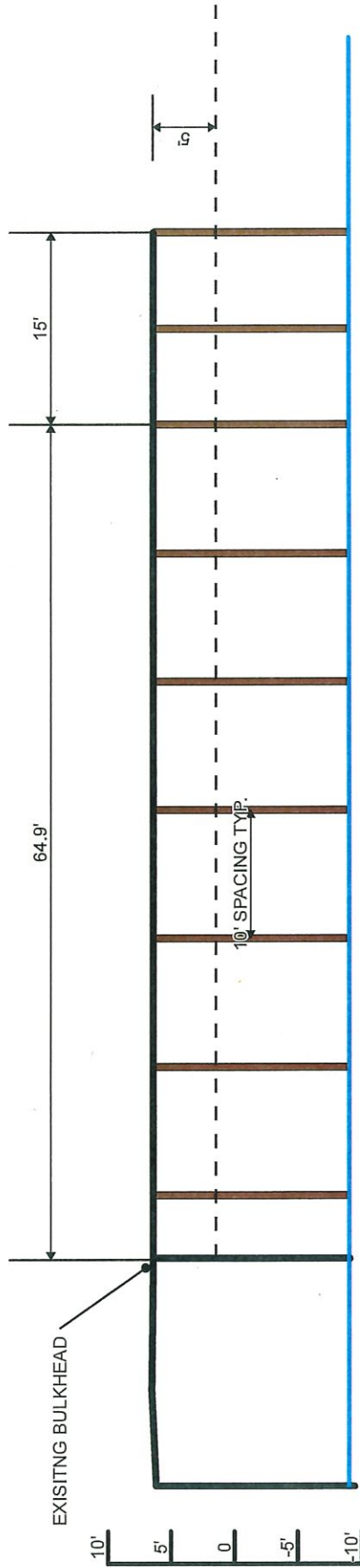
Project: 5.22483

St. Augustine, FL

Date: Dec 12 2022

Figure: 8a





CES
CARTER ENVIRONMENTAL SERVICES, INC.
 42 Masters Drive
 St. Augustine, FL 32084
 904-540-1786
www.carterenv.com

Proposed Observation Deck Profile View
Fountain of Youth Dock Modification

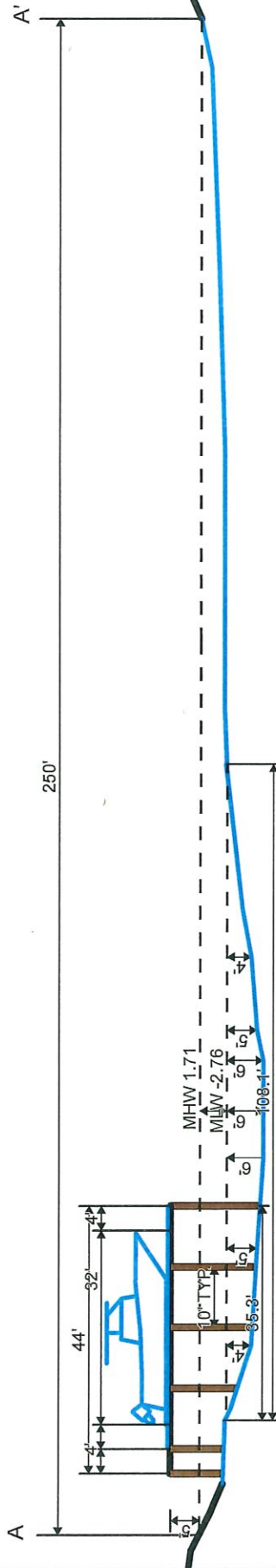
Project: 5.22483

St. Augustine, FL

Date: Dec 13 2022

Figure: 7b





CARTER ENVIRONMENTAL
SERVICES, INC.

42 Masters Drive
St. Augustine, FL 32084
904-540-1786

CES
www.carterenv.com

Proposed Dock Profile View

Fountain of Youth Dock Modification

Project:

5.22483

St. Augustine, FL

Date: Dec 13 2022

Figure:

7a



2022 FLORIDA PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# 121512

Entity Name: FOUNTAIN OF YOUTH PROPERTIES, INC.

Current Principal Place of Business:

11 MAGNOLIA AVENUE
ST AUGUSTINE, FL 32084

Current Mailing Address:

17 CORDOVA STREET
ST. AUGUSTINE, FL 32084 US

FEI Number: 59-0250910

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

EDMISTON, MARGARET G
17 CORDOVA STREET
ST. AUGUSTINE, FL 32084 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent

Date

Officer/Director Detail :

Title T
Name EDMISTON, MARGARET G
Address 17 CORDOVA STREET
City-State-Zip: SAINT AUGUSTINE FL 32084

Title PD
Name FRASER, JOHN W
Address 11 MAGNOLIA AVENUE
City-State-Zip: SAINT AUGUSTINE FL 32084

Title V
Name FRASER, BRYAN
Address 11 MAGNOLIA AVENUE
City-State-Zip: SAINT AUGUSTINE FL 32084

Title S
Name BINNINGER, JOAN E
Address 114 HERONS NEST LANE
City-State-Zip: ST AUGUSTINE FL 32080

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the receiver or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: JOHN W FRASER

PRESIDENT

02/09/2022

Electronic Signature of Signing Officer/Director Detail

Date



St. Johns County, FL

Apply for Exemptions

[Apply for Exemptions](#)

2022 TRIM Notice

[2022 TRIM Notice \(PDF\)](#)

Summary

[Clicking Image Opens Cyclomedia Viewer In a New Tab](#)

No Image Available

Parcel ID	1916000000
Location Address	11 MAGNOLIA AVE SAINT AUGUSTINE 32084-0000
Neighborhood	Tourist Attraction Fountain of Youth (COM) (2301.02)
Tax Description*	4-55 FOUNTAIN OF YOUTH PARK ALL (EX E'LY PARTS BLK 2 & WILLIAMS ST TO PONCE DE LEON BROADCASTING CO IN OR77/406) <i>*The Description above is not to be used on legal documents.</i>
Property Use Code	Tourist Attractions (3500)
Subdivision	Fountain Of Youth Park
Sec/Twp/Rng	7-7-30
District	City of St Augustine (District 452)
Millage Rate	18.9763
Acreage	16.770
Homestead	N

Owner Information

Owner Name	Fountain Of Youth Prop Inc 100%
	Barnett Bank 100%
Mailing Address	17 CORDOVA ST SAINT AUGUSTINE, FL 32084-3618

Map



Valuation Information

	2023
Building Value	\$621,733
Extra Features Value	\$226,458
Total Land Value	\$1,045,940
Agricultural (Assessed) Value	\$0
Agricultural (Market) Value	\$0
Just (Market) Value	\$1,894,131
Total Deferred	\$0
Assessed Value	\$1,894,131
Total Exemptions	\$0
Taxable Value	\$1,894,131

Values listed are from our working tax roll and are subject to change.

Historical Assessment Information

Year	Building Value	Extra Feature Value	Total Land Value	Ag (Market) Value	Ag (Assessed) Value	Just (Market) Value	Assessed Value	Exempt Value	Taxable Value
2022	\$550,044	\$267,692	\$1,045,940	\$0	\$0	\$1,863,676	\$1,863,676	\$0	\$1,863,676
2021	\$512,787	\$280,521	\$1,045,940	\$0	\$0	\$1,839,248	\$1,839,248	\$0	\$1,839,248
2020	\$525,931	\$293,684	\$1,045,940	\$0	\$0	\$1,865,555	\$1,687,160	\$178,395	\$1,687,160
2019	\$488,985	\$274,532	\$1,045,940	\$0	\$0	\$1,809,457	\$1,533,782	\$275,675	\$1,533,782
2018	\$329,186	\$280,581	\$784,580	\$0	\$0	\$1,394,347	\$1,394,347	\$0	\$1,394,347
2017	\$327,085	\$270,700	\$784,580	\$0	\$0	\$1,382,365	\$1,382,365	\$0	\$1,382,365
2016	\$331,250	\$241,642	\$784,580	\$0	\$0	\$1,357,472	\$1,357,472	\$0	\$1,357,472
2015	\$341,496	\$249,045	\$784,580	\$0	\$0	\$1,375,121	\$1,375,121	\$0	\$1,375,121
2014	\$333,588	\$251,502	\$784,580	\$0	\$0	\$1,369,670	\$1,369,670	\$0	\$1,369,670
2013	\$252,042	\$240,956	\$784,580	\$0	\$0	\$1,277,578	\$1,277,578	\$0	\$1,277,578
2012	\$262,794	\$247,209	\$784,580	\$0	\$0	\$1,294,583	\$1,294,583	\$0	\$1,294,583
2011	\$272,345	\$182,163	\$915,260	\$0	\$0	\$1,369,768	\$1,174,996	\$194,772	\$1,174,996
2010	\$284,104	\$156,129	\$601,628	\$0	\$0	\$1,041,861	\$1,041,861	\$0	\$1,041,861

Building Information

Building	1	Roof Cover	Built Up, Modular Metal
Year Built	1880	Roof Structure	Wood Truss
Actual Area	2648	Interior Flooring	Vinyl Tile
Conditioned Area	2584	Interior Wall	Drywall
Use	Stores (Retail)	Heating Type	Air Duct
Style	04	Air Conditioning	Central
Class	N	Bedrooms	
Exterior Wall	Stone	Baths	

Description	Square Footage
FRAME UTILITY	20
BASE AREA	1064
BASE AREA	1520
FINISHED DECK	44
POINTER	0

Total SqFt 2648

Building 2
Year Built 1952
Actual Area 924
Conditioned Area 924
Use Tourist Attraction
Style 04
Class N
Exterior Wall Stone

Roof Cover Modular Metal
Roof Structure Wood Truss
Interior Flooring Concrete Finish, None
Interior Wall None
Heating Type None
Air Conditioning None
Bedrooms
Baths

Description Square Footage
BASE AREA 924
Total SqFt 924

Building 3
Year Built 2013
Actual Area 400
Conditioned Area 100
Use Office Class C
Style 04
Class N
Exterior Wall Stucco

Roof Cover Cedar Shanks
Roof Structure Wood Truss
Interior Flooring Concrete Finish
Interior Wall Minimum
Heating Type Air Duct
Air Conditioning Central
Bedrooms
Baths

Description Square Footage
BASE AREA 100
CANOPY (COMMERCIAL) 300
Total SqFt 400

Building 4
Year Built 1956
Actual Area 2762
Conditioned Area 2762
Use Tourist Attraction
Style 04
Class N
Exterior Wall Concrete Stucco

Roof Cover Built Up
Roof Structure Rigid Frame
Interior Flooring Carpet
Interior Wall Minimum
Heating Type Air Duct
Air Conditioning Central
Bedrooms
Baths

Description Square Footage
BASE AREA 2762
Total SqFt 2762

Building 5
Year Built 1952
Actual Area 2069
Conditioned Area 2021
Use Tourist Attraction
Style 04
Class N
Exterior Wall Concrete Block

Roof Cover Built Up
Roof Structure Rigid Frame
Interior Flooring Carpet
Interior Wall Minimum
Heating Type Air Duct
Air Conditioning Central
Bedrooms
Baths

Description Square Footage
ENCLOSED FRAMED PORCH 48
BASE AREA 2021
Total SqFt 2069

Building 6
Year Built 1922
Actual Area 2945
Conditioned Area 2685
Use Tourist Attraction
Style 04
Class N
Exterior Wall Stone

Roof Cover Built Up, Cement Fiber Shingle
Roof Structure Wood Truss
Interior Flooring Concrete Finish
Interior Wall Minimum
Heating Type None
Air Conditioning None
Bedrooms
Baths

Description Square Footage
CANOPY (COMMERCIAL) 260

BASE AREA	2685
Total SqFt	2945

Building	7	Roof Cover	Modular Metal
Year Built	1980	Roof Structure	Wood Truss
Actual Area	1358	Interior Flooring	Hardwood
Conditioned Area	1232	Interior Wall	Minimum
Use	Tourist Attraction	Heating Type	Air Duct
Style	04	Air Conditioning	Central
Class	N	Bedrooms	
Exterior Wall	Concrete Stucco	Baths	

Description	Square Footage
ENCLOSED FRAMED PORCH	126
BASE AREA	1232
Total SqFt	1358

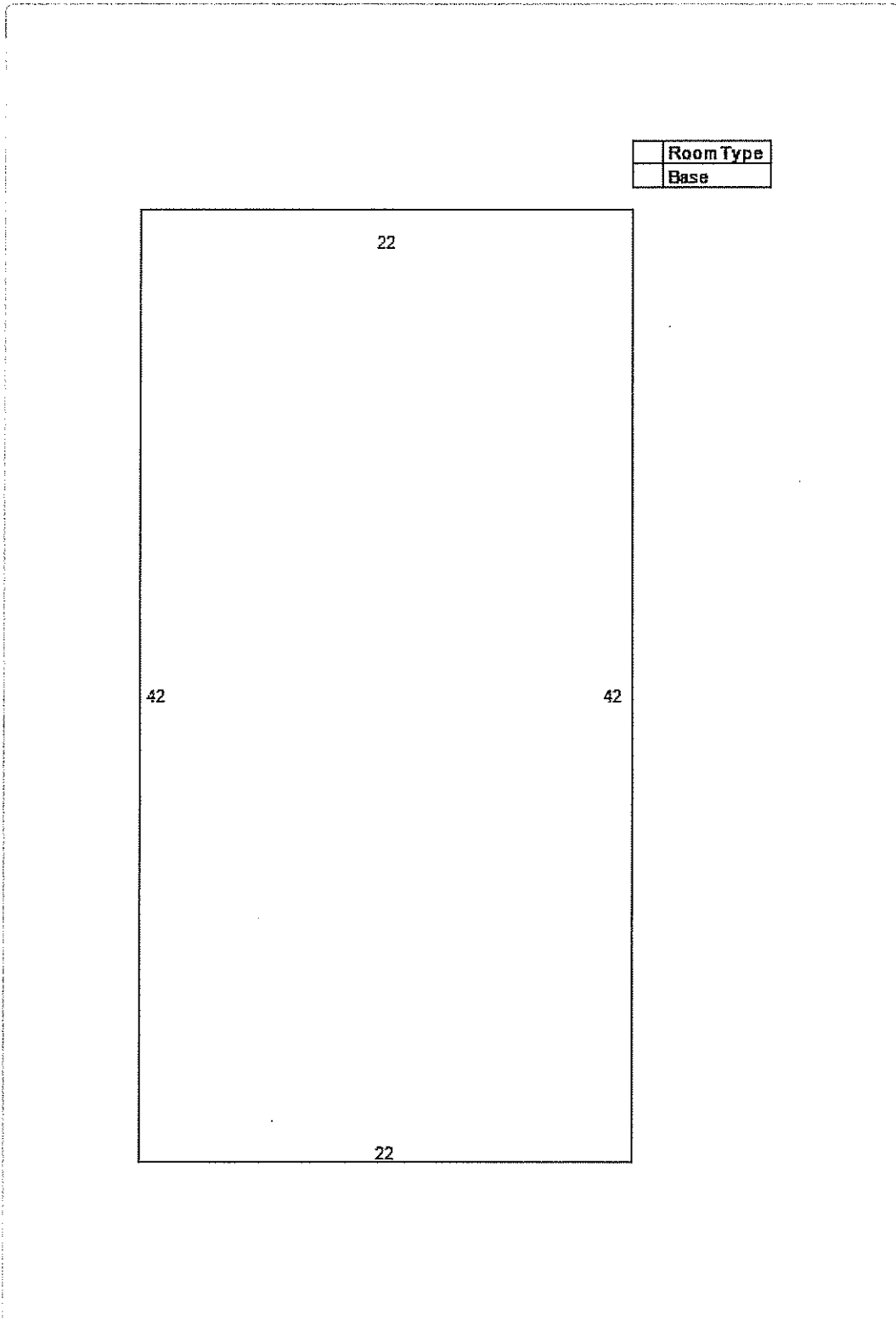
Building	8	Roof Cover	Modular Metal
Year Built	2013	Roof Structure	Wood Truss
Actual Area	742	Interior Flooring	Concrete Finish
Conditioned Area	360	Interior Wall	Drywall
Use	Snack Bars	Heating Type	Air Duct
Style	04	Air Conditioning	Central
Class	N	Bedrooms	
Exterior Wall	Stucco, Wood	Baths	

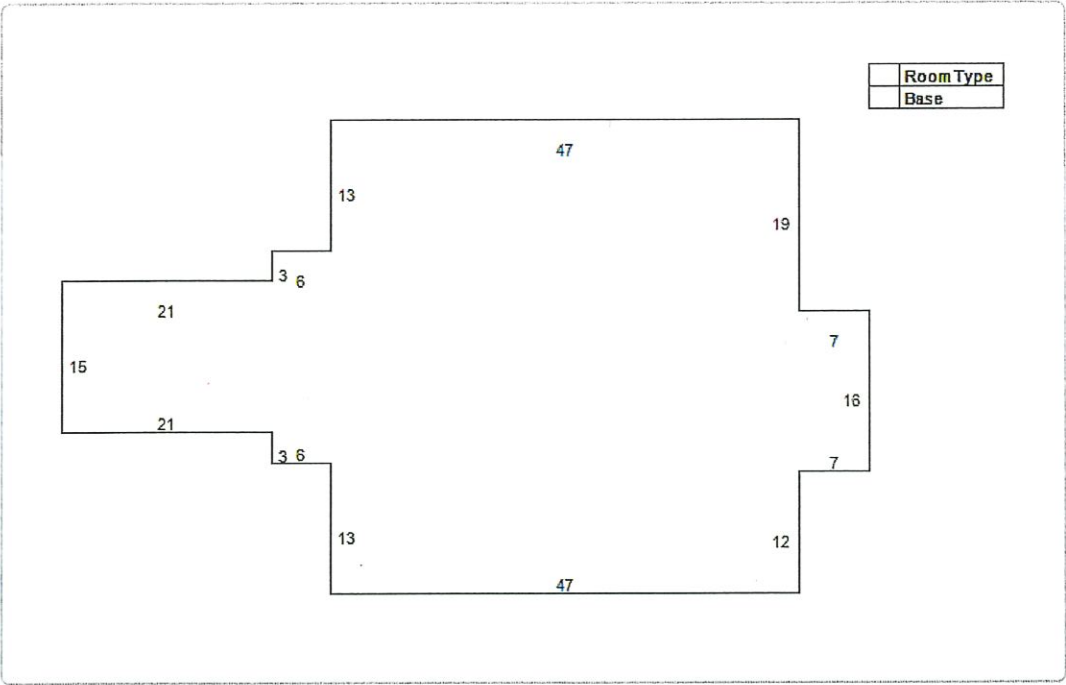
Description	Square Footage
CANOPY (COMMERCIAL)	382
BASE AREA	360
Total SqFt	742

Building	9	Roof Cover	Metal
Year Built	2013	Roof Structure	Wood Truss
Actual Area	3668	Interior Flooring	Concrete Finish
Conditioned Area	468	Interior Wall	Minimum
Use	Cultural Organizations & Facilities	Heating Type	None
Style	04	Air Conditioning	N/A
Class	N	Bedrooms	
Exterior Wall	Concrete Stucco	Baths	

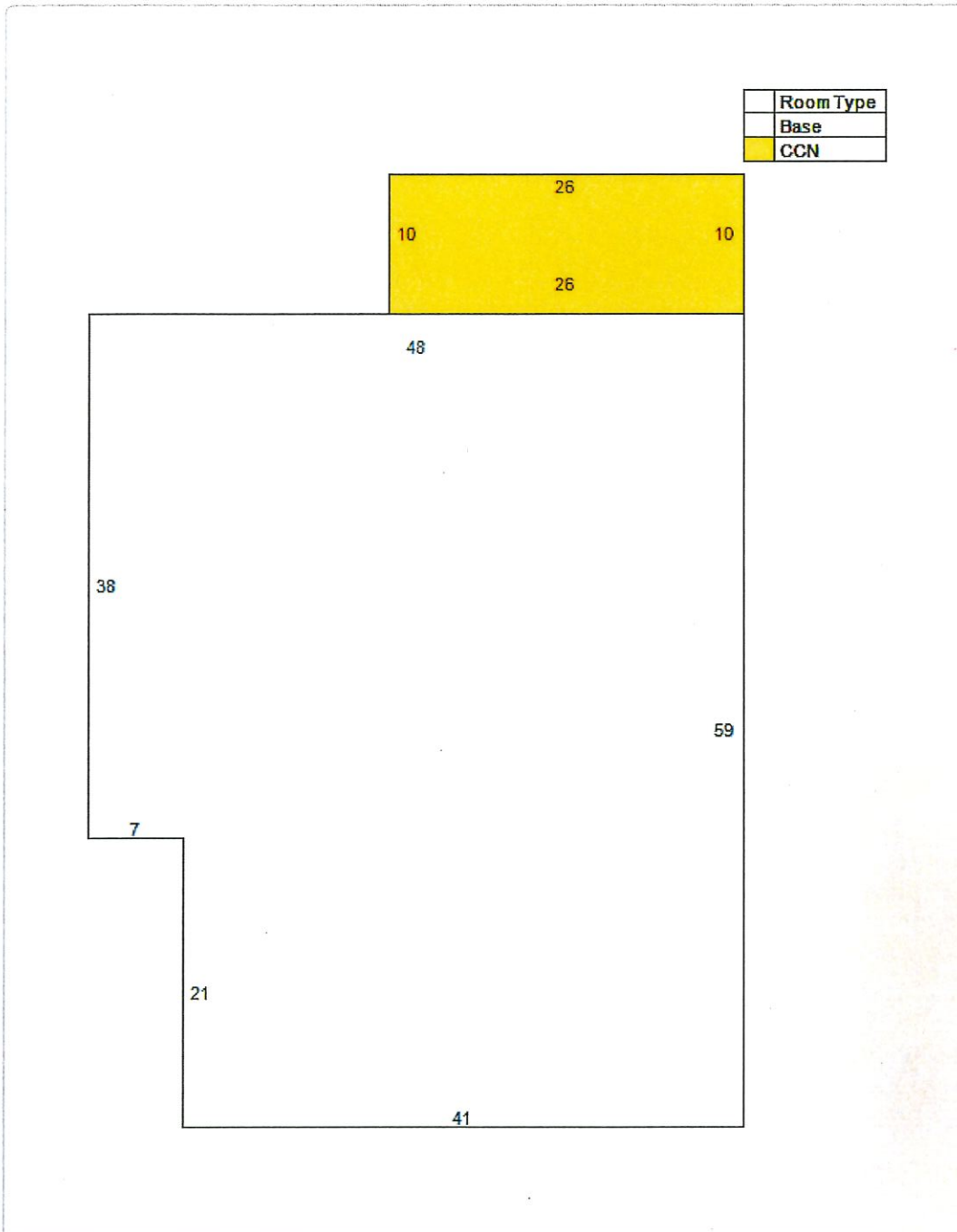
Description	Square Footage
OUTSIDE STAIRS	50
FINISHED DECK	888
BASE AREA	468
CANOPY (COMMERCIAL)	2262
Total SqFt	3668

Sketch Information

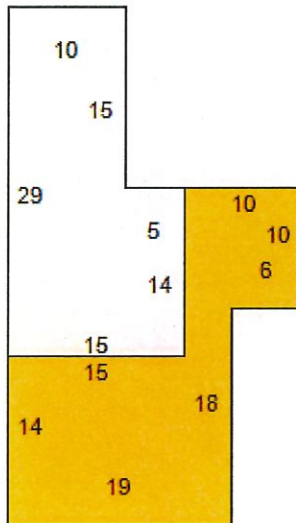


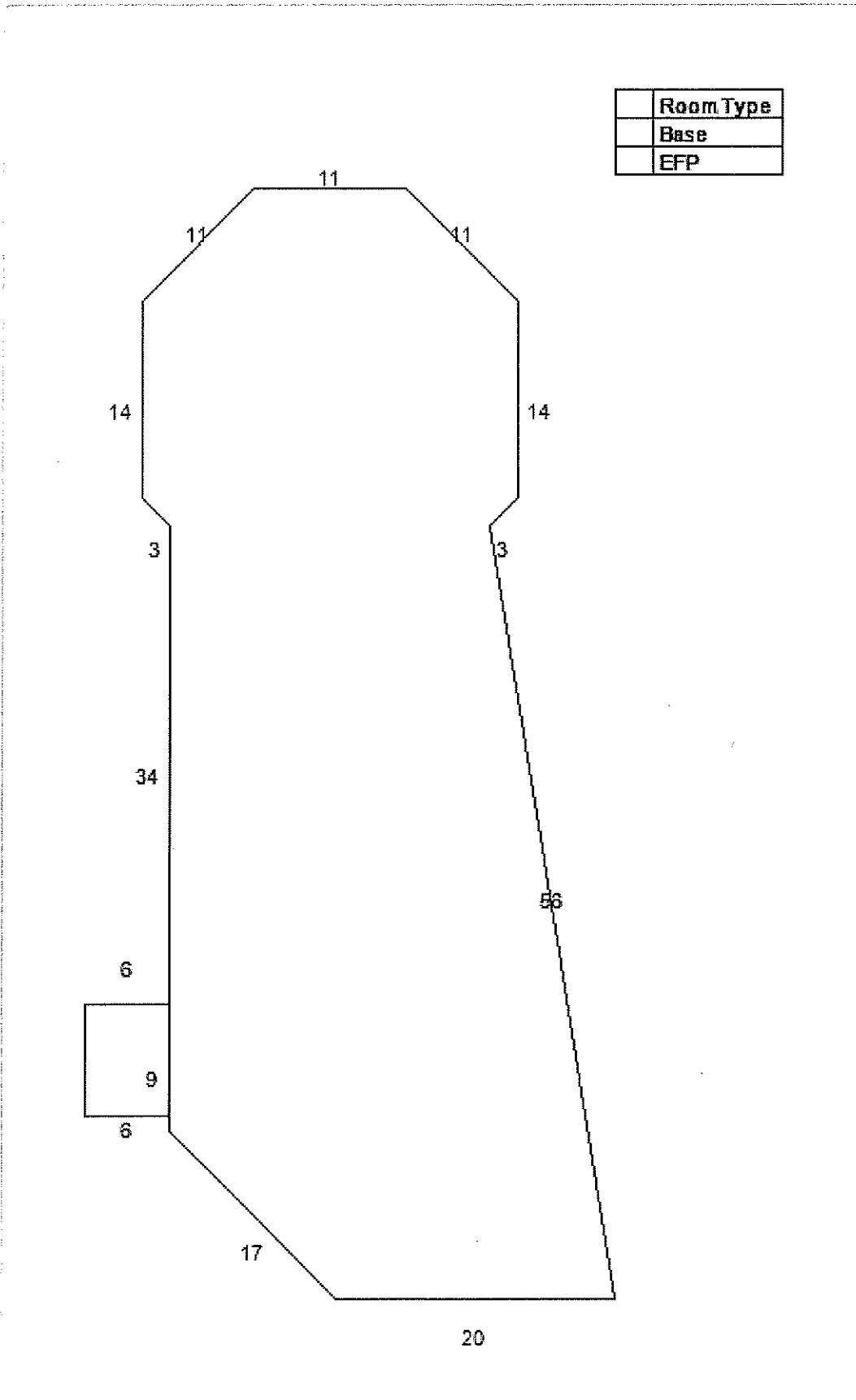


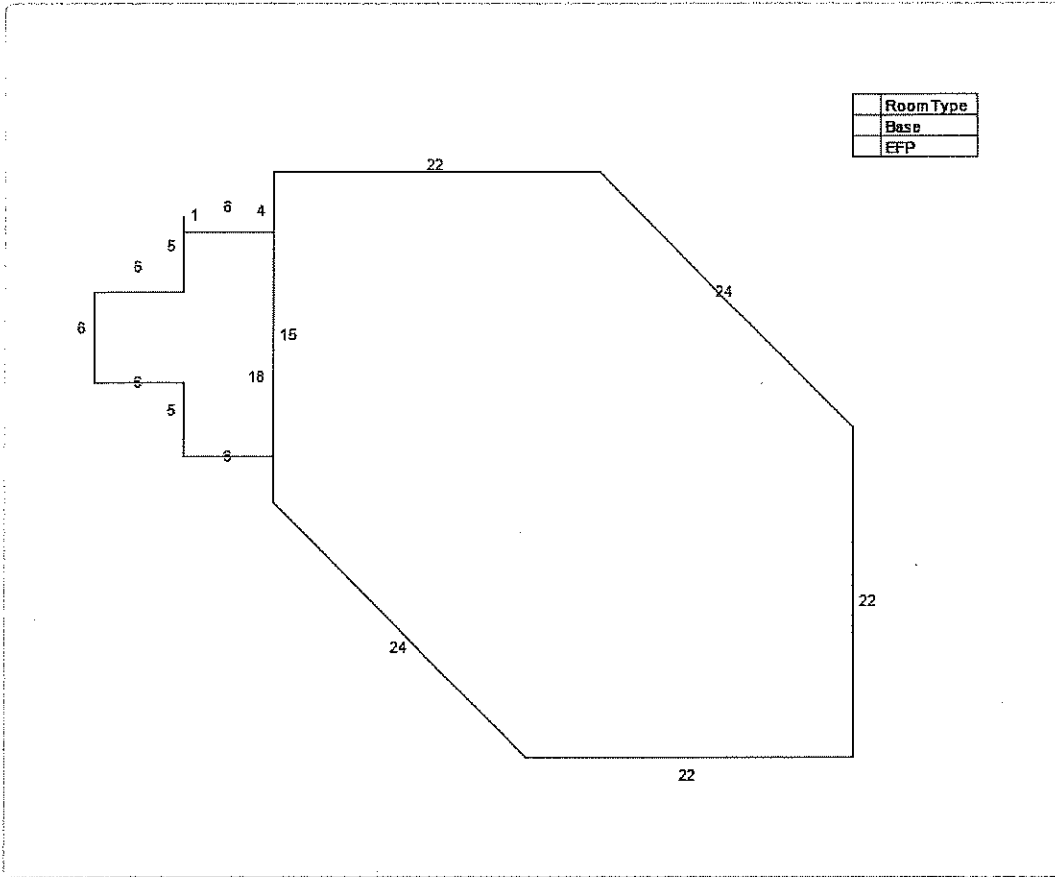
	Room Type
	CCN
	Base

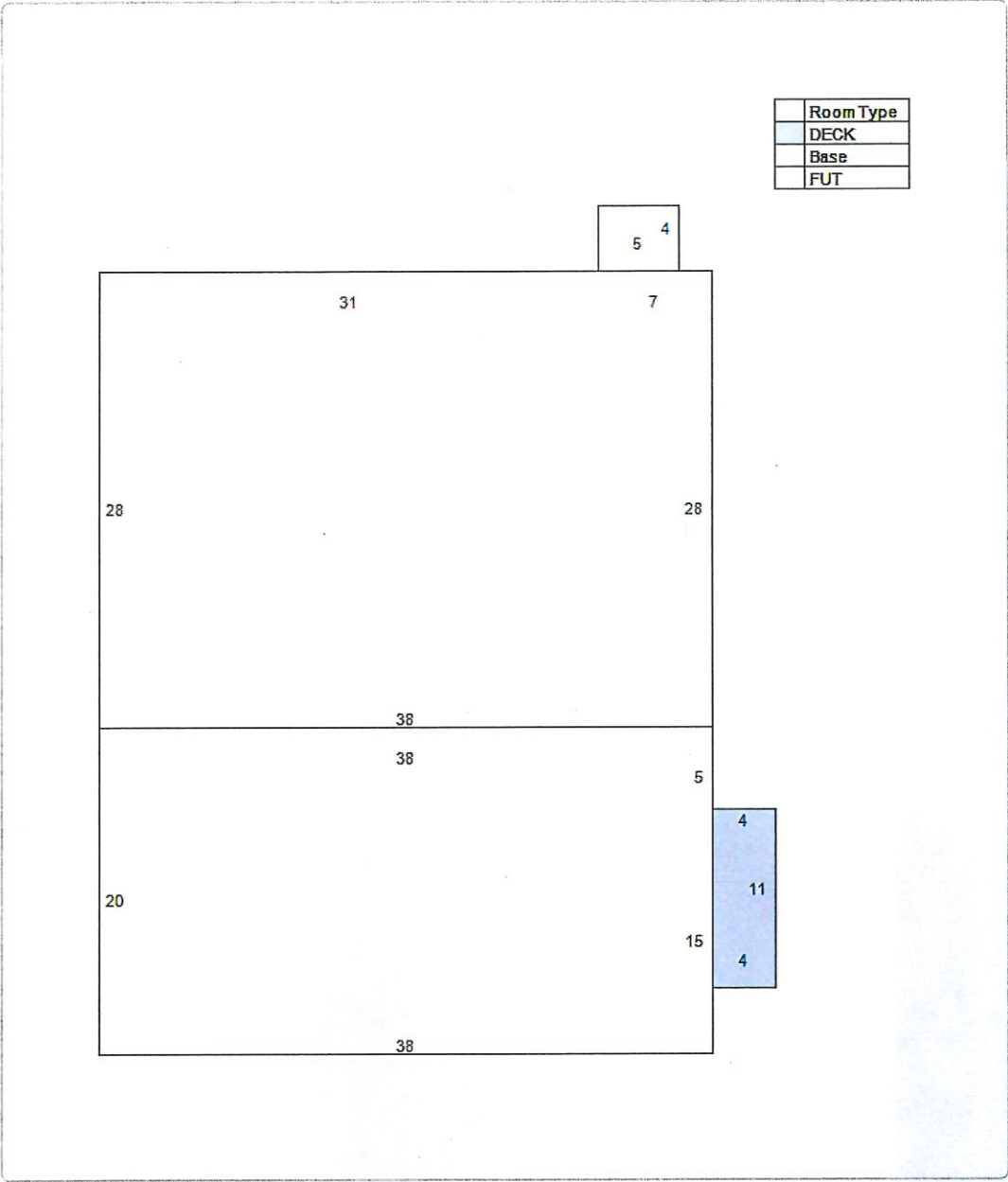


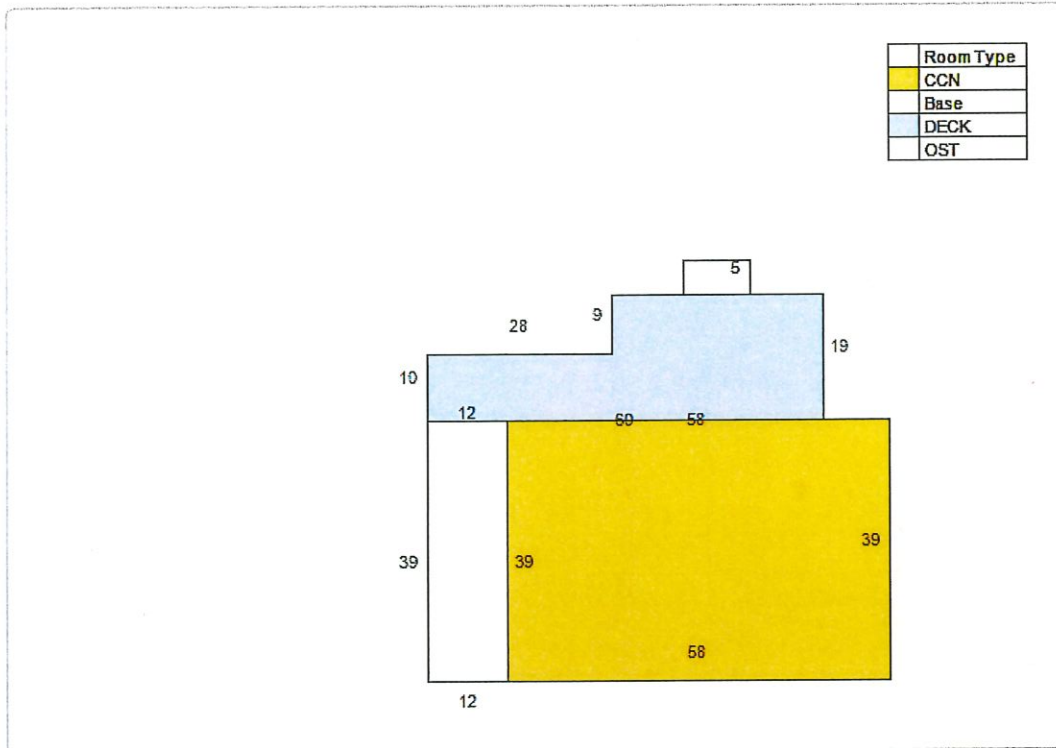
	Room Type
	Base
	CCN











Extra Feature Information

Code Description	Status	Value
Bulkhead - Average (Mix)		44352
Masonry Wall (Mix)		10496
Garage - Average (Mix)		9282
Restroom - Average (COM)		1500
Canopy (Mix)		1011
Canopy (Mix)		893
Gazebo - Average (Mix)		1000
Storage Building (Mix)		2678
Pool House (Mix)		1764
Canopy (Mix)		1075
Asphalt Paving (COM)		9186
Concrete Paving - Under 8" (COM)		9112
Wood Fence - 6' and Above (COM)		1325
Wood Fence - Under 6' (COM)		591
Deck (COM)		128
Fountain - Average (Mix)		1000
Steel Door (COM)		108
Steel Door (COM)		360
Restroom - Excellent (COM)		4004
Handicap Ramp (COM)		427
Wood Fence - 6' and Above (COM)		1704
Boat Dock - Average (Mix)		51738
Canopy (Mix)		1852
Wood Fence - 6' and Above (COM)		239
Handicap Ramp (COM)		6270
Storage Building (Mix)		11813
Storage Building (Mix)		42656
Steel Door (COM)		1400
Steel Door (COM)		6860
Handicap Ramp (COM)		1394
Concrete Paving - Under 8" (COM)		240

Land Information

Use Description	Front	Depth	Total Land Units	Unit Type	Land Value
Tourist Attractions	0	0	522720	SF	\$1,045,440
Marshes & Tidal Lands	0	0	2	AC	\$500

No data available for the following modules: Sales Questionnaire Form, Exemption Information, Sale Information.

The St. Johns County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation.

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Version 2.3.231



LEGAL NOTICE OF PUBLIC HEARING



“IMPORTANT NOTICE: Now that the hearing date has been set and a legal notice has been published or posted, the applicant must be prepared to present the request at the scheduled hearing date. If the applicant requests a continuance, the decision to grant or deny the request for continuance will be decided by a vote of the board at the scheduled hearing date. The applicant, or a duly authorized representative with authority to bind, should be present at the scheduled hearing date to answer questions from the board regarding the application. **If the board votes to deny the request for a continuance, the hearing on the application will go forward, whether or not the applicant is present**, and could result in a denial of the application if the board finds that the application and supporting documents submitted prior to the meeting do not meet the criteria of the code.”

NOTICE IS HEREBY GIVEN OF A PUBLIC HEARING TO BE HELD BY THE PLANNING AND ZONING BOARD OF THE CITY OF ST. AUGUSTINE, TO BE HELD **TUESDAY FEBRUARY 7, 2023**. THE MEETING BEGINS AT **1:00 P.M.** IN THE **ALCAZAR ROOM**, 1ST FLOOR, WEST WING, CITY HALL, 75 KING STREET, ST. AUGUSTINE, FLORIDA, AT WHICH TIME COMMENTS ARE INVITED ON THE FOLLOWING MATTER:

CONSERVATION OVERLAY ZONE DEVELOPMENT

TO APPROVE THE MODIFICATION OF AN EXISTING DOCK TO INCLUDE FOUR (4) NEW BOATS LIFTS WITH CATWALKS AND TO APPROVE THE NEW CONSTRUCTION OF AN OBSERVATION DECK TO THE SOUTH OF THE EXISTING DOCK WITHIN CONSERVATION OVERLAY ZONE 1.

PROPERTY ADDRESS: 11 MAGNOLIA AVENUE

DESCRIBED BY THE ST. JOHNS COUNTY PROPERTY APPRAISER BY LEGAL DESCRIPTION AS: 4-55 FOUNTAIN OF YOUTH PARK ALL (EX E'LY PARTS BLK 2 & WILLIAMS ST TO PONCE DE LEON BROADCASTING CO IN OR77/406)

APPLICANT'S NAME: RYAN CARTER C/O CARTER ENVIRONMENTAL SERVICES, INC.

APPLICATION NUMBER: 2022-0094

PARCEL IDENTIFICATION: 1916000000

In accordance with Florida Statute 286.0105: "If any person decides to appeal any decision made by PZB with respect to any matter considered at this scheduled meeting or hearing, the person will need a record of the proceedings, and for such purpose the person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the application is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the individual or agency sending notice not later than seven days prior to the proceeding at the address given on the notice. Telephone 904-825-1007; 1-800-955-8771 (TDB) or 1-800-955-8770 (V) via Florida Relay Services.

To obtain additional information regarding this application, contact the Planning and Building Department at 904-209-4331. Please mail this response form to the Planning and Building Department, City of St. Augustine, 75 King Street, P.O. Box 210, St. Augustine, FL 32085-0210, OR email the form to PZB@citystaug.com. **This form is to be received no later than Monday, February 6, 2023.**

SURROUNDING PROPERTY OWNER

RESPONSE FORM

_____ IN FAVOR OF APPLICATION

_____ OPPOSED TO APPLICATION

COMMENTS: _____

 SIGNATURE

 PRINT NAME

 ADDRESS



LEGAL NOTICE OF PUBLIC HEARING



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CONSERVATION OVERLAY ZONE DEVELOPMENT

TO APPROVE THE MODIFICATION OF AN EXISTING DOCK TO INCLUDE FOUR (4) NEW BOATS LIFTS WITH CATWALKS AND TO APPROVE THE NEW CONSTRUCTION OF AN OBSERVATION DECK TO THE SOUTH OF THE EXISTING DOCK WITHIN CONSERVATION OVERLAY ZONE 1.

PROPERTY ADDRESS: 11 MAGNOLIA AVENUE

DESCRIBED BY THE ST. JOHNS COUNTY PROPERTY APPRAISER BY LEGAL DESCRIPTION AS: 4-55 FOUNTAIN OF YOUTH PARK ALL (EX E'LY PARTS BLK 2 & WILLIAMS ST TO PONCE DE LEON BROADCASTING CO IN OR77/406)

APPLICANT'S NAME: RYAN CARTER C/O CARTER ENVIRONMENTAL SERVICES, INC.

APPLICATION NUMBER: 2022-0084

PARCEL IDENTIFICATION: 1916000000

In accordance with Florida Statute 286.0105: "If any person decides to appeal any decision made by PZB with respect to any matter considered at this scheduled meeting or hearing, the person will need a record of the proceedings, and for such purpose the person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the application is to be based. In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the individual or agency sending notice not later than seven days prior to the proceeding at the address given on the notice. Telephone 904-825-1007; 1-800-955-8771 (TDB) or 1-800-955-8770 (V) via Florida Relay Services.

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SURROUNDING PROPERTY OWNER

RESPONSE FORM

_____ IN FAVOR OF APPLICATION

_____ OPPOSED TO APPLICATION

COMMENTS: _____

 SIGNATURE

 PRINT NAME

 ADDRESS

PZB Staff Report and PZB Action Confirmation Letter/Order



CITY OF
ST AUGUSTINE
EST. 1565
NATION'S OLDEST CITY

February 7, 2023

Ryan Carter
c/o Carter Environmental Services
42 Masters Drive
St Augustine, FL 32084

Re: Conservation Overlay Zone Development – 11 Magnolia Avenue – Case Number 2022-0094

Dear Mr. Carter:

On Tuesday, February 7, 2023, the Planning and Zoning Board (PZB) met and discussed your application to approve the modification of an existing dock to include four (4) new boat lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1.

Specifically, based upon evidence presented, the PZB **APPROVED** your application as described in the attached copy of the executed Order.

Conservation Overlay Zone Development approval is valid for a period of one (1) year from the date of approval. Failure to exercise the Conservation Overlay Zone Development by commencement of the use or action approved shall render the approval invalid, unless an extension has been applied for and approved not less than thirty (30) days prior to the one (1) year expiration date.

Please contact the Planning and Building Department at 904-825-1065 for the proper permits, fees and requirements to proceed with your project in accordance with the Planning and Zoning Board's decision.

Sincerely,

Amy McClure Skinner, AICP
Director, Planning & Building

cc: John P. Regan, City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
BDAC File

BEFORE THE
PLANNING AND ZONING BOARD FOR THE
CITY OF ST. AUGUSTINE, FLORIDA

TYPE OF REQUEST:

- | | |
|---|--|
| ☐ Appeal | ☐ Preliminary Subdivision Plat Approval |
| ☒ Conservation Overlay Zone Development | ☐ PUD Modification/Amendment |
| ☐ Use by Exception | ☐ Rezoning |
| ☐ Final Development Plan | ☐ Variance |
| ☐ Land Use Plan Amendment | ☐ Other Click here to enter text. |

IN THE MATTER OF:

Case No.: 2022-0094
Applicant: Ryan Carter c/o Carter Environmental Services, Inc.
Owner: Fountain of Youth Prop Inc.
Address: 11 Magnolia Avenue
Parcel Number: 1916000000

RE: Request to approve the modification of an existing dock to include four (4) new boats lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1.

THE PLANNING AND ZONING BOARD HAS HEARD TESTIMONY AND EXAMINED EVIDENCE AT A PUBLIC HEARING HELD ON FEBRUARY 7, 2023, AND BASED ON THE TESTIMONY AND EVIDENCE, THE BOARD HAS DETERMINED AS FOLLOWS:

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. Applicant is the legal owner, occupant, and/or representative of the owner/occupant of the subject property and duly submitted an application with the owner's knowledge, and was duly notified of the hearing, in accordance with Chapter 28 of the Code of the City of St. Augustine. The applicant and/or representative ☒ was present at the February 7, 2023 Planning and Zoning Board meeting and testified under oath, or ☐ was not present.
2. A public hearing was held, with notice given as required by law, and ☒ members of the public testified under oath, or ☐ no members of the public spoke on this issue.
3. The subject property has a land use designation of Commercial Low Density and a zoning classification of Commercial Low One (CL-1) CL-2
4. The above-described Conservation Overlay Zone Development is subject to Section 11-29 of the Code of the City of St. Augustine.

ORDER:

Based upon the evidence presented, the Planning and Zoning Board determined that the requested action MEETS / **DOES NOT MEET** the requirements of Section 11-29, City of St. Augustine Code, and APPROVES / **DENIES** / **CONTINUES** the Applicant's request to approve the modification of an existing dock to include four (4) new boats lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1.

Subject to the following conditions:

- - motion to approve with conditions that:
- - the boat slips are for personal use of the property owners only
- - the city archaeologist will evaluate impact of proposed development
- - staff will determine need for submerged land lease
- _____
- _____
- _____
- _____

DONE AND ORDERED, at a public hearing on the 7 day of February, A.D., 2023, in the Alcazar Room, 75 King Street, St. Augustine, Florida.

2622-0094

REQUEST APPROVED / DENIED / CONTINUED

Sign Name

Mike Davis

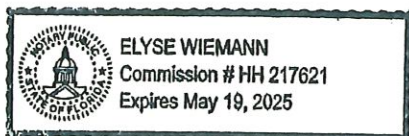
Print Name

PLANNING AND ZONING BOARD
CITY OF ST. AUGUSTINE, FLORIDA

STATE OF FLORIDA, COUNTY OF ST. JOHNS

I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Michael A. Davis who is personally known to me and who is the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed.

Witness my hand and official seal, this 7th day of February, A.D., 2023.



Elyse Wiemann
Notary Public, State of Florida

CITY OF ST. AUGUSTINE
STAFF REPORT & RECOMMENDATION

TO: Planning and Zoning Board

DATE: February 7, 2023

RE: **CONSERVATION OVERLAY ZONE DEVELOPMENT 2022-0084**

AGENDA ITEM 7(b)

APPLICANT Ryan Carter
c/o Carter Environmental Services, Inc.

OWNER Fountain of Youth Prop Inc.

LOCATION 11 Magnolia Avenue / PID 191600-0000

REQUEST To approve the modification of an existing dock to include four (4) new boats lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1.

LAND USE Commercial Low Intensity

ZONING Commercial Low-One (CL-1)

APPLICABLE CODES/ORDINANCES

Conservation and Coastal Management Element of the Comprehensive Plan

Conservation Goal

Protect and conserve natural areas, environmentally sensitive areas, natural vegetative communities, wildlife habitats, marine resources, federal and state listed species, and other renewable and non-renewable natural resources.

CCM Objective 7

Permitted uses for shoreline and waterfront property will continue to give priority to water-dependent uses and increase safe public access to the Matanzas River, the San Sebastian River and the beaches contained in the Anastasia State Recreation Area. The measurable target for this objective is that the City Code will continue to allow water-dependent uses as permitted uses in all of the zoning districts associated with the land use classifications in the coastal planning area.

Conservation overlay zone development means any construction or use which requires a permit from the city, physically located or taking place within a conservation overlay zone.

Conservation Overlay Zone 1 comprises the most environmentally sensitive and valuable natural resources within the city. It includes all beaches, shores and dunes seaward of the state's coastal construction control line (F.S. ch. 161), all wetlands within the state's wetlands jurisdiction line (F.S. ch. 403), brackish water, and some habitat areas for species recognized as endangered, threatened, of special concern, or unique by federal, state and local agencies. This zone includes the estuarine/riverine environments created by the San Sebastian and Matanzas Rivers and their tributaries.

Chapter 11 Land Development Code, Article II. Conservation Overlay Zone Development.

Sec. 11-26. - Purpose and intent.

The purpose of this article is to establish criteria for the review of development proposals and to manage, regulate and direct development within Conservation Overlay Zones 1, 2 and 3 following the goals, objectives and policies contained in the conservation and coastal management element of the comprehensive plan. Further, this article shall serve to preserve and protect environmentally sensitive areas within the city; to promote an understanding of the importance of these areas through passive or scenic recreational opportunities; to protect and conserve endangered, threatened or unique plant and animal life; and to minimize the dangers of natural disasters by discouraging unsuitable development in areas where such growth could impair natural systems or result in loss of life or property.

Sec. 11-28. Issuance of building permits.

- (a) The planning and zoning board shall review all applications for development in Conservation Overlay Zone 1; all applications for development in Conservation Overlay Zone 2, except as specified in subsection (b); and all applications for development in Conservation Overlay Zone 3, except as specified in subsection (c). Such approval by the planning and zoning board shall be after a public hearing as required by chapter 28.

Sec. 11-29. Standards for review.

- (a) Permits for structures and uses located within Conservation Overlay Zone 1 shall be issued only for such structures and uses which have received permits under provisions of applicable federal and state regulations and will be issued only for those structures and related uses such as fishing piers and catwalks, boardwalks, boat docks, boathouses, boat ramps, marinas, and marine railways, as well as dredging and filling, which are determined to be to the benefit of the public as a whole and which are determined as having no significant negative impact on natural systems, by either individual or cumulative effect. The planning and zoning board is authorized to impose limitations in the nature and manner of construction and/or use so as to avoid damage to adjacent salt marshes and the vegetative communities contained therein, to eliminate any harm to the animal, fish or shellfish contained therein, to avoid blocking or disrupting vistas and scenic opportunities, and to enhance those vistas and scenic opportunities which are determined to benefit the public as a whole.

- (b) Permits for structures and uses located within Conservation Overlay Zone 2 shall be issued only for those structures and related uses which are determined as having no significant negative impact on adjacent natural systems by either individual or cumulative effect., and consistent with the purpose of Conservation Overlay Zone 2 to protect the functional integrity of Zone 1 and to protect Zone 3 from extreme high-water conditions. At no time shall the impervious area in Conservation Overlay Zone 2 exceed twenty-five (25) percent without that area receiving treatment equivalent to the St. Johns River Water Management District water quality treatment provisions required when new development is proposed along an unaltered shoreline. The first (landward of the most restrictive jurisdictional line, which may be the mean high-water line or wetlands jurisdictional line) twenty-five (25) feet, measured in width perpendicular to the most restrictive jurisdictional line, in Conservation Overlay Zone 2 shall remain undeveloped except as provided in (1) - (4) of this subsection. If the area is already disturbed, a restoration plan is required. The planning and zoning board is authorized to impose limitations in the following manner so as to avoid damage to adjacent salt marshes and the vegetative communities contained therein, to eliminate any harm to any animal, fish or shellfish life contained therein, to avoid blocking Conservation Overlay Zone 1 vistas and scenic opportunities, and to enhance those vistas and scenic opportunities which are determined to benefit the public as a whole. Rear or side lot drainage from grassed or altered areas of new development along an altered shoreline not directed to a water management system may be discharged to an adjacent water body/wetland; however, the area not treated must be compensated elsewhere in the system. This may be accomplished by providing additional water quality treatment in the system equivalent to that which will be discharged untreated. Water discharged shall be at non-erosive velocities. Rear or side lot drainage from grassed or altered areas of new development along an unaltered shoreline not directed to a water management system may be discharged to an adjacent water body/wetland through the twenty-five (25) feet buffer (water discharged shall be at non-erosive velocities), with the following permitted activities:

- (1) Pruning vegetation to retain or create a reasonable view. Ground cover and shrub vegetation to a height of thirty-six (36) inches should be retained.
- (2) A maximum of fifty (50) percent of the basal area of trees, and a maximum of fifty (50) percent of the total number of saplings, may be removed for any purpose in a twenty-year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place. Replacement planting with native, low maintenance vegetation is permitted to maintain the fifty (50) percent level.
- (3) Dead, diseased, unsafe, or fallen trees may be removed.
- (4) Bridges, paths, walkways, gazebos, docks and decks, bulkheads, seawalls, and retaining walls, and accessways to such amenities are permitted across the buffer provided such activities have minimal impact to the wetlands and are scaled to preserve the integrity of the buffer (less than ten (10) percent of the total area calculation of the buffer). These structures must demonstrate that they are of a reasonable, compatible scale to similar structures in the neighboring area. Structures in Conservation Overlay Zone 2 that are connected to adjacent structures in Zones 1 or 3 shall be sized relative to that adjacent structure and be designed so as to minimize off-site visual and environmental impacts. The applicant will present

any mitigating design and environmental elements as part of the review of the structure in Conservation Overlay Zone 2.

- (c) Applications for development in Conservation Overlay Zones shall be evaluated according to the following criteria: *Please refer to the staff summary and analysis below.*

Sec. 28-6. - Accessory buildings.

Except for temporary storage of building supplies during the period of construction of the main use building no accessory building shall be used or occupied until the main use building on the lot is being used. This restriction shall not apply to boat docks, boathouses and well houses.

STAFF SUMMARY AND ANALYSIS

This request is to construct a new 765 square foot observation deck towards the southern portion of the property and to add 794 square feet of decking and four boat lifts to an existing dock at 11 Magnolia Avenue. The existing dock and proposed observation dock are located along Hospital Creek with their respective walkways located in the wetlands to the west of the creek.

The proposed four new boat lifts will be for the owner's personal use as stated by the applicant in an email from January 17th, 2023.

Conservation Overlay Zone Development (*Staff analysis in italics*)

- (c) Applications for development in Conservation Overlay Zones shall be evaluated according to the following criteria:

- (1) Site specific conditions:

This property has approximately 1,365 feet of Hospital Creek frontage. The property and adjacent properties utilize sea walls and are elevated from the coastline. Mangroves and marine vegetation are present in the region but not in the footprint of the proposed structures.

- (2) The site's relationship to adjacent properties, bodies of water and surrounding conservation zones.

The property sits on the Hospital Creek and is adjacent to single-family homes and multi-family units to the North & South.

- (3) Natural and proposed drainage patterns.

Drainage will not be altered by the proposed works.

- (4) Effect of point and nonpoint discharge in the marine environment.

Point and non-point discharge will not be altered.

- (5) Proposed soil stabilization and erosion control methods.

Soil and erosion control may be necessary during construction, such as silt fences and turbidity barriers, but impacts will be temporary, and no long-term erosional impacts will take place.

- (6) Impact on floodplain.

There is no impact on floodplains associated with this application.

- (7) Impact of development on vegetative and animal communities.

Vegetative impacts: There are no anticipated vegetative impacts as salt marsh, mangroves, and sea grass are not present. Also, the dock will minimally shade a small area of open water, but will be built as required by state and federal agencies, five feet or higher above mean high water.

Lighting of the open water areas at night: The proposed works will be lit with low level, directional lighting that greatly minimizes the amount of light intrusion into the open water.

*Increased noise from day users: **Minimal noise associated with business boating activities.** This will need to be clarified to be sure if the boating activities are for private use or business use.*

- (8) Potential for contaminated drainage, storage of pollutants and the use of poisonous chemicals and materials.

There will be no storage of pollutants or the use of poisonous chemicals and materials.

- (9) Effect of shade on vegetation and shellfish.

Effects of shading on vegetation are not anticipated. Negative effects to shellfish, if any, should be minimal, with potentially positive impacts in the form of additional substrate for shellfish to colonize.

- (10) Effect of boat wake and boat traffic on manatees, vegetation, shellfish and wildlife, as well as shoreline erosion.

The proposed dock site is located in a channel of water in Hospital Creek Matanzas Bay. Due to the tight and confined nature of the Hospital Creek channel it is difficult to navigate during low tide. Sand/mud bar banks are exposed which limits the potential impact on animal, vegetation and erosional forces of any

boating activities. Additionally, a seawall armors the existing Fountain of Youth property. Use of the dock by the owners will not affect any manatees, vegetation, shellfish and wildlife or shoreline erosion.

- (11) Impact of development on shoreline by linear feet and percent of site.

There is an existing bulkhead in place.

- (12) Impact of development on vistas and scenic opportunities by linear feet, height, mass and percent of site.

N/A.

- (13) Existing amounts of native plants and proposed retention and use of native plants for landscape and open space purposes.

N/A.

- (14) Impact of development on plant and animal habitat and potential loss in acres and percent of site.

N/A.

- (15) Impact of development on water quality. Water quality objectives will be presumed to have been met if runoff water is routed to a surface water management system permitted by the St. Johns River Water Management District or to a treatment facility that is equivalent to the water quality treatment criteria (water retention/detention) of the water management district. (An engineer or landscape architect licensed in the State of Florida is required to certify that the treatment facility is equivalent to the district's criteria.)

N/A.

- (16) Impact of development on shellfish and on commercial and sport fish and waterfowl.

a) The effects of the proposed project on commercial and sport fish are as follows:

Positive: The proposed new dock will provide shelter for larval, juvenile, and adult fish.

Negative: Extremely small loss of juvenile habitat from the placement of approximately 48 new pilings for the dock construction.

b) The effects of the project on shellfish are as follows:

CITY OF ST. AUGUSTINE
STAFF REPORT & RECOMMENDATION

Positive: The pilings used to construct the dock/lift additions could be colonized by barnacles, oysters, and mussels. This will be an addition of habitat.

Negative: None

c) *The effects on the project on waterfowl are as follows*

Positive: The new boardwalk could be used as a resting place or perch for many waterfowl.

Negative: Extremely small loss of foraging habitat.

- (17) Specific conditions applicable to docks. In addition to the considerations listed in subsections (1) through (16) herein, no boathouse, roofed structure or wall shall be constructed on any dock. This section shall not prohibit the use of bumpers or similar structures built at or near the water line and below deck elevation to protect the dock from damage caused by moored vessels.

The deck of any private boat dock shall not exceed six (6) feet in height above mean high water. Boatlifts mounted on docks, or constructed on or adjacent to a dock, shall be limited to a capacity of twelve thousand (12,000) pounds or less. All boatlifts shall be low profile boatlifts or no profile boatlifts, and no boats in excess of thirty-two (32) feet in length shall be allowed on a boatlift. In addition, the maximum height, excluding masts, antennas and other non-occupiable features, of a boat suspended in a boatlift shall not exceed six (6) feet above the gunwale (gunnel); whereby, the gunwale (gunnel) is defined as the upper edge of the side of the ship or boat. A low-profile boatlift is a boatlift for a single watercraft in which no part of the boatlift shall exceed three (3) feet above the deck. A no profile boatlift is a boatlift for a single watercraft in which no part of the boatlift shall protrude above the deck.

There are currently no proposed plans for any boathouse, roofed structure or wall within the dock with the decking not exceeding 6' above the mean high waterline. The proposed height for the newly constructed dock being 5' to match the existing dock profile. The new boat lifts will be low-profile and will not exceed a 12,000-pound capacity.

CITY OF ST. AUGUSTINE
STAFF REPORT & RECOMMENDATION

STAFF RECOMMENDATION

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 to include four (4) new boat lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1 at 11 Magnolia Avenue / PID 191600-0000.

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



Jacob Fredriksson
Senior Planner
Planning and Building Department

**Appeal Application John and Elise Kulaga (Represented by James G.
Whitehouse, Esq.) – 5 Radio Road**

RECEIVED

MAR 08 2023

CITY OF ST. AUGUSTINE
APPLICATION TO APPEAL OFFICIAL, BOARD
OR STAFF DECISION

Planning/Building Dept.

1. APPLICANT FEE:	\$200
2. PROJECT NUMBER:	2023-0014
3. RECEIPT NUMBER:	2582872

PLEASE PRINT OR TYPE

4. APPLICATION TO APPEAL DETERMINATION(S) OF THE FOLLOWING:

☒ Planning and Zoning Board ☐ Historic Architectural Review Board ☐ Building Official ☐ Fire Marshal	☐ City Manager ☐ Planning and Building Director ☐ Other (please specify): _____
--	--

5. NAME OF APPELLANT: John & Elise Kulaga (Represented by James G. Whitehouse, Esq.)

Phone: () | Business (if applicable):
Address: 5 RADIO ROAD | City: ST. AUGUSTINE
State: FL | Zip: 32084

6. LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THIS APPEAL:

Lot: | Block: | Subdivision: Fountain of Youth Park
Parcel No.: 191600-0000
Other (attach copy, if necessary): Fountain of Youth Property (Four New Docks claimed for Private Use)

7. PROPERTY STREET ADDRESS: 11 MAGNOLIA AVENUE

8. PROPERTY OWNER: Fountain of Youth Properties, Inc.

Phone: () | Business (if applicable):
Address: | City:
State: | Zip:

9. DESCRIPTION OF ACTION BEING APPEALED: Appeal of the grant of a Conservation

Overlay Zone Development Permit for significant modifications to a DOCK "to include four new

boat lifts with catwalks" within the most sensitive areas of Conservation Zone 1

(e.g.: "Approval of a variance by the Planning and Zoning Board regarding lot coverage to construct a shed" or "Denial of a Certificate of Appropriateness by the Historic Architectural Review Board for metal roof for an addition.")

10. DATE OF ACTION BEING APPEALED: February 7, 2023 - PZB

11. DESCRIBE IMPACT OF ACTION ON APPELLANT: Appellant lives almost immediately adjacent to the property being developed with these four new boat lifts and catwalks and will be directly affected by this new development in conservation zone one ... (SEE ATTACHED)

In many instances, an appeal may only be filed by an aggrieved person, and the reviewing authority must find whether in its opinion error was made in order to reverse or modify the action appealed.

12. SPECIFIC GROUNDS FOR THE APPEAL:

--- SEE ATTACHED ---

Section 28-29 of the Code of the City of St. Augustine, in part, states: "State with particularity, specific grounds for the appeal, including the factual and legal basis, which must be based on established law as it relates to the action taken by the official, board or commission upon which the appeal is filed. The official, board or commission which will hear the appeal as the reviewing authority may review the application for appeal prior to hearing and may request that additional information be filed, in writing in the form of a brief or other formal statement. Based upon the application for appeal and such other information that is filed, such reviewing authority may summarily affirm the order to be reviewed if the authority finds that no preliminary basis for reversal has been demonstrated, or may summarily reverse the order to be reviewed if the reviewing authority finds that no meritorious basis exists for affirmance and the order otherwise is subject to reversal." Attach additional information, if necessary.

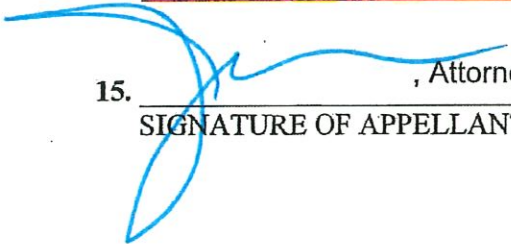
13. SPECIFIC ACTION BEING REQUESTED: Revoke the PZB grant of this permit for significant modifications to a DOCK to include four new boat lifts with catwalks within the most sensitive areas of the conservation zones, as the grant will significantly affect Appellant... (SEE ATTACHED)

14. AGREEMENT: In filing this application, I understand that it becomes part of the Public Record of the City of St. Augustine, and hereby certify that all information contained herein is accurate to the best of my knowledge.

In accordance with s. 286.0105, Florida Statutes: "If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

A VERBATIM TRANSCRIPT IS REQUIRED AND INCLUDED WITH THIS APPEAL. THE DEADLINE FOR THE TRANSCRIPT IS THE SAME AS THE DEADLINE FOR THE APPEAL.

15.

 , Attorney for Appellant

SIGNATURE OF APPELLANT

DATE

3/3/23

ATTACHMENT
APPLICATION TO APPEAL P.Z.B. DECISION

STANDING

This appeal is brought by city residents John and Elise Kulaga, property owners of 5 Radio Road, proof of ownership attached, who live on immediately adjacent property, within the 300-foot notice area, and who are residents directly and immediately affected by this proposed development in conservation zone 1 for the significant modifications to a DOCK to include four new boat lifts with catwalks. This appeal packet includes a complete appeal filed in compliance with code requirements, including their following statement as to their legal standing for this appeal:

Pursuant to City Code, Section 28-29(g)(2), If an appeal is filed by any other aggrieved person, the city commission will review the application for appeal for completeness, compliance with code requirements, and legal standing, and conduct a sufficiency review prior to scheduling a substantive appeal hearing ... If the city commission finds that the application for appeal meets legal sufficiency because it is complete, filed in compliance with code requirements, and filed by a person with legal standing, it shall set the appeal for a public hearing on the substantive appeal in the manner prescribed in section 28-59.

Standing is a threshold requirement that a party must meet in order to maintain a lawsuit or to support that party's participation in the case. "Any litigant must demonstrate that he or she has standing to invoke the power of the court to determine the merits of an issue." *Vaughan v. First Union Nat'l Bank*, 740 So. 2d 1216, 1217 (Fla. 2d DCA 1999).

Standing is a question of law, which is decided by the presiding judge. See *McCall v. Scott*, 199 So. 3d 359, 364 (Fla. 1st DCA 2016). "Whether a party has standing to bring an action is a preliminary matter to be decided on the basis of the pleadings filed in that particular case." *In re Huff*, 109 B.R. 506, 509 (Bankr. S.D. Fla. 1989).

As the U.S. Supreme Court has stated, "in essence, the question of standing is whether the litigant is entitled to have the court decide the merits of the dispute or of particular issues." *Warth v. Seldin*, 422 U.S. 490, 498 (1975).

To establish standing, a plaintiff must have a "legitimate or sufficient interest at stake in the controversy that will be affected by the outcome of the litigation." *DeSantis v. Fla. Educ. Ass'n*, 306 So. 3d 1202, 1213 (Fla. 1st DCA 2020) (quoting *Equity Res. v. Cty. of Leon*, 643 So. 2d 1112, 1117 (Fla. 1st DCA 1994)).

"When standing is challenged on the basis of the pleadings, the Court must accept as true all material allegations and construe them in favor of the party whose standing is challenged." *Id.* (citing *Pennell v. City of San Jose*, 108 S. Ct. 849, 855 (1988)).

Generally, the plaintiff has standing if the plaintiff has a sufficient interest at stake in the controversy that will be affected by the outcome of the litigation. *Khazaal v. Browning*, 707 So. 2d 399, 400 (Fla. 5th DCA 1998).

“In its broadest sense, standing is no more than having, or representing one who has, a sufficient stake in an otherwise justiciable controversy to obtain judicial resolution of that controversy.” *Kumar Corp. v. Nopal Lines, Ltd.*, 462 So. 2d 1178, 1182 (Fla. 3d DCA 1985) (quoting *Sierra Club v. Morton*, 405 U.S. 727, 731(1972)).

State v. J.P., 907 So. 2d 1101, 1113 n.4 (Fla. 2004): When determining whether a plaintiff has standing, courts consider these three elements:

First, a plaintiff must demonstrate an “injury in fact,” which is “concrete,” “distinct and palpable,” and “actual or imminent.” *Whitmore v. Arkansas*, 495 U.S. 149, 155 (1990).

Second, a plaintiff must establish “a causal connection between the injury and the conduct complained of.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992).

Third, a plaintiff must show “a ‘substantial likelihood’ that the requested relief will remedy the alleged injury in fact.” *Vermont Agency of Natural Res. v. Stevens*, 529 U.S. 765, 771 (2000).

In the instant matter, the Kulagas, city residents that live on immediately adjacent property at 5 Radio Road, who are within the 300-foot notice area and who received mailed notice as required by City Code and who retained counsel to appear on their behalf at the underlying planning board hearing to present their statement and facts in opposition to the request based upon injury that will caused to them upon approval, are indeed adversely affected parties who have standing to appeal the inappropriate grant of the conservation zone one development to allow for significant modifications to a DOCK to include four new boat lifts with catwalks.

In addressing their standing, they indeed expressed (within the statement read and filed into the record at the PZB hearing) the injuries they will suffer if such is approved, including injury to their scenic vista in that the four new boat lifts will be immediately within their vista; also including, their testimony that they use this area of the creek very frequently out in front of their property which is right on the creek and the introduction of four new boat docks and the size vessels that it will allow will indeed interfere with both their use of this very constrained area of the creek as well as injure the environment, the creek bed and the marine life in this shallow and constrained area of the creek, which they have enjoyed for many years without such inappropriate intrusion.

Moreover, to have standing, a plaintiff must have “a personal stake in the outcome of the proceeding, such as an injury that may be redressed by the suit.” *Sun State Utils., Inc. v. Destin Water Users, Inc.*, 696 So. 2d 944, 945 n.1 (Fla. 1st DCA 1997). That injury has to be “distinct and palpable, not abstract or hypothetical.” *Sosa v. Safeway Premium Fin. Co.*, 73 So. 3d 91, 117 (Fla. 2011).

Based upon where they live, immediately adjacent, and their testimony entered at PZB, the Kulagas clearly have an immediately impacted personal stake in the outcome of this permit’s review and such injury can be redressed through the Commission’s appropriate review of the PZB grant. The Kulagas merely seek the Commission’s reasonable and appropriate application of the City Code requirements of Section 11-29 and the 17 criteria contained therein.

11. DESCRIBE IMPACT OF ACTION ON APPELLANT:

This appeal is brought by city residents John and Elise Kulaga, property owners of 5 Radio Road. They live on immediately adjacent property, within the 300-foot notice area. These residents are directly and immediately affected by this proposed development. The proposal calls for development in the most sensitive environmental areas of the city, conservation zone 1. Further, this proposal seeks to further expand their already existing dock in this significantly constrained area of Hospital Creek. The waterway is very narrow here and very shallow. They are asking for "significant modifications to a DOCK to include four new boat lifts with catwalks."

The Kulagas provided direct testimony at the PZB hearing and expressed the significant impact that this proposal will have on their property, the creek area which they use all the time and their vistas looking out to the bay and toward the lighthouse, etc. The applicant already has a significant structure in the area and now seeks to SIGNIFICANTLY INCREASE their impact on the surrounding properties and their SIGNIFICANT IMPACT on the creek and the environment as well as on the other neighbors in this community that share this very constrained waterway.

Please see their attached letter that was presented to the PZB as evidence of the significant impact on them and their property and was ready into the record and is a part of the transcript and the evidence upon which this appeal is based.

The P.Z.B.'s grant is based upon the applicant's submittal of vague and incomplete answers and materials attempting to address the City Code requirements for conservation zone one development. These answers are incomplete and vague at best and do not effectively address the 17 criteria as required by our City Code.

Moreover, the appellant, adjacent residents and significant users of the creek in this area for many years, will be immeasurably damaged if this request and approval is merely glossed over and allowed because the applicants want more docks and catwalks for what they claim will be personal use of this already overused and burdensome commercial dock.

This application and proposal clearly violates many of the 17 criteria for review, AS TESTIFIED TO BY the fact-based witnesses at the PZB hearing, including the appellants.

12. SPECIFIC GROUNDS FOR THE APPEAL:

As afore-stated, this appeal is brought by city residents and adjacent property owners John and Elise Kulaga, property owners of 5 Radio Road. They live on immediately adjacent property,

within the 300-foot notice area. These residents are directly and immediately affected by this proposed development. The proposal calls for development in the most sensitive environmental areas of the city, conservation zone 1. Further, this proposal seeks to further expand the applicant's already existing commercial dock in this significantly constrained area of Hospital Creek. The waterway is very narrow here and very shallow. As noted by staff, they are asking for "significant modifications to a DOCK to include four new boat lifts with catwalks."

The Kulagas provided the following direct testimony at the PZB hearing and expressed the significant impact that this proposal will have on their property, the creek area which they use all the time and their vistas looking out to the bay and toward the lighthouse, etc. The applicant already has a significant structure in the area and now seeks to SIGNIFICANTLY INCREASE their impact on the surrounding properties and their SIGNIFICANT IMPACT on the creek and the environment as well as on the other neighbors in this community that share this very constrained waterway.

This is their testimony in full, and it clearly lays out the fact-based testimony that was ignored by the P.Z.B.'s grant of this significant modification to this commercial dock:

From: J Kulaga <jk1060@nyu.edu>

Sent: Tuesday, February 7, 2023 9:47 AM

To: PLANNING AND ZONING BOARD – CITY OF ST. AUGUSTINE

Cc: James Whitehouse <jameswhitehouse@sjlawgroup.com>; Elise Kulaga <ekulaga0007@gmail.com>

Subject: PZB – 2/7/2023 – FOUNTAIN OF YOUTH DOCK EXTENSION – NEIGHBOR COMMENT
THE KULAGA FAMILY – 5 RADIO ROAD

Dear board members.

My name is John Kulaga and my family and I live immediately adjacent to this commercial property's requested impact.

To begin, I am upset that I cannot be there to represent us for such an impactful manner. Due to the lack of appropriate time given with a certified letter delivered to us ONLY 7 business days before this meeting, we have hired our attorney, Mr. Whitehouse to READ OUR HEARTFELT and genuine objections.

My wife Elise has been a resident of St. Augustine since 1982 and myself since 1989.

We have seen this city transform for the better and for the worse. We are not opposed to development of appropriate growth in the Nation's Oldest City, but strongly oppose the Fountain of Youth Dock extension and enlargement.

Our first opposition is based on the discrepancy in the filing. The Filing in December states for commercial use but the response in January says for personal use.

Page 1 of 4 of the application Dated Dec 12, 2022 states:

"The proposed work will enhance vistas and scenic opportunities for the benefit of the public as a whole. The approval of the dock will give the public the **benefit of renting a boat** during operating hours and observe the vistas and scenic opportunities in the vicinity."

In a subsequent email Exchange with Jacob Fredriksson Senior Planner dated Jan 17, 2023: staff asks the specific nature of how the proposed dock with boat lifts will be used. And the applicant responded that The additional four boat lifts plan to be used by the family who owns the Fountain of Youth (FOY) **for their personal boats.**

Elise and I are both avid outdoorsman that enjoy the waters of Saint Augustine. As long time local avid anglers, we have a canoe, a skiff, and an offshore vessel and use the creek in this area often. We have personal experience and have seen this waterway over the past 5 years and the connecting waterways reach a point of safety concern to both human and marine life due to the large population increase and inexperienced boaters.

The proposition before you further increases this safety concern for both human and marine life in the following manner:

1) The proposed lift limit for the docks is currently 12,000 pounds. This is approximately a 34 foot vessel and a 10 foot beam (width).

This is a very large boat.

And they want 4!

FOR PERSONAL USE??

2) At low tide, the navigable water in front of the current existing dock is 75 feet at best To back out a 34 foot vessel with others oncoming leaves very little room even for the most experienced captain, never mind a renter. Also The tide flow/current in the creek can get very strong which further complicates navigation

3) At low tide many areas in Hospital Creek are only 3 feet deep that would not allow a 12,000 pound vessel to pass safely without harm to the vessel and marine environment by stirring up silt. Silt stirred up causes many environmental impact issues hence why you need a permit for dredging.

4) At the causeway bridge there is also a kayak and canoe launch. There is a large volume of kayakers, canoers, and paddle boarders that launch from here to safely enjoy Saint Augustine's waters of Hospital Creek without fear of larger powered boats running them over. Currently the motorized boat traffic on Hospital Creek is low. Do you want inexperienced boat renters next to a high volume of unmotorized vessels?

5) Due to the busy main waterways, our marine life has very few refuges anymore. Hospital Creek is one of the last few areas without heavy boat traffic for manatees and other animals to survive undisturbed. Hospital Creek is not deep and allowing inexperienced boaters into an environmentally sensitive area and stirring up mud silt has negative effects on marine life.

The proposition for personal use vs commercial is questionable with this filing, but the reality is this is a segway into commercial use regardless of their conflicting proposed use. This alone should be enough to delay or deny an approval.

This is a commercial property, not a private residence and stating they will use it for personal use is only a clever disguise, and clearly conflicting with their original application.

The family of the Fountain of Youth has deep political connections in this small town, which is evident here. Why would they want a larger dock, FOR PERSONAL USE ONLY, but not allow us or other neighbors to build a dock in the near vicinity in front of our own land and houses on the creek??

Their representatives are here in the room, you can ask them that question. Why won't they allow a neighbor to build a dock, yet they are asking for permission to extend one?

THAT BEING SAID

Has the City done an environmental impact study?

Has the City recently looked at the non-motorized boater volume in Hospital Creek?

Will the City consider putting a ban on commercial use of the proposed personal dock?

If the dock is approved for PERSONAL USE but used for commercial use, will it be stopped or at least taxed appropriately for the use and land value?

If approved, will the city set up proper continuous environmental monitors to assure the impact of increased boat traffic does not affect wildlife in a sensitive area?

There are many more questions our colleagues in the community have that need to be addressed. This is not a just a simple dock extension approval. There is a lot to be uncovered and researched here.

Thank you for your personal review of this matter, and as fellow St. Augustine residents, for putting yourselves in our shoes for a few minutes,

Elise and John Kulaga

Additional Testimony from Fact-Based Witnesses at PZB Hearing

Further, the transcript also contains several other fact-based witnesses that discussed the constrained creek and the environmental impact of the proposal, particularly Captain McKenna: Captain Zack McKenna, who currently runs environmental eco tours up and down the creek, and has done so for some 17 years, for people to enjoy and understand the fragile ecosystems, spoke as to the impact of these additional four docks and catwalks on this constrained area of the creek and the affect on the environment based upon his first hand fact-based knowledge of the area. He spoke about the pristine nature of Hospital Creek and the fact that this application did not in fact address the 17 criteria in a manner to show that it would not unduly impact the environment as the others have stated.

APPLICANT'S ATTEMPTED ANSWERS TO CITY CODE CRITERIA

Applications for development in Conservation Overlay Zones are to be evaluated according to certain criteria set forth in Section 11-29(c) of the City Code. The owner has complied with each of those criteria, as detailed below:

1. *Site specific conditions.*

This property has approximately 1,365 feet of Hospital Creek frontage. The property and adjacent properties utilize sea walls and are elevated from the coastline. Mangroves and marine vegetation are present in the region but not in the footprint of the proposed structures.

2. *The site's relationship to adjacent properties, bodies of water and surrounding conservation zones.*

The property sits on the Hospital Creek and is adjacent to other single-family homes and multi-family units to the North & South.

3. *Natural and proposed drainage patterns.*

Drainage will not be altered by the proposed works.

4. *Effect of point and non-point discharge in the marine environment.*

Point and non-point discharge will not be altered.

5. *Proposed soil stabilization and erosion control methods.*

Soil and erosion control may be necessary during construction, such as silt fences and turbidity barriers, but impacts will be temporary and no long-term erosional impacts will take place.

6. *Impact on floodplain.*

There is no impact on floodplains associated with this application.

7. *Impact of development on vegetative and animal communities.*

Vegetative impacts: There are no anticipated vegetative impacts as salt marsh, mangroves, and sea grass are not present. Also, the dock will minimally shade a small area of open water, but will be built as required by state and federal agencies, five feet or higher above mean high water.

Lighting of the open water areas at night: The proposed works will be lit with low-level, directional lighting that greatly minimizes the amount of light intrusion into the open water.

Increased noise from day users: Minimal noise associated with business operations boating activities.

8. *Potential for contaminated drainage, storage of pollutants and the use of poisonous chemicals and materials.*

There will be no storage of pollutants or the use of poisonous chemicals and materials

Effects of shading on vegetation are not anticipated. Negative effects to shellfish, if any, should be minimal, with potentially positive impacts in the form of additional substrate for shellfish to colonize.

10. *Effect of boat wake and boat traffic on manatees, vegetation, shellfish and wildlife, as well as shoreline erosion.*

The proposed dock site is located in a channel of water in Hospital Creek Matanzas Bay. Due to the tight and confined nature of the Hospital Creek channel it is difficult to During low tide sand/mud bar banks are exposed which limits the potential impact on animal, vegetation and erosional forces of any boating activities. Additionally, a seawall armors the existing Fountain of Youth property. Use of the dock by the owners will not affect any manatees, vegetation, shellfish and wildlife or shoreline erosion.

11. *Impact of development on shoreline by linear feet and percent of site.*

Not applicable.

12. *Impact of development on vistas and scenic opportunities by linear feet, height, mass and percent of site.*

Not applicable.

13. *Existing amounts of native plants and proposed retention and use of native plants for landscape and open space purposes.*

Not applicable.

14. *Impact of development on plant and animal habitat and potential loss in acres and percent of site.*

Not applicable.

15. *Impact of development on water quality.*

Not applicable.

16. *Impact of development on shellfish and on commercial and sport fish and waterfowl.*

- a) The effects of the proposed project on commercial and sport fish are as follows:

Positive: The proposed new dock supports will provide shelter for larval, juvenile, and adult fish.

Negative: Extremely small loss of juvenile habitat from the placement of approximately 48 new pilings for the dock construction.

- b) The effects of the project on shellfish are as follows:

Positive: The pilings used to construct the dock/lift additions could be colonized by barnacles, oysters, and mussels. This will be an addition of habitat.

Negative: None

Positive: The additional dock area could be used as a resting place or perch for many water fowl.

Negative: Extremely small loss of foraging habitat.

- Dock specifications:

- a) *No boathouse, roofed structure or wall shall be constructed on any dock.*

There are currently no proposed plans for any boathouse, roofed structure or wall within the dock.

- b) *The deck of any private boat dock shall not exceed six (6) feet in height above the mean high water line.*

The deck will not exceed 6' above MHW, with a proposed height for the newly constructed dock being 5' to match the existing dock profile.

- c) *Boatlifts shall have a maximum capacity of 12,000 pounds and shall be low-profile or no-profile.*

Boat lifts will be low-profile and not exceed 12,000 pounds.

Our commentary in the record on the 17 criteria

PZB FAILURE TO ADDRESS THE ENVIRONMENTAL REVIEW

Our comments on the record were based upon our discussions with various environmental experts in the fields and their commentary was included in our concerns expressed in our comments on the record. AS NOTED ABOVE, commentary by the applicant in the record as to the criteria of the city code DOES NOT address the issues required for approval. In fact, the PZB made error in not specifically addressing each of the 17 criteria, as required by the code. If they had done so, as required by the code, it would have been apparent as follows:

- A) Most of the "justifications" for why this project should be approved that were submitted by the consultant were not supported by any information.
- B) The code requires review of the criteria for Conservation Overlay Zone development
- C) The statements of the environmental consultant are easily refuted or do not address the requirements, as follows:
 - Permits for structures and uses located within Conservation Overlay Zone 1 shall be issued only for such structures and uses which are determined to be to the benefit of the public as a whole.
 - The applicant states in the application that this is a private dock and the public benefits may occur through economic activities. This is a stretch to say the least.
 - Construction activities and marine/boating related purchase may benefit individual business owners, but they will not benefit the public as a whole.
 - Adding 4 large boat lifts may also pose a hazard to navigation. This dock is located on a bend in the creek, so visibility and safety are an issue.
 - Also, the size of the lift suggests that large boats would be housed there. It is essential to note the relatively shallow depth of the creek in that area and potential for damage to nearby oyster reefs and vegetation, as mentioned in the testimony at PZB.
 - **Further, the applicant contradicted themselves by stating that it is both a private dock and that the public can rent boats. (Accordingly, if they say it is private, then it will NOT benefit the public. If they say it is public for rentals, inexperienced boaters pose a collision risk to local plants and wildlife.)**

Permits for structures and uses located within Conservation Overlay Zone 1 shall be issued only for such structures and uses which are determined as having no significant negative impact on natural systems, by either individual or cumulative effect.

As stated by the concerned fact-based witnesses, introduction of these additional docks will lead to cumulative negative impacts to natural systems through increased boat traffic leading to more erosion, increased turbidity, and greater likelihood of leaks and spills of marine chemicals like oil and gas.

Finally, as testified, these new docks will lead to increased vessel traffic around Julia's Island, a sensitive nesting area for shorebirds. Julia's Island is an active nesting site for Least Terns, Wilson's Plovers, and American Oystercatchers. The City is actively working to try to mitigate harmful impacts from vessel traffic. (The wakes from the boats are eroding the shoreline and washing out the nests).

CONCLUSION

A strict scrutiny review of the record, clearly reveals that the applicant DID NOT meet each and every requirement, guideline, code, regulation for this request. The documentary and testimonial evidence offered by the fact-based witnesses could not have been more one-sided. In fact, their testimony was uncontroverted, save several vague assertions by the applicant.

The board members' comments and failure to fully evaluate the 17 criteria show their clearly pre-determined positions on the matter presented. Those comments serve as a guiding light for this Commission's evaluation of whether the Board fully evaluated the criteria and analyzed the proposal and whether the fact-based testimony provided called that proposal into question under the code criteria.

"The elected and appointed officials charged with the administration of city and county government are subjected to increasing pressures. On one hand, they are pressed to allow growth only if it is commensurate with available roads and services. On the other hand is the pressure from landowners who wish to develop their vacant properties in a manner that results in the largest return of capital or pleasure. Still another pressure is the desire of neighbors who do not wish their present enjoyment of their lands disrupted in the slightest by the use of adjoining vacant property. Opposition of surrounding property owners must be considered by the city if competent substantial evidence is presented showing an actual effect on their property as prohibited by the criteria." *BML Investments v. City of Casselberry*, 476 So. 2d 713 (Fla. 5th DCA 1985), rev. denied, 486 So. 2d 595 (Fla. 1986); *Conetta v. City of Sarasota*, 400 So. 2d 1051 (Fla. 2d DCA 1981).

Finally, as aforementioned, there was no competent substantial evidence presented to support a grant of applicant's request for approval. To that end, "the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached." *Pollard v. Palm Beach County*, 560 So.2d 1358, 1359 (Fla. 4th DCA 1990). There must be "such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred." *Id.* at 1359 (citing, *De Groot v. Sheffield*, 95 So.2d 912,916 (Fla. 1957)).

In the instant case, the applicant clearly failed to establish with competent substantial evidence that their application met all of the applicable provisions of the City's guidelines and complied with all of the City codes. This fact was contested by the competent evidence adduced at the hearing from the fact-based witness testimony. In fact, there was no evidence in the record,

short of the vague answers by the applicant and the purely hypothetical opinions and conjectures positing that it would not affect the environment and would not unduly impact this constrained area of the creek, let alone competent and substantial evidence, to support refuting the citizen neighbor, fact-based testimony.

In sum, the speculative reasons offered by the Board, brought on by the unsubstantiated vague assertions of the applicant in their attempts to meet the requirements within the city codes, guidelines, and standards. There can be no question that this approval, which was opposed by every fact-based citizen witness on the record who offered substantive competent substantial evidence and testimony, was in fact a violation of the city code that represents a failure to follow the essential requirements of law and an order that was not supported by any evidence in the record, much less evidence that was competent and substantial.

Such an action in the case at hand is clear error.

13. SPECIFIC ACTION BEING REQUESTED:

The adjacent property owners, the Kulagas, petition the City Commission to evaluate their appeal and the record from the PZB meetings, and to find that the applicant did not submit and present competent evidence to support the granting of a conservation overlay zone one approval for the significant modifications to a DOCK to include four new boat lifts with catwalks.

Moreover, based upon where they live, immediately adjacent, and their testimony entered at PZB, the Kulagas clearly have an immediately impacted personal stake in the outcome of this permit's review and such injury can be redressed through the Commission's appropriate review of the PZB grant. The Kulagas merely seek the Commission's reasonable and appropriate application of the City Code requirements of Section 11-29 and the 17 criteria contained therein.



Owner's Authorization For Agent

James G. Whitehouse, Esq. is/are hereby authorized TO ACT ON BEHALF
OF John & Elise Kulaga, the owner(s) of those lands described within

☒ the attached ^{APPEAL} application, or ☐ described within the previously filed

Application number: _____, and as described in the attached deed or
other such proof of ownership as may be required, in applying to the City

of St. Augustine's _____, located _____
City Commission with an Appeal of a Conservation Zone Development Permit

at 11 Magnolia Avenue - within 300 feet of Appellant's Property on 5 Radio Road

BY: Elise Kulaga
Signature of Owner

Elise Kulaga
Print Name of Owner

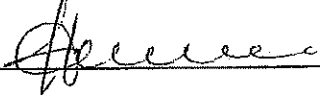
904 347-1703
Telephone Number



Jurat Certificate

State of Florida
County of St Johns
Sworn to (or affirmed) and subscribed before me this 3 day
of March, 20 23, by means of ☒ physical presence or ☐ online notarization
Elise Kulaga (name of person making statement).

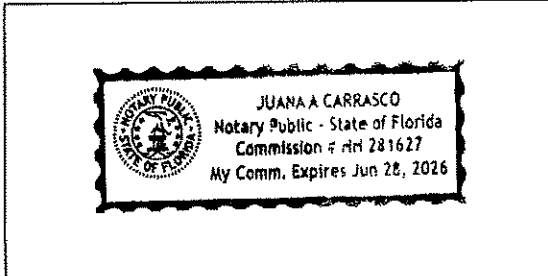
☐ Personally known to me
☒ Produced Identification
Type of Identification Produced Florida Driver License

Notary Signature 

Title Notary

My appointment expires June 28, 2026

Place Seal Here



Description of Attached document

Type or Title of Document

Owner's Authorization for Agent

Document Date	Number of Pages
<u>3/02/2023</u>	<u>1</u>

Signer(s) Other Than Named Above



AGENDA

Note New Meeting Time

**Planning and Zoning Board
City of St. Augustine, Florida**

Alcazar Room

Tuesday, February 7, 2023, at 1:00 p.m.

Regular Agenda

1. **Roll Call**
2. **General Public Comments for Items Not on the Agenda**
3. **Approval of Minutes**
 - a. Special Meeting Minutes from September 20, 2022.
 - b. Regular Meeting Minutes from November 1, 2022.
 - c. Regular Meeting Minutes from December 6, 2022.

4. **Modification and Approval of Agenda**

5. **Variance**

- a. 2022-0093
Continued from January 3rd Meeting

Chanel Miller – Applicant & Owner
[20 May Street](#)

To reduce the rear setback from 20' to 11.8' and to reduce the side setback from 15' to 2.4' on a Residential Single-Family-One (RS-1) lot to allow for the conversion of an existing garage into habitable space.

6. **Use by Exception**

- a. 2022-0095

David Spinner – Applicant
c/o Lobstah on A Roll
John Arbizzani – Owner
[34 Granada Street](#)

To approve the sale of alcoholic beverages with alcoholic content not more than fourteen (14) percent for consumption on premises within the Commercial Low-One (CL-1) zoning district as a permitted use by exception.

7. Conservation Overlay Zone Development

a. 2022-0057

Continued from October 4th Meeting

Applicant has requested to be continued
to the March 7th Meeting

Ryan Carter – Applicant
c/o Carter Environmental Services
San Sebastian River LLC – Owner
[Florida Avenue / PID 107790-0010](#)

To approve a new bulkhead approximately 20 feet in length, review wetland impacts and approve a pile-supported dock with a floating platform totaling approximately 1,459 square feet within Conservation Overlay Zone 1. To remove significant trees and tree canopy in Conservation Overlay Zone 3 for multifamily housing and recreational use.

b. 2022-0094

Ryan Carter – Applicant
c/o Carter Environmental Services, Inc.
Fountain of Youth Prop Inc.
[11 Magnolia Avenue](#)

To approve the modification of an existing dock to include four (4) new boats lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1.

c. 2023-0001

Adrienne Flatland – Applicant & Owner
[144 Pelican Reef Drive](#)

To approve the removal of a 13-inch dbh Southern Red Cedar within Conservation Overlay Zone 3.

8. Rezoning

a. 2023-0002

James G. Whitehouse, Esq. – Applicant
c/o St. Johns Law Group
Patricia D. Dobosz – Owner
[11 Bridge Street](#)

To rezone the property from Historic Preservation One (HP-1) to Planned Unit Development (PUD).

9. Other Business

- a. Discussion and Recommendation regarding the 2022/2023 Fiscal Year Update to the Capital Improvements Element of the City of St. Augustine 2040 Comprehensive Plan.
- b. Reminder regarding scheduled PZB Special Meeting on Tuesday February 21, 2023, at 1:00 pm.

10. Adjournment

Notices: In accordance with Florida Statute 286.0105: "If any person decides to appeal any decision made by the Planning and Zoning Board with respect to any matter considered at this scheduled meeting or hearing, the person will need a record of the proceedings, and for such purpose the person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the individual or agency sending notice not later than seven days prior to the proceeding at the address given on the notice. Telephone: (904) 825-1007; 1-800-955-8771 (TDD) or 1-800-955-8770 (V), via Florida Relay Service.

Please note that one or more members of the City Commission or its appointed boards or committees may attend this meeting and participate, however they may not engage in a discussion or debate amongst themselves on any issue that will likely come before their respective elected or appointed body.

The materials prepared and presented are part of the City's ongoing Florida Public Records and Government in the Sunshine compliance and are not intended to be relied upon or to reach investors or the trading markets.



CITY OF
ST. AUGUSTINE
EST. 1565
NATION'S OLDEST CITY

February 7, 2023

Ryan Carter
c/o Carter Environmental Services
42 Masters Drive
St Augustine, FL 32084

Re: Conservation Overlay Zone Development – 11 Magnolia Avenue – Case Number 2022-0094

Dear Mr. Carter:

On Tuesday, February 7, 2023, the Planning and Zoning Board (PZB) met and discussed your application to approve the modification of an existing dock to include four (4) new boat lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1.

Specifically, based upon evidence presented, the PZB **APPROVED** your application as described in the attached copy of the executed Order.

Conservation Overlay Zone Development approval is valid for a period of one (1) year from the date of approval. Failure to exercise the Conservation Overlay Zone Development by commencement of the use or action approved shall render the approval invalid, unless an extension has been applied for and approved not less than thirty (30) days prior to the one (1) year expiration date.

Please contact the Planning and Building Department at 904-825-1065 for the proper permits, fees and requirements to proceed with your project in accordance with the Planning and Zoning Board's decision.

Sincerely,

Amy McClure Skinner, AICP
Director, Planning & Building

cc: John P. Regan, City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
BDAC File

BEFORE THE
PLANNING AND ZONING BOARD FOR THE
CITY OF ST. AUGUSTINE, FLORIDA

TYPE OF REQUEST:

- | | |
|---|--|
| ☐ Appeal | ☐ Preliminary Subdivision Plat Approval |
| ☒ Conservation Overlay Zone Development | ☐ PUD Modification/Amendment |
| ☐ Use by Exception | ☐ Rezoning |
| ☐ Final Development Plan | ☐ Variance |
| ☐ Land Use Plan Amendment | ☐ Other Click here to enter text. |

IN THE MATTER OF:

Case No.: 2022-0094
Applicant: Ryan Carter c/o Carter Environmental Services, Inc.
Owner: Fountain of Youth Prop Inc.
Address: 11 Magnolia Avenue
Parcel Number: 1916000000

RE: Request to approve the modification of an existing dock to include four (4) new boats lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1.

THE PLANNING AND ZONING BOARD HAS HEARD TESTIMONY AND EXAMINED EVIDENCE AT A PUBLIC HEARING HELD ON FEBRUARY 7, 2023, AND BASED ON THE TESTIMONY AND EVIDENCE, THE BOARD HAS DETERMINED AS FOLLOWS:

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. Applicant is the legal owner, occupant, and/or representative of the owner/occupant of the subject property and duly submitted an application with the owner's knowledge, and was duly notified of the hearing, in accordance with Chapter 28 of the Code of the City of St. Augustine. The applicant and/or representative ☒ was present at the February 7, 2023 Planning and Zoning Board meeting and testified under oath, or ☐ was not present.
2. A public hearing was held, with notice given as required by law, and ☒ members of the public testified under oath, or ☐ no members of the public spoke on this issue.
3. The subject property has a land use designation of Commercial Low Density and a zoning classification of Commercial Low One (CL-1). CL-2
4. The above-described Conservation Overlay Zone Development is subject to Section 11-29 of the Code of the City of St. Augustine.

ORDER:

Based upon the evidence presented, the Planning and Zoning Board determined that the requested action MEETS / **DOES NOT MEET** the requirements of Section 11-29, City of St. Augustine Code, and APPROVES / **DENIES** / **CONTINUES** the Applicant's request to approve the modification of an existing dock to include four (4) new boats lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1.

Subject to the following conditions:

- - motion to approve with conditions that:
- - the boat slips are for personal use of the property owners only
- - the city archaeologist will evaluate impact of proposed development
- - staff will determine need for submerged land lease
- _____
- _____
- _____
- _____

DONE AND ORDERED, at a public hearing on the 7 day of February, A.D., 2023, in the Alcazar Room, 75 King Street, St. Augustine, Florida.

2622-0094 REQUEST APPROVED / DENIED / CONTINUED

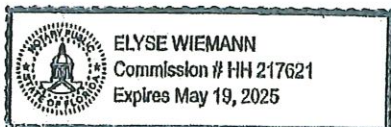
Sign Name Mike Davis

Print Name
PLANNING AND ZONING BOARD
CITY OF ST. AUGUSTINE, FLORIDA

STATE OF FLORIDA, COUNTY OF ST. JOHNS

I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Michael A. Davis who is personally known to me and who is the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed.

Witness my hand and official seal, this TH day of February, A.D., 2023.



Elyse Wiemann
Notary Public, State of Florida

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CITY OF ST. AUGUSTINE
PLANNING & ZONING BOARD MEETING

In Re: Conservation Overlay Zone Development 2022-0094

TRANSCRIPT OF RECORDED MEETING

DATE TAKEN: February 7, 2023
PLACE: City Hall
Alcazar Room
75 King Street
St. Augustine, Florida 32084

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were **transcribed** by:

Deborah Pacetti Brownell
Registered Professional Reporter
St. Augustine/Jacksonville, Florida
(904) 824-3525

Coastal Court Reporters, LLC
(904) 824-3525

1 A P P E A R A N C E S

2 Mike Davis, Chairman

3 Carl Blow

4 John DePreter

5 Charles Pappas

6 Dr. Ashleigh Barnes

7 Matthew Shaffer

8 Christina Griggs

9 Isabelle Lopez, City Attorney

10

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Coastal Court Reporters, LLC
(904) 824-3525

1 MR. DAVIS: Our next item is a Conservation
2 Overlay Zone Development 2022-0084 [sic]. Jacob,
3 can you give us a staff report, please?

4 MR. FREDRIKSSON: Yes. Mr. Chairman, Members
5 of the Board. This request is to approve the
6 modification of an existing dock to include four
7 new boatlifts with catwalks, and to approve the new
8 construction of an observation deck to the south of
9 existing dock within Conservation Overlay Zone 1 at
10 11 Magnolia Avenue. Based on review of Section
11 11.29, the Board can approve this request for
12 Conservation Overlay Zone 1 Development at 11
13 Magnolia Avenue.

14 MR. DAVIS: Is the applicant here?

15 Mr. Carter. I didn't say it was good to see
16 you again, just for --

17 MR. CARTER: That's okay.

18 MR. DAVIS: -- the record. If we can get you
19 sworn in, please.

20 UNIDENTIFIED SPEAKER: State your name and
21 address, please.

22 MR. CARTER: Ryan Carter, 42 Masters Drive,
23 St. Augustine, Florida.

24 UNIDENTIFIED SPEAKER: Do you solemnly swear
25 or affirm that the testimony you're about to give

1 is the truth, the whole truth, and nothing but the
2 truth?

3 MR. CARTER: I do. So there has been a
4 revision in this dock plan. Sorry, Chuck, sorry.

5 MR. DAVIS: Mr. Pappas will be waiting for you
6 on his turn.

7 MR. CARTER: Yeah. Okay. So that's up on the
8 -- great. So this is a proposed -- two things,
9 there's an amendment to -- or modification to the
10 existing Fountain of Youth dock to add four slips
11 for their personal use. They have this -- they
12 have an existing dock, which we'll show you in a
13 moment if you haven't been out on it, long
14 boardwalk, and terminal platform that's more of an
15 observation pier, and they said, Well, boy, it
16 would be nice to have some docks for our own use on
17 the end of that, so that's what's being proposed.

18 Obviously, this is the Fountain of Youth
19 property, which is there south of the May Street
20 and east of San Marco. We all know where it is, I
21 hope.

22 The existing dock is here on the aerial, and
23 it comes all the way out to the creek, which is
24 known as Hospital Creek, and so that's -- that's
25 one thing that is proposed. The other thing is an

1 observation pier right in this cove right here.
2 And they do a lot of different events down in that
3 south part of their property, and they would like
4 to have just a small observation pier there for
5 photographs and just to enjoy the water. So we'll
6 show that now.

7 So again, here are the four slips, 30 feet, I
8 think, by 15. I'll have to go to the details, but
9 we reduced -- the change was we reduced it to 30
10 feet. And these exhibits that you see here,
11 they've been emailed to staff probably about an
12 hour ago. So you have these for the record, both
13 Jacob and Amy do.

14 And then -- okay. So that's the 30 foot --
15 the four 30-foot slips here, deck lifts, and then
16 here's the observation deck down below. Again,
17 here's the proposed deck lifts. You could see on
18 the aerial, this is the existing terminal platform,
19 and the idea is just to add four slips right to the
20 end of it.

21 The observation pier and deck, like it's shown
22 there, it's about 65 feet long. We have six feet
23 of width for -- just to make sure there's plenty of
24 room for people to go in and out, take photographs,
25 and then a 15 by 25 terminal platform.

1 This is the approximate bathymetry for the
2 deck lift, and I'll explain this in a minute. I
3 think that whether we do deck lifts or cradle
4 lifts, there's going to be some tide restrictions,
5 maybe some restrictions on low tied access, and
6 the -- I'll go to the next exhibit.

7 So this was an exhibit that was generated to
8 show the clear water or the width of the creek, how
9 it's not being any further encumbered than the dock
10 to the north. So the existing dock to the north
11 has from the east side, or the stern of the boats,
12 to the outside of the channel is about 80.5 feet,
13 you know, 80 feet, and our same clear passage is
14 about 82.7 feet. So we're -- we provide a little
15 bit more, certainly not less. And that was one of
16 the reasons for reducing the slip length, was to
17 make sure that we're providing as much or more
18 passage as the dock to north to not encumber
19 Hospital Creek.

20 The DEP will require us to do that as well.
21 They have a 25 percent width of the channel
22 restriction. So if the channel is 100 feet wide,
23 you can't have it protrude into the channel any
24 more than 25 feet, so we meet that now. And that
25 was a -- we've submitted the DEP and the Corp

1 concurrently to the City, and we got their comment
2 back, and I should have caught that, but yeah, it
3 needs to be 25 feet, and that's why -- one of the
4 other reasons why we reduced the length of the
5 dock, so now it doesn't protrude out into the creek
6 any further.

7 This is just a dimensional exhibit showing
8 different dimensions to the property boundary -- or
9 to the upland boundary, and to Hospital Creek,
10 which of course, we're not going to. This is
11 simply more of an amenity to the facility, to help
12 with their weddings and other events, that people
13 can go out and use the -- and just enjoy the water.

14 And the dock -- I don't remember the total
15 length, and we can go back and look, it's kind of
16 interesting. The length of the dock, the existing
17 dock in green, I don't remember what it is, but
18 it's long. So if you had an event and somebody --
19 you know, an elderly person wanted to go and enjoy
20 the water, it's like 600, 700 feet, I can't
21 remember how long it is, but it's out there, so
22 that's kind of why they wanted this second
23 observation deck, 65 feet.

24 Let's see, what else. This just shows a cross
25 section of the creek. We're going to be

1 the -- we're proposing a maximum, I think, six feet
2 above mean -- mean high water. That's the city
3 code limit, six feet, so we've gone to that.

4 You know, piling spacing, I'm just showing the
5 dock -- or excuse me, the boats on the existing
6 structure. Again, six feet off mean high water.
7 And I believe that that concludes my presentation,
8 and I'll leave that up to reference. Thank you.

9 MR. DAVIS: Thank you, Mr. Carter. This is a
10 public hearing. Is there anybody in the public
11 that would like to comment on this item?

12 THE WITNESS: BJ Calady, (phonetic) west city
13 of St. Augustine.

14 UNIDENTIFIED SPEAKER: Do you solemnly swear
15 or affirm the testimony you're about to give is the
16 truth, the whole truth, and nothing but the truth?

17 THE WITNESS: Yes, I do.

18 Again, this is an opportunity to speak about
19 the procedure. Every time some of these developers
20 and their employees, contractors, they never give
21 the information to the public. You get it an hour
22 earlier and then you're going to hear it. This is
23 happening too often. And just to let y'all know
24 too, there is one person here for May Street, and I
25 know there wasn't a lot of people for that, but

1 they're concerned about what's happening, and I
2 appreciate you explaining to them, but this is
3 happening too often.

4 The first thing out of someone's mouth is, I'm
5 sorry. Please, please, think about this. These
6 people are getting off from work, their families
7 and everything, so I had to say something about it
8 because the first thing out of Mr. Ryan's mouth
9 was, I'm sorry. That doesn't get it for the
10 public, I'm sorry too. So please take that under
11 consideration.

12 I know I was out of line to stand up here a
13 minute ago, but I have to put that on the record
14 because I want people that may be streaming this
15 afterwards will understand because they're upset,
16 and you understand that, and I do too, but we've
17 got to follow some procedures for the public.
18 They're interested in their neighborhoods, and
19 that's what you-all are trying to protect too for
20 us, so thank you.

21 MR. DAVIS: Thank you. Anyone else?

22 MS. RAKONCAY: Melinda Rakoncay, 86 Magnolia
23 Avenue, St. Augustine.

24 UNIDENTIFIED SPEAKER: Do you solemnly swear
25 or affirm the testimony you're about to give is the

1 truth, the whole truth, and nothing but the truth?

2 MS. RAKONCAY: I do.

3 I live in that area, I'm real familiar with
4 the Fountain of Youth, I used to go down there all
5 the time, and I have been out on this dock. The
6 thing that concerns me is both the Fountain of
7 Youth and the Catholic Mission are the original
8 landing spots of Menendez 450 years ago, and one
9 thing that has always struck me is that that
10 Florida property has been preserved to where you
11 can go and pretty much stand there and have a
12 feeling of what it looked like 450 years ago, and
13 have a real sense of what it must have looked like
14 to the original settlers and everything.

15 And that long observation dock they have
16 presently is very nice. It's -- you walk out, and
17 it's nothing but wetlands you see, and again, it's
18 a wonderful view. To stick four modern boatlifts
19 there's seems really out of context, especially
20 with the fact that this is the founding spot of our
21 city 450 plus years ago. So that's my concern.

22 The other observation deck that's going to
23 come out, I don't have a problem with it so much;
24 although, it's going to come out even more into the
25 original landing spot. So I just think that we

1 need to keep that preserved as much as possible.
2 We've done such a good job. It's been preserved
3 almost 450 plus years, to start putting modern
4 boatlifts in it just for the convenience of the
5 Frasers, I think it actually kind of hurts what
6 they've got, but historically, I don't see adding
7 it. I think it's a minus. And since it's before
8 you and you have a choice to approve it or not
9 approve it, then I ask you to disapprove it, and
10 please keep that area as natural looking as
11 possible for historic reasons. Thank you.

12 MR. DAVIS: Thank you. Mr. Whitehouse.

13 MR. WHITEHOUSE: Good afternoon, Planning and
14 Zoning Board Members. For the record, my name is
15 James Whitehouse, 104 Sea Grove Main Street here in
16 St. Augustine. I'm here on behalf of the Kulaga
17 family, so I'm going to give you their letter, and
18 then I'm just going to read it into the record.

19 MR. DAVIS: Isabelle, do we need to swear
20 Mr. Whitehouse in?

21 MS. LOPEZ: Not if he's representing the
22 client as an attorney. If he's testifying
23 firsthand as himself, then yes, but I'm
24 understanding that you're here representing an
25 attorney -- a client, correct?

1 MR. WHITEHOUSE: Correct. I'm going to try to
2 read -- I'm going to try to read --

3 MR. DAVIS: Do we need to reset the clock
4 since we've been --

5 UNIDENTIFIED SPEAKER: I haven't started it
6 yet.

7 MR. DAVIS: Okay, great.

8 MR. WHITEHOUSE: I don't know if I'm going to
9 read all this in -- it's three pages, so I'll read
10 as much as I can. You guys have a copy of it in
11 case. They'd like me to read it to into the
12 record. These are people that live adjacent to
13 this property.

14 MR. DAVIS: Okay.

15 MR. WHITEHOUSE: Dear Board Members, my name
16 is John Kulaga and my family, and I live
17 immediately adjacent to this commercial property's
18 requested impact. To begin, I am upset that I
19 cannot be there to represent us for such an
20 impactful manner due to the lack of appropriate
21 time given with a certified letter delivered to us
22 only seven business days before this meeting. We
23 have hired our attorney, Mr. Whitehouse, to read
24 our heartfelt and genuine objections.

25 My wife Elise has been a resident of the St.

1 Augustine since 1982, and myself, since 1989. We
2 have seen this city transform for the better and
3 for the worst. We are not opposed to development
4 or appropriate growth in the nation's oldest city,
5 but strongly oppose the Fountain of Youth dock
6 extension and enlargement.

7 Our first opposition is based on a discrepancy
8 in the filing. The filing in December states for a
9 commercial use, but the response in January says
10 for a personal use. Page 1 of the application
11 dated December 12th states, The proposed work will
12 enhance vistas and scenic opportunities for the
13 benefit of the public as a whole. The approval of
14 the dock will give the public the benefit of
15 renting a boat during operating hours and observe
16 the vistas and scenic opportunities in the
17 vicinity.

18 In a subsequent email exchange with Jacob
19 Fredriksson, senior planner, dated January 17th,
20 staff asked the specific nature of how the proposed
21 dock with boatlifts will be used, and the applicant
22 responded that the additional four boatlifts plan
23 to be used for the family who owns the Fountain of
24 Youth for their personal boats.

25 Elise and I are both avid outdoorsmen that

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1 enjoy the waters of St. Augustine. As longtime
2 local avid anglers, we have a canoe, a skiff, and
3 an offshore vessel and use the creek in this area
4 often. We have personal experience and have seen
5 this waterway over the past five years and the
6 connecting waterways reach a point of safety
7 concern to both human and marine life due to the
8 large population increase and inexperienced
9 boaters.

10 The proposition before you increases the
11 safety concern for both human and marine life in
12 the following manner. Number one, the proposed
13 lift limit for the docks is currently 12,000
14 pounds. This is approximately a 30-foot vessel --
15 34-foot vessel and 10 foot beam, this is a very
16 large boat, and they want four for personal use.

17 At low tide, the navigable water is -- in the
18 front of the current existing dock is 7.5 feet at
19 best. To back out a 34-foot vessel with others
20 oncoming leaves little room even for the most
21 experienced captain.

22 Number three. At low tide, many areas in
23 Hospital Creek are 3 feet deep. That would not
24 allow a 12,000-pound vessel to pass safely. Silt
25 stirred up causes many environmental impact issues,

1 hence, why you would need a permit for dredging.

2 Number four, at the causeway bridge, there's
3 also a kayak and canoe launch.

4 Number five, due to the busy main waterway,
5 our marine life has very few refugees anymore.
6 Hospital Creek is one of these last few areas.

7 The proposition for personal use versus
8 commercial is questionable with this filing, but
9 the reality is, a segue into commercial use,
10 regardless of their conflicting proposed use, this
11 alone should be enough to delay or deny approval,
12 and I'll just skip to the end.

13 There are a lot more questions our colleagues
14 in the community have. Thank you for your personal
15 review of this matter, and as fellow St. Augustine
16 residents, for putting yourselves in our shoes for
17 few minutes. Elise and John Kulaga.

18 Thank you, Mr. Chairman.

19 MR. DAVIS: Thank you, Mr. Whitehouse, you did
20 pretty good.

21 All right. Is there anybody else in the
22 public that would like to comment on this item?

23 MR. McKENNA: Hey, I'm Captain Zack McKenna,
24 301 D Street, St. Augustine Beach.

25 UNIDENTIFIED SPEAKER: Do you solemnly swear

1 or affirm the testimony you're about to give is the
2 truth, the whole truth, and nothing but the truth?

3 MR. McKENNA: I do.

4 I live at the beach, but I've been operating a
5 business downtown for about 17 years doing
6 environmental tours, the original eco tour company
7 here. Few people in this town spend as much time
8 as we do in Hospital Creek. I also do a lot of the
9 marine rescue here. I'm also the federally
10 permitted individual that studies the local dolphin
11 population here.

12 Hospital Creek's a real gem. The oysters back
13 there aren't harvested and provide a huge
14 environmental service. It's my hypothesis that
15 because of the wetlands that have not been
16 disturbed, that that is why Hospital Creek has done
17 so well in the last hurricane, and for lack of a
18 better word, it's incredibly tight back there.

19 So it's filling in naturally, that's the
20 hydrology, and my real concern is these tight paths
21 are going to become tighter, which is a hazard for
22 human activity. And also, there's no way to build
23 these proposed items without major disturbance to
24 these pristine wetlands.

25 I come from a background in heavy civil

1 construction. I worked for Superior Construction
2 as an environmental expert. I also did wetland
3 construction, so I'm familiar with the mechanisms
4 that'll be used to build these, and I don't think
5 there's any way it can be done without doing major
6 damage to the existing wetlands.

7 And also, I feel, my personal opinion is, as
8 soon as these docks are built, we'll be back here
9 talking about dredging Hospital Creek, or it will
10 be done in the cover of darkness. It's simply not
11 deep enough back there. Wide -- width is an issue,
12 but depth is the real issue. And I'm literally
13 back there four out of five days a week, either in
14 the kayak or in a small boat. So those are my
15 concerns for the construction of these new docks in
16 and around Hospital Creek.

17 MR. DAVIS: All right. Thank you.

18 MS. PEDIGO: Good afternoon. Sarah Pedigo
19 (phonetic) for Coleman Drive. I submitted a --

20 MR. DAVIS: We need to get you sworn in.

21 MS. PEDIGO: Sorry.

22 UNIDENTIFIED SPEAKER: Do you solemnly swear
23 or affirm the testimony you're about to give will
24 be the truth, the whole truth, and nothing but the
25 truth?

1 MS. PEDIGO: Yes.

2 I submitted a written comment, but I just
3 wanted to get up and say that I'm opposed to this.
4 I'm really concerned about the wetlands and the
5 impact that this would have on it. And I really
6 appreciate being able to live near such a pristine
7 area, and I think it's also very instrumental in
8 flood mitigation, during hurricanes, and if anyone
9 lives in that area, you see the water come up the
10 road during the hurricanes, so more construction
11 and impact there is really concerning to me. So I
12 am opposed to this.

13 MR. DAVIS: Thank you. Anyone else?

14 MR. SLAVIN: Good afternoon.

15 MR. DAVIS: Mr. Slavin.

16 Good. How are you?

17 MR. SLAVIN: Ed Slavin (phonetic), Box 3084.

18 UNIDENTIFIED SPEAKER: Do you solemnly swear
19 or affirm the testimony you're about to give is the
20 truth, the whole truth and nothing but the truth?

21 MR. SLAVIN: Yes, ma'am, I do.

22 Sorry I'm late. I thought this meeting
23 started at 1:00. There's some misinformation on
24 the City website. I apologize for being late, but
25 I agree with Captain McKenna and the other

1 witnesses. This is a pristine area, and I oppose
2 anything that would mess with it. Thank you so
3 much.

4 MR. DAVIS: Thank you. All right. Anyone
5 else in the public?

6 All right. Seeing none, we'll close the
7 public hearing. Mr. Carter, if you'd like to come
8 back up. While you're doing that. Board, is there
9 anyone that had any ex-parte that they need to
10 disclose?

11 Matthew?

12 MR. SHAFFER: No.

13 UNIDENTIFIED SPEAKER: Mr. Chairman, I'm very
14 familiar with Hospital Creek, and I did speak to
15 Mr. Carter.

16 MR. DAVIS: I'm very familiar with the site.

17 UNIDENTIFIED SPEAKER: Yes, I did a site
18 visit, when I was there, I met with building
19 maintenance -- one of the building maintenance
20 guys, he showed me around.

21 MR. DAVIS: Christina?

22 MS. GRIGGS: Just familiar with the site.

23 MS. BARNES: None.

24 MR. DAVIS: All right. Also, we had 40
25 notices sent out. Four came back in favor. Two

1 opposed, three had comments. One of the comments
2 opposed. I'm opposed to any further development
3 that impacts the sensitive marsh habitat. The zone
4 of concern is very shallow and narrow. Additional
5 boatlifts and other observation deck would obstruct
6 the existing echo system, in particular, the salt
7 marsh is essential to flood mitigation during
8 hurricanes. We should not disrupt this delicate
9 space. I moved to this area because of its natural
10 beauty. Some of my favorite activities are running
11 along the bayfront or kayaking through this
12 estuary. Please do not allow new construction.

13 We had -- I'm trying to find the other
14 comments. Appears to be regarding a boatlift being
15 built at the Fountain, across the street, we have
16 no issues with it. And another one that said it's
17 okay by me. So those were the comments by the
18 neighbors.

19 It's nice whenever, Carl, you're the first one
20 up on the dock. Makes all the rest of us feel
21 better.

22 MR. BLOW: Gee, thanks, Mr. Chairman. The --
23 well, I guess when I saw this, my first concern was
24 obstructing the nav- -- nav- -- I can't speak.
25 Obstructing the channel of Hospital Creek,

1 especially for the upstream folks, and so the
2 change that they've made is definitely an
3 improvement over the -- what was initially
4 submitted.

5 Basically, they're sort of using the
6 condominium docks as a guide to determine open
7 water. Also, as Mr. Carter spoke, the DEP
8 requires, I think, that no more than 25 percent of
9 the open water will be obstructed by a dock, and I
10 guess they've met that criteria.

11 As far as the public's comments, I guess I
12 look at it as a -- we have a -- our glass is half
13 full in that we have the GTM here which has
14 fortunately protected a large amount of wetlands.
15 Growing up here, I could tell you that that almost
16 didn't happen, but fortunately it did.

17 The other positive is we were able to secure
18 Fish Island, which I've been on this board when
19 we've had applications come through on Fish Island
20 that would have totally -- I mean, it was nothing
21 but houses or condos, and of course, now, that area
22 is protected.

23 And then the other major plus is on the west
24 side of the river there, 312, the county is going
25 to spend I think it's about \$33 million to buy the

1 Genovar property, which is a gorgeous piece of
2 property, which otherwise would have been developed
3 probably as condos. It's going to be a public park
4 with a boat ramp, but they're going to save all
5 those big live oak trees.

6 So all in all, I guess I understand the
7 concerns of the speakers, but I don't -- I don't
8 really have a problem with these four boatlifts.

9 The Frasers have done, I think, a good job at
10 maintaining the Fountain of Youth property. My
11 biggest fear is that one day they'll want to
12 develop that as condominiums, but that's not what
13 they're here for today, so those are my comments.

14 MR. DAVIS: All right. Mr. Pappas.

15 MR. PAPPAS: Well, first, let me echo
16 Ms. Calady's concerns, I also hate when things come
17 here last minute. And this isn't the time, but I'd
18 remind staff, any time we get something last
19 minute, please have a copy on the desk back there
20 for the residents who come, at least that'll help a
21 little bit.

22 I don't have a large concern on this. I
23 appreciate that you reduced it because I did have a
24 concern then. But I look at this site a little
25 differently. I look at this as a historic site,

1 much as we look at our historic buildings, and the
2 view shed is normally from the road or from the
3 land out, but in this particular site, the view
4 shed is actually from the water in.

5 There are a lot of echo tours. There are a
6 lot of people. It's been a long time since I've
7 kayaked through there, but this is one of our few
8 historic water sites, so I'm just echoing some of
9 the concerns.

10 I don't know if we have any action against
11 that, but I don't have a big concern about the
12 things, but it's something that we do need to think
13 about and start looking at. It's something new to
14 start looking at in the future.

15 And I was just curious on this after going
16 through the lighthouse, are there any archeological
17 concerns in this area since that is an
18 archeological park that is in front of? Has it
19 ever been looked at?

20 MS. SKINNER: I know the uplands have been
21 looked at extensively by several archeologists over
22 the years. I'm not sure about anything waterward,
23 but we can certainly have our archeologists, you
24 know, make a determination. If that new
25 observation deck impacts the archeology zone, then

1 we can certainly have her look at it and see if
2 there's any knowledge of anything.

3 They were just out there for other reasons as
4 well, so they -- it's been -- the uplands have been
5 extensively looked at. And I think there are --
6 along the water's edge, there's always concern
7 about precontact, you know, the native peoples here
8 that may have lived along the water's edge, so.

9 MR. PAPPAS: Okay. Thank you. Yeah, with the
10 water shifting and our coastline shifting, we never
11 know what we come across. So whatever the motion
12 is, make sure we put something into that, but other
13 than that, I don't have a big concern on this.
14 Thank you.

15 MR. DAVIS: I agree with what Charles has
16 said, and Ryan, in this case, the change was the
17 dock got smaller, so it wasn't a change that came
18 to us that made it bigger or changed the location
19 of it, it went from the 40-foot dock to a 30-foot
20 dock.

21 While I wish that had been done sooner, at
22 least it's a change in the positive and not
23 something we have to deal with in the negative.

24 I don't necessarily have an issue with that.
25 I don't -- I think the observation deck is fine,

1 and I look at the distance of the boats away from
2 where the site is and I -- there's a boat dock not
3 too far from there, so I don't really have an issue
4 with it. John.

5 MR. DePRETER: So I had written down what the
6 couple at Radio Road, I'm assuming that's the
7 condominium next door, okay. So I did notice even
8 before I read that, that in the application sent in
9 by the applicant in December, it does say that it's
10 going to be for public use, and that's one of the
11 things it says, I think it's going to be -- give --
12 and I think he put it in scenic -- the proposed --
13 here's your application: The proposed work will
14 enhance vistas and scenic opportunities for the
15 benefit whole, and your answer is, The approval of
16 the dock will give public the benefit of renting a
17 boat during operating hours, and observe the vistas
18 and scenic opportunities; however, in the other
19 application it says for private use, so could you
20 just clarify that publically?

21 MR. CARTER: Yeah, that was an error. Our
22 initial submittal was an error. It is for private
23 use.

24 MR. DePRETER: For private use. So that leads
25 into my second question, and that, you know, we've

1 done a lot of boat slips here, but I don't think
2 I've ever seen any slips for a private use. So I'm
3 just wondering why -- what's the rationale for four
4 slips there?

5 MR. CARTER: It's just a big family. They --
6 you know, there are many family owners -- family --
7 many of the owners of this property, both the
8 Frasers and then Mr. Benniger (phonetic) who is
9 here also, you know, there's children and
10 grandchildren, I think they're in their third or
11 fourth generation of ownership, so they have
12 amongst them family members that have boats that
13 would like to put their boats on the end of this
14 existing dock.

15 MR. DePRETER: So there's multiple family
16 members that will be using this is what you're
17 saying, that's the private use?

18 MR. CARTER: Yeah.

19 MS. LOPEZ: I'm Sorry. Mr. Carter, if I may
20 through the Chair, I just wanted to clarify
21 something. So this isn't -- none of the docks are
22 accessory to a residential structure, correct?

23 MR. CARTER: Correct.

24 MS. LOPEZ: Okay. And just for everyone's
25 sake, if that's the case, under our code, they

1 would require a submerged land lease. And I know
2 you're familiar with that process, but I just
3 wanted to make that clear because it seemed a
4 little bit muddled whether these were docks for
5 residential uses that don't require submerged land
6 leases under our code versus everything else does
7 essentially. Thank you.

8 MR. DePRETER: Is it -- while I have you for a
9 second. Is it unusual to have private docks on a
10 commercial -- in a commercial operation, or I
11 mean -- I guess, I think maybe at the Conch House
12 maybe. I don't know --

13 MS. LOPEZ: Possibly. I'm not familiar
14 enough. I imagine that some folks who have
15 commercial marinas probably keep a couple of slips
16 for their own personal use. I'm wild guessing
17 here, so that's speculation, not knowledge, but...

18 MR. DePRETER: Okay.

19 MS. LOPEZ: It doesn't mean that it can't be
20 done, I just wanted to be clear that it wasn't dock
21 accessory to a residential use in which case it
22 would not require a submerged land lease.

23 MR. DePRETER: No, that's good, I mean, that's
24 one of the reasons I'm asking questions, make sure
25 all of this stuff is kind of settled out, whichever

1 way we go.

2 So the only other thing I have on the dock
3 then is just, maybe, Carl, I don't know, ask you
4 just personally, I mean, these are relatively large
5 boats, do you think there's going to be a problem
6 with the wake? That's kind of a closed-in area
7 there. If there's kayakers and --

8 MR. BLOW: Well, you're responsible for your
9 wake as the boat operator. But one thing, I'm
10 always impressed with Ms. Lopez catching that issue
11 about the submerged land lease; however, if I'm --
12 I may be mistaken, but I believe the applicant owns
13 the bottom land here as well as all of that
14 marsh --

15 MS. LOPEZ: I'm not sure they do into Hospital
16 Creek, and that's why whenever -- I don't want this
17 to hold up this particular part of the discussion
18 because you're looking at the 17 criteria, but I'm
19 not -- I'm not convinced sitting here right now,
20 not having reviewed all the documents, whether the
21 new docks on Hospital Creek, per se, are
22 necessarily within their ownership or not.

23 So it's just something to button down after,
24 depending on whatever the outcome is. And,
25 Mr. Blow, you'll recall that we have our new

1 ordinance about idle speed, no wake zone coming
2 into that area.

3 MR. BLOW: Did it get approved?

4 MS. LOPEZ: Well, I know this is not
5 necessarily germane, but we talked about wake. The
6 FWC has -- their staff has supported the sharp
7 turns into Hospital Creek as an idle speed, no wake
8 zone, if I'm saying that correctly, but not Julia's
9 Island, not Bird Island.

10 MR. BLOW: Well, congratulations.

11 MS. LOPEZ: And that may, in way or another,
12 affect individually the applicant, so they just
13 should just kind of be aware of that, that folks
14 will be idling down. Is that the right term? I'm
15 not a boater.

16 MR. BLOW: Real quick, so you guys know what
17 we're talking about. No wake -- to get a no wake
18 zone approved in Florida, it has to be approved by
19 the Florida Fish and Wildlife Conservation
20 Commission, and that's very difficult to get done,
21 and I want to salute our attorney because she's
22 been working on that, and apparently you've been
23 successful and gotten that approved, so that's
24 what -- that's what this side conversation is
25 about.

1 MR. DePRETER: So I guess that -- let me get
2 to the criteria. So the specific criteria I was
3 looking at was number ten, effective boat wake and
4 boat traffic on manatees, vegetation, shell fish,
5 wildlife, shoreline erosion. It says there's a
6 seawall armoring it. The dock will not affect any
7 manatees, vegetation, wildlife, or shoreline
8 erosion. So I will not ask the applicable, but I
9 will ask you, Carl, do you feel comfortable that
10 that criteria is being met in that location?

11 MR. BLOW: Yes, sir, especially --

12 MR. DePRETER: Well, that's what I --

13 MR. BLOW: -- if there is now a defined,
14 approved FWC idle speed, no wake in Hospital Creek.

15 MS. LOPEZ: Almost there. Almost there.
16 We're amending the ordinance second reading at our
17 next meeting, but the staff has supported it. FWC
18 staff supports it.

19 MR. BLOW: So that would address as far as
20 erosion from boat wakes.

21 MR. DePRETER: Thank you. That's very
22 helpful. You guys got that right in time for me so
23 I can feel more comfortable with this application.
24 Good timing.

25 One last question is the observation deck. So

1 I went down there and looked at the observation
2 deck. I think the guy told me it was going to be
3 on the land, but it's going to be out a little bit
4 farther. What's the height, what's the height of
5 that going to be?

6 MR. CARTER: It will probably be six feet
7 above mean high water. So remember, mean high
8 water is probably three to four feet above -- three
9 feet above grade.

10 MR. DePRETER: Yeah, so it's going to be only
11 about three feet above grade. My concern --

12 MR. CARTER: No, no, no. Mean high water is
13 three feet above grade, it's going to be six feet
14 on top of that. So that way, when there's a storm
15 surge or a catastrophic storm, it doesn't get
16 damaged as bad or maybe not at all. The higher it
17 is the better from it not being impacted by a storm
18 surge.

19 MR. DePRETER: I understand. From the grade
20 of the uplands where the deck is going to come
21 from, about how high will there be a rise to the --
22 or will it just be even? You're going to get --
23 from headlands, you're just going to walk out on
24 the deck and then --

25 MR. CARTER: No, it will probably be a gentle

1 rise to get to the terminal platform at the end, to
2 get to that elevation, and I would -- I mean, I can
3 look at that contour.

4 MR. DePRETER: Yeah, do you have that up here?
5 I'm asking --

6 MR. CARTER: I don't have the one foot
7 elevation contours on the upland side, but I
8 suspect that it's probably around a four to a five,
9 the existing grade of the uplands. So if that's
10 about a four to five, then it's probably going to
11 come up another two or three feet from that; it
12 will ramp up.

13 MR. DePRETER: Well, my question is how it
14 will affect -- there's a residence to the south, so
15 I just wanted to make sure it wasn't particularly
16 high, but there is also a tree break there, and
17 it's quite a distance.

18 MR. CARTER: It's kind of tucked into there.

19 MR. DePRETER: Okay. That's all I got.

20 Thanks.

21 MR. DAVIS: Christina.

22 MS. GRIGGS: Yeah, all my questions have been
23 answered. I like that, you know, the lift got
24 shorter and it meets the 17 criteria, so I don't
25 have a problem with this application.

1 MR. DAVIS: Ashleigh?

2 MS. BARNES: I don't have any further comments
3 on this.

4 MR. DAVIS: Matthew.

5 MR. SHAFFER: I'm a little bit torn. As I'm
6 reviewing the standards for review for structures
7 in Conservation Overlay Zone One, it says that they
8 will be issued only for structures that would
9 have -- determined to be to the benefit of the
10 public as a whole, having no significant negative
11 impact on natural systems, or disrupting vistas and
12 scenic opportunities.

13 We had testimony from the public, and maybe
14 Ms. Lopez can remind me on how much weight to put
15 on that, but it seemed like what I would consider
16 expert testimony, and so I'm questioning the
17 benefit, especially, I guess because I was
18 questioning -- as far as our 17 criteria, I
19 appreciated Mr. DePreter focusing on that ten point
20 because I had a question about that, so I'm kind of
21 getting a discrepancy on that one, and I maybe
22 could be persuaded one way or the other, but as far
23 as the benefit to the public as a whole, I'm not
24 seeing that from the boats -- from the four
25 additional boat slips.

1 I don't have an issue with the observation
2 deck.

3 MS. LOPEZ: I'm sorry, so you're -- what
4 exactly are you asking me?

5 MR. SHAFFER: So is there a specific
6 requirement for expert testimony?

7 MS. LOPEZ: Yes, laypersons, so neighbors, you
8 and I walking down the street, can testify and that
9 would be factual testimony, it would not be expert
10 testimony. So typically when you're presenting an
11 individual as an expert, they -- they're supposed
12 to describe their education in the field, their
13 years of experience, if they've published academic
14 journal type literature, so those would be expert
15 testimony; folks who have a particular educational
16 background and years of experience in a particular
17 academic field, if I can phrase it that way.

18 It doesn't mean that laypeople can't provide
19 testimony that is evidence, it's not expert
20 testimony, it's fact testimony. So if they're
21 describing what they see every day, then that is
22 factual testimony that they're presenting.

23 MR. SHAFFER: Thank you. All right. Well,
24 thankfully for me, like I said, I don't have to --
25 I guess because we could have a further discussion

1 on whether or not the testimony that was given
2 during public comment was expert testimony, but
3 personally, I would have to object to the four boat
4 slips just because of the fact that they do not
5 appear to have a benefit for the public as a whole.

6 MR. DAVIS: Okay. Any other comments from the
7 Board?

8 Questions?

9 Anybody want to make a motion?

10 MR. BLOW: Well, I'll stick my neck out and
11 make a motion, see where it goes. Mr. Chair, I'll
12 make a motion we approve Conservation Overlay Zone
13 Development 2022-0084 [sic] based on it appears
14 that it meets those 17 criteria.

15 MR. DePRETER: I'll second that with
16 discussion on the motion.

17 MR. DAVIS: Sure.

18 MR. DePRETER: Is it appropriate in the motion
19 that we put, based on the testimony, that it be for
20 private use only? That archeologic will review it,
21 and the land lease will be determined if necessary.

22 MS. LOPEZ: I think the obsecration deck
23 though is for commercial use. Maybe I
24 misunderstood that.

25 MR. DAVIS: It is. I think the boat slips are

1 for personal use, and the observation deck will be
2 for commercial.

3 MR. DePRETER: Correct.

4 MR. BLOW: So we've got a second, so we just
5 need to modify --

6 MR. DAVIS: If you modify, then Charles would
7 have to modify the second, yes, accept it.

8 MR. BLOW: So, Charles, what we want to do is
9 stipulate that the boatlifts are for private use --

10 MR. DePRETER: Correct.

11 MR. BLOW: -- only, or we could say for the
12 use -- for private use only by the owners of the
13 Fountain of Youth.

14 MS. LOPEZ: I think as presented, it was for
15 the personal use of the owners; am I correct? I'm
16 getting a nod from Mr. Carter. So it would be the
17 personal use of the property owners, not as a
18 commercial venture.

19 MR. DePRETER: That's fine.

20 MR. BLOW: And then the -- you mentioned --

21 MR. DePRETER: The city archeologist will
22 review to determine if any --

23 MR. BLOW: By the city staff archeologist,
24 okay. And was there anything else?

25 MR. DePRETER: And the city staff will also

1 determine any land lease.

2 MR. BLOW: Well, I'll amend my motion with
3 those criteria.

4 MR. DePRETER: And I'll second that.

5 MR. DAVIS: Any other discussion?

6 All right. Call the roll, please.

7 UNIDENTIFIED SPEAKER: Carl Blow.

8 MR. BLOW: Yes.

9 UNIDENTIFIED SPEAKER: Charles Pappas.

10 MR. PAPPAS: Yes.

11 UNIDENTIFIED SPEAKER: Matthew Shaffer.

12 MR. SHAFFER: No.

13 UNIDENTIFIED SPEAKER: Ashleigh Barnes.

14 MS. BARNES: I did have a question. Are we
15 past that?

16 MR. DAVIS: Yes, ma'am.

17 MS. BARNES: Okay. I'm going to go for no.

18 UNIDENTIFIED SPEAKER: Christina Griggs.

19 MS. GRIGGS: Yes.

20 UNIDENTIFIED SPEAKER: John DePreter.

21 MR. DePRETER: Yes.

22 UNIDENTIFIED SPEAKER: Mike Davis.

23 MR. DAVIS: Yes.

24 Thank you. You've been approved, Mr. Carter.

25 (Meeting concluded.)

1 CERTIFICATE OF REPORTER

2

3 STATE OF FLORIDA)

)

4 COUNTY OF ST. JOHNS)

5

6 I, Deborah P. Brownell, RPR, Seventh Judicial Circuit
7 of Florida, do hereby certify that I was authorized to and
8 did **transcribe** the foregoing recorded board meeting, and
9 that the transcript is true and correct to the best of my
10 ability.

11 Dated this 25th day of 2023,
12 St. Augustine, St. Johns County, Florida.

13

14

15 *Deborah P. Brownell*

16

Deborah Pacetti Brownell
Registered Professional Reporter

17

18

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23

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25

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From: J Kulaga <jk1060@nyu.edu>
Sent: Tuesday, February 7, 2023 9:47 AM
To: PLANNING AND ZONING BOARD – CITY OF ST. AUGUSTINE
Cc: James Whitehouse <jameswhitehouse@sjlawgroup.com>; Elise Kulaga <ekulaga0007@gmail.com>

Subject: PZB – 2/7/2023 – FOUNTAIN OF YOUTH DOCK EXTENSION – NEIGHBOR COMMENT
THE KULAGA FAMILY – 5 RADIO ROAD

Dear board members.

My name is John Kulaga and my family and I live immediately adjacent to this commercial property's requested impact.

To begin, I am upset that I cannot be there to represent us for such an impactful manner. Due to the lack of appropriate time given with a certified letter delivered to us ONLY 7 business days before this meeting, we have hired our attorney, Mr. Whitehouse to READ OUR HEARTFELT and genuine objections.

My wife Elise has been a resident of St. Augustine since 1982 and myself since 1989. We have seen this city transform for the better and for the worse. We are not opposed to development of appropriate growth in the Nation's Oldest City, but strongly oppose the Fountain of Youth Dock extension and enlargement.

Our first opposition is based on the discrepancy in the filing. The Filing in December states for commercial use but the response in January says for personal use.

Page 1 of 4 of the application Dated Dec 12th, 2022 states:

"The proposed work will enhance vistas and scenic opportunities for the benefit of the public as a whole. The approval of the dock will give the public the **benefit of renting a boat** during operating hours and observe the vistas and scenic opportunities in the vicinity."

In a subsequent email Exchange with Jacob Fredriksson Senior Planner dated Jan 17, 2023: staff asks the specific nature of how the proposed dock with boat lifts will be used. And the applicant responded that The additional four boat lifts plan to be used by the family who owns the Fountain of Youth (FOY) for their personal boats.

Elise and I are both avid outdoorsman that enjoy the waters of Saint Augustine. As long time local avid anglers, we have a canoe, a skiff, and an offshore vessel and use the creek in this area often. We have personal experience and have seen this waterway over the past 5 years and the connecting waterways reach a point of safety concern to both human and marine life due to the large population increase and inexperienced boaters.

The proposition before you further increases this safety concern for both human and marine life in the following manner:

1) The proposed lift limit for the docks is currently 12,000 pounds. This is approximately a 34 foot vessel and a 10 foot beam (width).

This is a very large boat.

And they want 4!

FOR PERSONAL USE??

2) At low tide, the navigable water in front of the current existing dock is 75 feet at best To back out a 34 foot vessel with others oncoming leaves very little room even for the most experienced captain, never mind a renter. Also The tide flow/current in the creek can get very strong which further complicates navigation

3) At low tide many areas in Hospital Creek are only 3 feet deep that would not allow a 12,000 pound vessel to pass safely without harm to the vessel and marine environment by stirring up silt. Silt stirred up causes many environmental impact issues hence why you need a permit for dredging.

4) At the causeway bridge there is also a kayak and canoe launch. There is a large volume of kayakers, canoers, and paddle boarders that launch from here to safely enjoy Saint Augustine's waters of Hospital Creek without fear of larger powered boats running them over. Currently the motorized boat traffic on Hospital Creek is low. Do you want inexperienced boat renters next to a high volume of unmotorized vessels?

5) Due to the busy main waterways, our marine life has very few refuges anymore. Hospital Creek is one of the last few areas without heavy boat traffic for manatees and other animals to survive undisturbed. Hospital Creek is not deep and allowing inexperienced boaters into an environmentally sensitive area and stirring up mud silt has negative effects on marine life.

The proposition for personal use vs commercial is questionable with this filing, but the reality is this is a segway into commercial use regardless of their conflicting proposed use. This alone should be enough to delay or deny an approval.

This is a commercial property, not a private residence and stating they will use it for personal use is only a clever disguise, and clearly conflicting with their original application.

The family of the Fountain of Youth has deep political connections in this small town, which is evident here. Why would they want a larger dock, FOR PERSONAL USE ONLY, but not allow us or other neighbors to build a dock in the near vicinity in front of our own land and houses on the creek??

Their representatives are here in the room, you can ask them that question. Why won't they allow a neighbor to build a dock, yet they are asking for permission to extend one?

THAT BEING SAID

Has the City done an environmental impact study?

Has the City recently looked at the non-motorized boater volume in Hospital Creek?

Will the City consider putting a ban on commercial use of the proposed personal dock?

If the dock is approved for PERSONAL USE but used for commercial use, will it be stopped or at least taxed appropriately for the use and land value?

If approved, will the city set up proper continuous environmental monitors to assure the impact of increased boat traffic does not affect wildlife in a sensitive area?

There are many more questions our colleagues in the community have that need to be addressed. This is not a just a simple dock extension approval. There is a lot to be uncovered and researched here.

Thank you for your personal review of this matter, and as fellow St. Augustine residents, for putting yourselves in our shoes for a few minutes,

Elise and John Kulaga



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Profit Corporation
FOUNTAIN OF YOUTH PROPERTIES, INC.

Filing Information

Document Number	121512
FEI/EIN Number	59-0250910
Date Filed	01/10/1930
State	FL
Status	ACTIVE
Last Event	AMENDMENT
Event Date Filed	03/28/2011
Event Effective Date	NONE

Principal Address

11 MAGNOLIA AVENUE
ST AUGUSTINE, FL 32084

Changed: 01/21/2009

Mailing Address

17 CORDOVA STREET
ST. AUGUSTINE, FL 32084

Changed: 01/21/2009

Registered Agent Name & Address

EDMISTON, MARGARET G
17 CORDOVA STREET
ST. AUGUSTINE, FL 32084

Name Changed: 01/21/2009

Address Changed: 01/21/2009

Officer/Director Detail

Name & Address

Title T

EDMISTON, MARGARET G
17 CORDOVA STREET
SAINT AUGUSTINE, FL 32084

Title PD

FRASER, JOHN W
11 MAGNOLIA AVENUE
SAINT AUGUSTINE, FL 32084

Title V

FRASER, BRYAN
11 MAGNOLIA AVENUE
SAINT AUGUSTINE, FL 32084

Title S

BINNINGER, JOAN E
114 HERONS NEST LANE
ST AUGUSTINE, FL 32080

Annual Reports

Report Year	Filed Date
2021	02/09/2021
2021	02/24/2021
2022	02/09/2022

Document Images

02/09/2022 -- ANNUAL REPORT	View image in PDF format
02/24/2021 -- AMENDED ANNUAL REPORT	View image in PDF format
02/09/2021 -- ANNUAL REPORT	View image in PDF format
02/05/2020 -- ANNUAL REPORT	View image in PDF format
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01/25/2017 -- ANNUAL REPORT	View image in PDF format
02/13/2016 -- ANNUAL REPORT	View image in PDF format
02/09/2015 -- ANNUAL REPORT	View image in PDF format
01/23/2014 -- ANNUAL REPORT	View image in PDF format
01/30/2013 -- ANNUAL REPORT	View image in PDF format
03/13/2012 -- ANNUAL REPORT	View image in PDF format
03/28/2011 -- Amendment	View image in PDF format
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02/07/1996 -- ANNUAL REPORT	View image in PDF format
03/21/1995 -- ANNUAL REPORT	View image in PDF format



St. Johns County, FL

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Summary

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Parcel ID	1916000000
Location Address	11 MAGNOLIA AVE SAINT AUGUSTINE 32084-0000
Neighborhood	Tourist Attraction Fountain of Youth (COM) (2301.02)
Tax Description*	4-55 FOUNTAIN OF YOUTH PARK ALL (EX E'LY PARTS BLK 2 & WILLIAMS ST TO PONCE DE LEON BROADCASTING CO IN OR77/406) <i>*The Description above is not to be used on legal documents.</i>
Property Use Code	Tourist Attractions (3500)
Subdivision	Fountain Of Youth Park
Sec/Twp/Rng	7-7-30
District	City of St Augustine (District 452)
Millage Rate	18.9763
Acreage	16.770
Homestead	N

Owner Information

Owner Name	Fountain Of Youth Prop Inc 100%
	Barnett Bank 100%
Mailing Address	17 CORDOVA ST SAINT AUGUSTINE, FL 32084-3618

Map



Valuation Information

	2023
Building Value	\$713,073
Extra Features Value	\$231,315
Total Land Value	\$1,045,940
Agricultural (Assessed) Value	\$0
Agricultural (Market) Value	\$0
Just (Market) Value	\$1,990,328
Total Deferred	\$0
Assessed Value	\$1,990,328
Total Exemptions	\$0
Taxable Value	\$1,990,328

Values listed are from our working tax roll and are subject to change.

Historical Assessment Information

Year	Building Value	Extra Feature Value	Total Land Value	Ag (Market) Value	Ag (Assessed) Value	Just (Market) Value	Assessed Value	Exempt Value	Taxable Value
2022	\$550,044	\$267,692	\$1,045,940	\$0	\$0	\$1,863,676	\$1,863,676	\$0	\$1,863,676
2021	\$512,787	\$280,521	\$1,045,940	\$0	\$0	\$1,839,248	\$1,839,248	\$0	\$1,839,248
2020	\$525,931	\$293,684	\$1,045,940	\$0	\$0	\$1,865,555	\$1,687,160	\$178,395	\$1,687,160
2019	\$488,985	\$274,532	\$1,045,940	\$0	\$0	\$1,809,457	\$1,533,782	\$275,675	\$1,533,782
2018	\$329,186	\$280,581	\$784,580	\$0	\$0	\$1,394,347	\$1,394,347	\$0	\$1,394,347
2017	\$327,085	\$270,700	\$784,580	\$0	\$0	\$1,382,365	\$1,382,365	\$0	\$1,382,365
2016	\$331,250	\$241,642	\$784,580	\$0	\$0	\$1,357,472	\$1,357,472	\$0	\$1,357,472
2015	\$341,496	\$249,045	\$784,580	\$0	\$0	\$1,375,121	\$1,375,121	\$0	\$1,375,121
2014	\$333,588	\$251,502	\$784,580	\$0	\$0	\$1,369,670	\$1,369,670	\$0	\$1,369,670
2013	\$252,042	\$240,956	\$784,580	\$0	\$0	\$1,277,578	\$1,277,578	\$0	\$1,277,578
2012	\$262,794	\$247,209	\$784,580	\$0	\$0	\$1,294,583	\$1,294,583	\$0	\$1,294,583
2011	\$272,345	\$182,163	\$915,260	\$0	\$0	\$1,369,768	\$1,174,996	\$194,772	\$1,174,996
2010	\$284,104	\$156,129	\$601,628	\$0	\$0	\$1,041,861	\$1,041,861	\$0	\$1,041,861

Building Information

Building	1
Year Built	1880
Actual Area	2648
Conditioned Area	2584
Use	Stores (Retail)
Style	04
Class	N
Exterior Wall	Stone

Roof Cover	Modular Metal, Built Up
Roof Structure	Wood Truss
Interior Flooring	Vinyl Tile
Interior Wall	Drywall
Heating Type	Air Duct
Air Conditioning	Central
Bedrooms	
Baths	

Description	Square Footage
FRAME UTILITY	20
BASE AREA	1064
BASE AREA	1520
FINISHED DECK	44

Description	Square Footage
POINTER	0
Total SqFt	2648

Building	2	Roof Cover	Modular Metal
Year Built	1952	Roof Structure	Wood Truss
Actual Area	924	Interior Flooring	Concrete Finish, None
Conditioned Area	924	Interior Wall	None
Use	Tourist Attraction	Heating Type	None
Style	04	Air Conditioning	None
Class	N	Bedrooms	
Exterior Wall	Stone	Baths	

Description	Square Footage
BASE AREA	924
Total SqFt	924

Building	3	Roof Cover	Cedar Shanks
Year Built	2013	Roof Structure	Wood Truss
Actual Area	400	Interior Flooring	Concrete Finish
Conditioned Area	100	Interior Wall	Minimum
Use	Office Class C	Heating Type	Air Duct
Style	04	Air Conditioning	Central
Class	N	Bedrooms	
Exterior Wall	Stucco	Baths	

Description	Square Footage
BASE AREA	100
FINISHED CANOPY	300
Total SqFt	400

Building	4	Roof Cover	Built Up
Year Built	1956	Roof Structure	Rigid Frame
Actual Area	2762	Interior Flooring	Carpet
Conditioned Area	2762	Interior Wall	Minimum
Use	Tourist Attraction	Heating Type	Air Duct
Style	04	Air Conditioning	Central
Class	N	Bedrooms	
Exterior Wall	Concrete Stucco	Baths	

Description	Square Footage
BASE AREA	2762
Total SqFt	2762

Building	5	Roof Cover	Built Up
Year Built	1952	Roof Structure	Rigid Frame
Actual Area	2069	Interior Flooring	Carpet
Conditioned Area	2021	Interior Wall	Minimum
Use	Tourist Attraction	Heating Type	Air Duct
Style	04	Air Conditioning	Central
Class	N	Bedrooms	
Exterior Wall	Concrete Block	Baths	

Description	Square Footage
UNFINISHED ENCLOSED PORCH	48
BASE AREA	2021
Total SqFt	2069

Building	6	Roof Cover	Cement Fiber Shingle, Built Up
Year Built	1922	Roof Structure	Wood Truss
Actual Area	2945	Interior Flooring	Concrete Finish
Conditioned Area	2685	Interior Wall	Minimum
Use	Tourist Attraction	Heating Type	None
Style	04	Air Conditioning	None
Class	N	Bedrooms	
Exterior Wall	Stone	Baths	

Description	Square Footage
FINISHED CANOPY	260
BASE AREA	2685
Total SqFt	2945

Building	8	Roof Cover	Modular Metal
Year Built	2013	Roof Structure	Wood Truss
Actual Area	746	Interior Flooring	Concrete Finish
Conditioned Area	536	Interior Wall	Drywall
Use	Snack Bars	Heating Type	Air Duct
Style	04	Air Conditioning	Central
Class	N	Bedrooms	
Exterior Wall	Wood, Stucco	Baths	

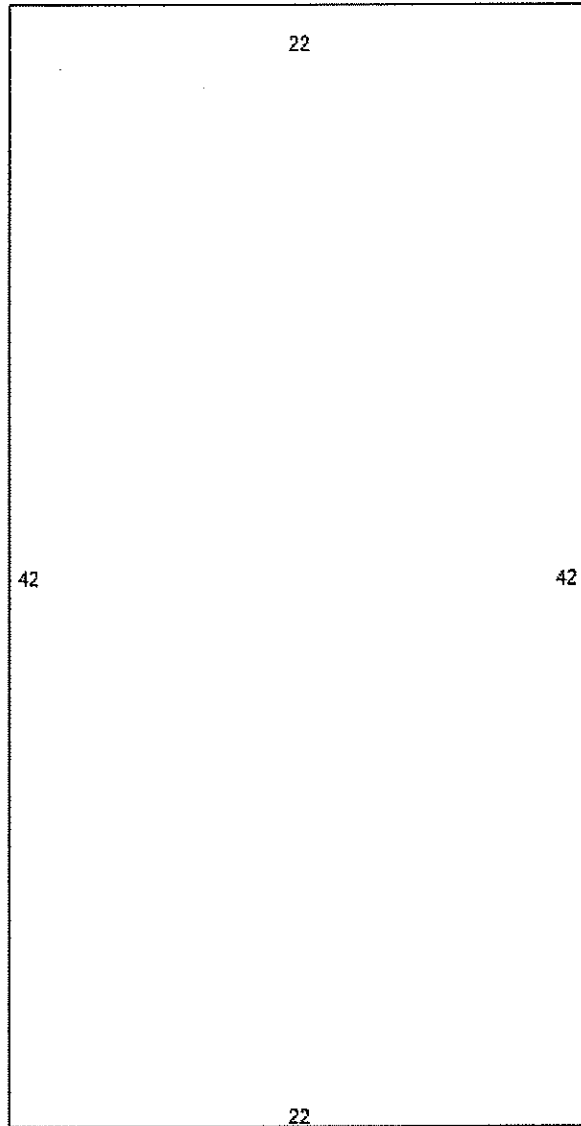
Description	Square Footage
BASE AREA	176
FINISHED CANOPY	210
BASE AREA	360
Total SqFt	746

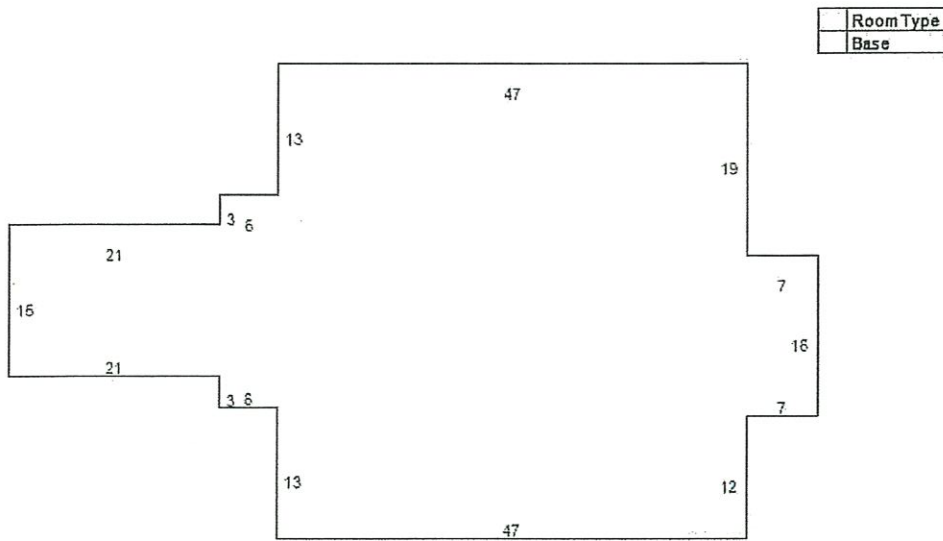
Building	9	Roof Cover	Metal
Year Built	2013	Roof Structure	Wood Truss
Actual Area	3668	Interior Flooring	Concrete Finish
Conditioned Area	2730	Interior Wall	Minimum
Use	Cultural Organizations & Facilities	Heating Type	None
Style	04	Air Conditioning	N/A
Class	N	Bedrooms	
Exterior Wall	Concrete Stucco	Baths	

Description	Square Footage
FINISHED DECK	888
BASE AREA	2262
OUTSIDE STAIRS	50
BASE AREA	468
Total SqFt	3668

Sketch Information

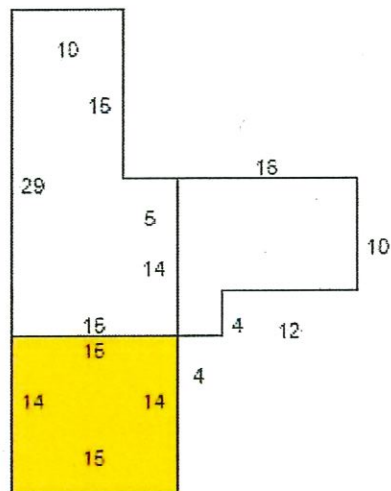
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Base

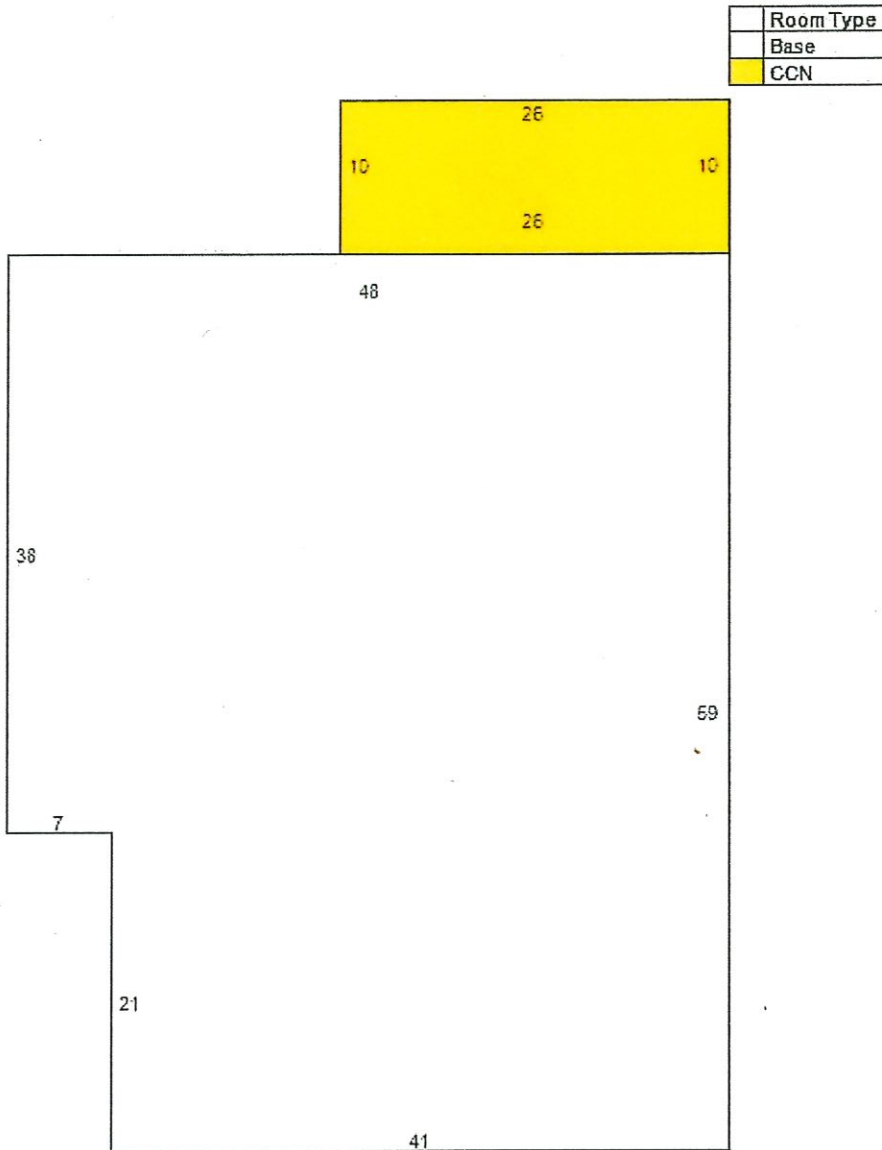




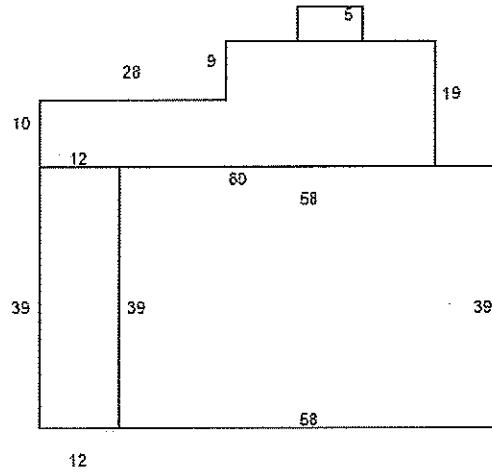
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	CCN
	Base

Room Type
CCN
Base

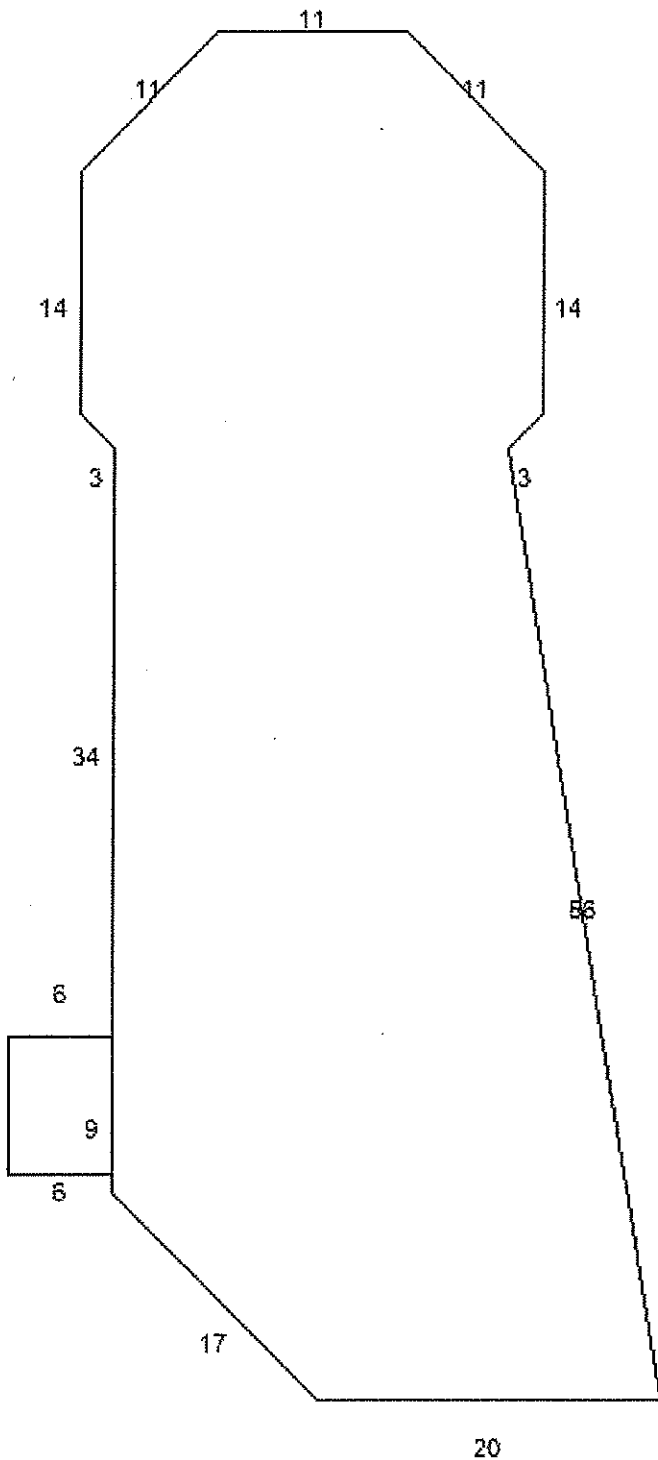




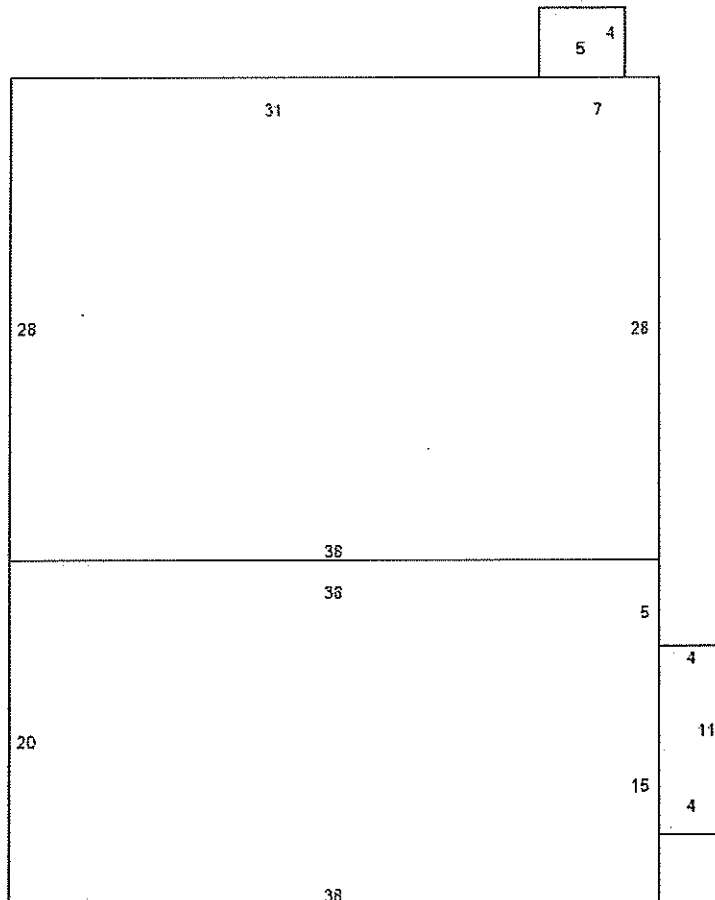
Room Type
OST
Base
DECK



Room Type
Base
EGP



	Room Type
	DECK
	Base
	FUT



Extra Feature Information

Code Description	Status	Value
Bulkhead - Average (Mix)		44352
Masonry Wall (Mix)		10496
Garage - Average (Mix)		9282
Restroom - Average (COM)		1500
Canopy (Mix)		1011
Canopy (Mix)		893
Gazebo - Average (Mix)		1000
Storage Building (Mix)		2678
Pool House (Mix)		1764
Canopy (Mix)		1075
Asphalt Paving (COM)		9186
Concrete Paving - Under 8" (COM)		9112
Wood Fence - 6' and Above (COM)		1325
Wood Fence - Under 6' (COM)		591
Deck (COM)		128
Fountain - Average (Mix)		1000
Steel Door (COM)		108

Code Description	Status	Value			
Steel Door (COM)		360			
Restroom - Excellent (COM)		4004			
Handicap Ramp (COM)		427			
Wood Fence - 6' and Above (COM)		378			
Boat Dock - Average (Mix)		51738			
Canopy (Mix)		1852			
Wood Fence - 6' and Above (COM)		239			
Handicap Ramp (COM)		6270			
Storage Building (Mix)		11813			
Storage Building (Mix)		42656			
Steel Door (COM)		1400			
Steel Door (COM)		6860			
Handicap Ramp (COM)		1394			
Concrete Paving - Under 8" (COM)		240			
Wood Fence - 6' and Above (COM)		6183			
Use Description	Front	Depth	Total Land Units	Unit Type	Land Value
Tourist Attractions	0	0	522720	SF	\$1,045,440
Marshes & Tidal Lands	0	0	2	AC	\$500

No data available for the following modules: Sales Questionnaire Form, Exemption Information, Sale Information.

The St. Johns County Property Appraiser's Office is an Equal Opportunity Employer. It does not discriminate on the basis of race, sex, age, religion, or national origin. This policy applies to all personnel, regardless of position or status.

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MISCELLANEOUS PAYMENT RECPT#: 2582872
CITY OF SAINT AUGUSTINE
50 Bridge Street

St. Augustine, FL 32084

DATE: 03/08/23 TIME: 12:37:18
CLERK: 1596pcoun DEPT: Plannin
CUSTOMER#: 0

COMMENT:

CHG: BDFEE BOARD APP & APP 200.00

AMOUNT PAID: 200.00

PAID BY: ST JOHNS LAW GROUP
PAYMENT METH: CHECK
 16167

REFERENCE:

AMT TENDERED: 200.00
AMT APPLIED: 200.00
CHANGE: .00
VA

Appeal Application Michael H. Ingram – 1 Radio Road, Unit 201

CITY OF ST. AUGUSTINE
APPLICATION TO APPEAL OFFICIAL, BOARD
OR STAFF DECISION

1. APPLICANT FEE:	<u>\$ 206.00</u>	
2. PROJECT NUMBER:	<u>PZB 2023-0019</u>	RECEIVED
3. RECEIPT NUMBER:	<u>2587261</u>	MAR 09 2023

Planning/Building Dept.

PLEASE PRINT OR TYPE

4. APPLICATION TO APPEAL DETERMINATION(S) OF THE FOLLOWING:

<u>X</u> Planning and Zoning Board ____ Historic Architectural Review Board ____ Building Official ____ Fire Marshal	 ____ City Manager ____ Planning and Building Director ____ Other (please specify): _____
---	--

5. NAME OF APPELLANT: Michael H. Ingram (michaelingram904@gmail.com)

Phone: (352) 301-1940 | Business (if applicable): _____
Address: 1 RADIO ROAD (Unit 201) | City: ST. AUGUSTINE
State: FL | Zip: 32084

6. LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THIS APPEAL:

Lot: _____ | Block: _____ | Subdivision: Fountain of Youth Park
Parcel No.: 191600-0000
Other (attach copy, if necessary): Fountain of Youth Property (Four New Docks claimed for Private Use)

7. PROPERTY STREET ADDRESS: 11 MAGNOLIA AVENUE

8. PROPERTY OWNER: Fountain of Youth Properties, Inc.

Phone: () _____ | Business (if applicable): _____
Address: _____ | City: _____
State: _____ | Zip: _____

9. DESCRIPTION OF ACTION BEING APPEALED: Appeal of the Conservation

Overlay Zone Development Permit for significant modifications to a DOCK "to include four new boat lifts with catwalks" within the most sensitive areas of Conservation Zone 1

(e.g.: "Approval of a variance by the Planning and Zoning Board regarding lot coverage to construct a shed" or "Denial of a Certificate of Appropriateness by the Historic Architectural Review Board for metal roof for an addition.")

10. DATE OF ACTION BEING APPEALED: February 7, 2023 - PZB

11. DESCRIBE IMPACT OF ACTION ON APPELLANT: Appellant lives immediately adjacent to the property being developed with these four new boat lifts and catwalks and will be directly affected by this new development in conservation zone one ... (SEE ATTACHED)

In many instances, an appeal may only be filed by an aggrieved person, and the reviewing authority must find whether in its opinion error was made in order to reverse or modify the action appealed.

12. SPECIFIC GROUNDS FOR THE APPEAL:

--- SEE ATTACHED ---

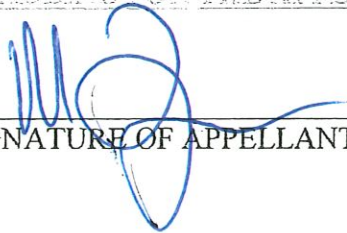
Section 28-29 of the Code of the City of St. Augustine, in part, states: "State with particularity, specific grounds for the appeal, including the factual and legal basis, which must be based on established law as it relates to the action taken by the official, board or commission upon which the appeal is filed. The official, board or commission which will hear the appeal as the reviewing authority may review the application for appeal prior to hearing and may request that additional information be filed, in writing in the form of a brief or other formal statement. Based upon the application for appeal and such other information that is filed, such reviewing authority may summarily affirm the order to be reviewed if the authority finds that no preliminary basis for reversal has been demonstrated, or may summarily reverse the order to be reviewed if the reviewing authority finds that no meritorious basis exists for affirmance and the order otherwise is subject to reversal." Attach additional information, if necessary.

13. SPECIFIC ACTION BEING REQUESTED: Revoke the PZB grant of this permit for significant modifications to a DOCK to include four new boat lifts with catwalks within the most sensitive areas of the conservation zones, as the grant will significantly affect Appellant... (SEE ATTACHED)

14. AGREEMENT: In filing this application, I understand that it becomes part of the Public Record of the City of St. Augustine, and hereby certify that all information contained herein is accurate to the best of my knowledge.

In accordance with s. 286.0105, Florida Statutes: "If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based."

A VERBATIM TRANSCRIPT IS REQUIRED AND INCLUDED WITH THIS APPEAL. THE DEADLINE FOR THE TRANSCRIPT IS THE SAME AS THE DEADLINE FOR THE APPEAL.

15. 
SIGNATURE OF APPELLANT

3-6-2023
DATE

CITY OF ST. AUGUSTINE
DEVELOPMENT PERMIT APPLICATION WAIVER

- The applicant acknowledges and agrees to waive the limitation of three requests for additional information by the City of St. Augustine, pursuant to Ch. 166.033, Florida Statutes.
- The applicant acknowledges and agrees that the City offers weekly Friday Review development review meetings, as well as, department specific applicant meetings with its reviewing staff at any point in the application process to attempt to resolve outstanding issues. The applicant is responsible for scheduling any requested meetings with City staff directly.
- The applicant acknowledges and agrees that if after three unresolved submittals the applicant elects to proceed with final approval or denial proceedings, the applicant must request so in writing to the City.

Michael Ingran

PRINT NAME OF APPLICANT



SIGNATURE OF APPLICANT

3-6-2023

DATE

APPLICATION TO APPEAL P.Z.B. DECISION

This appeal is brought by city resident Michael Ingram, property owner of Unit 201, 1 Radio Road, proof of ownership attached, who lives on immediately adjacent property, within the 300-foot notice area, and who is a resident directly and immediately affected by this proposed development in conservation zone 1 for the significant modifications to a DOCK to include four new boat lifts with catwalks. This appeal packet includes a complete appeal filed in compliance with code requirements, including the following statement as to their legal standing for this appeal:

I am a city resident that lives on immediately adjacent property at 1 Radio Road, within the 300-foot notice area, and I received mailed notice as required by City Code for the PZB hearing. I will be immediately injured if this approval is allowed to remain because both my vista and my use of this constrained area of the creek will be adversely impaired. In sum, I am an affected party who has direct standing to appeal the inappropriate approval of the conservation zone one development to allow for significant modifications to a DOCK to include four new boat lifts with catwalks.

Based upon where I live, immediately adjacent, and my testimony that I will be immediately impacted, I have a personal stake in the outcome of this permit's review and such injury can be redressed through the Commission's appropriate review of the PZB grant. I merely seek the Commission's reasonable and appropriate application of the City Code requirements of Section 11-29 and the 17 criteria contained therein, criteria that were not adequately addressed by PZB.

11. DESCRIBE IMPACT OF ACTION ON APPELLANT **& 12. SPECIFIC GROUNDS FOR THE APPEAL:**

The P.Z.B.'s approval of the conservation zone development effectively ignored the testimony on the record and a reasonable review of the criteria required for approval of conservation overlay zone one development, which incidentally does not meet the city code requirements, including the 17 criteria used for reviewing this type of application, **AS IS APPARENT** from the testimony on the record and analysis provided by the applicant and their representative, including that last minute updates pressed upon the board at the hearing.

As an immediately adjacent resident and a directly affected party, I am requesting that the Board reconsider the PZB decision to allow The Fountain of Youth to build 4 new boat docks. As a member of the local community, I strongly oppose this decision and believe that it will have a negative impact on the surrounding environment, which I enjoy daily right in front of my residence. The Fountain of Youth is a popular tourist attraction in Saint Augustine, and we appreciate the economic benefits that it brings to our city; however, as testified by the witnesses at the hearing, I believe that the construction of 4 new boat docks will have a detrimental effect on

the natural habitat and wildlife in the area. The increased boat traffic and noise pollution will disturb the natural ecosystems that exist in the waterways and surrounding marshlands.

Furthermore, as also testified, I am concerned that the construction of the boat docks will exacerbate the already-present issue of water pollution in our local waterways. Saint Augustine, and particularly this pristine area of Hospital Creek, is known for its pristine estuaries, and we do not want to see them degraded by the added pressures of this unnecessary increased boat traffic. I urge the Commission to take these concerns seriously and to reconsider the decision to allow The Fountain of Youth to build 4 new boat docks. I specifically ask that they carefully consider the environmental impact of this decision and work to preserve the natural beauty of our city, by applying the required 17 criteria, that were not fully analyzed or explained by the applicant's representative. I have attached the full transcript which clearly shows that the applicant did not adequately address the 17 criteria especially as they relate to the impact on the quiet pristine waterways of this constrained and shallow area of Hospital Creek.

13. SPECIFIC ACTION BEING REQUESTED:

We, as immediately adjacent property owners petition the City Commission to evaluate this appeal and the record from the PZB meetings, and to find that the applicant did not submit and present competent evidence to support the granting of a conservation overlay zone one approval for these four new docks and catwalks and to deny the application.

Thank you for your attention to this matter,

Michael Ingram

Immediately Adjacent Resident

Stop Commercialization of Hospital Creek

To the Planning and Zoning Board of Saint Augustine, Florida,

We, the undersigned, are writing to request that the Planning and Zoning Board reconsider their decision to allow The Fountain of Youth to build 4 new boat docks. As members of the local community, we strongly oppose this decision and believe that it will have a negative impact on the surrounding environment.

The Fountain of Youth is a popular tourist attraction in Saint Augustine, and we appreciate the economic benefits that it brings to our city. However, we believe that the construction of 4 new boat docks will have a detrimental effect on the natural habitat and wildlife in the area. The increased boat traffic and noise pollution will disturb the natural ecosystems that exist in the waterways and surrounding marshlands.

Furthermore, we are concerned that the construction of the boat docks will exacerbate the already-present issue of water pollution in our local waterways. Saint Augustine is known for its pristine beaches and estuaries, and we do not want to see them degraded by the added pressures of increased boat traffic.

We urge the Planning and Zoning Board to take these concerns seriously and to reconsider their decision to allow The Fountain of Youth to build 4 new boat docks. We ask that they carefully consider the environmental impact of this decision and work to preserve the natural beauty of our city.

Thank you for your attention to this matter.

The following is a list of the signers of the petition "Stop Commercialization of Hospital Creek" including the date of signature.

Name	City	State	Postal Code	Country	Signed On
Michael Ingram				US	2023-02-23
John Kulaga	Saint Augustine	FL	32084	US	2023-02-23
Elise Kulaga	St Augustine	FL	32084	US	2023-02-23
Mark Grobelny	Saint Augustine	FL	32080	US	2023-02-23
Michele Segars	Saint Augustine	FL	32084	US	2023-02-23
Mattie Harms	Saint Augustine	FL	32084	US	2023-02-23
Cindy Tivey	Saint Augustine	FL	32084	US	2023-02-23
Michael Grobelny	St Augustine	FL	32080	US	2023-02-23
Linda McEnrue	Saint Augustine	FL	32084	US	2023-02-23
Vicki Bordeaux	Fort White	FL	32038	US	2023-02-24
Alexa mccondichie	Saint Augustine	FL	32084	US	2023-02-24
John Magura	Saint Augustine	FL	32084	US	2023-02-24
Karen Laub	Saint Augustine	FL	32086	US	2023-02-24
Robert Laub	Saint Augustine	FL	32086	US	2023-02-24
Troy Coley	Rockville	MD	20852	US	2023-02-24
Joanne conrad	Saint Augustine	FL	32086	US	2023-02-24
Jane Grobelny	Saint Augustine	FL	32080	US	2023-02-24
Shannon McKay	Saint Augustine	FL	32084	US	2023-02-24
Cynthia noche	Saint Augustine	FL	32084	US	2023-02-24
Travis Fagans	Saint Augustine	FL	32084	US	2023-02-24
Teresa Blackwelder	Saint Augustine	FL	32086	US	2023-02-24
Kimetha Fairchild	Columbia	MO	65201	US	2023-02-24
Robert Mengarelli	St Johns	FL	32259	US	2023-02-24
Wakko Romero		FL		US	2023-02-24
Johannah Ingram	Gainesville	FL	32608	US	2023-02-24
Adam Kaluba	Burleson	TX	76028	US	2023-02-24
Jill McDermott	Jacksonville	FL	32207	US	2023-02-24
linda brown	Saint Augustine	FL	32084	US	2023-02-25
Sharon Adams	St Augustine	FL	32092	US	2023-02-25
Cynthia Newell	St. Augustine	FL	32084	US	2023-02-25

The following is a list of the signers of the petition "Stop Commercialization of Hospital Creek" including the date of signature.

Robert Newell	Saint Augustine	FL	32084	US	2023-02-25
Jessie Pack	Saint Augustine	FL	32084	US	2023-02-25
Karen Arrigo	St Augustine	FL	32084	US	2023-02-25
Kathryn Rollins	Alexandria	VA	22314	US	2023-02-25
Deborah Waters	New York	NY	10065	US	2023-02-25
Susan Creek	Saint Augustine	FL	32095	US	2023-02-25
Kathryn Tulk	Saint Augustine	FL	32080	US	2023-02-26
Jazs Web	St. Augustine	FL	32084	US	2023-02-26
Margaret Gardner	St. Augustine	FL	32084	US	2023-02-26
Peter Klein	Saint Augustine	FL	32084	US	2023-02-26
Susan Farber	Saint Augustine	FL	32084	US	2023-02-26
Kristen Sullivan	St. Augustine	FL	32086	US	2023-02-27
Patrice Hughes	St. Augustine	FL	32084	US	2023-02-27
susan frahm	Saint Augustine	FL	32095	US	2023-02-27
GREER SULLIVAN	Saint Augustine	FL	32086	US	2023-02-28
Carey Roberts	Saint Augustine	FL	32080	US	2023-02-28
Alan Szlosek	St Augustine	FL	32086	US	2023-03-02
Mary Muldowney	Saint Augustine	FL	32084	US	2023-03-02
Linda Mcdaris	St. Augustine	FL	32084	US	2023-03-02

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CITY OF ST. AUGUSTINE
PLANNING & ZONING BOARD MEETING

In Re: Conservation Overlay Zone Development 2022-0094

TRANSCRIPT OF RECORDED MEETING

DATE TAKEN: February 7, 2023
PLACE: City Hall
Alcazar Room
75 King Street
St. Augustine, Florida 32084

This cause came on to be heard at the time and
place aforesaid, when and where the following
proceedings were **transcribed** by:

Deborah Pacetti Brownell
Registered Professional Reporter
St. Augustine/Jacksonville, Florida
(904) 824-3525

1 A P P E A R A N C E S

2 Mike Davis, Chairman

3 Carl Blow

4 John DePreter

5 Charles Pappas

6 Dr. Ashleigh Barnes

7 Matthew Shaffer

8 Christina Griggs

9 Isabelle Lopez, City Attorney

10

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1 MR. DAVIS: Our next item is a Conservation
2 Overlay Zone Development 2022-0084 [sic]. Jacob,
3 can you give us a staff report, please?

4 MR. FREDRIKSSON: Yes. Mr. Chairman, Members
5 of the Board. This request is to approve the
6 modification of an existing dock to include four
7 new boatlifts with catwalks, and to approve the new
8 construction of an observation deck to the south of
9 existing dock within Conservation Overlay Zone 1 at
10 11 Magnolia Avenue. Based on review of Section
11 11.29, the Board can approve this request for
12 Conservation Overlay Zone 1 Development at 11
13 Magnolia Avenue.

14 MR. DAVIS: Is the applicant here?

15 Mr. Carter. I didn't say it was good to see
16 you again, just for --

17 MR. CARTER: That's okay.

18 MR. DAVIS: -- the record. If we can get you
19 sworn in, please.

20 UNIDENTIFIED SPEAKER: State your name and
21 address, please.

22 MR. CARTER: Ryan Carter, 42 Masters Drive,
23 St. Augustine, Florida.

24 UNIDENTIFIED SPEAKER: Do you solemnly swear
25 or affirm that the testimony you're about to give

1 is the truth, the whole truth, and nothing but the
2 truth?

3 MR. CARTER: I do. So there has been a
4 revision in this dock plan. Sorry, Chuck, sorry.

5 MR. DAVIS: Mr. Pappas will be waiting for you
6 on his turn.

7 MR. CARTER: Yeah. Okay. So that's up on the
8 -- great. So this is a proposed -- two things,
9 there's an amendment to -- or modification to the
10 existing Fountain of Youth dock to add four slips
11 for their personal use. They have this -- they
12 have an existing dock, which we'll show you in a
13 moment if you haven't been out on it, long
14 boardwalk, and terminal platform that's more of an
15 observation pier, and they said, Well, boy, it
16 would be nice to have some docks for our own use on
17 the end of that, so that's what's being proposed.

18 Obviously, this is the Fountain of Youth
19 property, which is there south of the May Street
20 and east of San Marco. We all know where it is, I
21 hope.

22 The existing dock is here on the aerial, and
23 it comes all the way out to the creek, which is
24 known as Hospital Creek, and so that's -- that's
25 one thing that is proposed. The other thing is an

1 observation pier right in this cove right here.
2 And they do a lot of different events down in that
3 south part of their property, and they would like
4 to have just a small observation pier there for
5 photographs and just to enjoy the water. So we'll
6 show that now.

7 So again, here are the four slips, 30 feet, I
8 think, by 15. I'll have to go to the details, but
9 we reduced -- the change was we reduced it to 30
10 feet. And these exhibits that you see here,
11 they've been emailed to staff probably about an
12 hour ago. So you have these for the record, both
13 Jacob and Amy do.

14 And then -- okay. So that's the 30 foot --
15 the four 30-foot slips here, deck lifts, and then
16 here's the observation deck down below. Again,
17 here's the proposed deck lifts. You could see on
18 the aerial, this is the existing terminal platform,
19 and the idea is just to add four slips right to the
20 end of it.

21 The observation pier and deck, like it's shown
22 there, it's about 65 feet long. We have six feet
23 of width for -- just to make sure there's plenty of
24 room for people to go in and out, take photographs,
25 and then a 15 by 25 terminal platform.

1 This is the approximate bathymetry for the
2 deck lift, and I'll explain this in a minute. I
3 think that whether we do deck lifts or cradle
4 lifts, there's going to be some tide restrictions,
5 maybe some restrictions on low tied access, and
6 the -- I'll go to the next exhibit.

7 So this was an exhibit that was generated to
8 show the clear water or the width of the creek, how
9 it's not being any further encumbered than the dock
10 to the north. So the existing dock to the north
11 has from the east side, or the stern of the boats,
12 to the outside of the channel is about 80.5 feet,
13 you know, 80 feet, and our same clear passage is
14 about 82.7 feet. So we're -- we provide a little
15 bit more, certainly not less. And that was one of
16 the reasons for reducing the slip length, was to
17 make sure that we're providing as much or more
18 passage as the dock to north to not encumber
19 Hospital Creek.

20 The DEP will require us to do that as well.
21 They have a 25 percent width of the channel
22 restriction. So if the channel is 100 feet wide,
23 you can't have it protrude into the channel any
24 more than 25 feet, so we meet that now. And that
25 was a -- we've submitted the DEP and the Corp

1 concurrently to the City, and we got their comment
2 back, and I should have caught that, but yeah, it
3 needs to be 25 feet, and that's why -- one of the
4 other reasons why we reduced the length of the
5 dock, so now it doesn't protrude out into the creek
6 any further.

7 This is just a dimensional exhibit showing
8 different dimensions to the property boundary -- or
9 to the upland boundary, and to Hospital Creek,
10 which of course, we're not going to. This is
11 simply more of an amenity to the facility, to help
12 with their weddings and other events, that people
13 can go out and use the -- and just enjoy the water.

14 And the dock -- I don't remember the total
15 length, and we can go back and look, it's kind of
16 interesting. The length of the dock, the existing
17 dock in green, I don't remember what it is, but
18 it's long. So if you had an event and somebody --
19 you know, an elderly person wanted to go and enjoy
20 the water, it's like 600, 700 feet, I can't
21 remember how long it is, but it's out there, so
22 that's kind of why they wanted this second
23 observation deck, 65 feet.

24 Let's see, what else. This just shows a cross
25 section of the creek. We're going to be

1 the -- we're proposing a maximum, I think, six feet
2 above mean -- mean high water. That's the city
3 code limit, six feet, so we've gone to that.

4 You know, piling spacing, I'm just showing the
5 dock -- or excuse me, the boats on the existing
6 structure. Again, six feet off mean high water.
7 And I believe that that concludes my presentation,
8 and I'll leave that up to reference. Thank you.

9 MR. DAVIS: Thank you, Mr. Carter. This is a
10 public hearing. Is there anybody in the public
11 that would like to comment on this item?

12 THE WITNESS: BJ Calady, (phonetic) west city
13 of St. Augustine.

14 UNIDENTIFIED SPEAKER: Do you solemnly swear
15 or affirm the testimony you're about to give is the
16 truth, the whole truth, and nothing but the truth?

17 THE WITNESS: Yes, I do.

18 Again, this is an opportunity to speak about
19 the procedure. Every time some of these developers
20 and their employees, contractors, they never give
21 the information to the public. You get it an hour
22 earlier and then you're going to hear it. This is
23 happening too often. And just to let y'all know
24 too, there is one person here for May Street, and I
25 know there wasn't a lot of people for that, but

1 they're concerned about what's happening, and I
2 appreciate you explaining to them, but this is
3 happening too often.

4 The first thing out of someone's mouth is, I'm
5 sorry. Please, please, think about this. These
6 people are getting off from work, their families
7 and everything, so I had to say something about it
8 because the first thing out of Mr. Ryan's mouth
9 was, I'm sorry. That doesn't get it for the
10 public, I'm sorry too. So please take that under
11 consideration.

12 I know I was out of line to stand up here a
13 minute ago, but I have to put that on the record
14 because I want people that may be streaming this
15 afterwards will understand because they're upset,
16 and you understand that, and I do too, but we've
17 got to follow some procedures for the public.
18 They're interested in their neighborhoods, and
19 that's what you-all are trying to protect too for
20 us, so thank you.

21 MR. DAVIS: Thank you. Anyone else?

22 MS. RAKONCAY: Melinda Rakoncay, 86 Magnolia
23 Avenue, St. Augustine.

24 UNIDENTIFIED SPEAKER: Do you solemnly swear
25 or affirm the testimony you're about to give is the

1 truth, the whole truth, and nothing but the truth?

2 MS. RAKONCAY: I do.

3 I live in that area, I'm real familiar with
4 the Fountain of Youth, I used to go down there all
5 the time, and I have been out on this dock. The
6 thing that concerns me is both the Fountain of
7 Youth and the Catholic Mission are the original
8 landing spots of Menendez 450 years ago, and one
9 thing that has always struck me is that that
10 Florida property has been preserved to where you
11 can go and pretty much stand there and have a
12 feeling of what it looked like 450 years ago, and
13 have a real sense of what it must have looked like
14 to the original settlers and everything.

15 And that long observation dock they have
16 presently is very nice. It's -- you walk out, and
17 it's nothing but wetlands you see, and again, it's
18 a wonderful view. To stick four modern boatlifts
19 there's seems really out of context, especially
20 with the fact that this is the founding spot of our
21 city 450 plus years ago. So that's my concern.

22 The other observation deck that's going to
23 come out, I don't have a problem with it so much;
24 although, it's going to come out even more into the
25 original landing spot. So I just think that we

1 need to keep that preserved as much as possible.
2 We've done such a good job. It's been preserved
3 almost 450 plus years, to start putting modern
4 boatlifts in it just for the convenience of the
5 Frasers, I think it actually kind of hurts what
6 they've got, but historically, I don't see adding
7 it. I think it's a minus. And since it's before
8 you and you have a choice to approve it or not
9 approve it, then I ask you to disapprove it, and
10 please keep that area as natural looking as
11 possible for historic reasons. Thank you.

12 MR. DAVIS: Thank you. Mr. Whitehouse.

13 MR. WHITEHOUSE: Good afternoon, Planning and
14 Zoning Board Members. For the record, my name is
15 James Whitehouse, 104 Sea Grove Main Street here in
16 St. Augustine. I'm here on behalf of the Kulaga
17 family, so I'm going to give you their letter, and
18 then I'm just going to read it into the record.

19 MR. DAVIS: Isabelle, do we need to swear
20 Mr. Whitehouse in?

21 MS. LOPEZ: Not if he's representing the
22 client as an attorney. If he's testifying
23 firsthand as himself, then yes, but I'm
24 understanding that you're here representing an
25 attorney -- a client, correct?

1 MR. WHITEHOUSE: Correct. I'm going to try to
2 read -- I'm going to try to read --

3 MR. DAVIS: Do we need to reset the clock
4 since we've been --

5 UNIDENTIFIED SPEAKER: I haven't started it
6 yet.

7 MR. DAVIS: Okay, great.

8 MR. WHITEHOUSE: I don't know if I'm going to
9 read all this in -- it's three pages, so I'll read
10 as much as I can. You guys have a copy of it in
11 case. They'd like me to read it to into the
12 record. These are people that live adjacent to
13 this property.

14 MR. DAVIS: Okay.

15 MR. WHITEHOUSE: Dear Board Members, my name
16 is John Kulaga and my family, and I live
17 immediately adjacent to this commercial property's
18 requested impact. To begin, I am upset that I
19 cannot be there to represent us for such an
20 impactful manner due to the lack of appropriate
21 time given with a certified letter delivered to us
22 only seven business days before this meeting. We
23 have hired our attorney, Mr. Whitehouse, to read
24 our heartfelt and genuine objections.

25 My wife Elise has been a resident of the St.

1 Augustine since 1982, and myself, since 1989. We
2 have seen this city transform for the better and
3 for the worst. We are not opposed to development
4 or appropriate growth in the nation's oldest city,
5 but strongly oppose the Fountain of Youth dock
6 extension and enlargement.

7 Our first opposition is based on a discrepancy
8 in the filing. The filing in December states for a
9 commercial use, but the response in January says
10 for a personal use. Page 1 of the application
11 dated December 12th states, The proposed work will
12 enhance vistas and scenic opportunities for the
13 benefit of the public as a whole. The approval of
14 the dock will give the public the benefit of
15 renting a boat during operating hours and observe
16 the vistas and scenic opportunities in the
17 vicinity.

18 In a subsequent email exchange with Jacob
19 Fredriksson, senior planner, dated January 17th,
20 staff asked the specific nature of how the proposed
21 dock with boatlifts will be used, and the applicant
22 responded that the additional four boatlifts plan
23 to be used for the family who owns the Fountain of
24 Youth for their personal boats.

25 Elise and I are both avid outdoorsmen that

1 enjoy the waters of St. Augustine. As longtime
2 local avid anglers, we have a canoe, a skiff, and
3 an offshore vessel and use the creek in this area
4 often. We have personal experience and have seen
5 this waterway over the past five years and the
6 connecting waterways reach a point of safety
7 concern to both human and marine life due to the
8 large population increase and inexperienced
9 boaters.

10 The proposition before you increases the
11 safety concern for both human and marine life in
12 the following manner. Number one, the proposed
13 lift limit for the docks is currently 12,000
14 pounds. This is approximately a 30-foot vessel --
15 34-foot vessel and 10 foot beam, this is a very
16 large boat, and they want four for personal use.

17 At low tide, the navigable water is -- in the
18 front of the current existing dock is 7.5 feet at
19 best. To back out a 34-foot vessel with others
20 oncoming leaves little room even for the most
21 experienced captain.

22 Number three. At low tide, many areas in
23 Hospital Creek are 3 feet deep. That would not
24 allow a 12,000-pound vessel to pass safely. Silt
25 stirred up causes many environmental impact issues,

1 hence, why you would need a permit for dredging.

2 Number four, at the causeway bridge, there's
3 also a kayak and canoe launch.

4 Number five, due to the busy main waterway,
5 our marine life has very few refugees anymore.
6 Hospital Creek is one of these last few areas.

7 The proposition for personal use versus
8 commercial is questionable with this filing, but
9 the reality is, a segue into commercial use,
10 regardless of their conflicting proposed use, this
11 alone should be enough to delay or deny approval,
12 and I'll just skip to the end.

13 There are a lot more questions our colleagues
14 in the community have. Thank you for your personal
15 review of this matter, and as fellow St. Augustine
16 residents, for putting yourselves in our shoes for
17 few minutes. Elise and John Kulaga.

18 Thank you, Mr. Chairman.

19 MR. DAVIS: Thank you, Mr. Whitehouse, you did
20 pretty good.

21 All right. Is there anybody else in the
22 public that would like to comment on this item?

23 MR. McKENNA: Hey, I'm Captain Zack McKenna,
24 301 D Street, St. Augustine Beach.

25 UNIDENTIFIED SPEAKER: Do you solemnly swear

1 or affirm the testimony you're about to give is the
2 truth, the whole truth, and nothing but the truth?

3 MR. McKENNA: I do.

4 I live at the beach, but I've been operating a
5 business downtown for about 17 years doing
6 environmental tours, the original eco tour company
7 here. Few people in this town spend as much time
8 as we do in Hospital Creek. I also do a lot of the
9 marine rescue here. I'm also the federally
10 permitted individual that studies the local dolphin
11 population here.

12 Hospital Creek's a real gem. The oysters back
13 there aren't harvested and provide a huge
14 environmental service. It's my hypothesis that
15 because of the wetlands that have not been
16 disturbed, that that is why Hospital Creek has done
17 so well in the last hurricane, and for lack of a
18 better word, it's incredibly tight back there.

19 So it's filling in naturally, that's the
20 hydrology, and my real concern is these tight paths
21 are going to become tighter, which is a hazard for
22 human activity. And also, there's no way to build
23 these proposed items without major disturbance to
24 these pristine wetlands.

25 I come from a background in heavy civil

1 construction. I worked for Superior Construction
2 as an environmental expert. I also did wetland
3 construction, so I'm familiar with the mechanisms
4 that'll be used to build these, and I don't think
5 there's any way it can be done without doing major
6 damage to the existing wetlands.

7 And also, I feel, my personal opinion is, as
8 soon as these docks are built, we'll be back here
9 talking about dredging Hospital Creek, or it will
10 be done in the cover of darkness. It's simply not
11 deep enough back there. Wide -- width is an issue,
12 but depth is the real issue. And I'm literally
13 back there four out of five days a week, either in
14 the kayak or in a small boat. So those are my
15 concerns for the construction of these new docks in
16 and around Hospital Creek.

17 MR. DAVIS: All right. Thank you.

18 MS. PEDIGO: Good afternoon. Sarah Pedigo
19 (phonetic) for Coleman Drive. I submitted a --

20 MR. DAVIS: We need to get you sworn in.

21 MS. PEDIGO: Sorry.

22 UNIDENTIFIED SPEAKER: Do you solemnly swear
23 or affirm the testimony you're about to give will
24 be the truth, the whole truth, and nothing but the
25 truth?

1 MS. PEDIGO: Yes.

2 I submitted a written comment, but I just
3 wanted to get up and say that I'm opposed to this.
4 I'm really concerned about the wetlands and the
5 impact that this would have on it. And I really
6 appreciate being able to live near such a pristine
7 area, and I think it's also very instrumental in
8 flood mitigation, during hurricanes, and if anyone
9 lives in that area, you see the water come up the
10 road during the hurricanes, so more construction
11 and impact there is really concerning to me. So I
12 am opposed to this.

13 MR. DAVIS: Thank you. Anyone else?

14 MR. SLAVIN: Good afternoon.

15 MR. DAVIS: Mr. Slavin.

16 Good. How are you?

17 MR. SLAVIN: Ed Slavin (phonetic), Box 3084.

18 UNIDENTIFIED SPEAKER: Do you solemnly swear
19 or affirm the testimony you're about to give is the
20 truth, the whole truth and nothing but the truth?

21 MR. SLAVIN: Yes, ma'am, I do.

22 Sorry I'm late. I thought this meeting
23 started at 1:00. There's some misinformation on
24 the City website. I apologize for being late, but
25 I agree with Captain McKenna and the other

1 witnesses. This is a pristine area, and I oppose
2 anything that would mess with it. Thank you so
3 much.

4 MR. DAVIS: Thank you. All right. Anyone
5 else in the public?

6 All right. Seeing none, we'll close the
7 public hearing. Mr. Carter, if you'd like to come
8 back up. While you're doing that. Board, is there
9 anyone that had any ex-parte that they need to
10 disclose?

11 Matthew?

12 MR. SHAFFER: No.

13 UNIDENTIFIED SPEAKER: Mr. Chairman, I'm very
14 familiar with Hospital Creek, and I did speak to
15 Mr. Carter.

16 MR. DAVIS: I'm very familiar with the site.

17 UNIDENTIFIED SPEAKER: Yes, I did a site
18 visit, when I was there, I met with building
19 maintenance -- one of the building maintenance
20 guys, he showed me around.

21 MR. DAVIS: Christina?

22 MS. GRIGGS: Just familiar with the site.

23 MS. BARNES: None.

24 MR. DAVIS: All right. Also, we had 40
25 notices sent out. Four came back in favor. Two

1 opposed, three had comments. One of the comments
2 opposed. I'm opposed to any further development
3 that impacts the sensitive marsh habitat. The zone
4 of concern is very shallow and narrow. Additional
5 boatlifts and other observation deck would obstruct
6 the existing echo system, in particular, the salt
7 marsh is essential to flood mitigation during
8 hurricanes. We should not disrupt this delicate
9 space. I moved to this area because of its natural
10 beauty. Some of my favorite activities are running
11 along the bayfront or kayaking through this
12 estuary. Please do not allow new construction.

13 We had -- I'm trying to find the other
14 comments. Appears to be regarding a boatlift being
15 built at the Fountain, across the street, we have
16 no issues with it. And another one that said it's
17 okay by me. So those were the comments by the
18 neighbors.

19 It's nice whenever, Carl, you're the first one
20 up on the dock. Makes all the rest of us feel
21 better.

22 MR. BLOW: Gee, thanks, Mr. Chairman. The --
23 well, I guess when I saw this, my first concern was
24 obstructing the nav- -- nav- -- I can't speak.
25 Obstructing the channel of Hospital Creek,

1 especially for the upstream folks, and so the
2 change that they've made is definitely an
3 improvement over the -- what was initially
4 submitted.

5 Basically, they're sort of using the
6 condominium docks as a guide to determine open
7 water. Also, as Mr. Carter spoke, the DEP
8 requires, I think, that no more than 25 percent of
9 the open water will be obstructed by a dock, and I
10 guess they've met that criteria.

11 As far as the public's comments, I guess I
12 look at it as a -- we have a -- our glass is half
13 full in that we have the GTM here which has
14 fortunately protected a large amount of wetlands.
15 Growing up here, I could tell you that that almost
16 didn't happen, but fortunately it did.

17 The other positive is we were able to secure
18 Fish Island, which I've been on this board when
19 we've had applications come through on Fish Island
20 that would have totally -- I mean, it was nothing
21 but houses or condos, and of course, now, that area
22 is protected.

23 And then the other major plus is on the west
24 side of the river there, 312, the county is going
25 to spend I think it's about \$33 million to buy the

1 Genovar property, which is a gorgeous piece of
2 property, which otherwise would have been developed
3 probably as condos. It's going to be a public park
4 with a boat ramp, but they're going to save all
5 those big live oak trees.

6 So all in all, I guess I understand the
7 concerns of the speakers, but I don't -- I don't
8 really have a problem with these four boatlifts.

9 The Frasers have done, I think, a good job at
10 maintaining the Fountain of Youth property. My
11 biggest fear is that one day they'll want to
12 develop that as condominiums, but that's not what
13 they're here for today, so those are my comments.

14 MR. DAVIS: All right. Mr. Pappas.

15 MR. PAPPAS: Well, first, let me echo
16 Ms. Calady's concerns, I also hate when things come
17 here last minute. And this isn't the time, but I'd
18 remind staff, any time we get something last
19 minute, please have a copy on the desk back there
20 for the residents who come, at least that'll help a
21 little bit.

22 I don't have a large concern on this. I
23 appreciate that you reduced it because I did have a
24 concern then. But I look at this site a little
25 differently. I look at this as a historic site,

1 much as we look at our historic buildings, and the
2 view shed is normally from the road or from the
3 land out, but in this particular site, the view
4 shed is actually from the water in.

5 There are a lot of echo tours. There are a
6 lot of people. It's been a long time since I've
7 kayaked through there, but this is one of our few
8 historic water sites, so I'm just echoing some of
9 the concerns.

10 I don't know if we have any action against
11 that, but I don't have a big concern about the
12 things, but it's something that we do need to think
13 about and start looking at. It's something new to
14 start looking at in the future.

15 And I was just curious on this after going
16 through the lighthouse, are there any archeological
17 concerns in this area since that is an
18 archeological park that is in front of? Has it
19 ever been looked at?

20 MS. SKINNER: I know the uplands have been
21 looked at extensively by several archeologists over
22 the years. I'm not sure about anything waterward,
23 but we can certainly have our archeologists, you
24 know, make a determination. If that new
25 observation deck impacts the archeology zone, then

1 we can certainly have her look at it and see if
2 there's any knowledge of anything.

3 They were just out there for other reasons as
4 well, so they -- it's been -- the uplands have been
5 extensively looked at. And I think there are --
6 along the water's edge, there's always concern
7 about precontact, you know, the native peoples here
8 that may have lived along the water's edge, so.

9 MR. PAPPAS: Okay. Thank you. Yeah, with the
10 water shifting and our coastline shifting, we never
11 know what we come across. So whatever the motion
12 is, make sure we put something into that, but other
13 than that, I don't have a big concern on this.
14 Thank you.

15 MR. DAVIS: I agree with what Charles has
16 said, and Ryan, in this case, the change was the
17 dock got smaller, so it wasn't a change that came
18 to us that made it bigger or changed the location
19 of it, it went from the 40-foot dock to a 30-foot
20 dock.

21 While I wish that had been done sooner, at
22 least it's a change in the positive and not
23 something we have to deal with in the negative.

24 I don't necessarily have an issue with that.
25 I don't -- I think the observation deck is fine,

1 and I look at the distance of the boats away from
2 where the site is and I -- there's a boat dock not
3 too far from there, so I don't really have an issue
4 with it. John.

5 MR. DePRETER: So I had written down what the
6 couple at Radio Road, I'm assuming that's the
7 condominium next door, okay. So I did notice even
8 before I read that, that in the application sent in
9 by the applicant in December, it does say that it's
10 going to be for public use, and that's one of the
11 things it says, I think it's going to be -- give --
12 and I think he put it in scenic -- the proposed --
13 here's your application: The proposed work will
14 enhance vistas and scenic opportunities for the
15 benefit whole, and your answer is, The approval of
16 the dock will give public the benefit of renting a
17 boat during operating hours, and observe the vistas
18 and scenic opportunities; however, in the other
19 application it says for private use, so could you
20 just clarify that publically?

21 MR. CARTER: Yeah, that was an error. Our
22 initial submittal was an error. It is for private
23 use.

24 MR. DePRETER: For private use. So that leads
25 into my second question, and that, you know, we've

1 done a lot of boat slips here, but I don't think
2 I've ever seen any slips for a private use. So I'm
3 just wondering why -- what's the rationale for four
4 slips there?

5 MR. CARTER: It's just a big family. They --
6 you know, there are many family owners -- family --
7 many of the owners of this property, both the
8 Frasers and then Mr. Benniger (phonetic) who is
9 here also, you know, there's children and
10 grandchildren, I think they're in their third or
11 fourth generation of ownership, so they have
12 amongst them family members that have boats that
13 would like to put their boats on the end of this
14 existing dock.

15 MR. DePRETER: So there's multiple family
16 members that will be using this is what you're
17 saying, that's the private use?

18 MR. CARTER: Yeah.

19 MS. LOPEZ: I'm Sorry. Mr. Carter, if I may
20 through the Chair, I just wanted to clarify
21 something. So this isn't -- none of the docks are
22 accessory to a residential structure, correct?

23 MR. CARTER: Correct.

24 MS. LOPEZ: Okay. And just for everyone's
25 sake, if that's the case, under our code, they

1 would require a submerged land lease. And I know
2 you're familiar with that process, but I just
3 wanted to make that clear because it seemed a
4 little bit muddled whether these were docks for
5 residential uses that don't require submerged land
6 leases under our code versus everything else does
7 essentially. Thank you.

8 MR. DePRETER: Is it -- while I have you for a
9 second. Is it unusual to have private docks on a
10 commercial -- in a commercial operation, or I
11 mean -- I guess, I think maybe at the Conch House
12 maybe. I don't know --

13 MS. LOPEZ: Possibly. I'm not familiar
14 enough. I imagine that some folks who have
15 commercial marinas probably keep a couple of slips
16 for their own personal use. I'm wild guessing
17 here, so that's speculation, not knowledge, but...

18 MR. DePRETER: Okay.

19 MS. LOPEZ: It doesn't mean that it can't be
20 done, I just wanted to be clear that it wasn't dock
21 accessory to a residential use in which case it
22 would not require a submerged land lease.

23 MR. DePRETER: No, that's good, I mean, that's
24 one of the reasons I'm asking questions, make sure
25 all of this stuff is kind of settled out, whichever

1 way we go.

2 So the only other thing I have on the dock
3 then is just, maybe, Carl, I don't know, ask you
4 just personally, I mean, these are relatively large
5 boats, do you think there's going to be a problem
6 with the wake? That's kind of a closed-in area
7 there. If there's kayakers and --

8 MR. BLOW: Well, you're responsible for your
9 wake as the boat operator. But one thing, I'm
10 always impressed with Ms. Lopez catching that issue
11 about the submerged land lease; however, if I'm --
12 I may be mistaken, but I believe the applicant owns
13 the bottom land here as well as all of that
14 marsh --

15 MS. LOPEZ: I'm not sure they do into Hospital
16 Creek, and that's why whenever -- I don't want this
17 to hold up this particular part of the discussion
18 because you're looking at the 17 criteria, but I'm
19 not -- I'm not convinced sitting here right now,
20 not having reviewed all the documents, whether the
21 new docks on Hospital Creek, per se, are
22 necessarily within their ownership or not.

23 So it's just something to button down after,
24 depending on whatever the outcome is. And,
25 Mr. Blow, you'll recall that we have our new

1 ordinance about idle speed, no wake zone coming
2 into that area.

3 MR. BLOW: Did it get approved?

4 MS. LOPEZ: Well, I know this is not
5 necessarily germane, but we talked about wake. The
6 FWC has -- their staff has supported the sharp
7 turns into Hospital Creek as an idle speed, no wake
8 zone, if I'm saying that correctly, but not Julia's
9 Island, not Bird Island.

10 MR. BLOW: Well, congratulations.

11 MS. LOPEZ: And that may, in way or another,
12 affect individually the applicant, so they just
13 should just kind of be aware of that, that folks
14 will be idling down. Is that the right term? I'm
15 not a boater.

16 MR. BLOW: Real quick, so you guys know what
17 we're talking about. No wake -- to get a no wake
18 zone approved in Florida, it has to be approved by
19 the Florida Fish and Wildlife Conservation
20 Commission, and that's very difficult to get done,
21 and I want to salute our attorney because she's
22 been working on that, and apparently you've been
23 successful and gotten that approved, so that's
24 what -- that's what this side conversation is
25 about.

1 MR. DePRETER: So I guess that -- let me get
2 to the criteria. So the specific criteria I was
3 looking at was number ten, effective boat wake and
4 boat traffic on manatees, vegetation, shell fish,
5 wildlife, shoreline erosion. It says there's a
6 seawall armoring it. The dock will not affect any
7 manatees, vegetation, wildlife, or shoreline
8 erosion. So I will not ask the applicable, but I
9 will ask you, Carl, do you feel comfortable that
10 that criteria is being met in that location?

11 MR. BLOW: Yes, sir, especially --

12 MR. DePRETER: Well, that's what I --

13 MR. BLOW: -- if there is now a defined,
14 approved FWC idle speed, no wake in Hospital Creek.

15 MS. LOPEZ: Almost there. Almost there.
16 We're amending the ordinance second reading at our
17 next meeting, but the staff has supported it. FWC
18 staff supports it.

19 MR. BLOW: So that would address as far as
20 erosion from boat wakes.

21 MR. DePRETER: Thank you. That's very
22 helpful. You guys got that right in time for me so
23 I can feel more comfortable with this application.
24 Good timing.

25 One last question is the observation deck. So

1 I went down there and looked at the observation
2 deck. I think the guy told me it was going to be
3 on the land, but it's going to be out a little bit
4 farther. What's the height, what's the height of
5 that going to be?

6 MR. CARTER: It will probably be six feet
7 above mean high water. So remember, mean high
8 water is probably three to four feet above -- three
9 feet above grade.

10 MR. DePRETER: Yeah, so it's going to be only
11 about three feet above grade. My concern --

12 MR. CARTER: No, no, no. Mean high water is
13 three feet above grade, it's going to be six feet
14 on top of that. So that way, when there's a storm
15 surge or a catastrophic storm, it doesn't get
16 damaged as bad or maybe not at all. The higher it
17 is the better from it not being impacted by a storm
18 surge.

19 MR. DePRETER: I understand. From the grade
20 of the uplands where the deck is going to come
21 from, about how high will there be a rise to the --
22 or will it just be even? You're going to get --
23 from headlands, you're just going to walk out on
24 the deck and then --

25 MR. CARTER: No, it will probably be a gentle

1 rise to get to the terminal platform at the end, to
2 get to that elevation, and I would -- I mean, I can
3 look at that contour.

4 MR. DePRETER: Yeah, do you have that up here?
5 I'm asking --

6 MR. CARTER: I don't have the one foot
7 elevation contours on the upland side, but I
8 suspect that it's probably around a four to a five,
9 the existing grade of the uplands. So if that's
10 about a four to five, then it's probably going to
11 come up another two or three feet from that; it
12 will ramp up.

13 MR. DePRETER: Well, my question is how it
14 will affect -- there's a residence to the south, so
15 I just wanted to make sure it wasn't particularly
16 high, but there is also a tree break there, and
17 it's quite a distance.

18 MR. CARTER: It's kind of tucked into there.

19 MR. DePRETER: Okay. That's all I got.

20 Thanks.

21 MR. DAVIS: Christina.

22 MS. GRIGGS: Yeah, all my questions have been
23 answered. I like that, you know, the lift got
24 shorter and it meets the 17 criteria, so I don't
25 have a problem with this application.

1 MR. DAVIS: Ashleigh?

2 MS. BARNES: I don't have any further comments
3 on this.

4 MR. DAVIS: Matthew.

5 MR. SHAFFER: I'm a little bit torn. As I'm
6 reviewing the standards for review for structures
7 in Conservation Overlay Zone One, it says that they
8 will be issued only for structures that would
9 have -- determined to be to the benefit of the
10 public as a whole, having no significant negative
11 impact on natural systems, or disrupting vistas and
12 scenic opportunities.

13 We had testimony from the public, and maybe
14 Ms. Lopez can remind me on how much weight to put
15 on that, but it seemed like what I would consider
16 expert testimony, and so I'm questioning the
17 benefit, especially, I guess because I was
18 questioning -- as far as our 17 criteria, I
19 appreciated Mr. DePreter focusing on that ten point
20 because I had a question about that, so I'm kind of
21 getting a discrepancy on that one, and I maybe
22 could be persuaded one way or the other, but as far
23 as the benefit to the public as a whole, I'm not
24 seeing that from the boats -- from the four
25 additional boat slips.

1 I don't have an issue with the observation
2 deck.

3 MS. LOPEZ: I'm sorry, so you're -- what
4 exactly are you asking me?

5 MR. SHAFFER: So is there a specific
6 requirement for expert testimony?

7 MS. LOPEZ: Yes, laypersons, so neighbors, you
8 and I walking down the street, can testify and that
9 would be factual testimony, it would not be expert
10 testimony. So typically when you're presenting an
11 individual as an expert, they -- they're supposed
12 to describe their education in the field, their
13 years of experience, if they've published academic
14 journal type literature, so those would be expert
15 testimony; folks who have a particular educational
16 background and years of experience in a particular
17 academic field, if I can phrase it that way.

18 It doesn't mean that laypeople can't provide
19 testimony that is evidence, it's not expert
20 testimony, it's fact testimony. So if they're
21 describing what they see every day, then that is
22 factual testimony that they're presenting.

23 MR. SHAFFER: Thank you. All right. Well,
24 thankfully for me, like I said, I don't have to --
25 I guess because we could have a further discussion

1 on whether or not the testimony that was given
2 during public comment was expert testimony, but
3 personally, I would have to object to the four boat
4 slips just because of the fact that they do not
5 appear to have a benefit for the public as a whole.

6 MR. DAVIS: Okay. Any other comments from the
7 Board?

8 Questions?

9 Anybody want to make a motion?

10 MR. BLOW: Well, I'll stick my neck out and
11 make a motion, see where it goes. Mr. Chair, I'll
12 make a motion we approve Conservation Overlay Zone
13 Development 2022-0084 [sic] based on it appears
14 that it meets those 17 criteria.

15 MR. DePRETER: I'll second that with
16 discussion on the motion.

17 MR. DAVIS: Sure.

18 MR. DePRETER: Is it appropriate in the motion
19 that we put, based on the testimony, that it be for
20 private use only? That archeologic will review it,
21 and the land lease will be determined if necessary.

22 MS. LOPEZ: I think the obsecration deck
23 though is for commercial use. Maybe I
24 misunderstood that.

25 MR. DAVIS: It is. I think the boat slips are

1 for personal use, and the observation deck will be
2 for commercial.

3 MR. DePRETER: Correct.

4 MR. BLOW: So we've got a second, so we just
5 need to modify --

6 MR. DAVIS: If you modify, then Charles would
7 have to modify the second, yes, accept it.

8 MR. BLOW: So, Charles, what we want to do is
9 stipulate that the boatlifts are for private use --

10 MR. DePRETER: Correct.

11 MR. BLOW: -- only, or we could say for the
12 use -- for private use only by the owners of the
13 Fountain of Youth.

14 MS. LOPEZ: I think as presented, it was for
15 the personal use of the owners; am I correct? I'm
16 getting a nod from Mr. Carter. So it would be the
17 personal use of the property owners, not as a
18 commercial venture.

19 MR. DePRETER: That's fine.

20 MR. BLOW: And then the -- you mentioned --

21 MR. DePRETER: The city archeologist will
22 review to determine if any --

23 MR. BLOW: By the city staff archeologist,
24 okay. And was there anything else?

25 MR. DePRETER: And the city staff will also

1 determine any land lease.

2 MR. BLOW: Well, I'll amend my motion with
3 those criteria.

4 MR. DePRETER: And I'll second that.

5 MR. DAVIS: Any other discussion?

6 All right. Call the roll, please.

7 UNIDENTIFIED SPEAKER: Carl Blow.

8 MR. BLOW: Yes.

9 UNIDENTIFIED SPEAKER: Charles Pappas.

10 MR. PAPPAS: Yes.

11 UNIDENTIFIED SPEAKER: Matthew Shaffer.

12 MR. SHAFFER: No.

13 UNIDENTIFIED SPEAKER: Ashleigh Barnes.

14 MS. BARNES: I did have a question. Are we
15 past that?

16 MR. DAVIS: Yes, ma'am.

17 MS. BARNES: Okay. I'm going to go for no.

18 UNIDENTIFIED SPEAKER: Christina Griggs.

19 MS. GRIGGS: Yes.

20 UNIDENTIFIED SPEAKER: John DePreter.

21 MR. DePRETER: Yes.

22 UNIDENTIFIED SPEAKER: Mike Davis.

23 MR. DAVIS: Yes.

24 Thank you. You've been approved, Mr. Carter.

25 (Meeting concluded.)

1 CERTIFICATE OF REPORTER
2

3 STATE OF FLORIDA)
4)
COUNTY OF ST. JOHNS)

5

6 I, Deborah P. Brownell, RPR, Seventh Judicial Circuit
7 of Florida, do hereby certify that I was authorized to and
8 did **transcribe** the foregoing recorded board meeting, and
9 that the transcript is true and correct to the best of my
10 ability.

11 Dated this 25th day of 2023,
12 St. Augustine, St. Johns County, Florida.

13

14 *Deborah P. Brownell*
15 _____
16 Deborah Pacetti Brownell
Registered Professional Reporter

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CITY OF ST. AUGUSTINE

MEMORANDUM

TO: Mayor, Vice-Mayor, and Commissioners

DATE: February 15, 2024

RE: **HEARING OF APPEAL OF PLANNING & ZONING BOARD'S APPROVAL OF A CONSERVATION
OVERLAY ZONE DEVELOPMENT PERMIT – CASE NO.: 2023-0014 (11 MAGNOLIA AVE)**

This hearing is on the issue of sufficiency of the appeal and on the substantive issues raised in the appeal.

The decision on appeal has two separate appellants, as well as the property owner. Each has a right to be heard during this hearing. City Code at section 28-29(g)(1) and (2) provides that each appellant must demonstrate that they have sufficient standing consistent with Florida law and are aggrieved by the decision of the board. The party filing the appeal shall have legal standing, as determined under the laws of the State of Florida and rules of civil procedure or appellate procedure as established by the Supreme Court of the State of Florida.

Procedure:

Sufficiency hearings before the City Commission will allow for due process to the property owner, and any aggrieved party that has filed an appeal, as well as, public comment consistent with Florida law and the City's rules of decorum and meeting procedures. Testimony and legal argument should be limited to the issues relevant to establishing the legal sufficiency of the appeal application. Appeals to the City Commission are appeals on the record of the Planning and Zoning Board hearing.

The Code does not provide a definition of the term "aggrieved," but absent a definition provided in the Code, the Commission may use the common definition of the term. Black's Law Dictionary defines "aggrieved" person as "One whose legal right has been invaded by an act complained of or whose pecuniary interest is directly affected by a decree or judgment. The word aggrieved refers to a substantial grievance, or denial of some personal or property right, or the imposition upon a party of a burden or obligation."

Please find enclosed a copy of the decision of the Florida Supreme Court in Renard v. Dade County, 261 So.2d 832 (Fla. 1972), which establishes the standard for determining standing in land use cases. In order to determine standing under Renard, the Commission must determine the sufficiency of the Kulaga's and Mr. Ingram's respective interest in the PZB decision. Factors the Commission may consider include the proximity of each of the appellant's properties to the subject property, the character of the neighborhood, the type of change proposed and whether the allegedly aggrieved parties are among those entitled to receive notice. The notice requirement alone, however, may not control the determination of standing.

Action by the Commission:

- 1) If the Commission determines that both appeal applications are legally insufficient, were not filed in compliance with code, or that both appellants are without legal standing, the Commission may deny both appeals and affirm the order.
- 2) If the Commission determines that one or both appellants has legal standing and the applications otherwise comply with code, then the Commission shall find whether in its opinion error was made and, within the terms of section 28-29 of the city code, affirm, reverse, or modify the action appealed as it deems just and equitable.

Thank you.

/s/ Isabelle C. Lopez

Isabelle C. Lopez
City Attorney

/s/
Attachment

Cc: Sidney Ansbacher
James Whitehouse
Michael Ingram

CITY COMMISSION – APPEAL HEARING GUIDELINES
FEBRUARY 26, 2024, 5 P.M.
APPEAL OF THE PLANNING AND ZONING BOARD’S
APPROVAL OF A CONSERVATION OVERLAY ZONE DEVELOPMENT PERMIT
CASE NO.: 2023-0014
(11 MAGNOLIA AVENUE)

1. EX PARTE DISCLOSURE

2. CITY ATTORNEY PROCEDURAL REMINDER:

- This is an appeal on the record of the Planning and Zoning Board hearing based on the right to appeal the approval of a Conservation Overlay Zone development permit for 11 Magnolia Avenue to the City Commission pursuant to section 28-29 (g).
- Public comment will be allowed but will be unsworn as it is limited to argument of facts already in the record of the PZB hearing; no new evidence can be presented on appeal.
- If the property owner presents modifications, the City Commission will open up a public hearing and hear evidence and testimony related to the modifications only.

Required findings by the City Commission:

- City Code Section 28-29(g)(5) states that, “the city commission shall find whether in its opinion error was made and within the terms of this section **affirm, reverse, or modify the action** appealed as it deems just and equitable. If the applicant presents modifications to the actions under appeal, **the city commission may accept the modifications** and so modify the order, **may remand the appeal back** to the board for further review, **or may deny the modifications and affirm the action appealed.**”

The standard of review for a quasi-judicial decision requires all of the following:

- a) procedural due process was afforded to the applicant,
- b) the Planning and Zoning Board applied the correct law, and
- c) the decision was supported by competent, substantial evidence in the record.

3. STAFF PRESENTATION

- Overview of the application and PZB record presented by Amy Skinner, Planning and Building Director

20 minutes

4. PUBLIC COMMENT* (*can be before or after Appellant*)

- Limited to argument on the record below, no new testimony or evidence.

3 minutes per speaker

5. FIRST APPELLANT REPRESENTATIVE PRESENTATION*

(if public comment is heard after Appellant, Appellant will be given an opportunity for rebuttal)

- Limited to argument on the record below, no new testimony or evidence.

20 minutes

6. SECOND APPELLANT REPRESENTATIVE PRESENTATION*

(if public comment is heard after Appellant, Appellant will be given an opportunity for rebuttal)

- Limited to argument on the record below, no new testimony or evidence.

20 minutes

7. PROPERTY OWNER REPRESENTATIVE PRESENTATION*

(if public comment is heard after Property Owner, the Property Owner will be given an opportunity for rebuttal)

- Limited to argument on the record below, no new testimony or evidence.

20 minutes

IF THE PROPERTY OWNER PRESENTS MODIFICATIONS, THE MAYOR WILL REOPEN THE HEARING AND ALLOW FOR NEW EVIDENCE AND TESTIMONY RELATED ONLY TO THE MODIFICATIONS.

PUBLIC COMMENT

- First person sworn testimony if it is intended to be the basis of competent, substantial evidence.

3 minutes per speaker

- Property Owner will be given an opportunity for cross-examination/rebuttal

8. CITY COMMISSION QUESTIONS

9. COMMISSIONER DELIBERATIONS AND VOTE

- Motion to approve the appeal, finding that the Planning and Zoning Board committed an error, and the City Commission denies the Conservation Overlay Zone development permit.

or

- *Motion to remand back to PZB to consider modifications (if presented).*

or

- Motion to deny the appeal (can be combined with denial of a modification if presented) and confirm the PZB approval of the Conservation Overlay Zone development permit.

Renard v. Dade County

Supreme Court of Florida

April 19, 1972

No. 41388

Reporter

261 So. 2d 832 *; 1972 Fla. LEXIS 3827 **

Grace RENARD, Petitioner, v. DADE COUNTY, a
political subdivision of the State of Florida, et al.,
Respondents

Core Terms

zoning, zoning ordinance, special damage, rezoning,
notice, zoning authority, property owner, ordinance,
cases, setback, void

Case Summary

Procedural Posture

Petitioner landowner sought writ of certiorari to review a decision from the Third District Court of Appeal (Florida), which affirmed the trial court's judgment that petitioner had sufficient standing to challenge the rezoning of a parcel of land abutting petitioner's property, but then concluded that the rezoning in question was fairly debatable and therefore within the legislative discretion of respondent board of county commissioners.

Overview

The court affirmed the decision of the district court of appeals, holding that although petitioner landowner did have standing to challenge the rezoning of a parcel of land abutting his ownership interests, the rezoning was "fairly debatable" and therefore within respondent board of county commissioners' discretion. In addressing the certified question, the court determined that, in order to have standing to enforce a valid zoning ordinance, an objecting landowner was required to allege and to prove special damages peculiar to himself differing in kind as distinguished from damages differing in degree suffered by the community as a whole. The court then found that, in order to attack a validly enacted zoning ordinance as being an unreasonable exercise of legislative power, an objecting landowner had to have a legally recognizable interest adversely affected by the proposed zoning

action. The court concluded that any affected resident, citizen, or property owner of the governmental unit in question had standing to challenge a zoning ordinance that was void for not being properly enacted with the required notice.

Outcome

The court affirmed the decision that had held that petitioner landowner did have standing to challenge the rezoning of a parcel of land that abutted his property, but that the rezoning was also appropriate as an exercise of respondent board of county commissioners' discretion because it had been "fairly debatable;" petitioner had standing because he had a legally recognizable interest adversely affected by the proposed zoning action.

LexisNexis® Headnotes

Administrative Law > Judicial
Review > Reviewability > Standing

Labor & Employment Law > Collective Bargaining &
Labor Relations > Enforcement of Bargaining
Agreements > Exhaustion of Remedies

Business & Corporate Compliance > Real
Property > Zoning > Administrative Procedure
Real Property Law > Zoning > Administrative
Procedure

Civil Procedure > ... > Justiciability > Exhaustion of
Remedies > General Overview

Civil
Procedure > ... > Justiciability > Standing > General
Overview

Real Property Law > Zoning > Judicial Review

[HN1\[↓\]](#) Reviewability, Standing

Metropolitan Code of Dade County, Fla. § 33-316 states that no person aggrieved by any zoning resolution, order, requirement, decision or determination of an administration official or by any decision of the zoning appeals board may apply to the court for relief unless he first exhausts the remedies provided for herein and takes all available steps provided in this article. It is intended and suggested that such decision may be reviewed by the filing of a petition for writ of certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, in accordance with the procedures and within the time provided by the Florida Appellate Rules for the review of the rulings of any commission or board; and such time shall commence to run from the date of the decision sought to be reviewed.

Civil
Procedure > ... > Justiciability > Standing > General Overview

Real Property Law > Zoning > Judicial Review

Civil Procedure > Remedies > Damages > Special Damages

[HN2\[↓\]](#) Justiciability, Standing

One seeking redress, either preventive or corrective, against an alleged violation of a municipal zoning ordinance must allege and prove special damages peculiar to himself differing in kind as distinguished from damages differing in degree suffered by the community as a whole.

Civil
Procedure > ... > Justiciability > Standing > General Overview

Real Property
Law > ... > Remedies > Damages > General Overview

Real Property Law > Zoning > Judicial Review

[HN3\[↓\]](#) Justiciability, Standing

Zoning violations are historically treated as public nuisances not subject to suit by an individual unless that individual suffers damages different in kind and degree from the rest of the community. The Boucher rule is not intended to be applied to zoning matters other than suits by individuals for zoning violations.

Criminal Law & Procedure > ... > Miscellaneous Offenses > Nuisances > General Overview

Real Property Law > ... > Nuisance > Types of Nuisances > Public Nuisances

Real Property Law > Torts > Nuisance

Real Property Law > Torts > Nuisance > General Overview

[HN4\[↓\]](#) Miscellaneous Offenses, Nuisances

A public nuisance is an offense against the state, and as such is subject to abatement or indictment on the motion of the proper governmental agency. An individual cannot maintain an action for a public nuisance as such. But when an individual suffers special damage from a public nuisance, he may maintain an action.

Civil
Procedure > ... > Justiciability > Standing > General Overview

Real Property Law > Zoning > Judicial Review

[HN5\[↓\]](#) Justiciability, Standing

Persons adversely affected by zoning ordinances or the action of zoning agencies have a status as parties sufficient to entitle them to proceed in court to seek relief.

Real Property Law > Zoning > Judicial Review

[HN6\[↓\]](#) Zoning, Judicial Review

Homeowners in a zoning district are permitted to intervene in an appeal from a decree breaking zoning restrictions and commercializing the area where their homes are located.

Business & Corporate Compliance > Real
Property > Zoning > Ordinances
Real Property Law > Zoning > Ordinances

Real Property Law > Zoning > Judicial Review

[HN7](#) **Zoning, Ordinances**

Fla. Stat. ch. 176.11 provides for appeals to the zoning board of adjustment by "any person aggrieved." Fla. Stat. ch. 176.16 provides that "any person aggrieved" by the decision of the zoning board of adjustment may petition the circuit court for writ of certiorari.

Business & Corporate
Compliance > Contracts > Types of
Contracts > Covenants
Contracts Law > Types of Contracts > Covenants

Civil
Procedure > ... > Justiciability > Standing > General
Overview

Real Property Law > Encumbrances > Restrictive
Covenants > General Overview

Real Property Law > Zoning > General Overview

Real Property Law > Zoning > Judicial Review

Business & Corporate Compliance > Real
Property > Zoning > Ordinances
Real Property Law > Zoning > Ordinances

[HN8](#) **Types of Contracts, Covenants**

In determining the sufficiency of the parties' interest to give standing, factors such as the proximity of his property to the property to be zoned or rezoned, the character of the neighborhood, including the existence of common restrictive covenants and set-back requirements, and the type of change proposed are considerations. The fact that a person is among those entitled to receive notice under the zoning ordinance is a factor to be considered on the question of standing to challenge the proposed zoning action. However, since the notice requirements of the many zoning laws throughout the state vary greatly, notice requirements are not controlling on the question of who has standing. Persons having sufficient interest to challenge a zoning

ordinance may, or may not, be entitled to receive notice of the proposed action under the zoning ordinances of the community.

Civil
Procedure > ... > Justiciability > Standing > Burdens
of Proof

Real Property Law > Zoning > Judicial Review

[HN9](#) **Standing, Burdens of Proof**

Even though a person has sufficient standing to challenge the action of the zoning authority, he must still carry the burden of proving that the challenged action of the zoning authority was not fairly debatable.

Civil
Procedure > ... > Justiciability > Standing > General
Overview

Real Property Law > Zoning > Judicial Review

[HN10](#) **Justiciability, Standing**

Persons having a legally recognizable interest, which is adversely affected by a proposed zoning action, have standing to sue.

Civil
Procedure > ... > Justiciability > Standing > General
Overview

Real Property Law > Zoning > Judicial Review

[HN11](#) **Justiciability, Standing**

Any affected resident, citizen, or property owner of the governmental unit in question has standing to challenge an ordinance that is void because it is not properly enacted.

Counsel: **[**1]** Eugene P. Spellman, of Law Offices of Eugene P. Spellman, Miami, for Petitioner.

Stuart Simon, County Atty., and St. Julien P. Rosemond, Asst. County Atty., and Paul Siegel, of Sinclair, Louis, Sand & Siegel, Miami, for Respondents.

Judges: Boyd, Justice. Roberts, C.J., and Ervin,

Carlton and McCain JJ., concur.

Opinion by: BOYD

Opinion

[*833] This cause is before us on petition for writ of certiorari to review the decision of the District Court of Appeal, Third District, reported at [249 So.2d 500](#). Jurisdiction is based on the certification of the District Court under [Article V, § 4\(2\) of \[*834\] the Florida Constitution](#), F.S.A., that the decision sought to be reviewed passes upon a question of great public interest, to-wit:

"The standing necessary for a plaintiff to (1) enforce a valid zoning ordinance; (2) attack a validly enacted zoning ordinance as not being fairly debatable and therefore an arbitrary and unreasonable exercise of legislative power; and (3) attack a void ordinance, i.e., one enacted without proper notice required under the enabling statute or authority creating the zoning power."

Petitioner Renard and respondents Richter, owned certain adjoining [*2] properties in the unincorporated area of Dade County zoned IU-2, industrial. The Richters applied for a rezoning of their parcel. The Board of County Commissioners ultimately permitted a rezoning from IU-2 to multiple family residence with certain exceptions relative to a nine-hole golf course and a variance for private, in lieu of public, roads. This was in accordance with the recommendations of the planning board as approved by the zoning appeals board of the county.

Petitioner was an objector in the zoning proceedings held before the Dade County Zoning Appeals Board and an objector before the Board of County Commissioners. Following adverse rulings by the appeals board and County Commission, petitioner sought certiorari before the Circuit Court pursuant to applicable county ordinances.¹

¹ [HN1](#) [↑] Metropolitan Code of Dade County, § 33-316: "No person aggrieved by any zoning resolution, order, requirement, decision or determination of an administration official or by any decision of the zoning appeals board may apply to the Court for relief unless he has first exhausted the remedies provided for herein and taken all available steps provided in this article . . . it is intended and suggested that such decision may be reviewed by the filing of a petition for

[**3] The Circuit Court ruled that petitioner, not having alleged a special interest, had no standing to prosecute the matter in the Circuit Court and, even if she had standing, the record adequately demonstrated that the issue was fairly debatable and petitioner would not have been entitled to the relief sought.

On appeal, the District Court held that petitioner had sufficient standing to institute suit in the trial court but, that the rezoning in question was fairly debatable and therefore within the legislative discretion of the Board of County Commissioners. The District Court affirmed the judgment of the trial court but certified its decision as one passing on a question of great public interest.

The decision of the District Court on the question certified is as follows: ²

"First, as indicated above, the appellant as an abutting property owner to the property rezoned would, in fact, suffer a special damage by virtue of the increased setback restriction different in kind from the community generally; and this would meet the test of special damage. But, even without meeting this test, we hold that these cases would not be applicable to a property owner within the area [*4] wherein actual notice was required to be sent to him prior to any rezoning hearing. Anything to the contrary said in *S. A. Lynch Investment Corporation v. City of Miami, supra*, is hereby specifically receded from. We further note that there is a distinction in the cases relied on by the County when there is a proceeding in which a plaintiff seeks to enforce an existing zoning ordinance, such as a violation of a setback requirement, special damage is necessary, and no special damage is necessary when a plaintiff seeks to [*835] have an act of a zoning authority declared void or is within the immediate area to be affected. [Hartnett v. Austin, Fla.1956, 93 So.2d 86](#); [Josephson v. Autrey, Fla.1957, 96 So.2d 784](#). In other words, we hold special damage must be shown when a taxpayer or property owner seeks to enjoin the violation of an existing ordinance [i.e.

writ of certiorari in the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, in accordance with the procedures and within the time provided by the Florida Appellate Rules for the review of the rulings of any commission or board; and such time shall commence to run from the date of the decision sought to be reviewed."

² [Renard v. Dade County, 249 So.2d 500, 502 \(Fla.App.3rd 1971\)](#).

Boucher v. Novotny, Fla.1958, 102 So.2d 132; *Conrad v. Jackson*, Fla.1958, 107 So.2d 369], but need not be shown if the taxpayer or property owner is within the affected range of the property which requires actual notice before the rezoning made may be considered by the legislative body [*Hartnett v. Austin*, *supra*; *Elwyn* [****5**] *v. City of Miami*, Fla.App.1959, 113 So.2d 849; *Friedland v. City of Hollywood*, Fla.App.1961, 130 So.2d 306; Vol. 3, American Law of Zoning, Anderson, § 21.05, p. 558], or when he seeks to review an alleged void act. *Hartnett v. Austin*, *supra*; *Josephson v. Autrey*, *supra*; *Rhodes v. City of Homestead*, Fla.App.1971, 248 So.2d 674 (opinion filed May 25, 1971). Therefore, we find that in the instant case the appellant had the standing to institute the suit in the trial court."

In the years following this Court's decision in *Boucher v. Novotny*,³ a split has developed between the various District Courts on the issue of standing to sue in zoning matters. The *Boucher* case was a suit to enjoin the violation of the setback requirements of a municipal zoning ordinance. The Bouchers sought to obtain mandatory injunctive relief to compel the Novotnys to remove allegedly illegal encroachments constructed on their motel. The City had [****6**] approved the building plans for the Novotny's motel which included the complained of encroachment. The properties of the parties located in the City of Clearwater, were separated by a sixty-foot wide street. The Bouchers attempted to allege special damages by reason of proximity and by reason of being within the zoning area subject to the same setback requirements as the Novotny's property. This Court held, however, that the Bouchers did not have sufficient standing to sue and stated the following rule:⁴

"We, therefore, align ourselves with the authorities which hold that **HN2** [↑] one seeking redress, either preventive or corrective, against an *alleged violation of a municipal zoning ordinance* must allege and prove special damages peculiar to himself differing in kind as distinguished from damages differing in degree suffered by the community as a whole."

The "special damage" rule of the *Boucher* case is an

outgrowth of the law of public [****7**] nuisance.⁵ **HN3** [↑] Zoning violations have historically been treated as public nuisances not subject to suit by an individual unless that individual has suffered damages different in kind and degree from the rest of the community. The *Boucher* rule was not intended to be applied to zoning matters other than suits by individuals for zoning violations.⁶

[****8**] The general rule regarding standing to contest the action of a zoning authority was [***836**] stated by this Court in *Josephson v. Autrey*:⁷

"We have on numerous occasions held that **HN5** [↑] persons adversely affected by zoning ordinances or the action of zoning agencies have a status as parties sufficient to entitle them to proceed in court to seek relief."

To like effect is this Court's decision in *Hartnett v. Austin*.⁸

⁵ *Boucher v. Novotny*, 102 So.2d 132, 135 (Fla.1958); *North Dade Bar Assoc. v. Dade-Commonwealth Title Ins.*, 143 So.2d 201, 205 (Fla.App.3rd 1962): " * * * **HN4** [↑] A public nuisance is an offense against the State, and as such is subject to abatement or indictment on the motion of the proper governmental agency. * * *

" * * * An individual cannot maintain an action for a public nuisance as such. But when an individual suffers special damage from a public nuisance, he may maintain an action."

"This rule has been applied in Florida to suits to enjoin a zoning violation. *Boucher v. Novotny*, Fla.1958, 102 So.2d 132."

⁶ *Boucher* has been subject to criticism even as applied to zoning violations: 12 Univ.Fla.L.Rev., Third Parties in Zoning, 16, 23, 40 (1959).

⁷ 96 So.2d 784, 787 (Fla.1957).

⁸ 93 So.2d 86, 90 (Fla.1956): "We encounter no difficulty in concluding that the appellees were entitled to bring the suit. They occupied their homes immediately across the street from the proposed parking area. They relied on the existing zoning conditions when they bought their homes. They had a right to a continuation of those conditions in the absence of a showing that the change requisite to an amendment had taken place. They allege that the contemplated change would damage them and that it was contrary to the general welfare and totally unjustified by existing conditions. This gave them a status as parties entitled to come into court to seek relief. True their rights were subject to the power of the city to amend the

³ 102 So.2d 132 (Fla.1958).

⁴ *Id.* at 135.

[**9] In *Wags Transportation System v. City of Miami Beach*,⁹ this Court held that [HNG](#)^[↑] homeowners in a zoning district would be permitted to intervene in an appeal from a decree breaking zoning restrictions and commercializing the area where their homes were located.

[**10] The District Court of Appeal, Third District, in *Elwyn v. City of Miami*,¹⁰ held that abutting homeowners were entitled to maintain a suit challenging an ordinance granting a variance for a gasoline service station. On petition for rehearing, the *Boucher* case was raised by the zoning authority and distinguished by the District Court as follows:

"That case [*Boucher*] was not applicable here because of material difference in the factual situations presented in the two cases.

* * *

"The instant case was not one dealing with the violation of a zoning ordinance, but one which challenged the validity of an amendatory zoning ordinance, which, by granting a variance amounting to spot zoning, permitted appellees to put their

ordinance on the basis of a proper showing. Nonetheless, they have a right to insist that the showing be made."

See also, 35 Fla.Jur., Zoning Laws, § 30: "Persons adversely affected by zoning ordinances or the action of zoning agencies have a status as parties sufficient to entitle them to proceed in court to seek relief."

⁹ [88 So.2d 751, 752 \(Fla.1956\)](#): "The petition for leave to intervene alleges that petitioners are within the same zoning district as the property described in the complaints in the consolidated causes, that the decree destroys the value of their property because petitioners have homes on said property which they use for residential purposes, therefore the decree of the lower court breaking these zoning restrictions and commercializing the district renders their property less suitable for residential purposes. Petitioners' property was purchased on the strength of the zoning ordinance and in reliance upon the fact that all property within the zoning district would be maintained as residential property. * * *

* * *

"We think the petition to intervene showed such an interest in the res that the ends of justice require that it be granted. * * * Nothing is more sacred to one than his home and the petitioners should have been permitted to come in and bring their rights in this to the attention of the court."

¹⁰ [113 So.2d 849](#) (Fla.App.3rd); cert. denied [116 So.2d 773](#), (Fla.1959).

property to a liberal business use (gasoline service station), prohibited in the more restricted R-3 classification for which the area involved was zoned. The right of an adjacent or nearby home owner directly affected by an alleged improper intrusion of such liberal business to challenge the validity thereof, is recognized."

A similar case is that of *Friedland v. Hollywood*,¹¹ wherein the District Court of [\[**837\]](#) Appeal, Second [\[**11\]](#) District, held void an ordinance which would have allowed the variance for the construction of a service station in the vicinity of property owned by the plaintiffs.

Some of the foregoing cases attacking the validity of zoning ordinances came to the Circuit Court as petitions for writ of certiorari to review actions of the zoning board of adjustment under Florida Statutes Chapter 176, F.S.A.; others originated in the Circuit Court. On the question of standing to sue there is no basis for distinguishing between cases reaching the courts after appeal to a zoning board, in areas where such boards exist, and those cases originating in the court system.¹² [HNT](#)^[↑] Florida Statutes § 176.11, F.S.A., provides for appeals to the zoning board of adjustment by "any person aggrieved." Florida Statutes § 176.16, F.S.A., provides that "any person aggrieved" by the decision of the zoning board of adjustment may [\[**12\]](#) petition the Circuit Court for writ of certiorari.

An aggrieved or adversely affected person having standing to sue is a person who has a legally recognizable interest which is or will be affected by the action of the zoning authority in question. [\[**13\]](#) The

¹¹ [130 So.2d 306 \(Fla.App.2d 1961\)](#).

¹² Rathkopf, Zoning and Planning, 36-1 (1971): "Generally, any person who can show that the existence or enforcement of a zoning restriction adversely affects, or will adversely affect, a property interest vested in him or that the grant of a permit to another or rezoning of another's land will similarly affect him, has the requisite justiciable interest in the controversy, and is a proper party plaintiff. *In this aspect, the right of a litigant to sue for declaratory judgment or for an injunction is based upon the same criteria as are determinative of the status of a petitioner as a 'party aggrieved' to bring certiorari to review the determination of a board of appeals or adjustment. The difference, if any, relates only to the forum and form of the remedy.*"

interest may be one shared in common with a number of other members of the community as where an entire neighborhood is affected, but not every resident and property owner of a municipality can, as a general rule, claim such an interest. An individual having standing must have a definite interest exceeding the general interest in community good share in common with all citizens. So-called "spite suits" will not be tolerated in this area of the law any more than in any other.

[HN8](#)^[↑] In determining the sufficiency of the parties' interest to give standing, factors such as the proximity of his property to the property to be zoned or rezoned, the character of the neighborhood, including the existence of common restrictive covenants and set-back requirements, and the type of change proposed are considerations. The fact that a person is among those entitled to receive notice under the zoning ordinance is a factor to be considered on the question of standing to challenge the proposed zoning action. However, since the notice requirements of the many zoning laws throughout the State vary greatly, notice requirements are not controlling on the question of who has standing. Persons having **[**14]** sufficient interest to challenge a zoning ordinance may, or may not, be entitled to receive notice of the proposed action under the zoning ordinances of the community.

It is to be remembered that [HN9](#)^[↑] even though a person has sufficient standing to challenge the action of the zoning authority, he must still carry the burden of proving that the challenged action of the zoning authority was not fairly debatable.¹³

The question certified to this Court, set out supra, has three parts. Part (1) deals with standing to enforce a valid zoning ordinance. The *Boucher* rule requiring special damages still covers this type of suit. However, in the twenty years since the *Boucher* decision, changed conditions, including increased population growth and **[*838]** density, require a more lenient application of that rule. The facts of the *Boucher* case, if presented today, would probably be sufficient **[**15]** to show special damage.

Part (2) of the question certified to this Court deals with standing to attack a validly enacted zoning ordinance as being an unreasonable exercise of legislative power. As indicated above, [HN10](#)^[↑] persons having a legally recognizable interest, which is adversely affected by the

proposed zoning action, have standing to sue.

Part (3) of the question certified deals with standing to attack a zoning ordinance which is void because not properly enacted, as where required notice was not given. [HN11](#)^[↑] Any affected resident, citizen or property owner of the governmental unit in question has standing to challenge such an ordinance.¹⁴

The District Court found that petitioner Renard had sufficient standing to attack the rezoning here in question, but, on review of the record, determined that the rezoning was "fairly debatable" and so was a valid exercise of power **[**16]** by the zoning authority. We agree.

Accordingly, and for the foregoing reasons, the decision of the District Court of Appeal is affirmed.

It is so ordered.

ROBERTS, C.J., and ERVIN, CARLTON and McCAIN, JJ., concur.

End of Document

¹³ *City of Miami v. Hollis*, 77 So.2d 834 (Fla.1959); *City of Jacksonville v. Imler*, 235 So.2d 526 (Fla.App.1st 1970).

¹⁴ See e.g., *Rhodes v. City of Homestead*, 248 So.2d 674 (Fla.App.3rd 1971); *Knowles v. Town of Kenneth City*, 247 So.2d 748 (Fla.App.2d 1971).

BEFORE THE CITY COMMISSION OF THE
CITY OF ST. AUGUSTINE, FLORIDA

CASE NO.: APPEAL OF PLANNING AND
ZONING BOARD APPROVAL
OF CONSERVATION OVERLAY
ZONE DEVELOPMENT 2022-
0084

MICHAEL INGRAM,

Appellant,

vs.

FOUNTAIN OF YOUTH PROPERTIES, INC.,
a Florida corporation,

Appellee,

**FOUNTAIN OF YOUTH PROPERTIES, INC.'S
MOTION TO DISMISS MICHAEL INGRAM APPEAL**

Fountain of Youth Properties, Inc., moves to dismiss the appeal of Michael Ingram, and states:

Background

On February 7, 2023, the City of St. Augustine Planning and Zoning Board (PZB) considered Fountain of Youth Properties, Inc.'s application for a "modification of an existing dock to include four (4) new boat[] lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1." After hearing testimony, the PZB approved the application, five (5) to two (2) (the Approval).

Michael Ingram filed an appeal on March 6, 2023. He attached a petition with numerous names (no signatures), all dated after the date of the February 7, 2023, hearing (CITY RECEIPT NO. 2587261), and all allegedly directed to the PZB after the PZB ruled. See unnumbered pp 6-

8 of the Ingram Appeal. He did not appear at the PZB. See PZB Transcript attached at unnumbered pp. 9-38 of the Ingram Appeal, where his name is never mentioned, let alone that he did not testify.

Argument

S. 28-29(g) of the City Code addresses PZB appeals to this Commission. Subsection (1) requires the appellant to submit “all necessary supporting documents to substantiate the appeal and the appellant’s standing, including but not limited to, the transcript of the hearing.”

Our district appellate court, the Florida Fifth District Court of Appeal, held in *Battaglia Fruit Co. v. City of Maitland*, 530 So.2d 940 (Fla. 5th DCA 1988), that the City of Maitland lacked standing to appeal a zoning hearing where it did not appear, let alone object on the record. The Court held the appeal there must be dismissed for lack of standing, because “the City did not allege and prove the existence of those [sufficient] interests before the county agencies and commission considering [the] application, so they were not part of the record [on appeal]. *Battaglia*, 530 So.2d at 943.

Similarly, Mr. Ingram’s own appellate package shows he did not appear at PZB. Therefore, he lacks standing to appeal the PZB decision under s. 28-29(g)1.

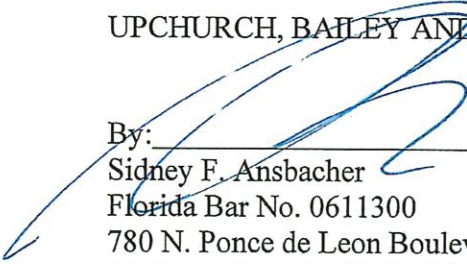
While unnecessary in light of Mr. Ingram’s lack of standing, we note that the apparent (with names, not signatures) petition he attached was, on its face, generated after the PZB hearing. The dates next to all of the names are all weeks after the February 7, 2023, hearing. Therefore, it was outside of the record below and not proper to consider on appeal. *St. Johns County v. Smith*, 766 So.2d 1097 (Fla. 5th DCA 2000) (circuit court judge on appellate review could not consider matters arising after the hearing being appealed). Additionally, the petition with numerous names would not be competent substantial evidence even if it were in the record below. *See, e.g., City*

of *Apopka v. Orange County*, 299 So.2d 657 (Fla. 4th DCA 1974) (quasi-judicial zoning decision must be based on criteria, not a “plebiscite” or “poll”).

WHEREFORE, Fountain of Youth Properties, Inc. demands the appeal be dismissed, as well as all other relief as is meet and proper.

Respectfully submitted this 15 day of February, 2024.

UPCHURCH, BAILEY AND UPCHURCH, P.A.

By: 

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Primary Email: sfansbacher@ubulaw.com
Secondary Email: pleadings@ubulaw.com

*Attorney for Appellee
Fountain of Youth Properties, Inc.*

CERTIFICATE OF SERVICE

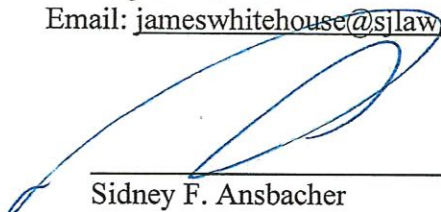
I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via email delivery this 15 day of February, 2024, to the following:

Darlene Galambos
City Clerk
Post Office Box 210
St. Augustine, Florida 32085-210
Email: cityclerk@citystaug.com

Isabelle C. Lopez
City Attorney
Post Office Box 210
St. Augustine, Florida 32085-210
Email: attorney@citystaug.com

Michael H. Ingram
1 Radio Road, Unit 201
St. Augustine, Florida 32084
Email: michaelingram904@gmail.com

James Whitehouse
St. Johns Law Group
104 Sea Grove Main Street
St. Augustine, Florida 32080
Email: jameswhitehouse@sjlawgroup.com



Sidney F. Ansbacher

BEFORE THE CITY COMMISSION OF THE
CITY OF ST. AUGUSTINE, FLORIDA

CASE NO.: APPEAL OF PLANNING AND
ZONING BOARD APPROVAL
OF CONSERVATION OVERLAY
ZONE DEVELOPMENT 2022-
0084

JOHN AND ELISA KULAGA,

Appellants,

vs.

FOUNTAIN OF YOUTH PROPERTIES, INC.,
a Florida corporation,

Appellee,

**FOUNTAIN OF YOUTH PROPERTIES, INC.'S
RESPONSE TO APPEAL OF JOHN AND ELISA KULAGA**

Fountain of Youth Properties, Inc. (FOY), responds to the appeal of John and Elisa Kulaga (Appellants), and states:

Background

On February 7, 2023, the City of St. Augustine Planning and Zoning Board (PZB) considered FOY's application for a "modification of an existing dock to include four (4) new boat [] lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1." After hearing testimony, the PZB approved the application, five (5) to two (2) (the Approval).

John and Elisa Kulaga filed an appeal on March 8, 2023.

ARGUMENT

I. APPELLATE ORDINANCE S. 28-29(g)

1. **Necessary Items:** S. 28-29(g) of the City Code, entitled *Review of lower board decisions by city commission* states in pertinent part:

(g) *Review of lower board decisions by city commission.* Decisions of lower boards in the granting or denial of development permits shall be subject to review by the city commission on appeal:

(1) An appeal must include the appeal form, the order or decision on appeal, the required filing fee, all necessary supporting documents to substantiate the appeal and the appellant's standing, including but not limited to, the transcript of the hearing, and may be taken by any person demonstrating sufficient standing consistent with Florida law and aggrieved by the decision of the board provided such appeal form, payment, supporting documents and transcript, is filed with the planning and building department during regular office hours no later than thirty (30) days from the date of the rendered order which is the subject of such appeal. To be considered timely filed, appellant must file all the required documents and provide any required payment for filing fees at the time of filing. If the thirtieth (30th) day from the date of the rendered order falls on a date and time when the planning and building department is closed, any attempted filing on or after that date and time will be considered untimely and no additional time will be granted for late filing. The party filing the appeal shall have legal standing, as determined under the laws of the State of Florida and rules of civil procedure or appellate procedure as established by the Supreme Court of the State of Florida.

(emphasis added)

ANALYSIS

a. The Record Presented is Fatally Incomplete

The record the Appellants provided is incomplete. It does not contain the complete agenda package before the PZB. That omission would ordinarily be fatal to the appeal, as explained further in ¶2 below. FOY wants to address the merits, so FOY attaches the agenda that the Appellants failed to attach. Additionally, the Appellants failed to attach the exhibits FOY

presented to the PZB. That likewise would ordinarily be fatal, but FOY attaches them to cut to the chase.

2. Appellate Standard: S. 28-29(g)(5) states the applicable standard of review:

(5) The city commission shall find whether in its opinion error was made and within the terms of this section affirm, reverse or modify the action appealed as it deems just and equitable....

(emphasis added)

ANALYSIS

1. This is an APPEAL

The key to understanding the Commission's role is asking what it can do on an appeal:

The appeal is based on the record below at PZB.

- a. Therefore, on appeal, the issue is whether competent substantial evidence was presented before PZB below to support the PZB's 5-2 approval. *See, Battaglia Fruit Co. v. City of Maitland*, 530 So.2d 940 (Fla 5th DCA 1988).
- b. The Appellants improperly try to have the Commission on appeal reweigh the evidence below. *See, St. Johns County v. Smith*, 766 So.2d 1097 (Fla. 5th DCA 2000) (circuit court role on appellate review of a quasi-judicial local government decision is to review the record below for competent substantial evidence in support of the decision, not to search for evidence that might have supported the opposite result).¹

2. Plenty of Competent Substantial Evidence Supported the 5-2 Approval

The Appellants allege baldly that no competent substantial evidence supported the 5-2 PZB approval. That is simply not so:

- a. The City staff report, recommending approval, is "strong evidence" in support.² *See, ABG Real Estate Development Co. of Florida v. St. Johns County*, 608 So. 2d 59 (Fla. 5th DCA 1992); *see also, Hillsborough County v. Longo*, 505 So.2d 470 (Fla. 2d DCA 1987); *Riverside Group v.*

¹ Additionally, while the only issue is whether competent substantial evidence supported the approval, attorney argument for Appellants and hearsay statements by Appellants are not competent substantial evidence. Respectively, *National Adv. Co. v. Broward County*, 491 So.2d 1262, 1263 (Fla. 4th DCA 1986) and *Irvine V. Duval County Planning Commn.*, 495 So.2d 167 (Fla. 1986) (adopting *Irvine v. Duval Planning Commn.*, 466 So.2d 357 (Fla. 1st DCA 1985) (Zehmer, J. diss.).

² FOY included the City Staff Report in its supplemental filing of the agenda package that the Appellants omitted.

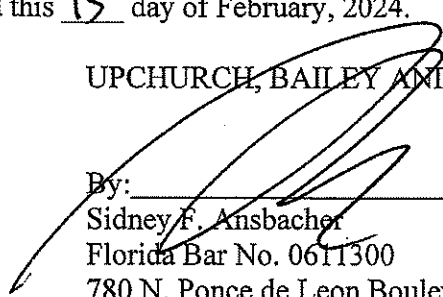
Smith, 497 So.2d 988 (Fla. 5th DCA 1988) (all stating staff report supporting board decision is competent substantial evidence).

- b. Ryan Carter's environmental consultant testimony (p. 27-32, 49-50, 55-56 of Appellate package), power-point before PZB (attached), and application all constitute competent substantial evidence. *See, e.g., City of Ft. Lauderdale v. Multidyne*, 567 So.2d 955 (Fla. 4th DCA 1990).

WHEREFORE, Fountain of Youth Properties, Inc. demands the appeal be dismissed, as well as all other relief as is meet and proper.

Respectfully submitted this 15 day of February, 2024.

UPCHURCH, BAILEY AND UPCHURCH, P.A.

By: 

Sidney F. Ansbacher
Florida Bar No. 0611300
780 N. Ponce de Leon Boulevard
St. Augustine, Florida 32084
Telephone No. (904) 829-9066
Facsimile No. (904) 825-4862
Primary Email: sfansbacher@ubulaw.com
Secondary Email: pleadings@ubulaw.com

*Attorney for Appellee
Fountain of Youth Properties, Inc.*

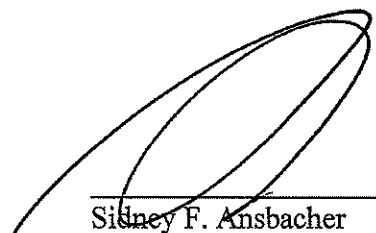
CERTIFICATE OF SERVICE

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James Whitehouse
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104 Sea Grove Main Street
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Isabelle C. Lopez
City Attorney
Post Office Box 210
St. Augustine, Florida 32085-210
Email: attorney@citystaug.com



Sidney F. Ansbacher

CITY OF ST. AUGUSTINE
STAFF REPORT & RECOMMENDATION

TO: Planning and Zoning Board

DATE: February 7, 2023

RE: CONSERVATION OVERLAY ZONE DEVELOPMENT 2022-0084

AGENDA ITEM 7(b)

APPLICANT Ryan Carter
c/o Carter Environmental Services, Inc.

OWNER Fountain of Youth Prop Inc.

LOCATION 11 Magnolia Avenue / PID 191600-0000

REQUEST To approve the modification of an existing dock to include four (4) new boats lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1.

LAND USE Commercial Low Intensity

ZONING Commercial Low-One (CL-1)

APPLICABLE CODES/ORDINANCES

Conservation and Coastal Management Element of the Comprehensive Plan

Conservation Goal

Protect and conserve natural areas, environmentally sensitive areas, natural vegetative communities, wildlife habitats, marine resources, federal and state listed species, and other renewable and non-renewable natural resources.

CCM Objective 7

Permitted uses for shoreline and waterfront property will continue to give priority to water-dependent uses and increase safe public access to the Matanzas River, the San Sebastian River and the beaches contained in the Anastasia State Recreation Area. The measurable target for this objective is that the City Code will continue to allow water-dependent uses as permitted uses in all of the zoning districts associated with the land use classifications in the coastal planning area.

Conservation overlay zone development means any construction or use which requires a permit from the city, physically located or taking place within a conservation overlay zone.

Conservation Overlay Zone 1 comprises the most environmentally sensitive and valuable natural resources within the city. It includes all beaches, shores and dunes seaward of the state's coastal construction control line (F.S. ch. 161), all wetlands within the state's wetlands jurisdiction line (F.S. ch. 403), brackish water, and some habitat areas for species recognized as endangered, threatened, of special concern, or unique by federal, state and local agencies. This zone includes the estuarine/riverine environments created by the San Sebastian and Matanzas Rivers and their tributaries.

Chapter 11 Land Development Code, Article II. Conservation Overlay Zone Development.

Sec. 11-26. - Purpose and intent.

The purpose of this article is to establish criteria for the review of development proposals and to manage, regulate and direct development within Conservation Overlay Zones 1, 2 and 3 following the goals, objectives and policies contained in the conservation and coastal management element of the comprehensive plan. Further, this article shall serve to preserve and protect environmentally sensitive areas within the city; to promote an understanding of the importance of these areas through passive or scenic recreational opportunities; to protect and conserve endangered, threatened or unique plant and animal life; and to minimize the dangers of natural disasters by discouraging unsuitable development in areas where such growth could impair natural systems or result in loss of life or property.

Sec. 11-28. Issuance of building permits.

- (a) The planning and zoning board shall review all applications for development in Conservation Overlay Zone 1; all applications for development in Conservation Overlay Zone 2, except as specified in subsection (b); and all applications for development in Conservation Overlay Zone 3, except as specified in subsection (c). Such approval by the planning and zoning board shall be after a public hearing as required by chapter 28.

Sec. 11-29. Standards for review.

- (a) Permits for structures and uses located within Conservation Overlay Zone 1 shall be issued only for such structures and uses which have received permits under provisions of applicable federal and state regulations and will be issued only for those structures and related uses such as fishing piers and catwalks, boardwalks, boat docks, boathouses, boat ramps, marinas, and marine railways, as well as dredging and filling, which are determined to be to the benefit of the public as a whole and which are determined as having no significant negative impact on natural systems, by either individual or cumulative effect. The planning and zoning board is authorized to impose limitations in the nature and manner of construction and/or use so as to avoid damage to adjacent salt marshes and the vegetative communities contained therein, to eliminate any harm to the animal, fish or shellfish contained therein, to avoid blocking or disrupting vistas and scenic opportunities, and to enhance those vistas and scenic opportunities which are determined to benefit the public as a whole.

(b) Permits for structures and uses located within Conservation Overlay Zone 2 shall be issued only for those structures and related uses which are determined as having no significant negative impact on adjacent natural systems by either individual or cumulative effect, and consistent with the purpose of Conservation Overlay Zone 2 to protect the functional integrity of Zone 1 and to protect Zone 3 from extreme high-water conditions. At no time shall the impervious area in Conservation Overlay Zone 2 exceed twenty-five (25) percent without that area receiving treatment equivalent to the St. Johns River Water Management District water quality treatment provisions required when new development is proposed along an unaltered shoreline. The first (landward of the most restrictive jurisdictional line, which may be the mean high-water line or wetlands jurisdictional line) twenty-five (25) feet, measured in width perpendicular to the most restrictive jurisdictional line, in Conservation Overlay Zone 2 shall remain undeveloped except as provided in (1) - (4) of this subsection. If the area is already disturbed, a restoration plan is required. The planning and zoning board is authorized to impose limitations in the following manner so as to avoid damage to adjacent salt marshes and the vegetative communities contained therein, to eliminate any harm to any animal, fish or shellfish life contained therein, to avoid blocking Conservation Overlay Zone 1 vistas and scenic opportunities, and to enhance those vistas and scenic opportunities which are determined to benefit the public as a whole. Rear or side lot drainage from grassed or altered areas of new development along an altered shoreline not directed to a water management system may be discharged to an adjacent water body/wetland; however, the area not treated must be compensated elsewhere in the system. This may be accomplished by providing additional water quality treatment in the system equivalent to that which will be discharged untreated. Water discharged shall be at non-erosive velocities. Rear or side lot drainage from grassed or altered areas of new development along an unaltered shoreline not directed to a water management system may be discharged to an adjacent water body/wetland through the twenty-five (25) feet buffer (water discharged shall be at non-erosive velocities), with the following permitted activities:

- (1) Pruning vegetation to retain or create a reasonable view. Ground cover and shrub vegetation to a height of thirty-six (36) inches should be retained.
- (2) A maximum of fifty (50) percent of the basal area of trees, and a maximum of fifty (50) percent of the total number of saplings, may be removed for any purpose in a twenty-year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place. Replacement planting with native, low maintenance vegetation is permitted to maintain the fifty (50) percent level.
- (3) Dead, diseased, unsafe, or fallen trees may be removed.
- (4) Bridges, paths, walkways, gazebos, docks and decks, bulkheads, seawalls, and retaining walls, and accessways to such amenities are permitted across the buffer provided such activities have minimal impact to the wetlands and are scaled to preserve the integrity of the buffer (less than ten (10) percent of the total area calculation of the buffer). These structures must demonstrate that they are of a reasonable, compatible scale to similar structures in the neighboring area. Structures in Conservation Overlay Zone 2 that are connected to adjacent structures in Zones 1 or 3 shall be sized relative to that adjacent structure and be designed so as to minimize off-site visual and environmental impacts. The applicant will present

CITY OF ST. AUGUSTINE
STAFF REPORT & RECOMMENDATION

any mitigating design and environmental elements as part of the review of the structure in Conservation Overlay Zone 2.

- (c) Applications for development in Conservation Overlay Zones shall be evaluated according to the following criteria: *Please refer to the staff summary and analysis below.*

Sec. 28-6. - Accessory buildings.

Except for temporary storage of building supplies during the period of construction of the main use building no accessory building shall be used or occupied until the main use building on the lot is being used. This restriction shall not apply to boat docks, boathouses and well houses.

STAFF SUMMARY AND ANALYSIS

This request is to construct a new 765 square foot observation deck towards the southern portion of the property and to add 794 square feet of decking and four boat lifts to an existing dock at 11 Magnolia Avenue. The existing dock and proposed observation dock are located along Hospital Creek with their respective walkways located in the wetlands to the west of the creek.

The proposed four new boat lifts will be for the owner's personal use as stated by the applicant in an email from January 17th, 2023.

Conservation Overlay Zone Development (*Staff analysis in italics*)

- (c) Applications for development in Conservation Overlay Zones shall be evaluated according to the following criteria:

- (1) Site specific conditions:

This property has approximately 1,365 feet of Hospital Creek frontage. The property and adjacent properties utilize sea walls and are elevated from the coastline. Mangroves and marine vegetation are present in the region but not in the footprint of the proposed structures.

- (2) The site's relationship to adjacent properties, bodies of water and surrounding conservation zones.

The property sits on the Hospital Creek and is adjacent to single-family homes and multi-family units to the North & South.

- (3) Natural and proposed drainage patterns.

Drainage will not be altered by the proposed works.

- (4) Effect of point and nonpoint discharge in the marine environment.

Point and non-point discharge will not be altered.

- (5) Proposed soil stabilization and erosion control methods.

Soil and erosion control may be necessary during construction, such as silt fences and turbidity barriers, but impacts will be temporary, and no long-term erosional impacts will take place.

- (6) Impact on floodplain.

There is no impact on floodplains associated with this application.

- (7) Impact of development on vegetative and animal communities.

Vegetative impacts: There are no anticipated vegetative impacts as salt marsh, mangroves, and sea grass are not present. Also, the dock will minimally shade a small area of open water, but will be built as required by state and federal agencies, five feet or higher above mean high water.

Lighting of the open water areas at night: The proposed works will be lit with low level, directional lighting that greatly minimizes the amount of light intrusion into the open water.

Increased noise from day users: Minimal noise associated with business boating activities. This will need to be clarified to be sure if the boating activities are for private use or business use.

- (8) Potential for contaminated drainage, storage of pollutants and the use of poisonous chemicals and materials.

There will be no storage of pollutants or the use of poisonous chemicals and materials.

- (9) Effect of shade on vegetation and shellfish.

Effects of shading on vegetation are not anticipated. Negative effects to shellfish, if any, should be minimal, with potentially positive impacts in the form of additional substrate for shellfish to colonize.

- (10) Effect of boat wake and boat traffic on manatees, vegetation, shellfish and wildlife, as well as shoreline erosion.

The proposed dock site is located in a channel of water in Hospital Creek Matanzas Bay. Due to the tight and confined nature of the Hospital Creek channel it is difficult to navigate during low tide. Sand/mud bar banks are exposed which limits the potential impact on animal, vegetation and erosional forces of any

CITY OF ST. AUGUSTINE
STAFF REPORT & RECOMMENDATION

boating activities. Additionally, a seawall armors the existing Fountain of Youth property. Use of the dock by the owners will not affect any manatees, vegetation, shellfish and wildlife or shoreline erosion.

- (11) Impact of development on shoreline by linear feet and percent of site.

There is an existing bulkhead in place.

- (12) Impact of development on vistas and scenic opportunities by linear feet, height, mass and percent of site.

N/A.

- (13) Existing amounts of native plants and proposed retention and use of native plants for landscape and open space purposes.

N/A.

- (14) Impact of development on plant and animal habitat and potential loss in acres and percent of site.

N/A.

- (15) Impact of development on water quality. Water quality objectives will be presumed to have been met if runoff water is routed to a surface water management system permitted by the St. Johns River Water Management District or to a treatment facility that is equivalent to the water quality treatment criteria (water retention/detention) of the water management district. (An engineer or landscape architect licensed in the State of Florida is required to certify that the treatment facility is equivalent to the district's criteria.)

N/A.

- (16) Impact of development on shellfish and on commercial and sport fish and waterfowl.

- a) The effects of the proposed project on commercial and sport fish are as follows:*

Positive: The proposed new dock will provide shelter for larval, juvenile, and adult fish.

Negative: Extremely small loss of juvenile habitat from the placement of approximately 48 new pilings for the dock construction.

- b) The effects of the project on shellfish are as follows:*

CITY OF ST. AUGUSTINE
STAFF REPORT & RECOMMENDATION

Positive: The pilings used to construct the dock/lift additions could be colonized by barnacles, oysters, and mussels. This will be an addition of habitat.

Negative: None

c) *The effects on the project on waterfowl are as follows*

Positive: The new boardwalk could be used as a resting place or perch for many waterfowl.

Negative: Extremely small loss of foraging habitat.

- (17) Specific conditions applicable to docks. In addition to the considerations listed in subsections (1) through (16) herein, no boathouse, roofed structure or wall shall be constructed on any dock. This section shall not prohibit the use of bumpers or similar structures built at or near the water line and below deck elevation to protect the dock from damage caused by moored vessels.

The deck of any private boat dock shall not exceed six (6) feet in height above mean high water. Boatlifts mounted on docks, or constructed on or adjacent to a dock, shall be limited to a capacity of twelve thousand (12,000) pounds or less. All boatlifts shall be low profile boatlifts or no profile boatlifts, and no boats in excess of thirty-two (32) feet in length shall be allowed on a boatlift. In addition, the maximum height, excluding masts, antennas and other non-occupiable features, of a boat suspended in a boatlift shall not exceed six (6) feet above the gunwale (gunnel); whereby, the gunwale (gunnel) is defined as the upper edge of the side of the ship or boat. A low-profile boatlift is a boatlift for a single watercraft in which no part of the boatlift shall exceed three (3) feet above the deck. A no profile boatlift is a boatlift for a single watercraft in which no part of the boatlift shall protrude above the deck.

There are currently no proposed plans for any boathouse, roofed structure or wall within the dock with the decking not exceeding 6' above the mean high waterline. The proposed height for the newly constructed dock being 5' to match the existing dock profile. The new boat lifts will be low-profile and will not exceed a 12,000-pound capacity.

CITY OF ST. AUGUSTINE
STAFF REPORT & RECOMMENDATION

STAFF RECOMMENDATION

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 to include four (4) new boat lifts with catwalks and to approve the new construction of an observation deck to the south of the existing dock within Conservation Overlay Zone 1 at 11 Magnolia Avenue / PID 191600-0000.

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



Jacob Fredriksson
Senior Planner
Planning and Building Department

Jacob Fredriksson

From: Ryan Carter <ryan@carterenv.com>
Sent: Tuesday, January 17, 2023 11:20 AM
To: Jacob Fredriksson
Cc: Michael Carpenter; STEVEN & ELIZABETH BINNINGER
Subject: RE: PZB App 2022-0094 FOY dock email RAI Response

Hey Jacob,

The additional four boat lifts plan to be used by the family who owns the Fountain of Youth (FOY) for their personal boats. Hope that helps. Thanks.

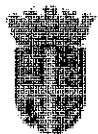
Sincerely,
Ryan
904-540-1786

From: Jacob Fredriksson <jfredriksson@citystaug.com>
Sent: Tuesday, January 17, 2023 9:44 AM
To: Ryan Carter <ryan@carterenv.com>
Subject: Planning and Zoning Board Application 2022-0094

Good morning,

This is a request for additional information regarding the upcoming Planning and Zoning Board application at 11 Magnolia Avenue, specifically the nature of how the proposed dock with boat lifts will be used. Thank you for your time.

Jacob Fredriksson
Senior Planner
City of St. Augustine | Planning and Building Department
P.O. Box 210 | St. Augustine, FL 32085
Office: 75 King Street, Lobby B | Phone: 904.209.4331
Email: jfredriksson@citystaug.com
Web: www.CityStAug.com



ST AUGUSTINE





CITY OF ST AUGUSTINE
APPLICATION TO PLANNING AND ZONING BOARD

Application Fee: \$165 (plus advertising costs) Project Number: 2022-0094
Receipt Number: 2523227 Meeting Date: 02/07/23
Advertising Costs: \$ _____ Paid On: _____ Receipt Number: _____

1. NAME OF APPLICANT: RYAN CARTER Contact Number: 904-540-1786
Business (if applicable): CARTER ENVIRONMENTAL SERVICES, INC
Address: 42 MASTERS DR City: ST. AUGUSTINE State: FL Zip: 32084
E-Mail Address: RYAN@CARTERENV.COM

2. NAME OF PROPERTY OWNER: _____ Contact Number: 904-829-3168
Business (if applicable): FOUNTAIN OF YOUTH PROP INC
Address: 17 CORDOVA ST. City: ST. AUGUSTINE State: FL Zip: 32084
E-Mail Address: binningers@bellsouth.net

3. LEGAL DESCRIPTION OF PROJECT PROPERTY:
Lot: 4-55 FOUNTAIN OF YOUTH PARK Block: 7 & WILLIAMS ST TO PRINCE DELEON BROADCASTING IN NORTH 406
Subdivision: FOUNTAIN OF YOUTH PARK Parcel Number: 1916000000

4. PROJECT STREET ADDRESS: 11 MAGNOLIA AVE

5. SPECIFIC PROPOSED USE: TOURIST ATTRACTION

6. ACTION REQUESTED:
☒ Conservation Zone Development ☐ Appeal of Staff Determination
☐ Exception ☐ Land Use Plan Amendment
☐ Variance ☐ Rezoning
☐ Other: _____

7. DESCRIPTION OF ACTION REQUESTED: PZB APPROVAL FOR A COMMERCIAL DOCK MODIFICATION

8. JUSTIFICATION FOR ACTION REQUESTED: PLEASE SEE OVERLAY ZONE DEVELOPMENT SUPPLEMENT

9. IF APPLYING FOR A VARIANCE, PLEASE COMPLETE THE FOLLOWING AND EXPLAIN THE SITUATION FULLY ALONG WITH PROVIDING DOCUMENTATION:

(a) Does the property because of size, shape, topography or other physical conditions, suffer singular disadvantage, which disadvantage does not apply to other properties in the vicinity: _____

(b) Can you establish that this disadvantage causes the owner to be unable to make reasonable use of the affected property: _____

(c) Can you establish that this disadvantage does not exist because of conditions created by the owner or applicant: _____

(d) Can you establish that granting of the variance will not be contrary to the public interest; will not adversely affect other property in the vicinity; and will be in harmony with the spirit, intent and purpose of this Section: _____

10. PREVIOUS APPLICATIONS:

Has any application been submitted to the Planning & Zoning Board concerning any part of the subject property within the past year?

☐ Yes ☒ No If yes, please give date and final disposition below

11. AGREEMENT:

In filing this application, I understand that it becomes a part of Public Record of the City of St. Augustine and hereby certify that all information contained herein is accurate to the best of my knowledge.

Application must be signed by both applicant and property owner if different. Letter of authorization must be submitted in absence of the property owner's signature or where an authorized agent signs in lieu of either property owner or applicant.

Florida Statute 286.0105 states that a person appealing any decision by this board at any meeting regarding this application may need a verbatim record of the proceedings which includes testimony and evidence upon which the appeal is to be based.

IMPORTANT NOTICE: When the hearing date has been set and a legal notice has been published or posted, the applicant must be prepared to present the request at the scheduled hearing date. If the applicant requests a continuance, the decision to grant or deny the request for continuance will be decided by a vote of the Board at the scheduled hearing date. The applicant, or a duly authorized representative with authority to bind, should be present at the scheduled hearing date to answer questions from the board regarding the application. If the board votes to deny the request for a continuance, the hearing on the application will go forward, whether or not the applicant is present, and could result in a denial of the application if the Board finds that the application and supporting documents submitted prior to the meeting do not meet the criteria of the Code.



Signature of Applicant

11-16-22

Date



Signature of Property Owner

11-17-22

Date



**CITY OF ST. AUGUSTINE
DEVELOPMENT PERMIT APPLICANT WAIVER**

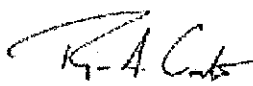
The applicant acknowledges and agrees to waive the limitation of three requests for additional information by the City of St. Augustine, pursuant to Chapter 166.033, Florida Statutes.

The applicant acknowledges and agrees that the City offers weekly Friday Review development review meetings, as well as, department specific applicant meetings with its reviewing staff at any point in the application process to attempt to resolve outstanding issues. The applicant is responsible for scheduling any requested meetings with City staff directly.

The applicant acknowledges and agrees that if after three unresolved submittals the applicant elects to proceed with final approval or denial proceedings, the applicant must request so in writing to the City.

RYAN CARTER

Print name of applicant



Signature of applicant

11-16-22

Date



Owner's Authorization For Agent

CARTER ENVIRONMENTAL SERVICES is/are hereby authorized TO ACT ON BEHALF
OF FOUNTAIN OF YOUTH PROP INC, the owner(s) of those lands described within
☒ the attached application, or ☐ described within the previously filed
Application number: _____, and as described in the attached deed or
other such proof of ownership as may be required, in applying to the City
of St. Augustine's Planning & Zoning Board, located at:

BY: Joan Binninger
Signature of Owner
JOAN BINNINGER
Print Name of Owner
904-829-3168
Telephone Number

State of Florida

County of St Johns

Signed and sworn before me on this 17th day of November, 2022

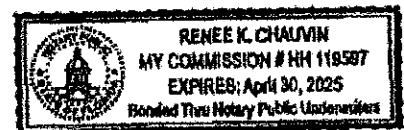
By Joan Binninger who physically appeared and is
personally known to me.

Identification verified:

Oath sworn: _____ Yes X No

Notary Signature:

Renée K. Chauvin



My Commission expires:

4/30/2025

Attachment 1

Overlay Zone Application Narrative

**Fountain of Youth Dock Modification
Overlay Zone Development Application Supplement
December 2022**

This narrative is intended to supplement the Conservation Overlay Zone Development Application for a proposed dock modification that includes 4 new boat lifts accessed by catwalks as well as an observation deck. The proposed dock will allow the patrons of the Fountain of Youth Archeological Park access to Matanzas Bay. Total dock and lifts area over open water will be approximately 11,472 sq. ft. The height of the dock will be 5' above Mean High Water. Please see attached plans for detailed dimensions.

The construction proposed in this application would occur on lands located within Conservation Overlay Zones 1 and 2, as defined in Section 11-27 of the City Code. Section 11-29(a) of the Code sets forth certain criteria for structures located within Conservation Overlay Zones. The applicant has complied with each of those criteria, as detailed below:

1. *The proposed work will have a benefit to the public as a whole.*

This is a private dock. Public benefits may be economically related through construction activities and marine/boating related purchases.

2. *The proposed work will have no significant negative impact on natural systems (including adjacent salt marshes and the vegetative communities contained therein), by either individual or cumulative effect.*

There is no salt marsh vegetation in the current proposed dock or observation deck.

3. *The proposed structures will not block or disrupt any vista or scenic opportunities.*

No boat houses are proposed. Dock height will be similar to neighboring docks and comply with Federal and State regulations.

4. *The proposed work will enhance vistas and scenic opportunities for the benefit of the public as a whole.*

The approval of the dock will give the public the benefit of renting a boat during operating hours and observe the vistas and scenic opportunities in the vicinity.

Applications for development in Conservation Overlay Zones are to be evaluated according to certain criteria set forth in Section 11-29(c) of the City Code. The owner has complied with each of those criteria, as detailed below:

1. *Site specific conditions.*

This property has approximately 1,365 feet of Hospital Creek frontage. The property and adjacent properties utilize sea walls and are elevated from the coastline. Mangroves and marine vegetation are present in the region but not in the footprint of the proposed structures.

2. *The site's relationship to adjacent properties, bodies of water and surrounding conservation zones.*

The property sits on the Hospital Creek and is adjacent to other single-family homes and multi-family units to the North & South.

3. *Natural and proposed drainage patterns.*

Drainage will not be altered by the proposed works.

4. *Effect of point and non-point discharge in the marine environment.*

Point and non-point discharge will not be altered.

5. *Proposed soil stabilization and erosion control methods.*

Soil and erosion control may be necessary during construction, such as silt fences and turbidity barriers, but impacts will be temporary and no long-term erosional impacts will take place.

6. *Impact on floodplain.*

There is no impact on floodplains associated with this application.

7. *Impact of development on vegetative and animal communities.*

Vegetative impacts: There are no anticipated vegetative impacts as salt marsh, mangroves, and sea grass are not present. Also, the dock will minimally shade a small area of open water, but will be built as required by state and federal agencies, five feet or higher above mean high water.

Lighting of the open water areas at night: The proposed works will be lit with low-level, directional lighting that greatly minimizes the amount of light intrusion into the open water.

Increased noise from day users: Minimal noise associated with business operations boating activities.

8. *Potential for contaminated drainage, storage of pollutants and the use of poisonous chemicals and materials.*

There will be no storage of pollutants or the use of poisonous chemicals and materials

9. *Effect of shade on vegetation and shellfish.*

Effects of shading on vegetation are not anticipated. Negative effects to shellfish, if any, should be minimal, with potentially positive impacts in the form of additional substrate for shellfish to colonize.

10. *Effect of boat wake and boat traffic on manatees, vegetation, shellfish and wildlife, as well as shoreline erosion.*

The proposed dock site is located in a channel of water in Hospital Creek Matanzas Bay. Due to the tight and confined nature of the Hospital Creek channel it is difficult to During low tide sand/mud bar banks are exposed which limits the potential impact on animal, vegetation and erosional forces of any boating activities. Additionally, a seawall armors the existing Fountain of Youth property. Use of the dock by the owners will not affect any manatees, vegetation, shellfish and wildlife or shoreline erosion.

11. *Impact of development on shoreline by linear feet and percent of site.*

Not applicable.

12. *Impact of development on vistas and scenic opportunities by linear feet, height, mass and percent of site.*

Not applicable.

13. *Existing amounts of native plants and proposed retention and use of native plants for landscape and open space purposes.*

Not applicable.

14. *Impact of development on plant and animal habitat and potential loss in acres and percent of site.*

Not applicable.

15. *Impact of development on water quality.*

Not applicable.

16. *Impact of development on shellfish and on commercial and sport fish and waterfowl.*

a) The effects of the proposed project on commercial and sport fish are as follows:

Positive: The proposed new dock supports will provide shelter for larval, juvenile, and adult fish.

Negative: Extremely small loss of juvenile habitat from the placement of approximately 48 new pilings for the dock construction.

- b) The effects of the project on shellfish are as follows:

Positive: The pilings used to construct the dock/lift additions could be colonized by barnacles, oysters, and mussels. This will be an addition of habitat.

Negative: None

- c) The effects of the project on water fowl are as follows

Positive: The additional dock area could be used as a resting place or perch for many water fowl.

Negative: Extremely small loss of foraging habitat.

17. Dock specifications:

- a) *No boathouse, roofed structure or wall shall be constructed on any dock.*

There are currently no proposed plans for any boathouse, roofed structure or wall within the dock.

- b) *The deck of any private boat dock shall not exceed six (6) feet in height above the mean high water line.*

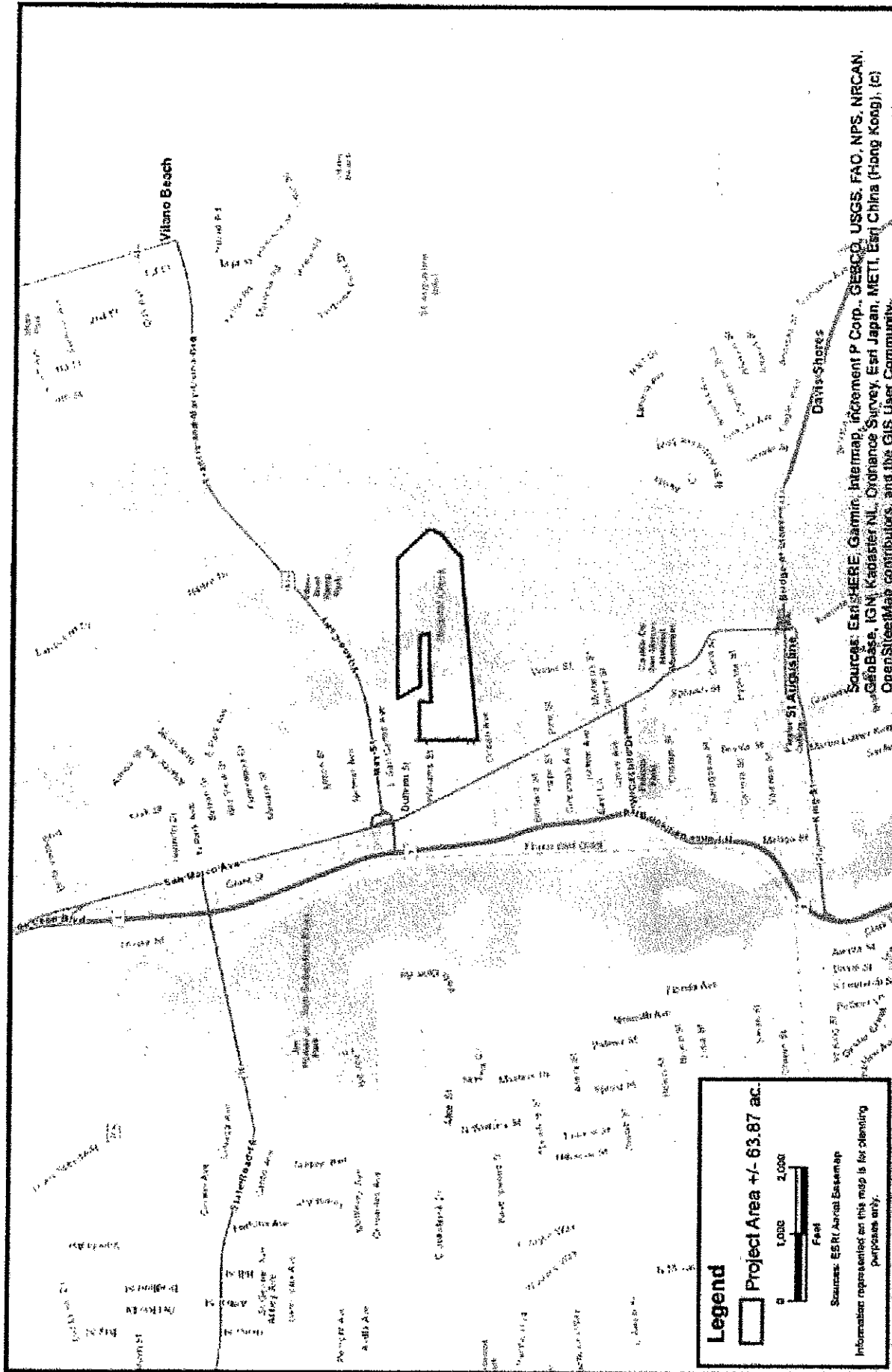
The deck will not exceed 6' above MHW, with a proposed height for the newly constructed dock being 5' to match the existing dock profile.

- c) *Boatliffs shall have a maximum capacity of 12,000 pounds and shall be low-profile or no-profile.*

Boat lifts will be low-profile and not exceed 12,000 pounds.

Attachment 2

Overlay Zone Application Graphics



Location Map

Fountain of Youth Dock Modification

Figure: 1

Project: 5 22483

Date: Nov 23 2022

St. Augustine, FL

CARTER ENVIRONMENTAL SERVICES, INC.

CES

42 Masters Drive
St. Augustine, FL 32084
804-640-1788
www.carterenv.com

Sources: ESRI, HERE, Garmin, Intermap, Inverment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Esri, Swisstopo, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community



Legend

Project Area +/- 63.87 ac.

0 175 350 Feet

Revised: 05/01/2022

Information represented on this map is for planning purposes only.

CARTER ENVIRONMENTAL SERVICES, INC.

CES

4th Main Street
St. Augustine, FL 32084
904-825-1788
www.carterenv.com

Current Aerial

Fountain of Youth Dock Modification

Project: 5.22483 St. Augustine, FL

Date: Nov 23 2022

Figure: 2

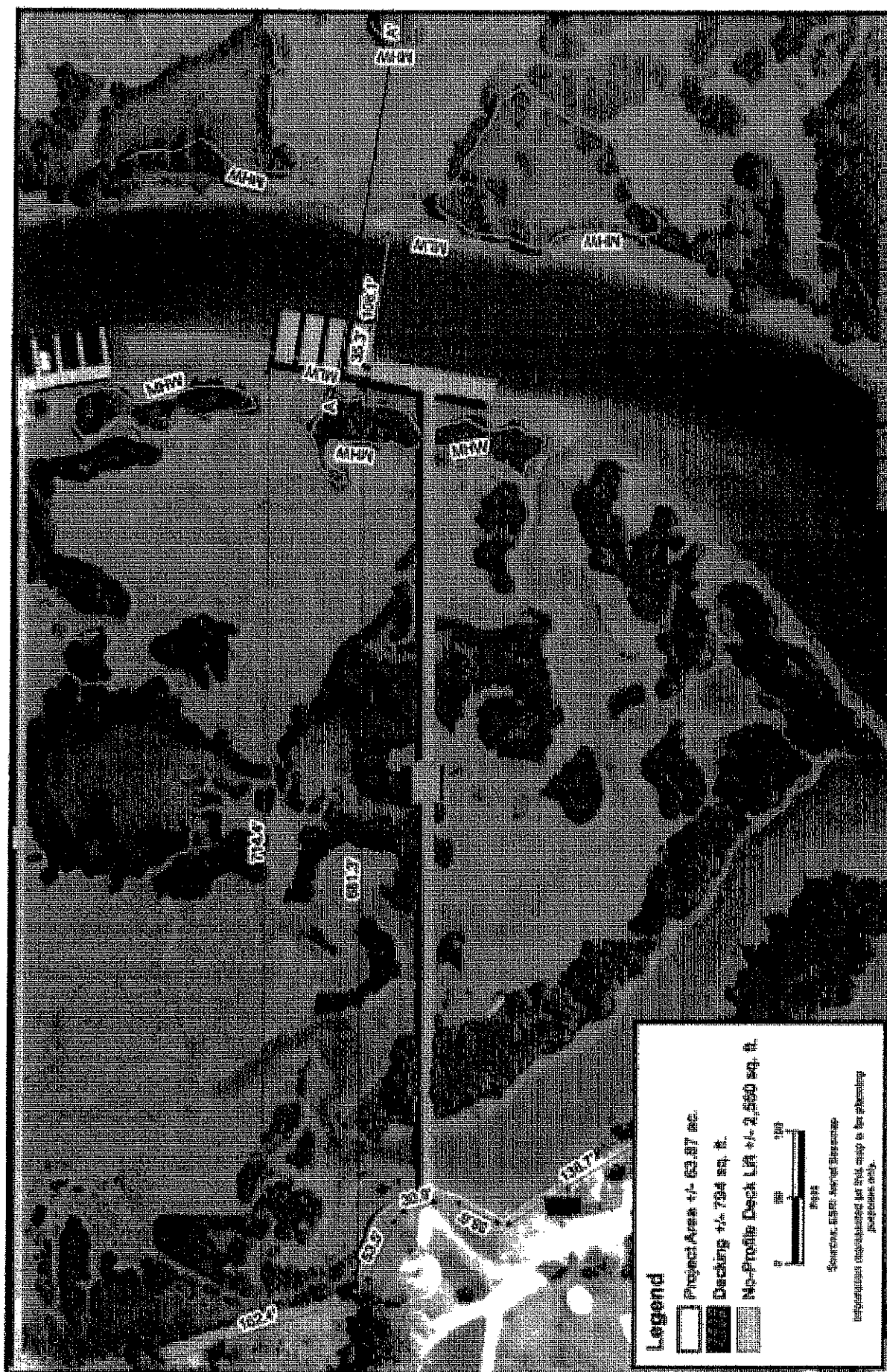


PLATE 1

[illegible]

**CAPITR ENTROPMENTAL
SERVICES, INC.**

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

Proposed Dock & No-Profile Deck Lift Alignment Fountain of Youth Dock Modification

॥ श्रीगणेशाय नमः ॥

上海外灘100號

Dec 12 2122

三、**海峽殖民地**

附註



Legend

Project Area +/- 63.87 ac.

Decking +/- 765 sq. ft.

Field

Source: 2010 Aerial Imagery

Information is presented on this map as for planning purposes only.

CARTER ENVIRONMENTAL SERVICES, INC.

CES

2010 Aerial Imagery
St. Augustine, FL 32084
813-244-1778
www.cartersinc.com

Proposed Observation Deck Alignment

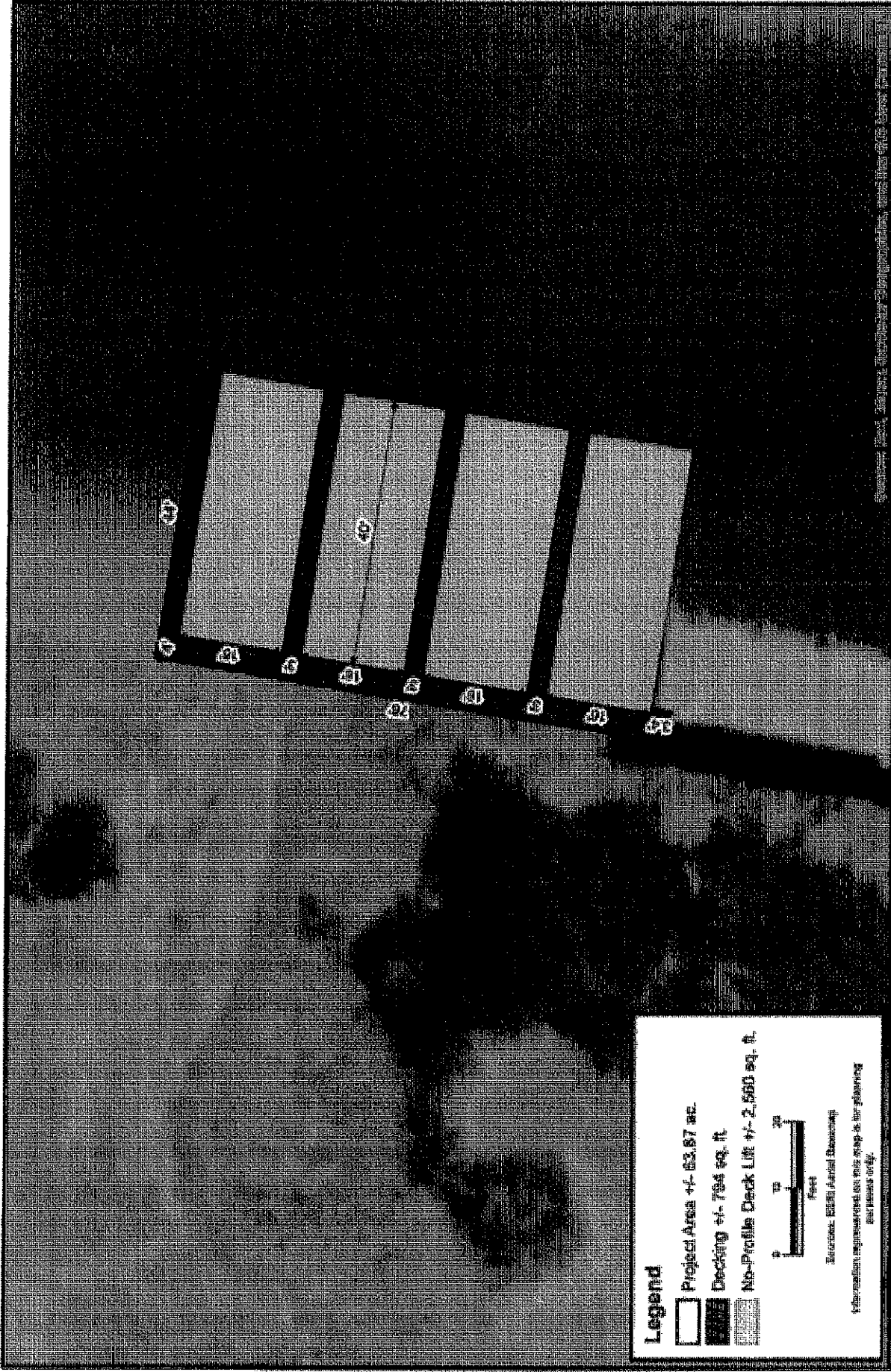
Fountain of Youth Dock Modification

Project: 5.22493

Date: Nov 23 2022

St. Augustine, FL

Figure: 4b



Legend

- Project Area +/- 83.87 ac.
- Decking +/- 794 sq. ft.
- No-Profile Deck Lift +/- 2,560 sq. ft.

Scale: 0 10 20 Feet

Information represented on this map is for planning purposes only.

CARTER ENVIRONMENTAL SERVICES, INC.

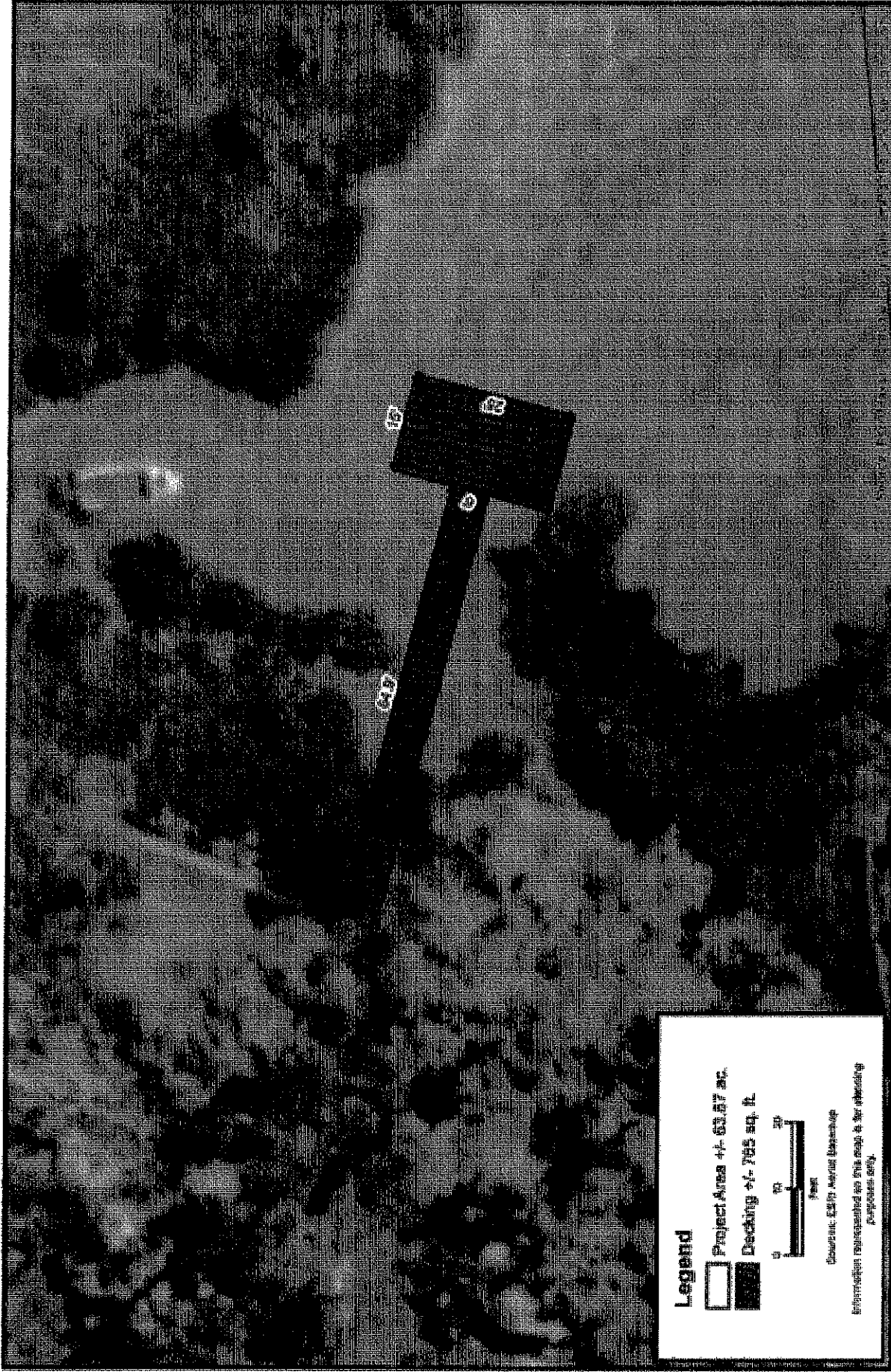
CES

4000 Highway 100
St. Augustine, FL 32084
904-350-1100
www.carterenvironment.com

**Proposed Dock & No-Profile Deck Lift Dimensions
Fountain of Youth Dock Modification**

Project: 5.22489 St. Augustine, FL Date: Nov 23 2022

Figure: 5a



Legend

Project Area +/- 63.67 ac.

Decking +/- 785 sq. ft.

0 10 20 Feet

Source: Esri, Mapbox

Information represented on this map is for planning purposes only.

CARTER ENVIRONMENTAL SERVICES, INC.

CES

4000 Highway 19
St. Augustine, FL 32084
904-480-1100
www.carterservices.com

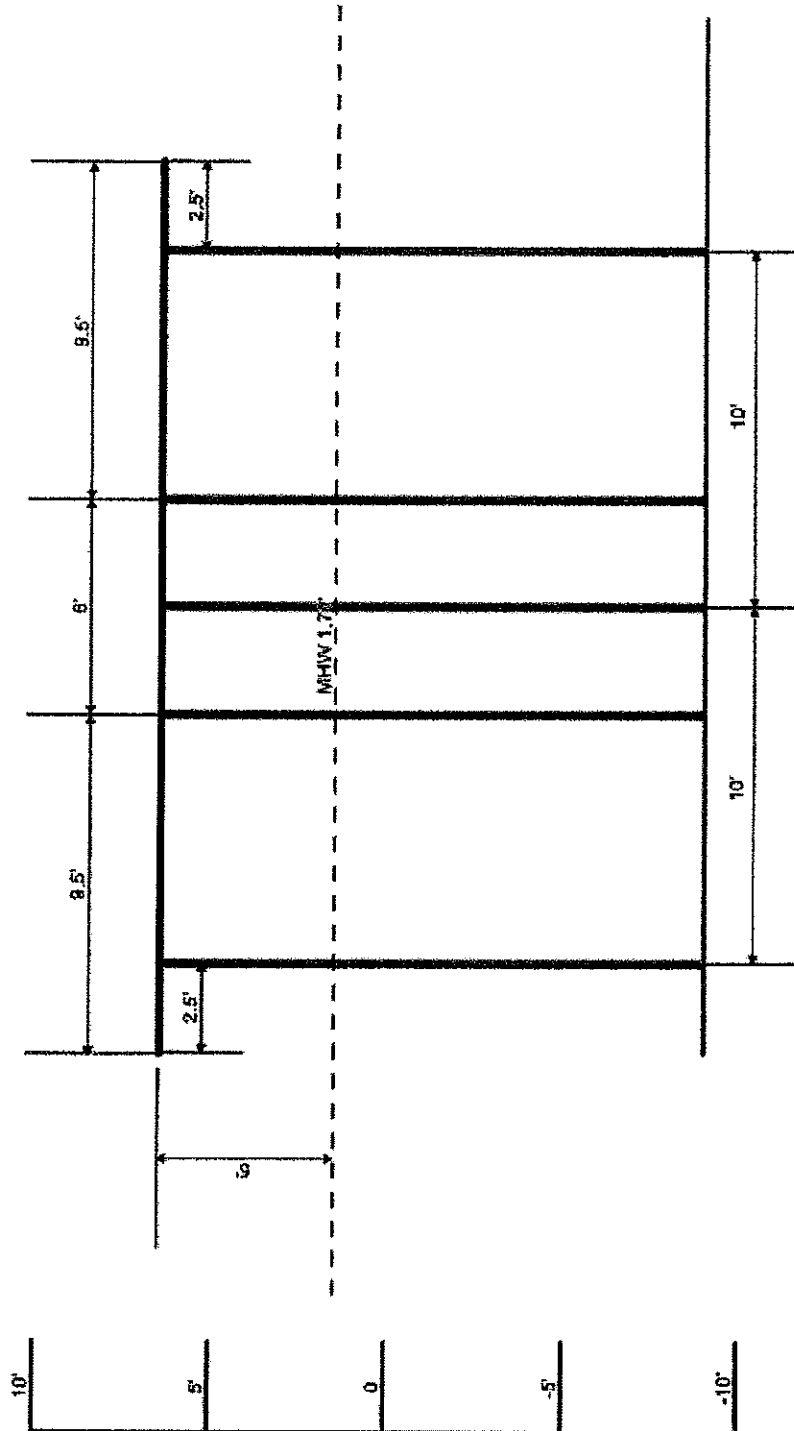
Proposed Observation Deck Dimensions

Fountain of Youth Dock Modification

Project: 5.22483 St. Augustine, FL

Date: Nov 23 2022

Figure: 5b



CARTER ENVIRONMENTAL
SERVICES, INC.

42 Madison Drive
St. Augustine, FL 32084
904-840-1790

www.carterenv.com

Proposed Observation Deck Cross-Section View Fountain of Youth Dock Modification

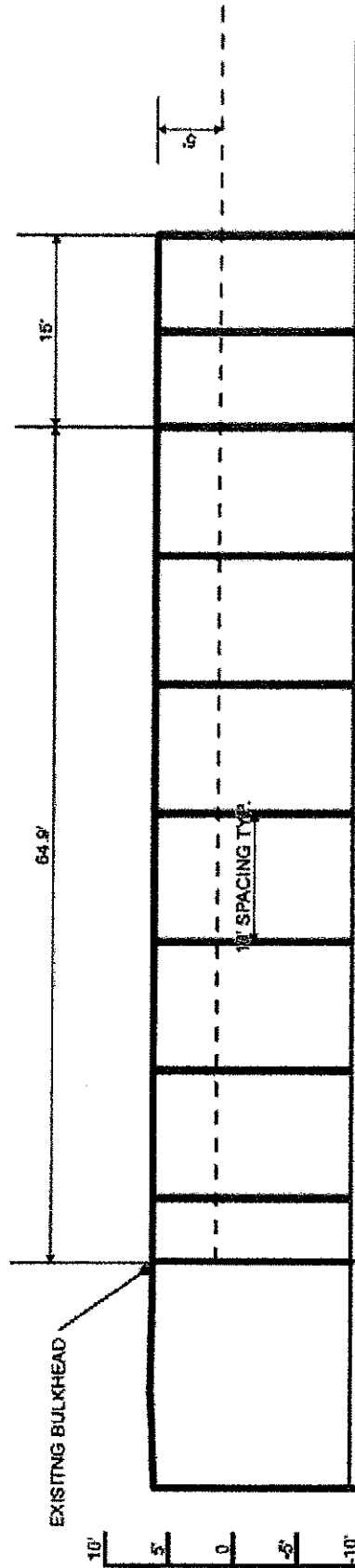
Project: 5.22483

St. Augustine, FL

Date: Dec 13 2022

Figure: 8b





CARTER ENVIRONMENTAL
SERVICES, INC.

CES
42 Masters Drive
St. Augustine, FL 32084
800-450-1706
www.cesenv.com

Proposed Observation Deck Profile View

Fountain of Youth Dock Modification

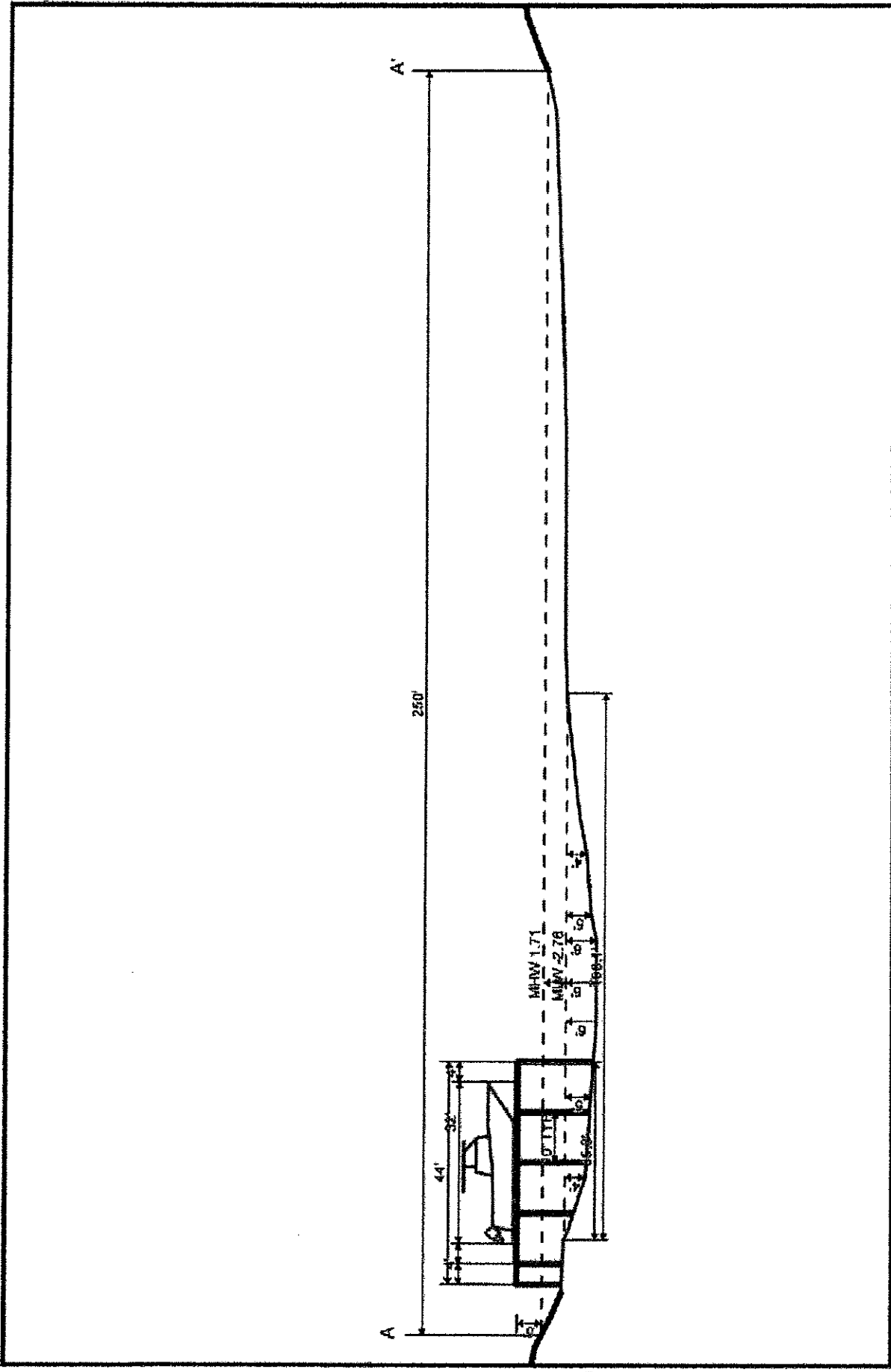
Project: 5.22463

St. Augustine, FL

Date: Dec 13 2022

Figure: 7b





CARTER ENVIRONMENTAL SERVICES, INC.
CES
 42 Masters Drive
 St. Augustine, FL 32084
 904-540-1195
www.carterenv.com

Proposed Dock Profile View
Fountain of Youth Dock Modification

Project: 5.22463 Date: Dec 13 2022 Figure: 7a

2022 FLORIDA PROFIT CORPORATION ANNUAL REPORT

DOCUMENT# 121512

Entity Name: FOUNTAIN OF YOUTH PROPERTIES, INC.

Current Principal Place of Business:

11 MAGNOLIA AVENUE
ST AUGUSTINE, FL 32084

Current Mailing Address:

17 CORDOVA STREET
ST. AUGUSTINE, FL 32084 US

FEI Number: 59-0250910

Certificate of Status Desired: No

Name and Address of Current Registered Agent:

EDMISTON, MARGARET G
17 CORDOVA STREET
ST. AUGUSTINE FL 32084 US

The above named entity submits this statement for the purpose of changing its registered office or registered agent, or both, in the State of Florida.

SIGNATURE:

Electronic Signature of Registered Agent

Date

Officer/Director Detail :

Title T
Name EDMISTON, MARGARET G
Address 17 CORDOVA STREET
City-State-Zip: SAINT AUGUSTINE FL 32084

Title PD
Name FRASER, JOHN W
Address 11 MAGNOLIA AVENUE
City-State-Zip: SAINT AUGUSTINE FL 32084

Title V
Name FRASER, BRYAN
Address 11 MAGNOLIA AVENUE
City-State-Zip: SAINT AUGUSTINE FL 32084

Title S
Name BINNINGER, JOAN E
Address 114 HERONS NEST LANE
City-State-Zip: ST AUGUSTINE FL 32080

I hereby certify that the information indicated on this report or supplemental report is true and accurate and that my electronic signature shall have the same legal effect as if made under oath; that I am an officer or director of the corporation or the recorder or trustee empowered to execute this report as required by Chapter 607, Florida Statutes; and that my name appears above, or on an attachment with all other like empowered.

SIGNATURE: JOHN W FRASER

PRESIDENT

02/09/2022

Electronic Signature of Signing Officer/Director Detail

Date



St. Johns County, FL

Apply for Exemptions

[Apply for Exemption](#)

2022 TRIM Notice

[2022 TRIM Notice](#)

Summary

[Clicking Image Opens Multimedia Viewer In a New Tab](#)

No Image Available

Parcel ID	1916000000
Location Address	11 MAGNOLIA AVE SAINT AUGUSTINE 32084-0000
Neighborhood	Tourist Attraction Fountain of Youth (COM) (2301.02)
Tax Description*	4-55 FOUNTAIN OF YOUTH PARK ALL (EX E'LY PARTS BLK 2 & WILLIAMS ST TO PONCE DE LEON BROADCASTING CO IN OR 77/406) *The Description above is not to be used on legal documents.
Property Use Code	Tourist Attractions (3500)
Subdivision	Fountain Of Youth Park
Sec/Twp/Rng	7-7-30
District	City of St Augustine (District 452)
Millage Rate	18.9763
Acreage	16.770
Homestead	N

Owner Information

Owner Name	<u>Fountain Of Youth Prop Inc 100%</u> <u>Barrett Bank 100%</u>
Mailing Address	17 CORDOVA ST SAINT AUGUSTINE, FL 32084-3618

Map



Valuation Information

	2023
Building Value	\$621,733
Extra Features Value	\$226,458
Total Land Value	\$1,045,940
Agricultural (Assessed) Value	\$0
Agricultural (Market) Value	\$0
Just (Market) Value	\$1,894,131
Total Deferred	\$0
Assessed Value	\$1,894,131
Total Exemptions	\$0
Taxable Value	\$1,894,131

Values listed are from our working tax roll and are subject to change.

Historical Assessment Information

Year	Building Value	Extra Feature Value	Total Land Value	Ag (Market) Value	Ag (Assessed) Value	Just (Market) Value	Assessed Value	Exempt Value	Taxable Value
2022	\$550,044	\$267,692	\$1,045,940	\$0	\$0	\$1,863,676	\$1,863,676	\$0	\$1,863,676
2021	\$512,787	\$280,521	\$1,045,940	\$0	\$0	\$1,839,248	\$1,839,248	\$0	\$1,839,248
2020	\$525,931	\$293,684	\$1,045,940	\$0	\$0	\$1,865,555	\$1,687,160	\$178,395	\$1,687,160
2019	\$488,985	\$274,532	\$1,045,940	\$0	\$0	\$1,809,457	\$1,533,782	\$275,675	\$1,533,782
2018	\$329,186	\$280,581	\$784,580	\$0	\$0	\$1,394,347	\$1,394,347	\$0	\$1,394,347
2017	\$327,085	\$270,700	\$784,580	\$0	\$0	\$1,382,365	\$1,382,365	\$0	\$1,382,365
2016	\$331,250	\$241,642	\$784,580	\$0	\$0	\$1,357,472	\$1,357,472	\$0	\$1,357,472
2015	\$341,496	\$249,045	\$784,580	\$0	\$0	\$1,375,121	\$1,375,121	\$0	\$1,375,121
2014	\$333,588	\$251,502	\$784,580	\$0	\$0	\$1,369,670	\$1,269,670	\$0	\$1,369,670
2013	\$252,042	\$240,956	\$784,580	\$0	\$0	\$1,277,578	\$1,277,578	\$0	\$1,277,578
2012	\$262,794	\$247,209	\$784,580	\$0	\$0	\$1,294,583	\$1,294,583	\$0	\$1,294,583
2011	\$272,345	\$182,163	\$915,260	\$0	\$0	\$1,369,768	\$1,174,996	\$194,772	\$1,174,996
2010	\$284,104	\$156,129	\$601,628	\$0	\$0	\$1,041,861	\$1,041,861	\$0	\$1,041,861

Building Information

Building 1
 Year Built 1880
 Actual Area 2648
 Conditioned Area 2584
 Use Stores (Retail)
 Style 04
 Class N
 Exterior Wall Stone

Roof Cover Built Up, Modular Metal
 Roof Structure Wood Truss
 Interior Flooring Vinyl Tile
 Interior Wall Drywall
 Heating Type Air Duct
 Air Conditioning Central
 Bedrooms
 Baths

Description	Square Footage
FRAME UTILITY	20
BASE AREA	1064
BASE AREA	1520
FINISHED DECK	44
POINTER	0

Total SqFt 2648

Building 2
Year Built 1952
Actual Area 924
Conditioned Area 924
Use Tourist Attraction
Style 04
Class N
Exterior Wall Stone

Roof Cover Modular Metal
Roof Structure Wood Truss
Interior Flooring Concrete Finish, None
Interior Wall None
Heating Type None
Air Conditioning None
Bedrooms
Baths

Description Square Footage
BASE AREA 924
Total SqFt 924

Building 3
Year Built 2013
Actual Area 400
Conditioned Area 100
Use Office Class C
Style 04
Class N
Exterior Wall Stucco

Roof Cover Cedar Shanks
Roof Structure Wood Truss
Interior Flooring Concrete Finish
Interior Wall Minimum
Heating Type Air Duct
Air Conditioning Central
Bedrooms
Baths

Description Square Footage
BASE AREA 100
CANOPY (COMMERCIAL) 300
Total SqFt 400

Building 4
Year Built 1956
Actual Area 2762
Conditioned Area 2762
Use Tourist Attraction
Style 04
Class N
Exterior Wall Concrete Stucco

Roof Cover Built Up
Roof Structure Rigid Frame
Interior Flooring Carpet
Interior Wall Minimum
Heating Type Air Duct
Air Conditioning Central
Bedrooms
Baths

Description Square Footage
BASE AREA 2762
Total SqFt 2762

Building 5
Year Built 1952
Actual Area 2069
Conditioned Area 2021
Use Tourist Attraction
Style 04
Class N
Exterior Wall Concrete Block

Roof Cover Built Up
Roof Structure Rigid Frame
Interior Flooring Carpet
Interior Wall Minimum
Heating Type Air Duct
Air Conditioning Central
Bedrooms
Baths

Description Square Footage
ENCLOSED FRAMED PORCH 48
BASE AREA 2021
Total SqFt 2069

Building 6
Year Built 1922
Actual Area 2945
Conditioned Area 2685
Use Tourist Attraction
Style 04
Class N
Exterior Wall Stone

Roof Cover Built Up, Cement Fiber Shingle
Roof Structure Wood Truss
Interior Flooring Concrete Finish
Interior Wall Minimum
Heating Type None
Air Conditioning None
Bedrooms
Baths

Description Square Footage
CANOPY (COMMERCIAL) 260

BASE AREA	2685
Total SqFt	2945

Building	7	Roof Cover	Modular Metal
Year Built	1980	Roof Structure	Wood Truss
Actual Area	1358	Interior Flooring	Hardwood
Conditioned Area	1232	Interior Wall	Minimum
Use	Tourist Attraction	Heating Type	Air Duct
Style	04	Air Conditioning	Central
Class	N	Bedrooms	
Exterior Wall	Concrete Stucco	Baths	

Description	Square Footage
ENCLOSED FRAMED PORCH	126
BASE AREA	1232
Total SqFt	1358

Building	8	Roof Cover	Modular Metal
Year Built	2013	Roof Structure	Wood Truss
Actual Area	742	Interior Flooring	Concrete Finish
Conditioned Area	360	Interior Wall	Drywall
Use	Snack Bars	Heating Type	Air Duct
Style	04	Air Conditioning	Central
Class	N	Bedrooms	
Exterior Wall	Stucco, Wood	Baths	

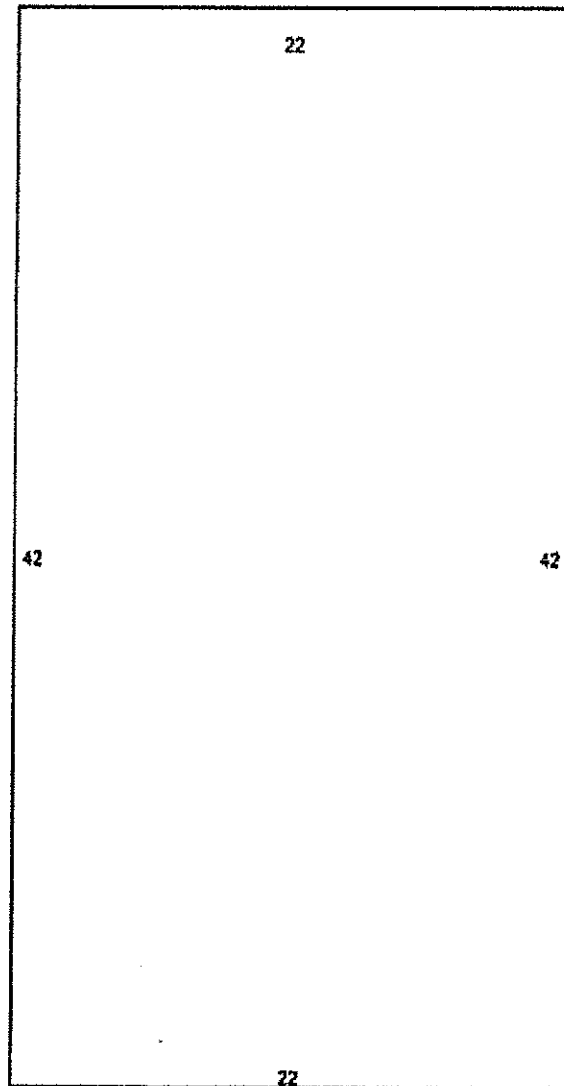
Description	Square Footage
CANOPY (COMMERCIAL)	382
BASE AREA	360
Total SqFt	742

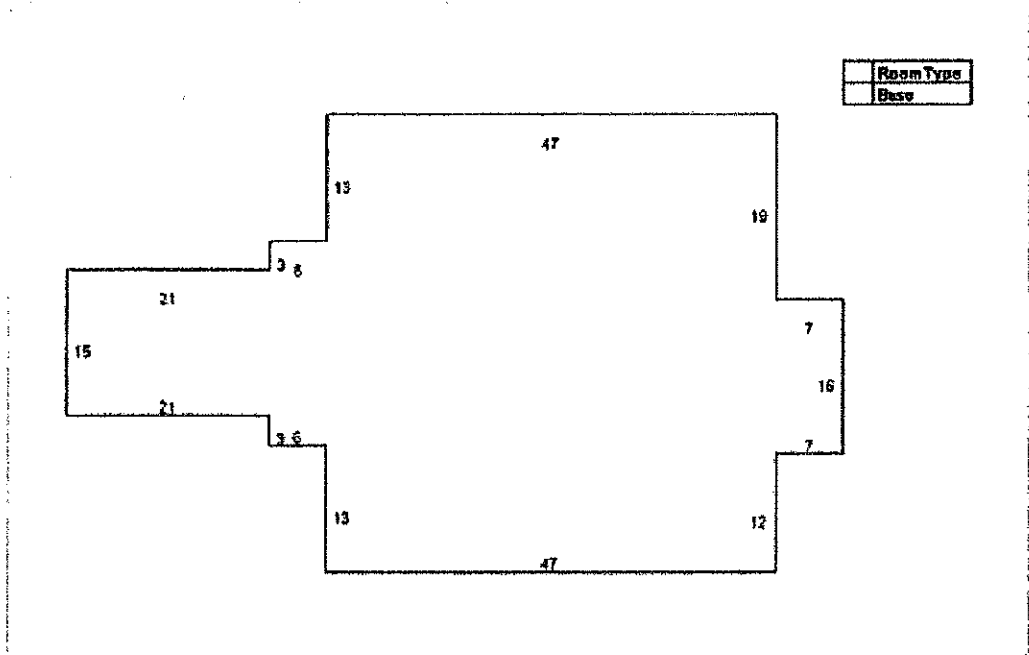
Building	9	Roof Cover	Metal
Year Built	2013	Roof Structure	Wood Truss
Actual Area	3668	Interior Flooring	Concrete Finish
Conditioned Area	468	Interior Wall	Minimum
Use	Cultural Organizations & Facilities	Heating Type	None
Style	04	Air Conditioning	N/A
Class	N	Bedrooms	
Exterior Wall	Concrete Stucco	Baths	

Description	Square Footage
OUTSIDE STAIRS	50
FINISHED DECK	888
BASE AREA	468
CANOPY (COMMERCIAL)	2262
Total SqFt	3668

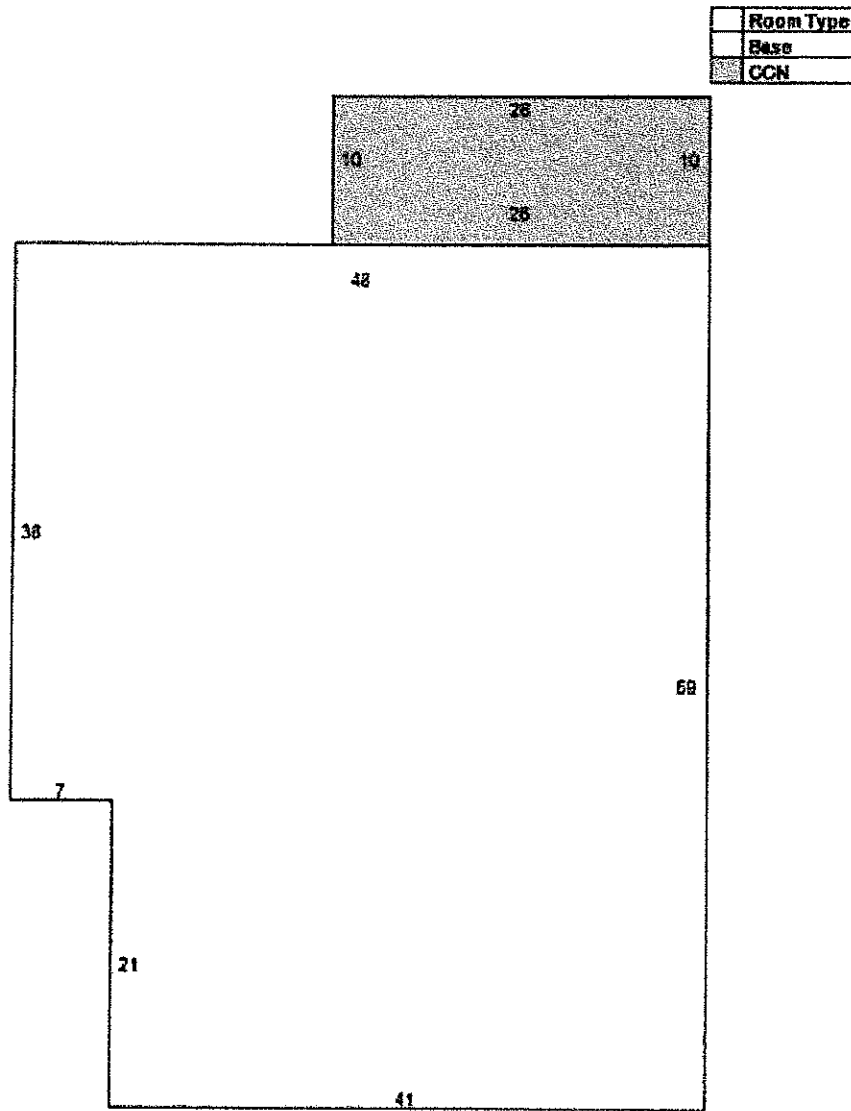
Sketch Information

Room Type
Base

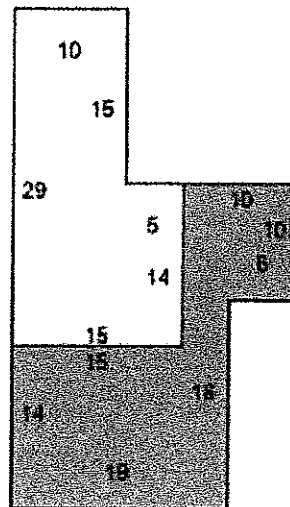


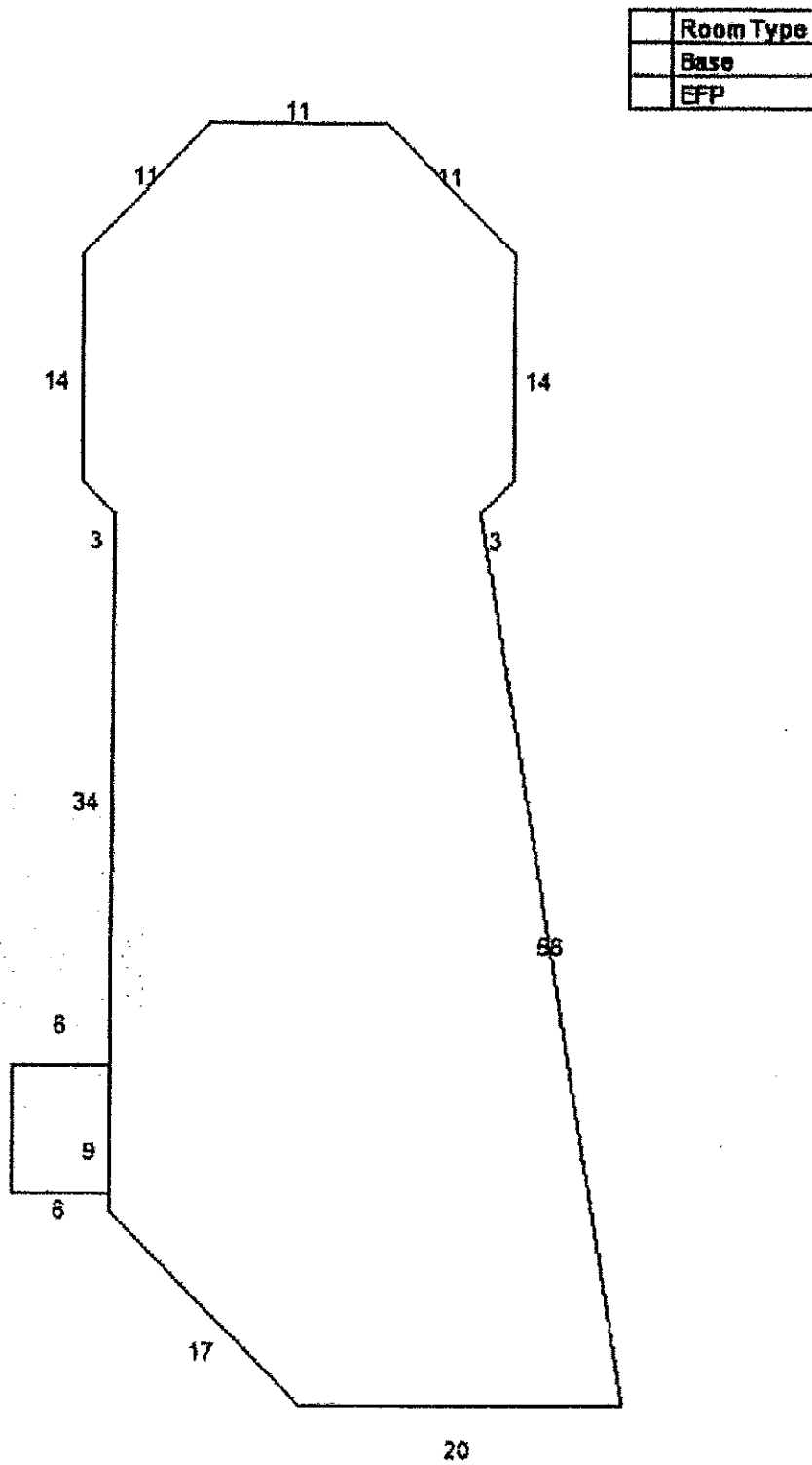


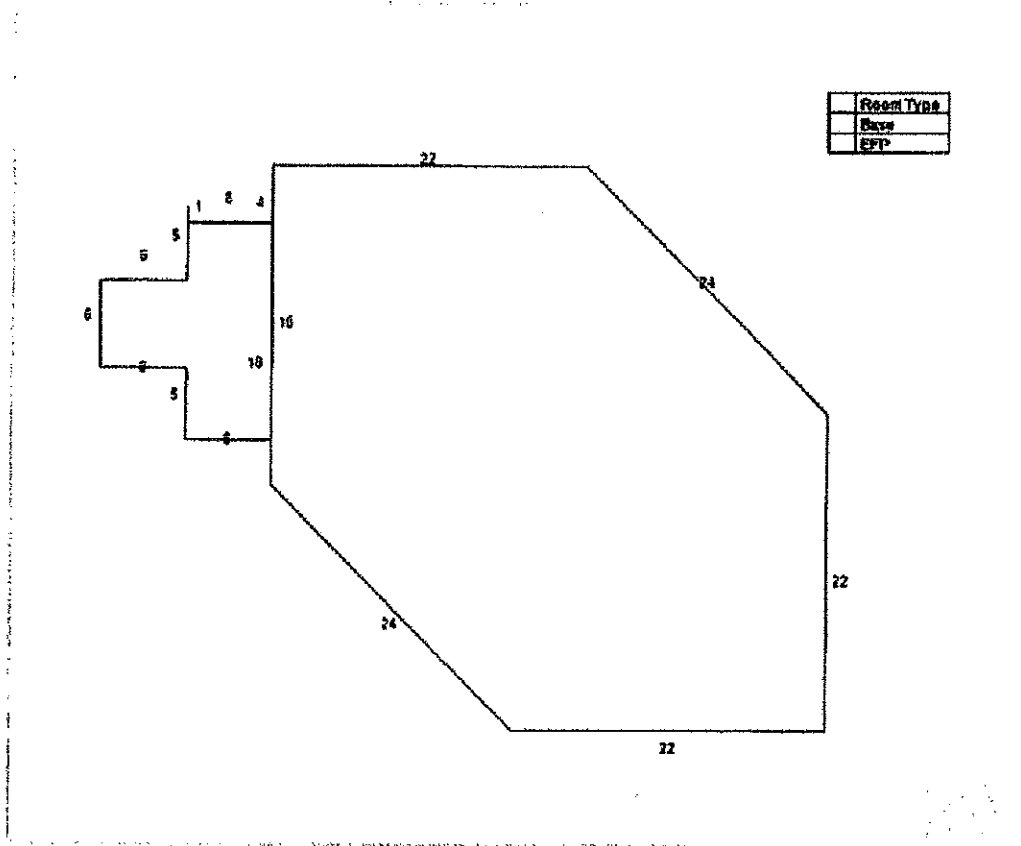
	Room Type
	CON
	Base

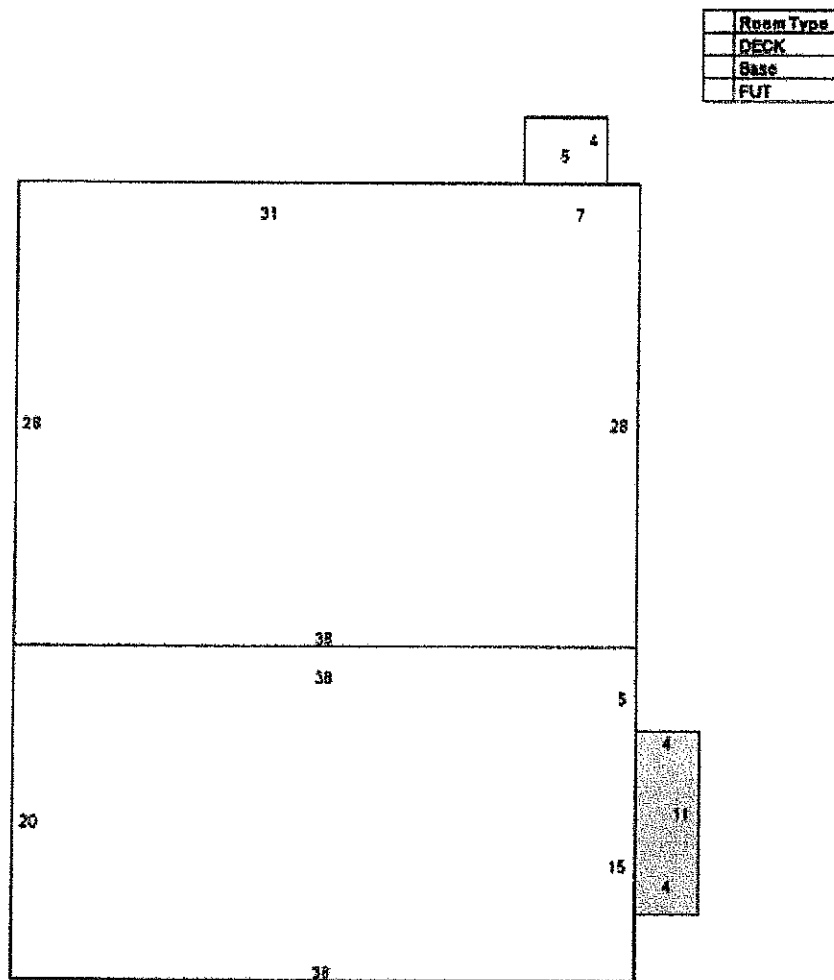


	Room Type
	Base
	CCN

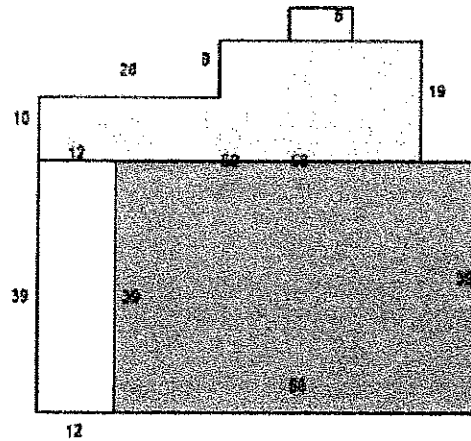








Room Type
CCN
Base
DECK
OST



Extra Feature Information

Code Description	Status	Value
Bulkhead - Average (Mix)		44352
Masonry Wall (Mix)		10496
Garage - Average (Mix)		9282
Restroom - Average (COM)		1500
Canopy (Mix)		1011
Canopy (Mix)		893
Gazebo - Average (Mix)		1000
Storage Building (Mix)		2678
Pool House (Mix)		1764
Canopy (Mix)		1075
Asphalt Paving (COM)		9186
Concrete Paving - Under 8" (COM)		9112
Wood Fence - 6' and Above (COM)		1325
Wood Fence - Under 6' (COM)		591
Deck (COM)		128
Fountain - Average (Mix)		1000
Steel Door (COM)		108
Steel Door (COM)		360
Restroom - Excellent (COM)		4004
Handicap Ramp (COM)		427
Wood Fence - 6' and Above (COM)		1704
Boat Deck - Average (Mix)		51738
Canopy (Mix)		1852
Wood Fence - 6' and Above (COM)		239
Handicap Ramp (COM)		6270
Storage Building (Mix)		11813
Storage Building (Mix)		42656
Steel Door (COM)		1400
Steel Door (COM)		6860
Handicap Ramp (COM)		1394
Concrete Paving - Under 8" (COM)		240

Land Information

Use Description	Front	Depth	Total Land Units	Unit Type	Land Value
Tourist Attractions	0	0	522720	SF	\$1,045,440
Marshes & Tidal Lands	0	0	2	AC	\$500

No data available for the following modules: Sales Questionnaire Form, Exemption Information, Sale Information.

For more information, please contact the St. Johns County GIS Department at (407) 291-1234 or visit our website at www.stjohnscountyfl.gov/gis.

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[GDPR Privacy Notice](#)

Last Data Upload: 11/16/2022, 1:41:29 AM



11/16/2022 3:37 PM

Jacob Fredriksson

From: Ryan Carter <ryan@carterenv.com>
Sent: Tuesday, January 17, 2023 11:20 AM
To: Jacob Fredriksson
Cc: Michael Carpenter; STEVEN & ELIZABETH BINNINGER
Subject: RE: PZB App 2022-0094 FOY dock email RAI Response

Hey Jacob,

The additional four boat lifts plan to be used by the family who owns the Fountain of Youth (FOY) for their personal boats. Hope that helps. Thanks.

Sincerely,
Ryan
904-540-1786

From: Jacob Fredriksson <jfredriksson@citystaug.com>
Sent: Tuesday, January 17, 2023 9:44 AM
To: Ryan Carter <ryan@carterenv.com>
Subject: Planning and Zoning Board Application 2022-0094

Good morning,

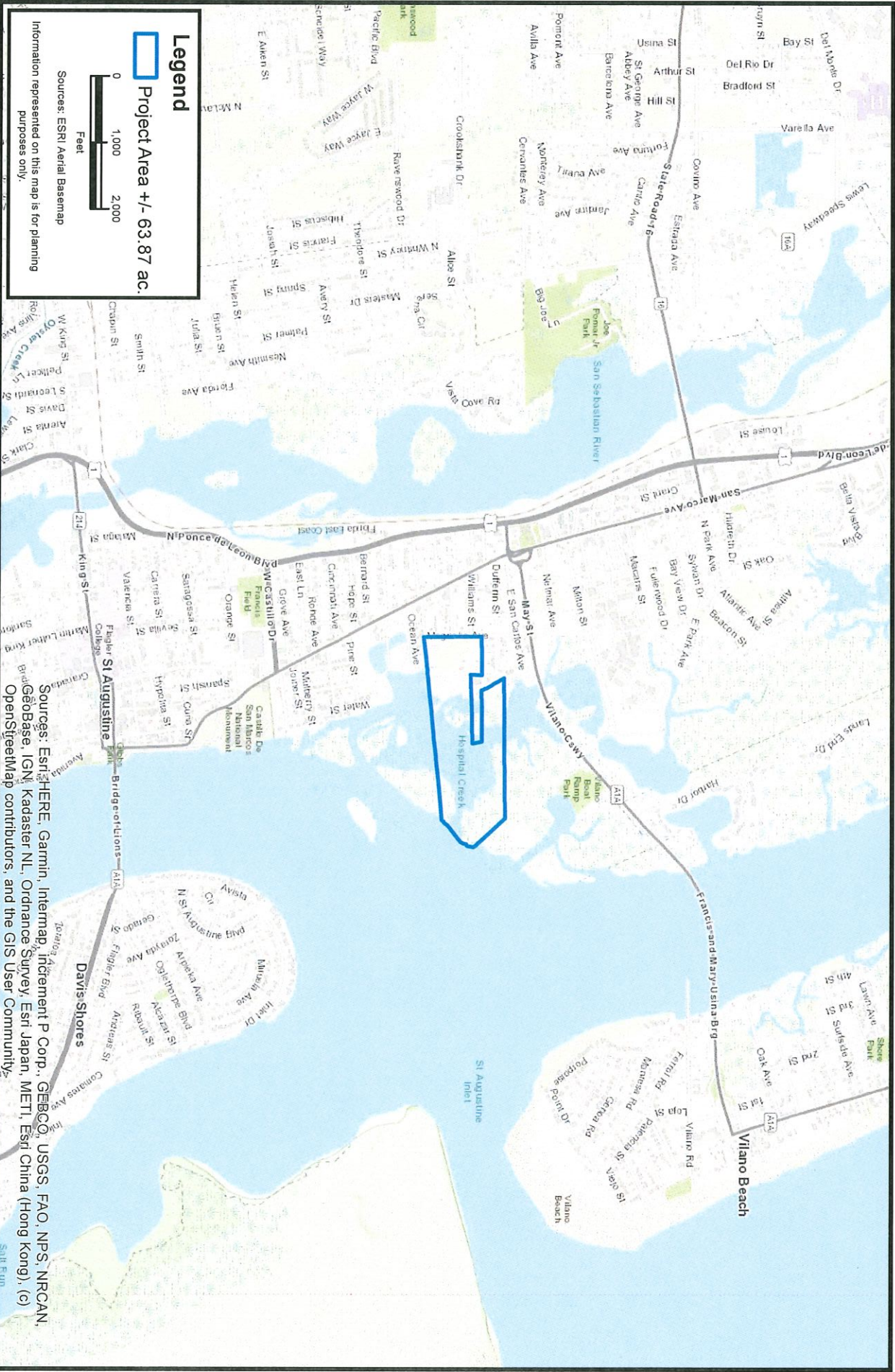
This is a request for additional information regarding the upcoming Planning and Zoning Board application at 11 Magnolia Avenue, specifically the nature of how the proposed dock with boat lifts will be used. Thank you for your time.

Jacob Fredriksson
Senior Planner
City of St. Augustine | Planning and Building Department
P.O. Box 210 | St. Augustine, FL 32085
Office: 75 King Street, Lobby B | Phone: 904.209.4331
Email: jfredriksson@citystaug.com
Web: www.CityStAug.com



ST AUGUSTINE





CARTER ENVIRONMENTAL SERVICES, INC.

CES
42 Masters Drive
St. Augustine, FL 32084
904-540-1786
www.carterenv.com

Location Map

Fountain of Youth Dock Modification

Project: 5.22483

St. Augustine, FL

Date: Nov 23 2022

Figure:

1

Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Esri, GEBCO, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community





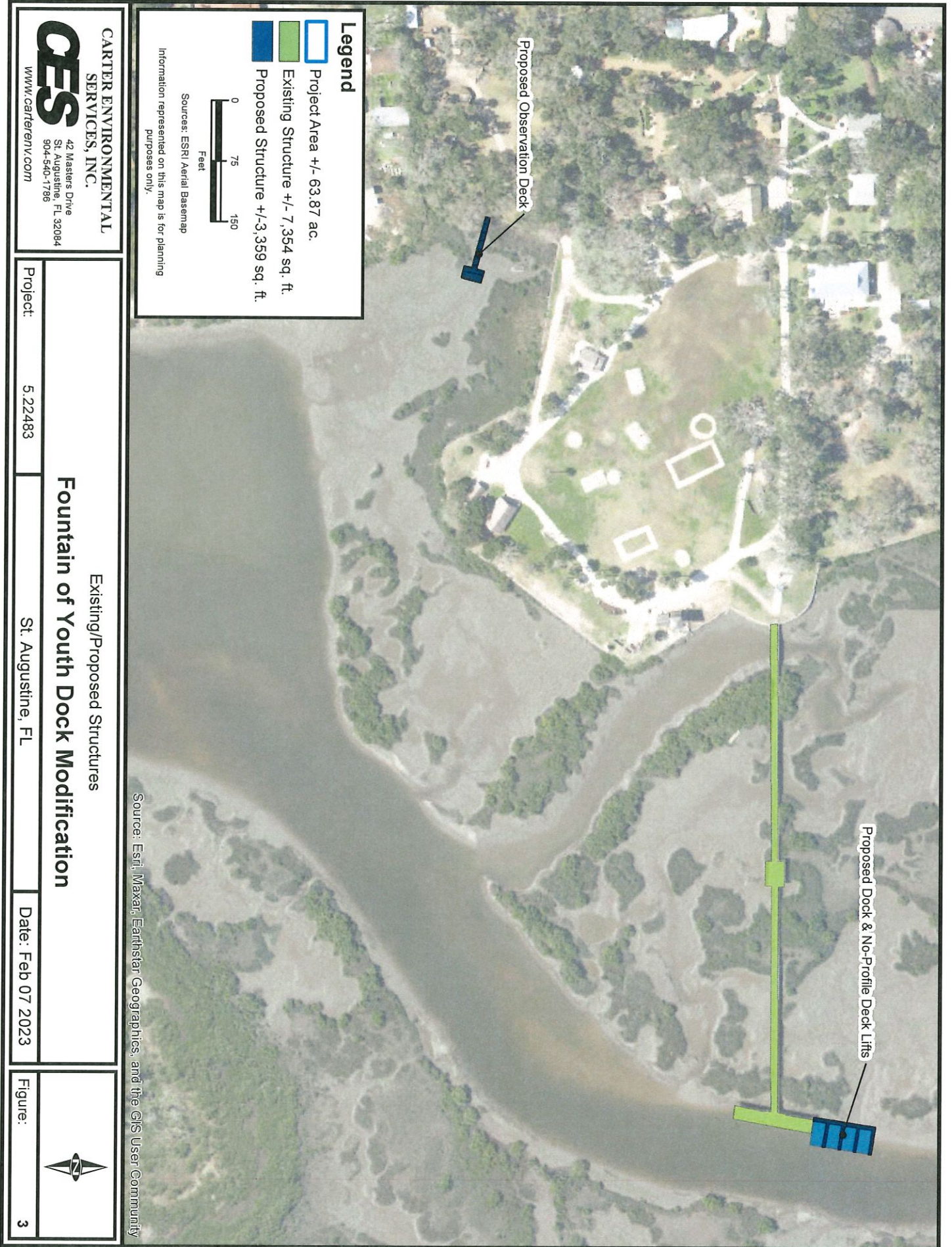
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Current Aerial

Fountain of Youth Dock Modification

Project: 5.22483 St. Augustine, FL Date: Nov 23 2022

Figure: 2

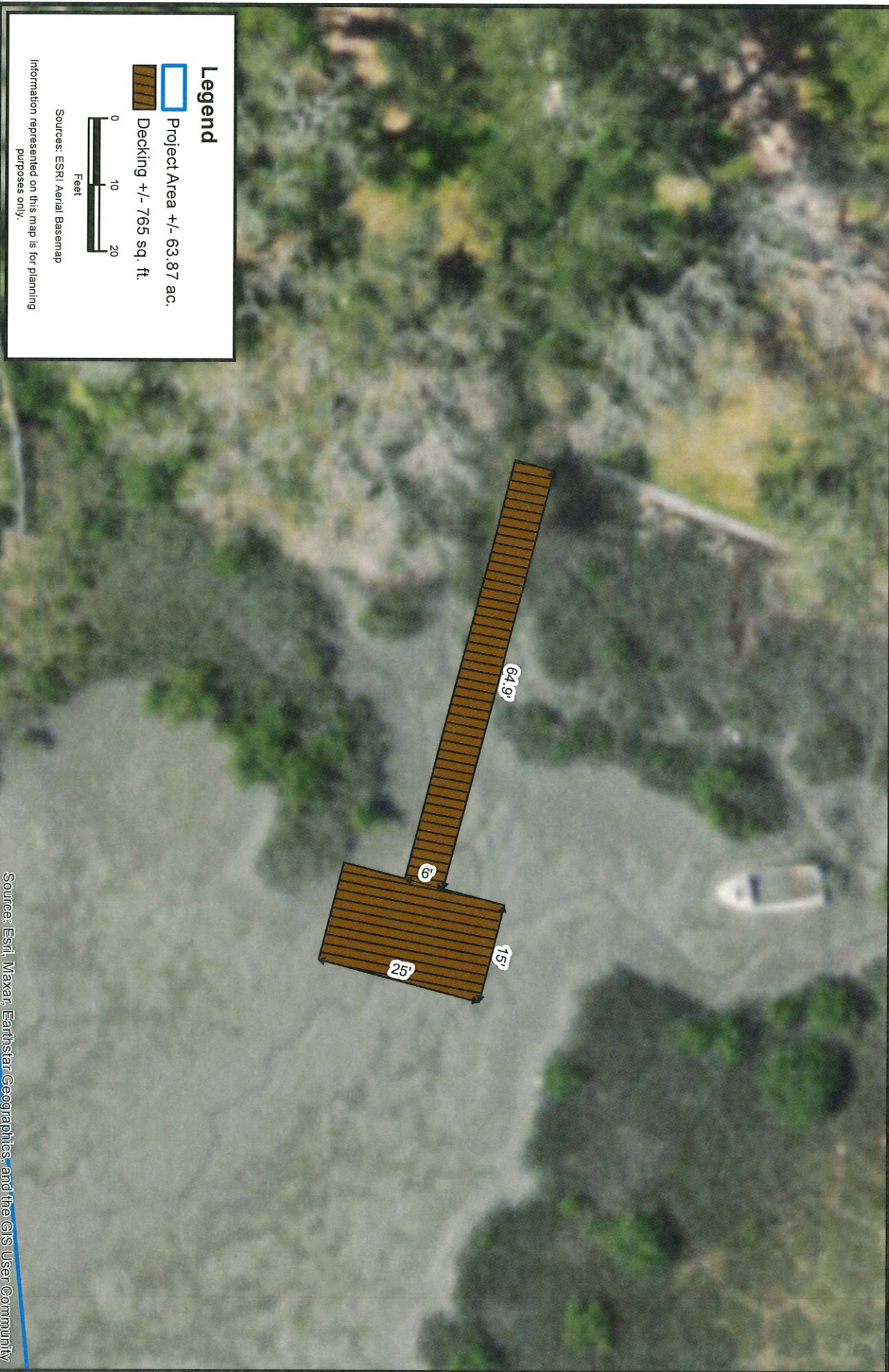




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Project: 5.22483
St. Augustine, FL
Date: Feb 07 2023

Figure:
4a



Legend

Project Area +/- 63.87 ac.

Decking +/- 765 sq. ft.



Sources: ESRI Aerial Basemap

Information represented on this map is for planning purposes only.

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

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42 Masters Drive
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904-540-1786

Proposed Observation Deck Dimensions

Fountain of Youth Dock Modification

Project:

5.22483

St. Augustine, FL

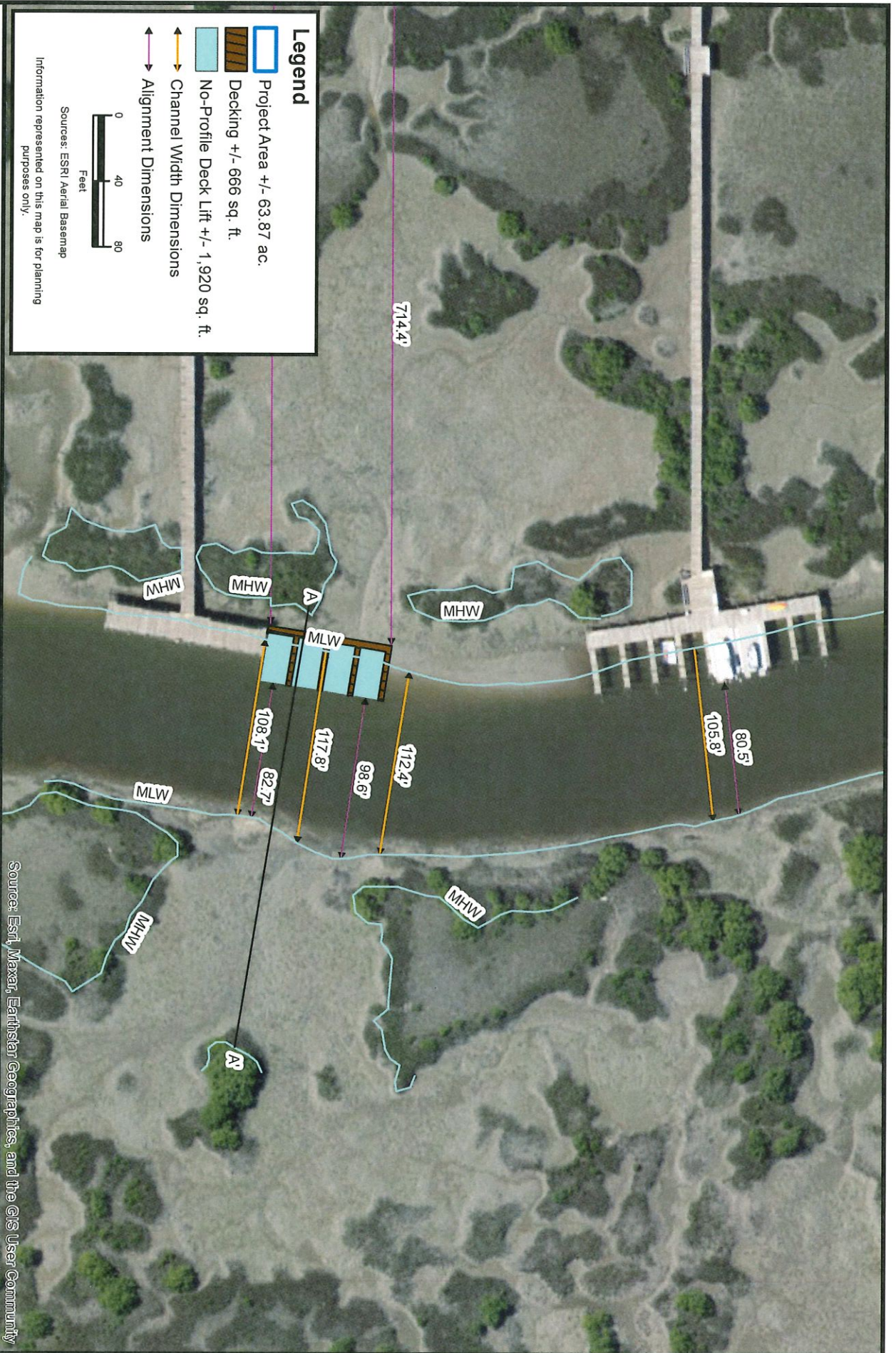
Date: Nov 23 2022

Figure:

4b







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Proposed Dock & No-Profile Deck Lift Alignment
Fountain of Youth Dock Modification

Project: 5.22483

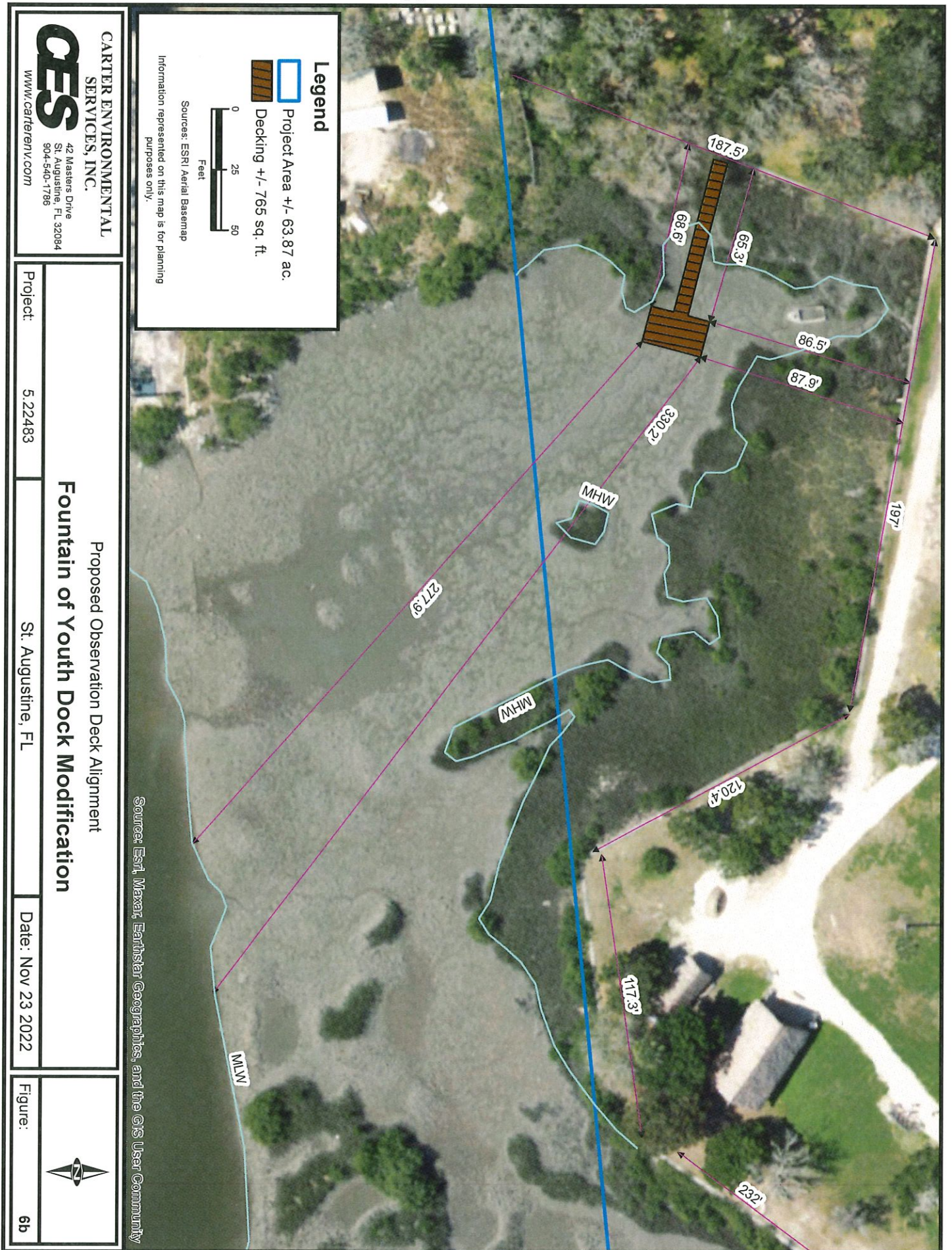
St. Augustine, FL

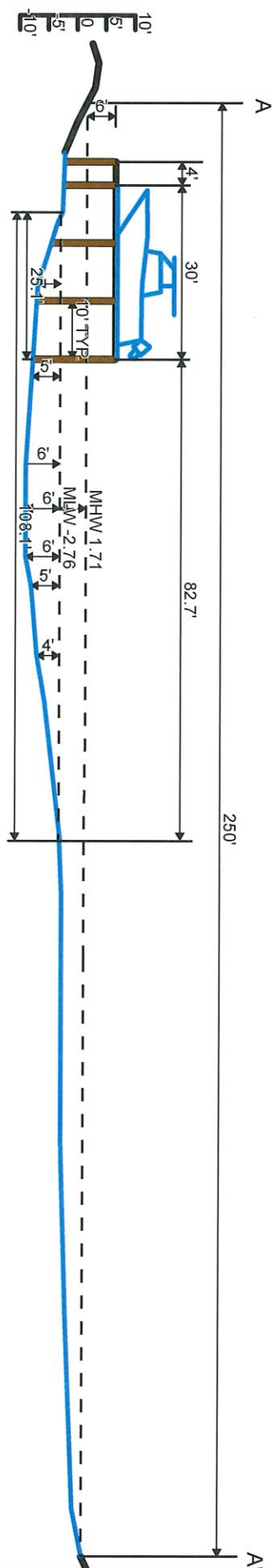
Date: Feb 07 2023

Figure:

6a







**CARTER ENVIRONMENTAL
SERVICES, INC.**

DES

ES
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Proposed Dock Profile View

Fountain of Youth Dock Modification

Proposed Dock Profile View

Project:

5.22483

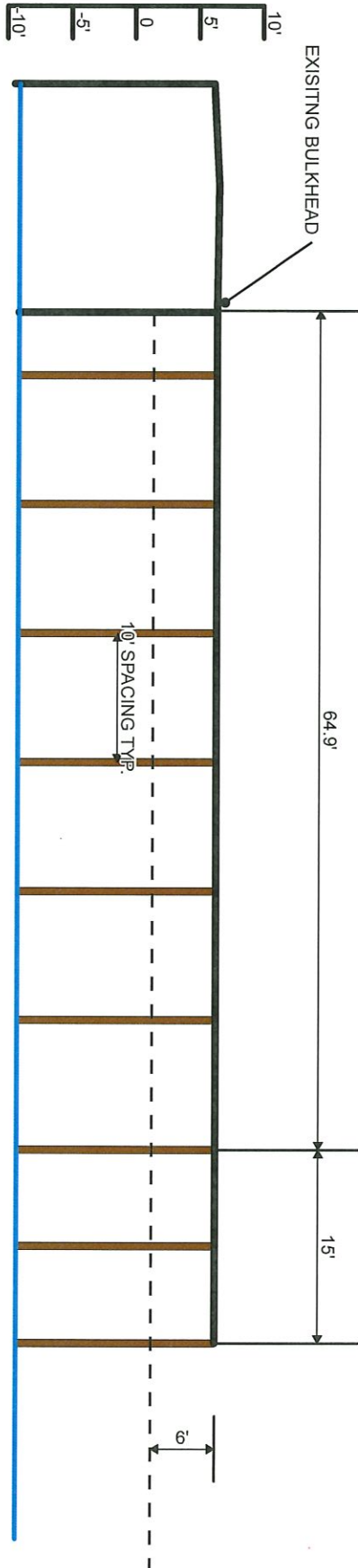
St. Augustine, FL

Date: Feb 07 2023

Figure:



7a



CARTER ENVIRONMENTAL
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Proposed Observation Deck Profile View

Fountain of Youth Dock Modification

Project: 5.22483

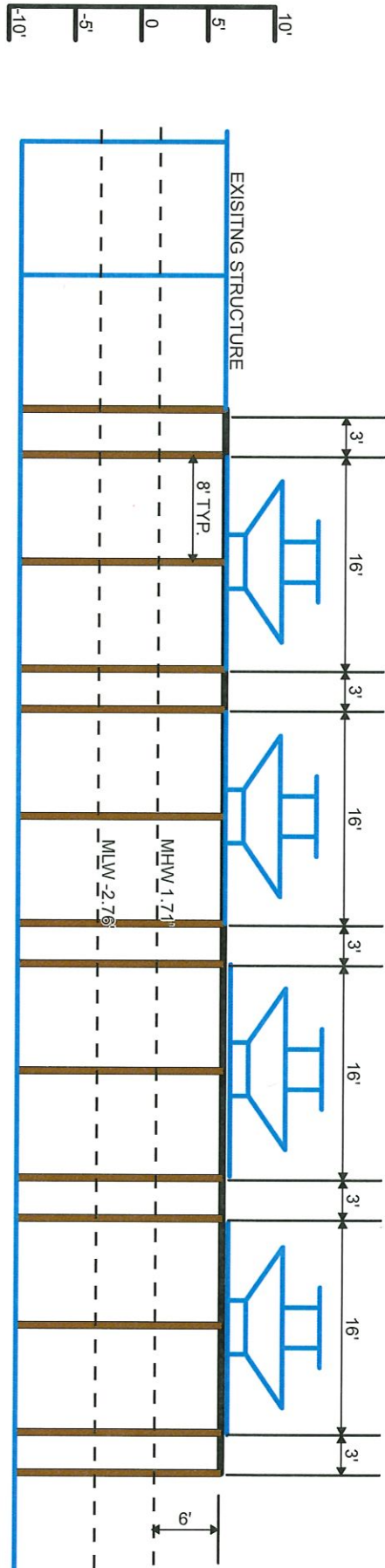
St. Augustine, FL

Date: Feb 07 2023

Figure:

7b





CARTER ENVIRONMENTAL SERVICES, INC.
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904-540-1786
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Project: 5.22483

Proposed Dock Profile View

Fountain of Youth Dock Modification

St. Augustine, FL

Date: Feb 07 2023

Figure: 8a



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CARTER ENVIRONMENTAL
SERVICES, INC.

Project:

5.22483

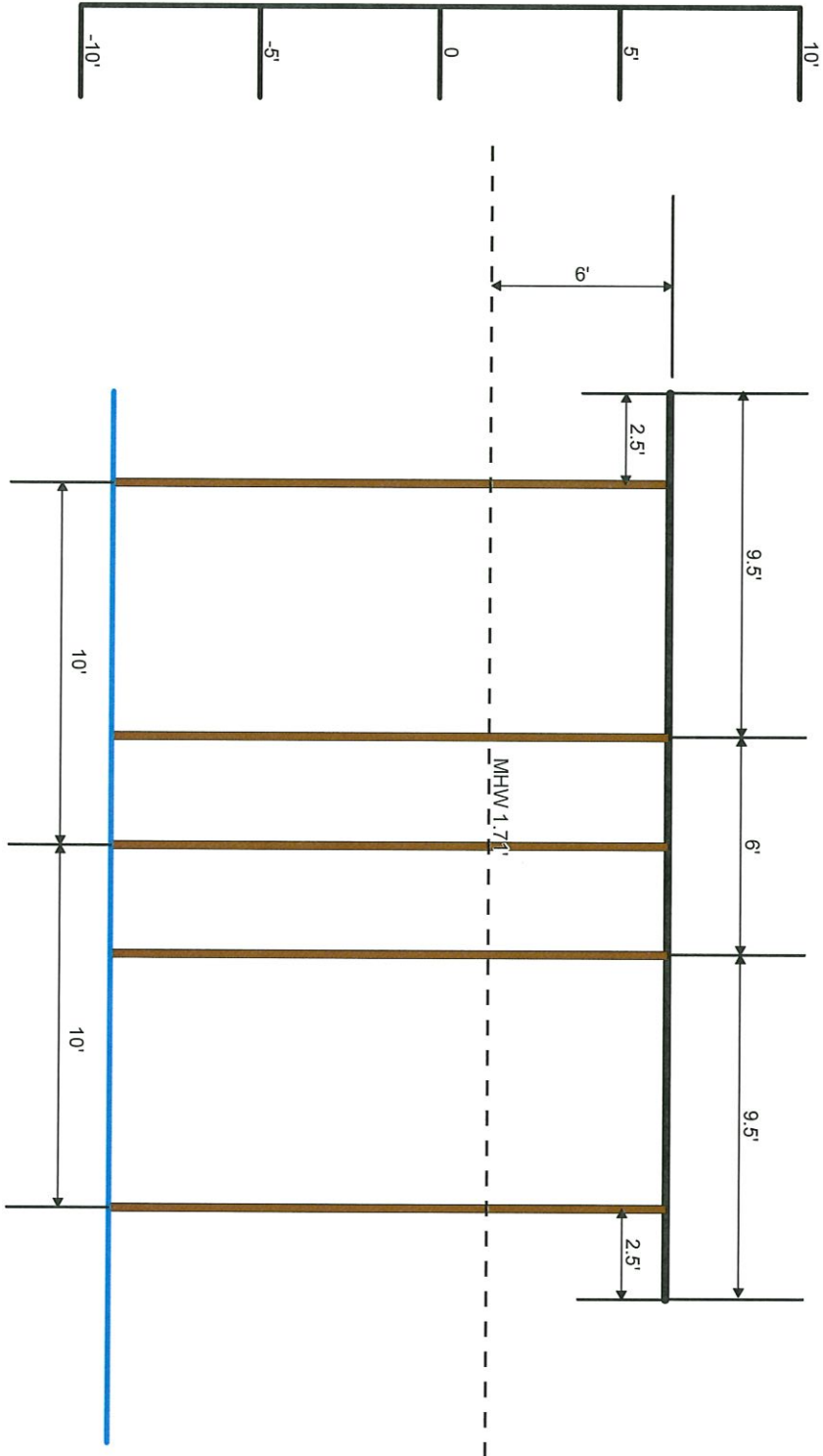
St. Augustine, FL

Date: Feb 07 2023

Proposed Observation Deck Cross-Section View
Fountain of Youth Dock Modification

Figure:

8b



CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim, AICP
City Manager

DATE: February 13, 2024

RE: **Ordinance 2024-04 Amending an Existing Planned Unit Development (PUD)
at 36 Granada Street and 8 De Soto Place - Introduction and First Reading**

The 36 Granada Planned Unit Development (PUD) is a .75-acre parcel located at 36 Granada Street and 8 De Soto Place. This property at 36 Granada Street is the former Corazon Theater and was rezoned to an updated PUD in August of 2022.

On Tuesday, February 6, 2024, the Planning and Zoning Board (PZB) reviewed an amended PUD and recommended the proposed changes to the City Commission. The proposed changes include revised elevations to enclose the outdoor seating area and change the entrance location on the north side of the of the building and reorient a door on the south side of the building to the west elevation.

The applicant articulated that the proposed changes consider moving the entrance away from the driveway and closer to Granada Street and enclosing the open porch seating area to incorporate it into conditioned space.

Please find attached Ordinance 2024-04, legal description, and proposed PUD language and exhibits. Also find attached the packet material that was presented to the Planning and Zoning Board (PZB).

I respectfully request that this item be placed on the February 26, 2024, City Commission Agenda for Introduction and First Reading.

Thank you for your attention to this matter. If you have any questions, please call me at (904) 209-4320 or email at askinner@citystaug.com.



Amy McClure Skinner, AICP
Director
Planning and Building Department

ORDINANCE NO. 2024-04

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING THE ZONING FOR APPROXIMATELY .75 ACRES OF PROPERTY LOCATED AT 36 GRANADA STREET (PID# 203240-0000) AND 8 DE SOTO PLACE (PID# 203230-0000), AS MORE PARTICULARLY DESCRIBED HEREINAFTER, TO AMEND ITS CURRENT PLANNED UNIT DEVELOPMENT (PUD) CLASSIFICATION ADOPTING A NEW PLANNED UNIT DEVELOPMENT (PUD) INCLUDING A REVISED FLOOR PLAN AND ELEVATION DRAWINGS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of St. Augustine, Florida finds that all legal requirements have been met, a public hearing has been held and the Planning and Zoning Board has recommended that parcels of property containing approximately .75 acres located at 36 Granada Street (PID# 203240-0000) and 8 De Soto Place (PID# 203230-0000), in the City of St. Augustine, being more fully described herein, should amend the zoning classifications;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. The following described property, containing approximately .75 acres located at 36 Granada Street (PID# 203240-0000) and 8 De Soto Place (PID# 203230-0000), in the City of St. Augustine, is hereby amended from the existing Planned Unit Development (PUD) classification to a new as amended Planned Unit Development (PUD) including a revised floor plan and elevation drawings, as more fully described in the attached legal description, Exhibit "A".

Section 2. The City Planning and Building Director is hereby authorized and directed to amend the zoning map for the City of St. Augustine, Florida to reflect the zoning classification assigned to the above-described lands.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. If any section, subsection, sentence, clause, phrase or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 5. This ordinance shall be effective ten (10) days after passage, pursuant to s. 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2024.

ATTEST:

Nancy Sikes-Kline, Mayor-Commissioner

Darlene Galambos, City Clerk
(SEAL)

36 Granada Planned Unit Development

City of St. Augustine, Florida

REVISED APRIL, 2022

Team Roster

Owner/Applicants:

36 Granada, LLC
77 Almeria St.
St. Augustine, FL 32084

Architect:

Cronk Duch Architects
124 Diego Island Ct.
St. Augustine, FL 32095
(904) 626-3452

Legal/Authorized Agent for Owners:

Gary B Davenport, P.A.
212 S. Shadowwood Dr.
St. Augustine, Florida 32086
(904) 669-3186

Exhibit List:

Exhibit "A" – Legal Description of the Property
Exhibit "B" - Site Plan and Landscape Plan

36 GRANADA PLANNED UNIT DEVELOPMENT MODIFICATION TEXT

A. Purpose and Intent

The reason for this Modification is to attenuate, as much as possible, the excessive flooding that occurs in St. Augustine, and in particular, along Granada Street. To accomplish this, the existing building will be renovated and the interior floor raised approximately 30". The renovation will be extensive, and will result in a much more resilient building able to withstand the high tide rain events and flooding that would otherwise close the operation of said building, and cause continued construction along Granada and interruptions to the surrounding neighborhoods. The uses and parking requirements will not change.

Pursuant to Section 28-286 of the City of St. Augustine Code (the "**Code**"), the purpose of a planned unity development ("**PUD**") zoning district is to provide an option and process for the provision of unique, individually planned developments that are consistent with the City's Comprehensive Plan and the categories outlined in the Comprehensive Plan, but may allow for more creative, flexible and innovative designs for projects than the regular zoning districts allow. The intent of a PUD is to permit this flexibility from the strict application of traditional zoning district regulations by identifying by identifying each waiver, variance or exception to such regulation and providing an alternative development condition for that specific PUD.

This 36 Granada PUD text includes site-specific regulations to address the development of the Property. The PUD, including all exhibits hereto, complies with all applicable provisions of City Code Chapter 28.

B. Site Information.

1. Location

The property subject to this PUD ordinance is located at 36 Granada Street. The property has St. Johns County Parcel Identification No. 203240-0000 Parcel I and 203230-000 Parcel 2 (together the "**Property**"). A legal description of the Property is attached as **Exhibit "A"**. The Property includes approximately .75 acres: .34 acres for Parcel 1 and .41 acres for Parcel 2, owned by 36 Granada, LLC (**36 Granada LLC**).

2. Owners and Agent

The owner of the Property is 36 Granada, LLC ("**Owner**"). The agent for the Owner is Gary B. Davenport, P.A. (the "**Agent**"). Addresses for the Owner and Agent are in the Team Roaster on Page 2.

3. History, Existing Approvals

The Future Land Use Map (“**FLUM**”) designation of the Property is Commercial Low Intensity for Parcel 1 and Residential Medium for Parcel 2. The Property is zoned PUD. The existing building has been in place in some form since at least 1880 and has had many uses including a theater, restaurant, bar and feed store. The remaining land is currently intended for parking.

4. Summary of Proposed PUD Modification

The Owners are proposing to modify the current PUD for resiliency and flood protection. The interior floor has been raised approximately 30”. Openings on the De Soto side of the building have been modified. All opening on the Granada side of the building have been closed, and the new entrances to the building will be accessed on the north side from an elevated deck. The Granada Street elevations have been modified to maintain the feel and patterns of other City buildings, and to create building resiliency. Three awnings have been added to the Granada side of the building. The three awnings previously planned for the De Soto side have been eliminated. Because the sidewalk along Granada is so narrow, the palm tree planters previously planned have been eliminated to make walking easier. Upon Modification the Property will include a maximum of 7400 square feet of retail/commercial space including all uses allowed within CL1 zoning category in addition to allowing all alcoholic beverages to be served on-site, limited to a SRX liquor license. A standalone bar shall not be permitted. Liquor sales for onsite consumption shall only be permitted in conjunction with a restaurant. Permitted uses including available seating in restaurants will be limited by the available parking onsite in compliance with the City parking Code. Amplified music shall not be permitted. Individual restaurant owners shall be responsible to organizing rideshare programs for their employees to reduce the impact of employee parking on the adjacent neighborhoods. Management of the business or businesses within the PUD shall provide employee incentives to encourage non-vehicular commuting by employees to the site, or rideshare options for the employees This plan for alternative methods of commuting to the site shall be memorialized by each business within the PUD. This plan must be provided to the City upon request for purposes of code enforcement. A bike rack will also be provided for securing employee and patrons’ bicycles. Large group rentals of restaurants, such as weddings, shall not be permitted. Tattoo shops shall not be permitted.

The balance of the site will be limited to parking.

The net change in requesting this Modification will be a much more resilient and flood protected structure, while still maintaining the architectural integrity of the building. The uses allowed and the parking requirements will not change. This PUD Modification continues to allow a larger amount of restaurant seating than CL1 and allowing full alcohol service associated

with a restaurant with food service while limiting large group rentals, tattoo shops, amplified music and prohibiting bars.

A master development plan depicting the locations of the proposed land uses is attached as **Exhibit “B”** (the “**Master Development Plan**”). City staff shall be permitted to approve minor deviations from the Master Development Plan.

The Property includes approximately .75 acres of uplands. There are no wetlands on the Property.

C. Proposed Development (Code Section 28-289 provisions in Bold)

1. Consistency with every relevant goal, policy and objective of the Comprehensive Plan, including but not limited to density and intensity limitations of the Future Land Use Map category for the property.

As set forth in Section B.3 above, the Property has FLUM designation of Commercial Low Density.

City Comprehensive Plan Future Land Use Element (“FLUE”) states that Commercial Low Intensity (LC1) is intended to apply to those areas where small groups of low intensity commercial uses may be appropriately located to serve within convenient traveling distance from one (1) or several neighborhoods. The district is intended for low traffic generating commercial uses including general retail sales, and service-related uses intended to serve local neighborhoods. In addition, professional and business offices, compatible tourist accommodations and similar uses are encouraged. Appropriate uses may include recreation, public and institutional uses, Open Land (Conservation), multi-family, and residential or non-residential mixed uses.

Future land Use Element Objective 4 encourages the use of innovative and sustainable land development practices that maximize the use of existing services and facilities, such as planned unit developments. The 36 Granada project is a single use redevelopment PUD and will connect to existing utilities and other infrastructure, which have capacity to serve the Property. The Property is located on the corner of Granada Street and Desoto Place which are public roads. The project will provide ample parking.

The Transportation Element Goal emphasizes the maintenance of a coordinated multimodal transportation system which provides for the safe, efficient and economical movement of people, goods and services and protects the City’s natural, cultural and historical resources. The project is located in downtown St. Augustine, within walking distance of most destinations. Many customers will either be staying in local hotels or living or working in the

local area. Many of these visitors will either walk or bike to the Property. Ample parking will also be available to the Property.

Transportation Element Objective 1.5 requires the City to identify and pursue strategies to reduce the vehicle miles traveled by establishing locations for compact, mixed-use development, increasing opportunities for job creation proximate to higher density residential, facilitating future opportunities for transit-oriented development and encouraging new developments to be connected by roadway, bikeways and pedestrian systems that encourage travel between neighborhoods and access to transit without requiring use of the major thoroughfare system. The 36 Granada PUD meets most of these objectives by providing redevelopment of an existing building, central to downtown and creating jobs within the area where people live and work. The Property is connected to downtown St. Augustine and Lincolnville by roadways, bikeways and pedestrian systems. The Property is already on trolley and other transit routes.

Recreation and Open Space Element Policy 4.1 requires certain residential developments to provide parks and recreational facilities, based on the number of proposed units. For development of 100 or more units, this parkland or open space must provide at least one (1) active recreational facility and one (1) passive recreational facility per 100 units. The 36 Granada PUD does not include residential development.

The Conservation and Coastal Management Element Goal is to protect and conserve natural areas, environmentally sensitive areas, natural vegetative communities, wildlife habitats, marine resources, federal and state listed species, and other renewable and non-renewable natural resources. The Property does not contain any environmentally sensitive lands, vegetative communities or wildlife habitats.

Conservation and Coastal Management Policy 2.1.1 requires the City to maintain three (3) Conservation Overlay Zones (“COZs”). Conservation Overlay Zone 1 allows passive recreation, wildlife preservation and conservation areas, green space, and fishing piers, boat docks, and other water dependent uses, including boat ramps and marinas. Conservation Overlay Zone 2 allows for all of the uses within Zone 1, as well as specialized, scenic or linear parks and boardwalks, off-street parking areas; and residential development, provided that they are (1) located so as to minimize impacts to Conservation Overlay Zone 1 vistas and scenic areas, and (2) densities are limited to those defined by the underlying Future Land Use Category. Conservation Overlay Zone 3 allows a variety of land uses and development subject to performance standard requirements governed by the City’s Comprehensive Plan, including the underlying Future Land Use Category, and the City’s land development regulations. The 36 Granada project is not subject to the Conservation Overlay zones.

The Infrastructure Element requires the provision of sanitary sewer, potable water and solid waste services to support intended development. The 36 Granada project is already connected to the City’s existing sanitary sewer and potable water systems, and any modification

to such connections will be at the expense of the Owners (in compliance with Capital Improvement Objectives 4 and 5), and the Owners will make improvements to the extent required solely for the project. The project will use water-wise Florida native landscaping and materials, minimizing irrigation and fertilizer. Native landscape species shall be verified by City staff. The project will also utilize City solid waste services. The Stormwater Management Sub-Element requires developments to provide their own stormwater management systems. As an existing facility the project is exempt from this provision.

Capital Improvement Element Objective 6 and Public School Facilities Element Goal 2 require the City to ensure existing deficiencies and future needs are addressed consistent with the adopted level of service standards for public schools. This is not applicable to this project as there is no residential element.

2. For properties currently in the HP-1, HP-2, HP-3 HP-4 and HP-5 districts requesting rezoning to PUD, identification of the specific proposed benefits or enhancements to the property that promote the goals of these historic districts.

Not applicable.

3. The need and justification for a rezoning to PUD or PUD amendment, including identification of each proposed development condition that would otherwise not be allowed under the existing zoning, including, but not limited to, maximum lot coverage, signage, setbacks, allowable zoning uses and uses by exception.

The Owners desire to modify the PUD in order to provide a more resilient and flood protected building in light of the significant redevelopment the building will undergo.

The following development standards shall apply to the Property:

Allowable uses: Allowable uses within the Property shall be a maximum of 7,400 square feet of any of the uses permitted in CL1, with the addition of all alcohol sales (limited to service and consumption on premises in conjunction with a restaurant and a SRX liquor license). A standalone bar, tattoo shop and amplified music are not permitted. The locations of the proposed uses are depicted on the Master Development Plan,

Exhibit "B". Parking shall comply with City Parking Code provisions.

a. Setbacks: The minimum building setbacks are as follows:

1. A minimum of zero (0) feet from each property line along Granada Street and Desoto Place. (existing setback)
2. The north side and rear (west) setbacks shall be ten (10) feet from the building to the adjacent property line. The parking in the rear of the building shall not require a setback or landscaping buffer as it is adjacent to the main parking.

b. Maximum building height: Buildings shall not exceed 35 feet in height.

c. Minimum lot size: None

- d. Maximum lot width: None
- e. Maximum lot coverage: 75 percent for the Parcel 1 Property (existing)
- f. Parking: Parking will be provided onsite and will meet the requirements of the City's 2020 Land Development Regulations.

Parking among the various uses within the PUD will be shared. Parking is shown on the attached conceptual site plan. Primary access to parking shall be off Granada.

Parking will be provided in the existing surface lots on the Property. Uses in project include coffee shop, bakery and restaurants. Those uses have parking requirements that vary depending on time of day and day of week.

Signage: Project signage will be categorized as Commercial Zone 1, the requirements for which are set forth in Section 3-66(c) of the Code. Notwithstanding, the Owner shall paint the historic sign shown on the attached elevations on one side of the building, which shall not be counted against the maximum number of square feet of signage permitted under the Code, because it is for historical and decorative purposes and does not advertise any business located in the building. The size, location and scope of this historic sign is shown on the attached elevations.

- g. Roads: No internal roads are being provided in the PUD.
- h. Sidewalks: No internal sidewalks are being provided in the PUD.
- i. Stormwater: Parcel 1 of the project is exempt from stormwater requirements as an existing facility with no additional impervious surfaces proposed. Parcel 2 will comply with City Code regarding stormwater requirements.
- j. Lighting: Project lighting shall comply with applicable Code provisions.
- k. Accessory Uses: Project accessory uses shall comply with applicable Code provisions.
- l. Temporary Uses. Project temporary uses shall comply with applicable Code provisions. Temporary offices and construction trailers shall be allowed on Property during construction of any building and may be moved throughout the site if necessary but shall be removed within 30 days of issuance of a final Certificate of Occupancy by the City for the final building within the Property. Parking may be provided for the temporary offices and trailers in a temporary defined, but unpaved,

area which meets applicable Code provision.

- m. Utilities: Project will utilize existing utility connections to the extent permitted.
- n. Landscaping: A landscape plan is attached as a party of **Exhibit "B"**.
- o. Tree Mitigation: Project tree removal and replacement will comply with applicable provisions of Code Chapter 25, Article III.
- p. Conservation Overlay Zone Development: None of the Property is within the Conservation Overlay Zone.

4. Compliance with the purpose and intent and criteria in Code Section 28-286

The 36 Granada PUD complies with Code Section 28-286 by:

- a. Promoting more efficient and economic use of land by offering redevelopment of an infill site with an existing building that is progressively deteriorating.
- b. Encouraging a more compatible and harmonious development of contiguous lands by creating uses that will enhance the sense of community;
- c. Providing flexibility to meet changing needs, technologies, economics and consumer preferences in the Master Development Plan and this text;
- d. Providing a process to assess a development's impact on the proposed site, the surrounding neighborhoods or areas, and the city as a whole;
- e. Demonstrating the coordinating of architectural styles, building forms, and building relationships within a planned development, as well as, the planned development's relationship with the existing and preferred architectural context surrounding the project;
- f. Providing an environment of consistent character compatible with the surrounding areas; and
- g. Permitting specific limitations and requirements in excess of those included in other zoning districts, based on the unique characteristics of the individual site, where necessary to the public health, safety or welfare, or for the protection or preservation of lands, neighborhoods or areas of the city deemed unique or historic

based on the proposed location of the planned development.

5. Compliance with Code Section 28-288 and justification for any zoning uses.

As stated in Section C. hereof, the allowable uses within the Property shall be a maximum of 7400 square feet of retail/commercial space including all uses allowed with CL1 zoning category in addition to allowing all alcoholic beverages to be served on-site and seating in compliance the City Land Development Regulations for all restaurants on the Property (combined). A master development plan depicting the locations of the proposed land uses is attached as **Exhibit "B", Master Development Plan**. The proposed uses are permitted in the FLUM designation for the Property.

Development standards for the Property are set forth in Section C.3 hereof. These standards will mitigate for any negative impacts of the development on surrounding lands.

Benefits to the community from the 36 Granada project include:

- a. Improvements to the streetscape of Granada Street and DeSoto Place, and more attractive elevations on the north and west side of the building, while providing on site parking for patrons. See **Exhibit "B"** for a proposed plan for the improvement.
- b. Providing a redevelopment infill project of a deteriorating facility,
- c. Planting of Florida native landscaping and materials that minimize irrigation and fertilizer,
- d. Implementation of incentive based ride share program for employees to minimize auto traffic through adjoining neighborhoods,
- e. Use of pervious pavers for new parking areas,
- f. Eliminating one existing curb cut for better neighborhood walkability and installation of bicycle racks to encourage non car transportation,
- g. Utilizing existing infrastructure, at no cost to the City,
- h. Increasing the number of jobs available to City residents, thus allowing them to work locally, even within walking and biking distance from their homes.

6. The phasing of the PUD or PUD amendment, including all sub-phases; each Phase addressing the types of approval required or obtained (i.e.: entry corridor, HARB, building plan, landscaping, etc.) and the proposed commencement and completion of such development according to the plans approved by such ordinance or other related permit.

The 36 Granada project will be developed in one (1), three-year phase. Construction shall commence within one (1) year of the City Commission's adoption of this PUD Modification ordinance and shall be completed within two (2) consecutive years of commencement. For purposes of this PUD, "commencement" shall be defined as the City's approval of building permits, and "completion" shall be defined as the City's approval of a certificate of occupancy.

7. Identification of the legally responsible entity or entities for continuing operations and maintenance to such areas, functions and facilities as are not to be provided, operated or maintained by the city pursuant to written agreement.

The Owners will record one or more access and utility easement and maintenance agreements against title to their respective lands to ensure for the continuing operation and maintenance of project infrastructure.

8. A termination date after which the PZB shall be required to evaluate whether all or part of the PUD has been abandoned by failure to timely commence and complete development of all or part of the phases of the PUD is identified pursuant to subsection (6) or other circumstances have contributed to the development delay, if so, one (1) year extension(s) may be granted by the PZB at an advertised public hearing, after two (2) such extensions if no activity has been initiated the city commission shall deem the PUD abandoned which shall act as a reversion of the zoning to its pre-PUD zoning district for the areas not in compliance with the phasing schedule.

If not timely commenced and completed pursuant to Section above, this PUD shall terminate 3 years from its adoption by the City Commission unless otherwise extended or amended pursuant to the Code or Florida law.

9. If a reversion to pre-PUD zoning district pursuant to subsection (8) would otherwise be inconsistent with the Comprehensive Plan in effect at the time of the reversion, said reversion shall not become effective unless a Comprehensive Plan amendment is duly adopted.

The proposed PUD is consistent with the underlying future land use designation of the Property.

10. An infrastructure impact analysis or equivalent impact analysis to clearly outline the project's potential impact on transportation networks, circulation patterns, and infrastructure of the city.

The proposed PUD will not significantly impact public facilities. By redevelopment of an existing building the proposed uses will maintain existing connections to city infrastructure and will not affect circulation patterns or transportation networks. Therefore an impact analysis is not required for this project.

11. A signed statement voluntarily acknowledging and binding the applicant(s), property owner(s), and each of their successors in title, to every commitment made in their application and at hearing relating to the rights, terms, conditions and limitations of the PUD text narrative and final site development plan, including but not limited to the phasing, termination and reversion clauses.

See Section F hereof.

D. Performance Standards (Code Section 28-291).

The Performance Standards of Code Section 28-291 only apply to residential and mixed use developments. The 36 Granada PUD does not include residential development.

E. Performance Standards (Code Section 28-292).

Standards and criteria for redevelopment and infill PUD developments.

1. General development patterns. The proposed PUD will maintain the existing building while enhancing the streetscape and architectural appeal of the building. In doing so it shall respect the existing development patterns and provide for compatibility within the existing area. The architectural and landscape enhancements will contribute significantly to the area and increase the value of the surrounding area.
2. Contributions to existing community. The proposed PUD will demonstrate consideration for the existing neighborhoods and street patterns by not changing or impacting either. The building shall remain substantially as it has for over 100 years, but with aesthetic and architectural improvements. Parking, via a driveway off of Granada Street will be provided on the north side of the building to limit impact on pedestrian access and remain consistent with other commercial uses along Granada Street. The PUD will be consistent with the character and history of this area. The uses proposed will be designed to create a unique sense of place with appropriate design, massing, screening and architectural techniques as demonstrated on the attached renderings.
3. Redevelopment and infill projects. The existing building, while old, is structurally sound and does not warrant demolition. Significant exterior improvements will be made, primarily for aesthetic purposes. Further, significant interior improvements will be made to maximize use and aesthetic value and to bring the existing facility up to

current code and health standards. Detailed drawings of the existing and new streetscape are attached. By placing the parking in the rear off of Granada Street, impacts to the pedestrian nature of Granada Street will be minimized. The site is already cleared and tree removal is not required.

F. Ownership Agreement

The Owners, on behalf of themselves and their successors and assigns, hereby agree and stipulate to proceed with the proposed development in accordance with the PUD ordinance for this application as adopted by the City of St. Augustine City Commission. The Owners also agree to comply with all conditions and safeguards established by the City of St. Augustine City Commission with respect to this Planned Unit Development application.

36 Granada LLC,
a Florida limited liability company

By: 
Name: Jesse Killebrew
Title: Manager
Date: 8/17/22

Exhibit "A"

Legal Description of the Property

EXHIBIT "A"

Parcel 1

LEGAL DESCRIPTION

BEGIN AT A POINT ON THE NORTH LINE OF DESOTA PLACE, 135 FEET WEST OF THE WEST LINE OF GRANADA STREET, SAID POINT OF BEGINNING BEING THE SOUTHWEST CORNER OF PROPERTY NOW OF PARRISH; THENCE WEST ALONG THE NORTH LINE OF DESOTA PLACE, 150 FEET TO THE SOUTHEAST CORNER OF PROPERTY OF A.H. RAMOS; RUN THENCE NORTHERLY ALONG RAMOS' EAST LINE 125.66 FEET TO A FENCE LINE; RUN THENCE EASTERLY ALONG SAID FENCE LINE 149.50 FEET TO LAND OF DOYLE; RUN THENCE SOUTHERLY ALONG THE WEST LINE OF DOYLE AND PARRISH, 124.7 FEET TO THE POINT OF BEGINNING, ACCORDING TO SURVEY OF VASA E. STOLBRAND, DATED FEBRUARY 3, 1956, BEING A PORTION OF BLOCK 46J, CITY OF ST. AUGUSTINE.

LESS AND EXCEPT PROPERTY DESCRIBED IN DEED BOOK 245, PAGE 76.

SAID PROPERTY ALSO DESCRIBED IN A SURVEY BY ELWOOD L. RENN, R.L.S. 3647 DATED JULY 18, 2007 AS FOLLOWS:

BEING ALL OF LOT 7 AND A PORTION OF LOT 8 BLOCK 46-J, CITY OF ST. AUGUSTINE, FLORIDA RECORDED IN THE OFFICIAL RECORDS IN THE CLERK OF THE CIRCUIT COURT OFFICE OF ST. JOHNS COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT A POINT ON THE NORTH LINE OF DESOTA PLACE, 142.00 FEET WEST OF THE WEST LINE OF GRANADA STREET, SAID POINT BEING THE SOUTHEAST CORNER OF THE FOLLOWING DESCRIBED PARCEL OF LAND AND THE POINT OF BEGINNING; THENCE RUN NORTH 88 DEGREES 50 MINUTES 45 SECONDS WEST 143.00 FEET TO THE SOUTHWEST CORNER OF DESCRIBED PARCEL; THENCE RUN NORTH 00 DEGREES 23 MINUTES 20 SECONDS EAST 127.27 FEET, TO THE NORTHWEST CORNER OF DESCRIBED PARCEL; THENCE SOUTH 87 DEGREES 50 MINUTES 54 SECONDS EAST 142.50 FEET TO THE NORTHEAST CORNER OF DESCRIBED PARCEL; THENCE SOUTH 00 DEGREES 07 MINUTES 40 SECONDS WEST 124.80 FEET TO THE POINT OF BEGINNING.

EXHIBIT "A"

Parcel 2

The land referred to herein below is situated in the County of St. Johns, State of FL, and described as follows:

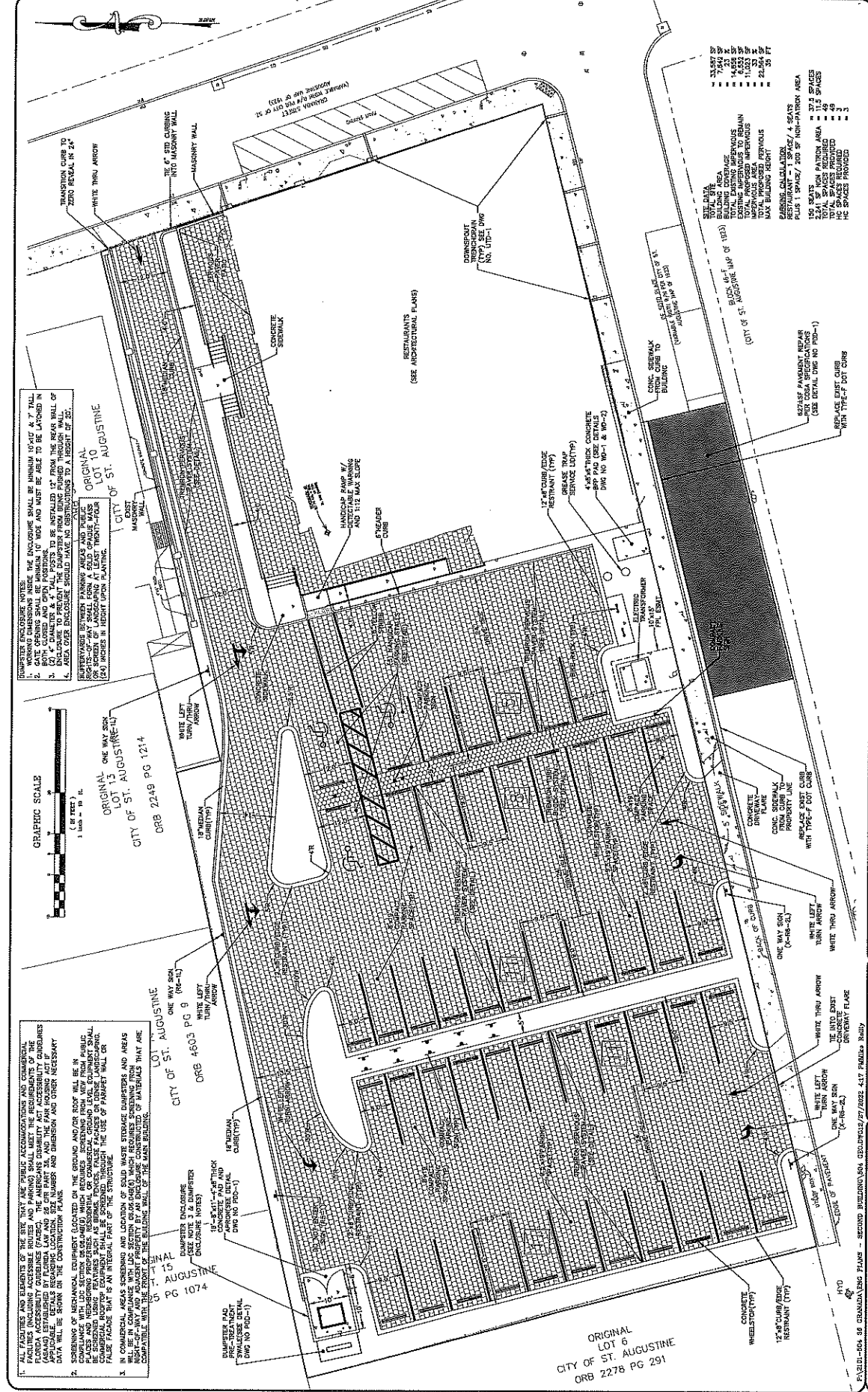
BEGINNING AT A POINT ON THE NORTH LINE OF DESOTO PLACE, 135 FEET WEST OF THE WEST LINE OF GRANADA STREET, SAID POINT OF BEGINNING BEING THE SOUTHWEST CORNER OF PROPERTY OF PARRISH; RUN THENCE WEST ALONG THE NORTH LINE OF DESOTO PLACE 7 FEET TO A POINT, RUN THENCE NORTH AND PARALLEL TO THE EAST LINE OF PROPERTY DESCRIBED IN DEED BOOK 228, PAGE 200 AND AT ALL TIMES 7 FEET WEST THEREOF, A DISTANCE OF 124.7 FEET MORE OR LESS TO A FENCE, WHICH FENCE IS THE NORTH LINE OF PROPERTY DESCRIBED IN DEED BOOK 228, PAGE 200; RUN THENCE EAST ALONG SAID FENCE LINE 7 FEET TO THE NORTHEAST CORNER OF SAID PROPERTY DESCRIBED IN DEED BOOK 228, PAGE 200; RUN THENCE SOUTH AND ALONG EAST LINE OF SAID PROPERTY DESCRIBED IN DEED BOOK 228, PAGE 200, 124.7 FEET TO POINT OF BEGINNING; SAID PROPERTY BEING A PORTION OF BLOCK 46-J, CITY OF ST. AUGUSTINE, FLORIDA.

Together With

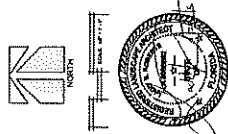
BEGINNING AT THE NORTH CORNER OF GRANADA STREET AND PLAZA DE SOTO PLACE, IN THE CITY OF ST. AUGUSTINE, RUNNING THENCE NORTHERLY ON THE WEST LINE OF GRANADA STREET, 123 FEET, MORE OR LESS, TO LAND OF FULLER; THENCE WESTERLY ON FULLERS SOUTH LINE 127 FEET; THENCE SOUTHERLY PARALLEL WITH THE WEST LINE OF THIS TRACT, KNOWN AS THE "BRAINARD TRACT", 123 FEET MORE OR LESS, TO THE NORTH LINE OF PLAZA DE SOTO PLACE; THENCE EASTERLY ON THE NORTH LINE OF PLAZA DE SOTO PLACE 133 FEET, MORE OR LESS, TO THE PLACE OF BEGINNING. EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL OF LAND; A STRIP OF LAND BEGINNING 113 FEET NORTH FROM THE SOUTHEAST CORNER OF BUILDING OF BARTOLO GENOVAR ON WEST SIDE OF GRANADA STREET, SAID BUILDING BEING LOCATED ON NORTHWEST CORNER OF GRANADA STREET AND DESOTO PLACE, THENCE WEST 127 FEET.

Exhibit B

Elevations and Site Plan



Sheet No. 7 of 18 GEO-1 DWG. NO.	
FRENCH PANTRY AND LITTLE MISS HA FOR 36 GRAMMA, LLC CITY OF ST. AUGUSTINE, FLORIDA GEOGRAPHY PLAN	
DUNN & ASSOCIATES, INC. CIVIL ENGINEERING 1015 Highway 19, Suite 200 Jacksonville, Florida 32208 Phone: (904) 355-4617 Fax: (904) 355-4617 www.dunnand.com	
NO. DATE 1. 12/27/2022 2. 12/27/2022 3. 12/27/2022 4. 12/27/2022 5. 12/27/2022 6. 12/27/2022 7. 12/27/2022 8. 12/27/2022 9. 12/27/2022 10. 12/27/2022 11. 12/27/2022 12. 12/27/2022 13. 12/27/2022 14. 12/27/2022 15. 12/27/2022 16. 12/27/2022 17. 12/27/2022 18. 12/27/2022 19. 12/27/2022 20. 12/27/2022 21. 12/27/2022 22. 12/27/2022 23. 12/27/2022 24. 12/27/2022 25. 12/27/2022 26. 12/27/2022 27. 12/27/2022 28. 12/27/2022 29. 12/27/2022 30. 12/27/2022 31. 12/27/2022 32. 12/27/2022 33. 12/27/2022 34. 12/27/2022 35. 12/27/2022 36. 12/27/2022 37. 12/27/2022 38. 12/27/2022 39. 12/27/2022 40. 12/27/2022 41. 12/27/2022 42. 12/27/2022 43. 12/27/2022 44. 12/27/2022 45. 12/27/2022 46. 12/27/2022 47. 12/27/2022 48. 12/27/2022 49. 12/27/2022 50. 12/27/2022 51. 12/27/2022 52. 12/27/2022 53. 12/27/2022 54. 12/27/2022 55. 12/27/2022 56. 12/27/2022 57. 12/27/2022 58. 12/27/2022 59. 12/27/2022 60. 12/27/2022 61. 12/27/2022 62. 12/27/2022 63. 12/27/2022 64. 12/27/2022 65. 12/27/2022 66. 12/27/2022 67. 12/27/2022 68. 12/27/2022 69. 12/27/2022 70. 12/27/2022 71. 12/27/2022 72. 12/27/2022 73. 12/27/2022 74. 12/27/2022 75. 12/27/2022 76. 12/27/2022 77. 12/27/2022 78. 12/27/2022 79. 12/27/2022 80. 12/27/2022 81. 12/27/2022 82. 12/27/2022 83. 12/27/2022 84. 12/27/2022 85. 12/27/2022 86. 12/27/2022 87. 12/27/2022 88. 12/27/2022 89. 12/27/2022 90. 12/27/2022 91. 12/27/2022 92. 12/27/2022 93. 12/27/2022 94. 12/27/2022 95. 12/27/2022 96. 12/27/2022 97. 12/27/2022 98. 12/27/2022 99. 12/27/2022 100. 12/27/2022	DESIGNED BY: DAI CHECKED BY: DMT SCALE: 1" = 10' DATE: 12/27/2022 PROJ. NO.: 2101-504



Digitally signed
by: [Signature]
Date: 2022.07.25
15:55:04 -0400

LANDSCAPE PLAN

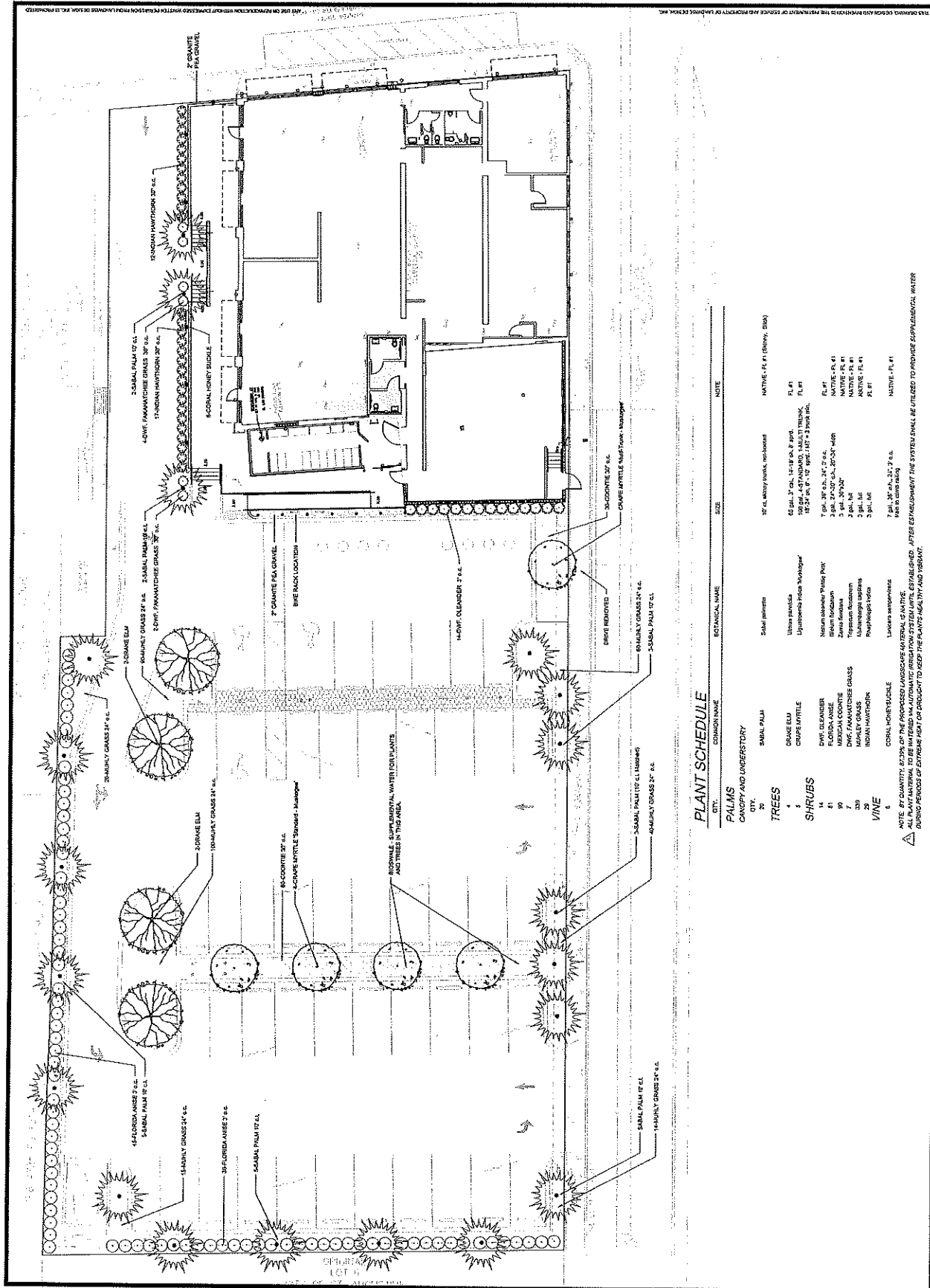
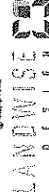
DATE: 7.26.22

REVISIONS:
No. Description

APPROVAL
DOCUMENTS

SHEET NUMBER:
L-1

JOB # 21007 DRAWN BY: LER
DATE: 7.26.22



PLANT SCHEDULE

QTY.	COMMON NAME	BOTANICAL NAME	SIZE	NOTE
PALMS				
20	SABAL PALM	Sabal palmetto	10' x 14' entry palms, substandard	NATIVE - PL #1 (Browns, BMA)
1	CHROME ELUM	Chromolaena odorata	65 gal., 14-18" dia. 8' high	PL #1
TREES				
1	CHROME ELUM	Chromolaena odorata	18-24" dia. 8-10' high	PL #1
SHRUBS				
14	DWY. GLENDORA	Diospyros glabra	7 gal., 10" dia., 24" high	PL #1
81	FLORIDA ANISE	Illicium floridanum	3 gal., 24-30" dia., 24-30" high	NATIVE - PL #1
99	MEXICAN COONTE	Aspidistra sp.	3 gal., 24-30" dia., 24-30" high	NATIVE - PL #1
339	FLORIDA COONTE	Aspidistra sp.	3 gal., 24-30" dia., 24-30" high	NATIVE - PL #1
25	INDIAN HAWTHORN	Indigofera sp.	3 gal., 24-30" dia., 24-30" high	PL #1
VINE				
6	CORAL HONEYBUCCLE	Lonicera sempervirens	7 gal., 30" dia., 24-30" high	NATIVE - PL #1

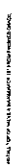
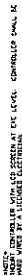
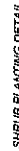
NOTE: 87 QUANTITY, 87% OF THE PROPOSED LANDSCAPE MATERIAL IS NATIVE.
ALL PLANT MATERIAL TO BE INSTALLED IN AUTOMATIC IRRIGATION SYSTEMS. AFTER ESTABLISHMENT THE SYSTEM SHALL BE UTILIZED TO PROVIDE SUPPLEMENTAL WATER.
PLANTING PERIODS OF GROWTH PERIOD OF GROWTH TO KEEP THE PLANTS HEALTHY AND THRIFTY.

DATE: 7.19.22

[illegible]

SHEET NUMBER:

JOB #: 21007 DRAWN BY: LBR
 NOT BE DRAWING IN THE PROPERTY OF LAMBERTSON, INC.
 ALL RIGHTS RESERVED. ANYONE WHOSE COMPANY, THE
 CONTENTS OF THIS DRAWING ARE CONFIDENTIAL AND SHALL
 NOT BE TRANSMITTED TO ANY OTHER PARTY EXCEPT AS
 AUTHORIZED BY LAMBERTSON, INC.
 © COPYRIGHT 2022

[illegible][illegible]

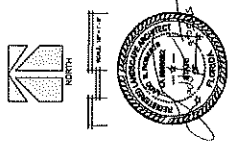
WATER SOURCE: WATER FROM METER. ANTICIPATED 40-50 PSI.
LOCATION TO BE DETERMINED.

RAIN SENSOR: SYSTEM SHALL BE PROVIDED WITH A RAIN SENSOR. ALL PLANT MATERIAL TO BE WATERED VIA AUTOMATIC IRRIGATION SYSTEM UNTIL ESTABLISHED. AFTER ESTABLISHMENT THE SYSTEM SHALL BE UTILIZED FOR SUPPLEMENTAL WATER DURING PERIODS OF EXTREME HEAT AND/OR DROUGHT.

SPRAY HEAD INSTALLATION DETAIL

CONTROLLER INSTALLATION DETAIL

ZONE VALVE INSTALLATION DETAIL



LIGHTING & SLEEPING PLAN

DATE: 7.19.22

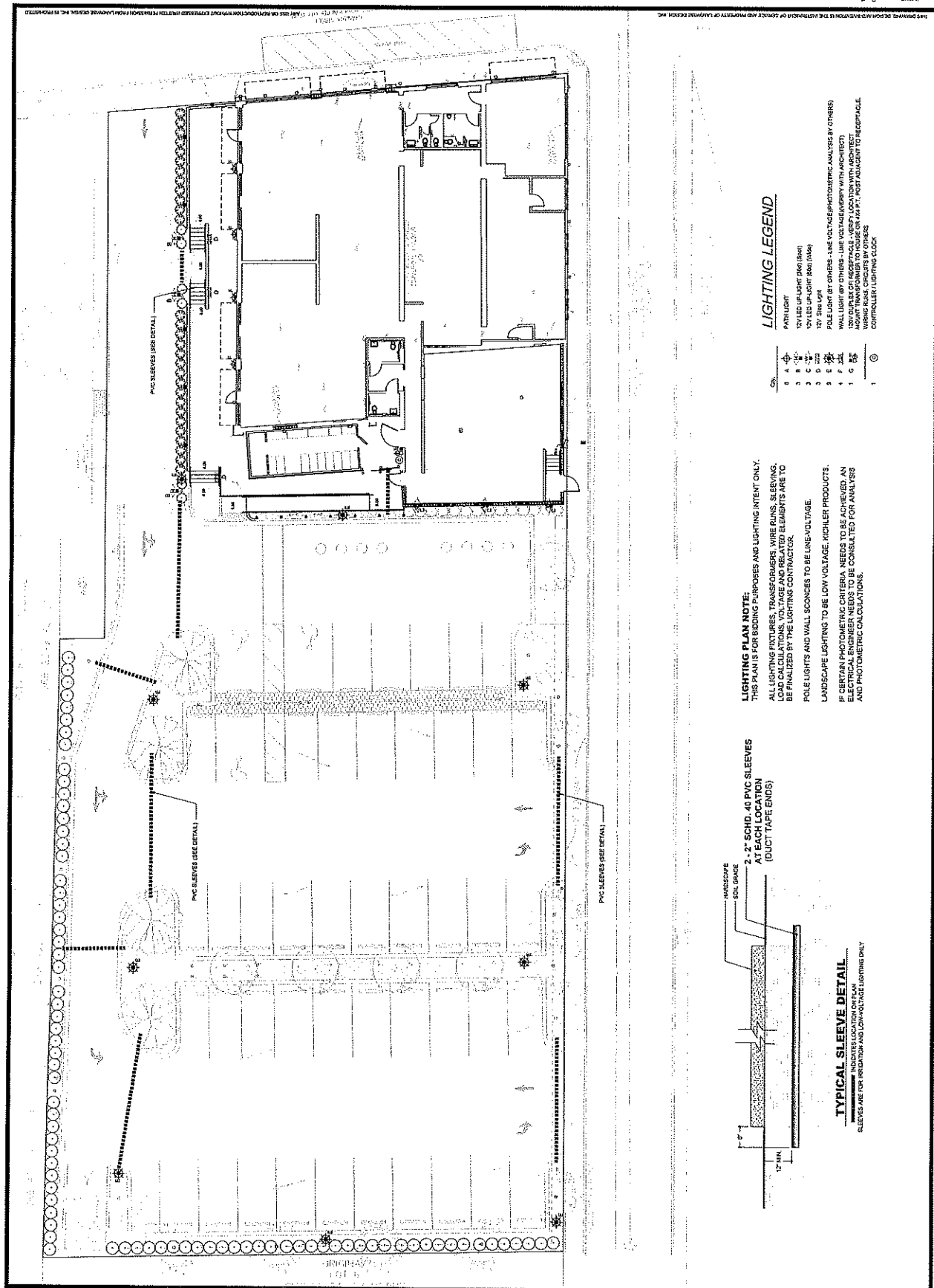
REVISIONS:
 No. Description

APPROVAL DOCUMENTS

SHEET NUMBER

L-3

JOB # 21007 DRAWN BY: LBR
 PREPARED BY: LBR
 CHECKED BY: LBR
 APPROVED BY: LBR
 DATE: 7.19.22



BEFORE THE
PLANNING AND ZONING BOARD FOR THE
CITY OF ST. AUGUSTINE, FLORIDA

TYPE OF REQUEST:

- | | |
|--|--|
| ☐ Appeal | ☐ Preliminary Subdivision Plat Approval |
| ☐ Conservation Overlay Zone Development | ☐ PUD Modification/Amendment |
| ☐ Use by Exception | ☒ Rezoning |
| ☐ Final Development Plan | ☐ Variance |
| ☐ Land Use Plan Amendment | ☐ Comprehensive Plan Amendment and Rezoning |

IN THE MATTER OF:

Case No.: 2024-0011

Applicant: Ray Lake c/o DiMare Construction

Owner: 36 Granada, LLC

Address: 36 Granada Street

Parcel Number: 203240-0000

RE: Rezoning, pursuant to Section 28-30, City of St. Augustine Code, to approve modifications to the existing 36 Granada Planned Unit Development (PUD) related to building design elevations.

THE PLANNING AND ZONING BOARD HAS HEARD TESTIMONY AND EXAMINED EVIDENCE AT A PUBLIC HEARING HELD ON FEBRUARY 6, 2024, AND BASED ON THE TESTIMONY AND EVIDENCE, THE BOARD HAS DETERMINED AS FOLLOWS:

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

1. Applicant is the legal owner, occupant, and/or representative of the owner/occupant of the subject property and duly submitted an application with the owner's knowledge, and was duly notified of the hearing, in accordance with Chapter 28 of the Code of the City of St. Augustine. The applicant and/or representative ☒ was present at the February 6, 2024, Planning and Zoning Board meeting and testified under oath, or ☐ was not present.
2. A public hearing was held, with notice given as required by law, and ☐ members of the public testified under oath, or ☒ no members of the public spoke on this issue.
3. The subject property has a land use designation of Commercial Low Intensity, and a zoning classification of Planned Unit Development (PUD).
4. The above-described Rezoning is subject to Section 28-30 of the Code of the City of St. Augustine.

ORDER:

Based upon the evidence presented, the Planning and Zoning Board determined that the requested action MEETS / DOES NOT MEET the requirements of Section 28-30, City of St. Augustine Code, and APPROVES / DENIES / CONTINUES the Applicant's request to approve modifications to the existing 36 Granada Planned Unit Development (PUD) related to building design elevations.

Subject to the following findings by the PZB:

- Recommend approval of modifications to the 36 Granada
- Planned Unit Development
- _____

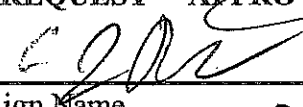
Subject to the following conditions:

- _____
- _____
- _____

DONE AND ORDERED, at a public hearing on the 6th day of February, A.D., 2024, in the Alcazar Room, 75 King Street, St. Augustine, Florida.

2024 - 0011

REQUEST APPROVED / DENIED / CONTINUED


Sign Name

Charles Pappas

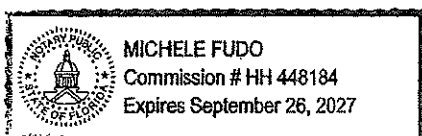
Print Name

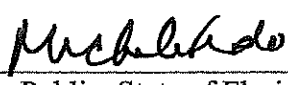
PLANNING AND ZONING BOARD
CITY OF ST. AUGUSTINE, FLORIDA

STATE OF FLORIDA, COUNTY OF ST. JOHNS

I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Charles Pappas who is personally known to me and who is the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed.

Witness my hand and official seal, this 6th day of February, A.D., 2024.




Notary Public, State of Florida



Planning and Zoning Board

Planning Division Staff Report
Planning and Building Department

Public Hearing Date	Agenda Item	Application Number
February 6, 2024	8.a.	PZB2024-0011
Request	Address	Parcel ID
Rezoning	36 Granada Street	203240-0000



Figure 1. Aerial photograph of the subject property.

Site & Background Information

Property Class: 3205 – Theaters (Owner Occupied)
(St. Johns County Property Appraiser)

Future Land Use Designation: Commercial Low Intensity

Zoning Designation: [Planned Unit Development: PUD](#)

Acreage: 0.34

Applicant: Ray Lake
c/o DiMare Construction

Owner: 36 Granada LLC

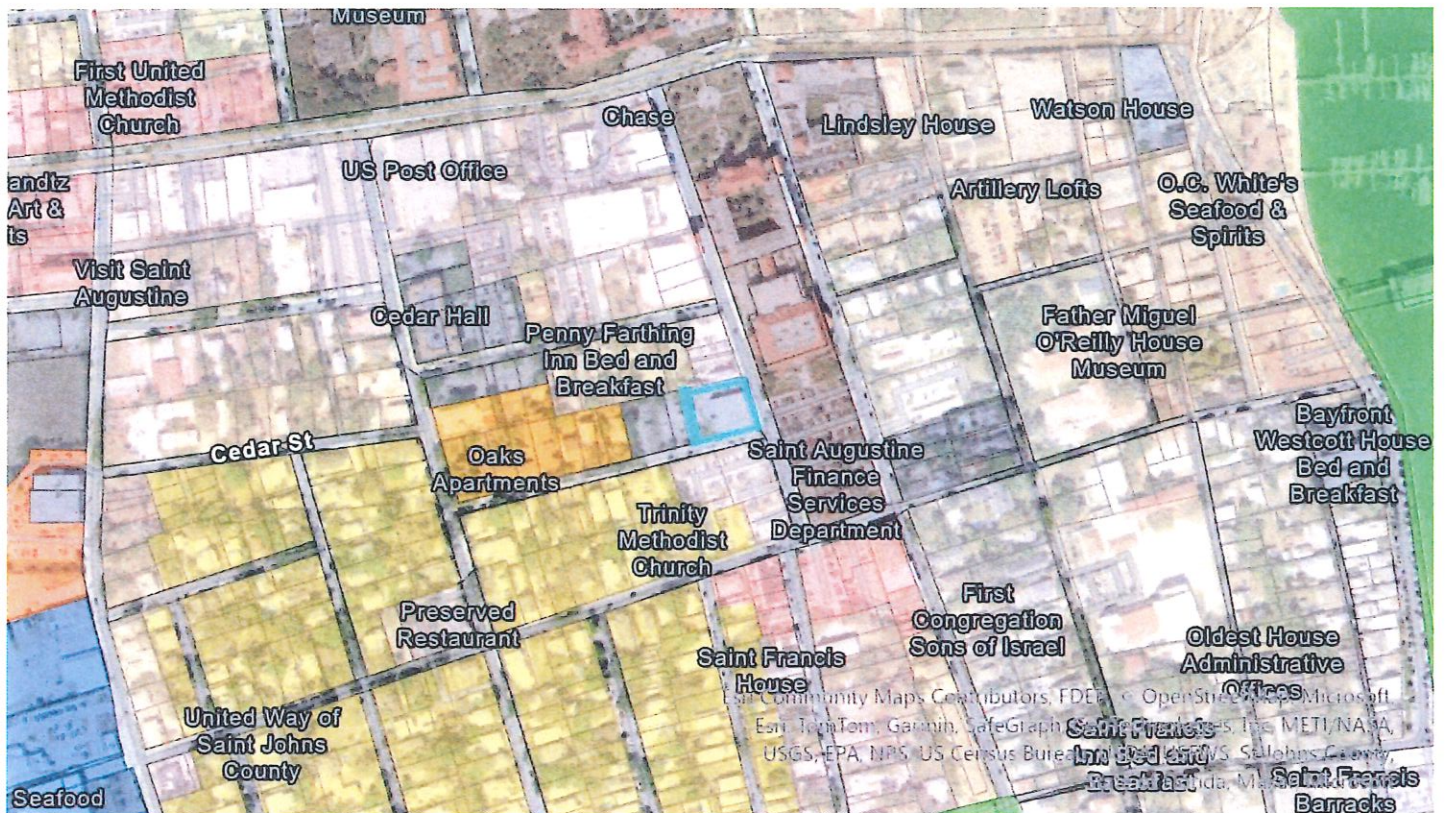


Figure 2. The City of St. Augustine's zoning map highlighting the subject property.

Adjacent Properties			
	Property Class (St. Johns County Property Appraiser)	Future Land Use Designation	Zoning Designation
North	1200 – Mixed Use (Store/Office/Residential Combo)	Commercial Low Intensity	CL-1
South	2810 – Parking Lots	Commercial Low Intensity	CL-1
East	8900 – Municipally Owned	Historic Preservation	HP-4
West	0800 – Multi-Family (Less than 10 Units)	Residential Medium Density	RG-2

Request Summary

The request made at 36 Granada Street is categorized as a [rezoning](#) but is simply an amendment of the existing 36 Granada Planned Unit Development. The proposed amendment is centered around a request to modify the previously approved elevations of the building in order to enclose the outdoor seating area on the north side of the building. The applicant has stated in their application that the justification for the request is due to “inclement weather for dining.” Included in this application packet are the proposed elevations for the building at 36 Granada Street as well as the previously approved elevations.

Staff Recommendation

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.



Jacob Fredriksson, CNU-A
Planning Manager
Planning and Building Department



CITY OF ST AUGUSTINE

APPLICATION TO PLANNING AND ZONING BOARD

Application Fee: _____ (plus advertising costs) Project Number: _____

Receipt Number: _____ Meeting Date: _____

Advertising Costs: \$ _____ Paid On: _____ Receipt Number: _____

1. NAME OF APPLICANT: Ray Lake Contact Number: 904-540-4824

Business (if applicable): DiMare Construction

Address: 3545 US 1 South City: St. Augustine State: FL Zip: 32086

E-Mail Address: ray@dimare.com

2. NAME OF PROPERTY OWNER: John Valentino Contact Number: 904-315-8093

Business (if applicable): 36 Granada LLC

Address: 77 Almeria St City: St. Augustine State: FL Zip: 32084

E-Mail Address: mellowjv@gmail.com

3. LEGAL DESCRIPTION OF PROJECT PROPERTY:

Lot: _____

Block: 46

Subdivision: City of St. Augustine

Parcel Number: 2032400000

4. PROJECT STREET ADDRESS: 36 Granada St

5. SPECIFIC PROPOSED USE: Restaurant

6. ACTION REQUESTED:

☐ Conservation Zone Development

☐ Appeal of Staff Determination

☐ Exception

☐ Land Use Plan Amendment

☐ Variance

☐ Rezoning

☐ Other: Window change and relocation

7. DESCRIPTION OF ACTION REQUESTED: Enclosing of pre approved outside dinning area.

8. JUSTIFICATION FOR ACTION REQUESTED: Inclement weather for dinning

9. IF APPLYING FOR A VARIANCE, PLEASE COMPLETE THE FOLLOWING AND EXPLAIN THE SITUATION FULLY ALONG WITH PROVIDING DOCUMENTATION:

- (a) Does the property because of size, shape, topography or other physical conditions, suffer singular disadvantage, which disadvantage does not apply to other properties in the vicinity: NA
- (b) Can you establish that this disadvantage causes the owner to be unable to make reasonable use of the affected property: NA
- (c) Can you establish that this disadvantage does not exist because of conditions created by the owner or applicant: NA
- (d) Can you establish that granting of the variance will not be contrary to the public interest; will not adversely affect other property in the vicinity; and will be in harmony with the spirit, intent and purpose of this Section: NA

10. PREVIOUS APPLICATIONS:

Has any application been submitted to the Planning & Zoning Board concerning any part of the subject property within the past year?

☐ Yes ☒ No If yes, please give date and final disposition below.

11. AGREEMENT:

In filing this application, I understand that it becomes a part of Public Record of the City of St. Augustine and hereby certify that all information contained herein is accurate to the best of my knowledge.

Application must be signed by both applicant and property owner if different. Letter of authorization must be submitted in absence of the property owner's signature or where an authorized agent signs in lieu of either property owner or applicant.

Florida Statute 286.0105 states that a person appealing any decision by this board at any meeting regarding this application may need a verbatim record of the proceedings which includes testimony and evidence upon which the appeal is to be based.

IMPORTANT NOTICE: When the hearing date has been set and a legal notice has been published or posted, the applicant must be prepared to present the request at the scheduled hearing date. If the applicant requests a continuance, the decision to grant or deny the request for continuance will be decided by a vote of the Board at the scheduled hearing date. The applicant, or a duly authorized representative with authority to bind, should be present at the scheduled hearing date to answer questions from the board regarding the application. If the board votes to deny the request for a continuance, the hearing on the application will go forward, whether or not the applicant is present, and could result in a denial of the application if the Board finds that the application and supporting documents submitted prior to the meeting do not meet the criteria of the Code.

Ray Lake

Digitally signed by Ray Lake
DN: cn=Ray Lake, o=DMare Construction, email=ray@dimare.com, c=US
Date: 2024.01.12 10:44:40 -05'00'

1/12/2024

Signature of Applicant

Date

Signature of Property Owner

Date



**CITY OF ST. AUGUSTINE
DEVELOPMENT PERMIT APPLICANT WAIVER**

The applicant acknowledges and agrees to waive the limitation of three requests for additional information by the City of St. Augustine, pursuant to Chapter 166.033, Florida Statutes.

The applicant acknowledges and agrees that the City offers weekly Friday Review development review meetings, as well as, department specific applicant meetings with its reviewing staff at any point in the application process to attempt to resolve outstanding issues. The applicant is responsible for scheduling any requested meetings with City staff directly.

The applicant acknowledges and agrees that if after three unresolved submittals the applicant elects to proceed with final approval or denial proceedings, the applicant must request so in writing to the City.

Ray Lake

Print name of applicant

Ray Lake

Digitally signed by Ray Lake
DN: cn=Ray Lake, o,
ou=Dilmare Construction,
email=ray@dilmare.com, c=US
Date: 2024.01 12 10:49:52
+05'00'

Signature of applicant

1/12/2024

Date



Owner's Authorization For Agent

Ray Lake is/are hereby authorized TO ACT ON BEHALF
OF 310 Grande LLC, the owner(s) of those lands described within
☒ the attached application, or ☐ described within the previously filed
Application number: _____, and as described in the attached deed or
other such proof of ownership as may be required, in applying to the City
of St. Augustine's Planning & Zoning Board, located at:

BY: [Signature]
Signature of Owner

Andrew Nargant
Print Name of Owner

904.535.9759
Telephone Number

State of FL

County of St Johns

Signed and sworn before me on this 12 day of January, 2024

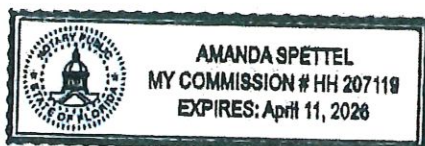
By Andrew Nargant

Identification verified:

Oath sworn: X Yes _____ No

Notary Signature: [Signature]

My Commission expires: 4/11/26



PZB APPLICATION FEE SCHEDULE

Planning and Zoning Board fees are set by Resolution 2021-38 as follows:

Description of Work	Fee Amount
Rezoning: small scale	\$300.00 + ads & notices
Rezoning: large scale	\$1,000.00 + ads & notices
Land Use Plan Amendment: small scale	\$400.00 + ads & notices
Land Use Plan Amendment: large scale	\$1,400.00 + ads & notices
Planned Unit Development	\$400.00 or \$35.00/acre, whichever is greater, \$1,400 max + ads & notices
Zoning Variance	\$350.00 + ads & notices
Zoning Exception	\$250.00 + ads & notices
Conservation Overlay Zone Development	\$165.00 + ads & notices
Significant Tree Removal or Appeal of Tree Removal Permit Denial	\$165.00 + ads & notices
Appeal of Staff Determination	\$200.00 + ads & notices
Application to Amend Zoning Code	\$600.00 + ads & notices
Subdivision Plat Review	\$275.00 + ads, notices & additional associated costs

"Note: The cost of newspaper advertisement and all notices to surrounding property owners will be assessed by the city, paid by the city and reimbursed by the applicant. All advertising costs must be paid prior to issuance of a development permit.

The applicant shall reimburse the City the mailing cost for all notices and for any subsequent hearings requiring re-notice as a result of the applicant postponing or re-scheduling of any hearing."

If a Credit Card Authorization Form is used for the payment of fees, the City will maintain the form and automatically charge additional advertising and noticing fees, once determined, to the credit-card account submitted.

By signing below, I acknowledge responsibility for both the initial application fee and any subsequent costs associated with legal advertising and/or noticing and understand that permits associated with my application may not be issued until such fees are paid.

I authorize the Planning and Building Department to maintain my payment information until a final cost for advertising and/or noticing is determined and charged. If a payment method other than Credit Card Authorization Form is used, I understand that I will be sent an invoice for the costs of advertising/noticing which must be paid prior to the issuance of any development permit related to my application. I am aware that I can request a copy of these fees and my receipt from Building Department Staff.

36 Granada St

Project Address: _____

Ray LAke

Applicant's Name: _____ Applicant's Signature: _____

Owner's Name: Andrew Norgant Owner's Signature: 

St. Johns County, FL

Apply for Exemptions

[Apply for Exemptions](#)

Sales Questionnaire Form

If you are a new owner of this property, please click here to submit a Sales Questionnaire

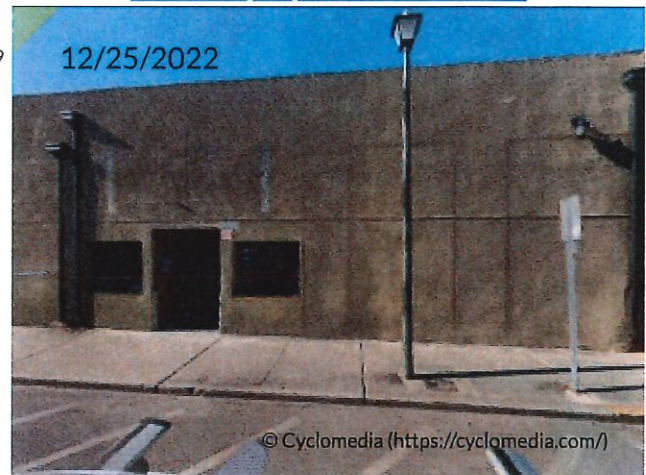
[Sales Questionnaire](#)

2022 TRIM Notice

[2022 TRIM Notice \(PDF\)](#)

Summary

Parcel ID	2032400000
Location	36 GRANADA ST
Address	SAINT AUGUSTINE 32084-0000
Neighborhood	Theatre COSA (COM) (610.26)
Tax Description*	CITY OF ST AUGUSTINE BLK 46-J E7FT OF LOT 8 & S113FT OF LOT 9 - 113FT ON GRANADA ST OR 5184/843 <i>*The Description above is not to be used on legal documents.</i>
Property Use	Theaters (Owner Occupied) (3205)
Code	
Subdivision	City of St Augustine
Sec/Twp/Rng	18-7-30
District	City of St Augustine (District 452)
Millage Rate	18.872
Acreage	0.340
Homestead	N

[Click Here to Open Cyclomedia Viewer in a New Tab](#)


Owner Information

Owner Name	36 Granada LLC 100%
Mailing Address	77 ALMERIA ST SAINT AUGUSTINE, FL 32084-0000

Map



Valuation Information

	2024
Building Value	\$390,334
Extra Features Value	\$1,075
Total Land Value	\$751,100
Agricultural (Assessed) Value	\$0
Agricultural (Market) Value	\$0
Just (Market) Value	\$1,142,509
Total Deferred	\$183,950
Assessed Value	\$958,559
Total Exemptions	\$0
Taxable Value	\$958,559

Values listed are from our working tax roll and are subject to change.

Historical Assessment Information

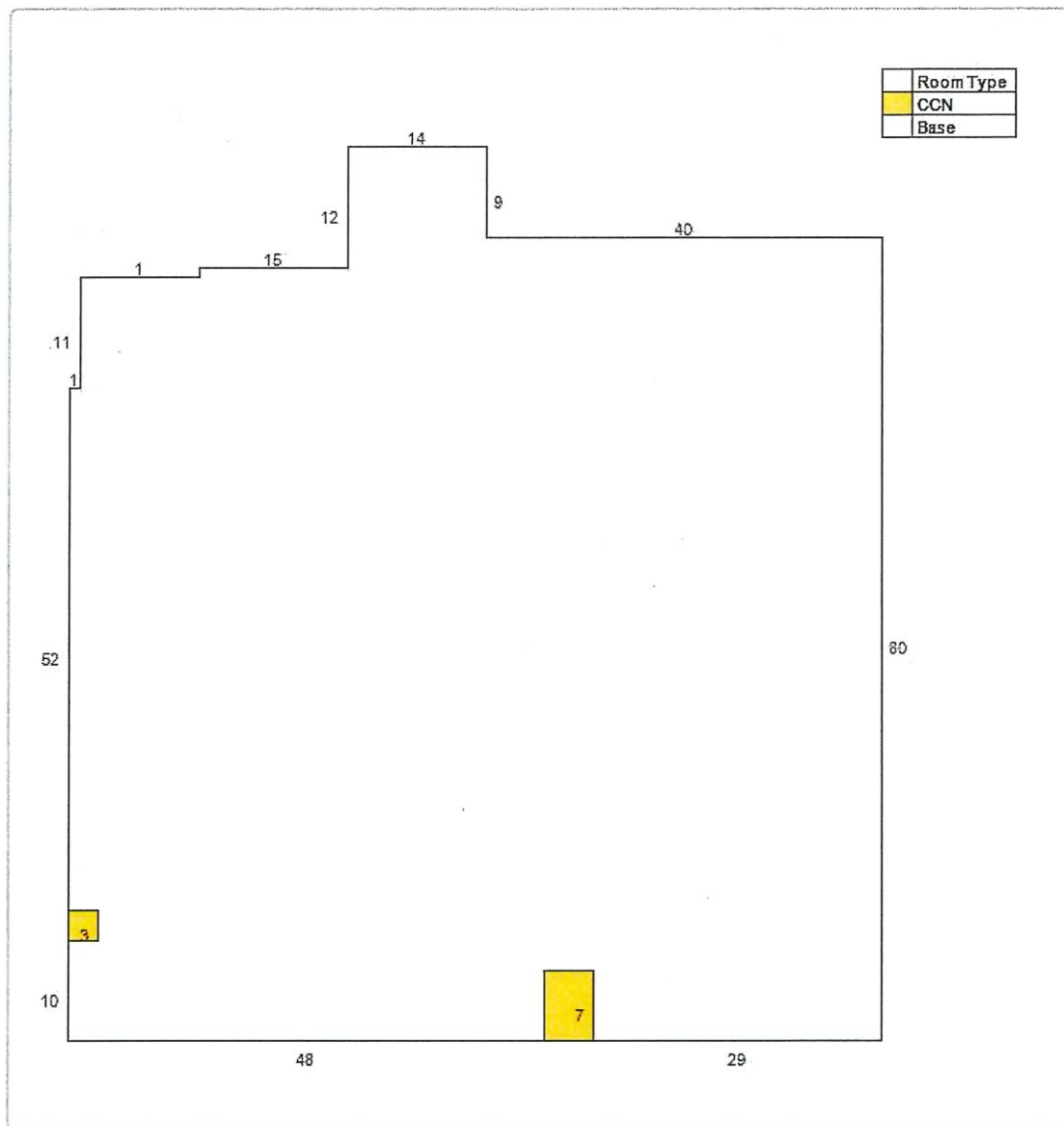
Year	Building Value	Extra Feature Value	Total Land Value	Ag (Market) Value	Ag (Assessed) Value	Just (Market) Value	Assessed Value	Exempt Value	Taxable Value
2023	\$224,772	\$1,142	\$751,100	\$0	\$0	\$977,014	\$871,417	\$105,597	\$871,417
2022	\$190,911	\$406	\$600,880	\$0	\$0	\$792,197	\$792,197	\$0	\$792,197
2021	\$505,169	\$406	\$450,660	\$0	\$0	\$956,235	\$781,961	\$174,274	\$781,961
2020	\$410,028	\$406	\$300,440	\$0	\$0	\$710,874	\$710,874	\$0	\$710,874
2019	\$407,259	\$406	\$300,440	\$0	\$0	\$708,105	\$708,105	\$0	\$708,105
2018	\$439,689	\$446	\$300,440	\$0	\$0	\$740,575	\$740,575	\$0	\$740,575
2017	\$439,689	\$446	\$300,440	\$0	\$0	\$740,575	\$740,575	\$0	\$740,575
2016	\$451,735	\$446	\$300,440	\$0	\$0	\$752,621	\$752,621	\$0	\$752,621
2015	\$490,176	\$446	\$300,440	\$0	\$0	\$791,062	\$791,062	\$0	\$791,062
2014	\$449,360	\$0	\$300,440	\$0	\$0	\$749,800	\$319,541	\$430,259	\$319,541
2013	\$93,704	\$0	\$196,788	\$0	\$0	\$290,492	\$290,492	\$0	\$290,492

Building Information

Building	1	Roof Cover	Modular Metal, Roll Composite
Building Value	\$390,334	Roof Structure	Rigid Frame
Year Built	1880	Interior Flooring	Concrete Finish, Vinyl Tile
Actual Area	6578	Interior Wall	Drywall
Conditioned Area	6534	Heating Type	Air Duct
Use	Theater	Air Conditioning	Central
Style	04	Bedrooms	
Exterior Wall	Concrete Stucco	Baths	

Description	Square Footage
BASE AREA	6534
FINISHED CANOPY	9
FINISHED CANOPY	35
Total SqFt	6578

Sketch Information



Extra Feature Information

Code Description	Status	Value
Concrete Paving - Under 8" (COM)		384
Concrete Paving - Under 8" (COM)		691

Land Information

Use Description	Front	Depth	Total Land Units	Unit Type	Land Value
Enclosed Theaters & Auditoriums	113	140	15022	SF	\$751,100

Sale Information

Recording Date	Sale Date	Sale Price	Instrument Type	Book	Page	Qualification	Vacant/Improved	Grantor	Grantee
2/19/2021	2/16/2021	\$1,500,000.00	WARRANTY DEED	5184	843	Q	I	KABO INVESTMENTS LLC	36 GRANADA LLC
5/27/2014	5/23/2014	\$1,000,000.00	TRUSTEES DEED	3883	507	Q	I	BABY'S FAMILY TRUST D: 1-1-05 BY PIERCE RENEE L TRUSTEES	KABO INVESTMENTS LLC
2/3/2005		\$100.00	WARRANTY DEED	2377	1238	U	I	PIERCE KENNETH L & EUNICE B	NEYBERT KENNETH G & PIERCE RENEE L TRUSTEES
12/1/1982		\$100,000.00		565	766	U	I		PIERCE KENNETH L, EUNICE B
1/1/1977		\$0.00		325	349	U	I		

No data available for the following modules: Exemption Information.



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Search by Entity Name](#) /

Detail by Entity Name

Florida Limited Liability Company
36 GRANADA, LLC

Filing Information

Document Number	L21000051977
FEI/EIN Number	86-2013176
Date Filed	01/28/2021
Effective Date	01/28/2021
State	FL
Status	ACTIVE

Principal Address

77 ALMERIA STREET
ST AUGUSTINE, FL 32084

Mailing Address

77 ALMERIA STREET
ST AUGUSTINE, FL 32084

Registered Agent Name & Address

ALSOP PROPERTY MANAGEMENT, LLC
77 ALMERIA STREET
ST AUGUSTINE, FL 32084

Authorized Person(s) Detail

Name & Address

Title MGR

KILLEBREW, JESSE
77 ALMERIA STREET
ST AUGUSTINE, FL 32084

Title MGR

NORGART, ANDREW
77 ALMERIA STREET
ST AUGUSTINE, FL 32084

Annual Reports

Report Year	Filed Date
--------------------	-------------------

2022	03/03/2022
2023	01/23/2023

Document Images

01/23/2023 -- ANNUAL REPORT	View image in PDF format
03/03/2022 -- ANNUAL REPORT	View image in PDF format
01/28/2021 -- Florida Limited Liability	View image in PDF format

Florida Department of State, Division of Corporations

36 Granada Planned Unit Development

City of St. Augustine, Florida

NOVEMBER 8 , 2021

REVISED APRIL 2022

Team Roster

Owners/Applicants:

36 Granada, LLC
77 Almeria St.
St. Augustine, FL 32084

Architect:

Cronk Duch Architects
124 Diego Island Ct.
St. Augustine, FL 32095
(904) 626-3452

Legal/Authorized Agent for Owners:

Gary B Davenport, P.A.
212 S Shadowwood Dr.
St. Augustine, Florida 32086
(904) 669-3186

Exhibit List:

Exhibit "A" – Legal Description of the Property
Exhibit "B" – Site Plan and Landscape Plan

36 GRANADA PLANNED UNIT DEVELOPMENT MODIFICATION TEXT

A. Purpose and Intent.

The reason for this Modification is to attenuate, as much as possible, the excessive flooding that occurs in St. Augustine, and in particular, along Granada Street. To accomplish this, the existing building will be renovated and the interior floor raised approx. 30". The renovation will be extensive, and will result in a much more resilient building able to withstand the high tide rain events and flooding that would otherwise close the operation of said building, and cause continued construction along Granada and interruptions to the surrounding neighborhoods. The uses and parking requirements will not change.

Pursuant to Section 28-286 of the City of St. Augustine Code (the "**Code**"), the purpose of a planned unit development ("**PUD**") zoning district is to provide an option and process for the provision of unique, individually planned developments that are consistent with the City's Comprehensive Plan and the categories outlined in the Comprehensive Plan, but may allow for more creative, flexible and innovative designs for projects than the regular zoning districts allow. The intent of a PUD is to permit this flexibility from the strict application of traditional zoning district regulations by identifying each waiver, variance or exception to such regulation and providing an alternative development condition for that specific PUD.

This 36 Granada PUD text includes site-specific regulations to address the development of the Property. The PUD, including all exhibits hereto, complies with all applicable provisions of City Code Chapter 28.

B. Site Information.

1. Location

The property subject to this PUD ordinance is located at 36 Granada St. The property has St. Johns County Parcel Identification No. 203240-0000 Parcel 1 and 203230-0000 Parcel 2 (together the "**Property**"). A legal description of the Property is attached as **Exhibit "A"**. The Property includes approximately .75 acres: .34 acres for Parcel 1 and .41 acres for Parcel 2, owned by 36 Granada, LLC ("**36 Granada LLC**").

2. Owners and Agent

The owner of the Property is 36 Granada, LLC ("**Owner**"). The agent for the Owner is Gary B. Davenport, P.A. (the "**Agent**"). Addresses for the Owner and Agent are in the Team Roster on page 2.

3. History, Existing Approvals

The Future Land Use Map ("**FLUM**") designation of the Property is Commercial Low Intensity for Parcel 1 and Residential Medium for Parcel 2. The Property is zoned PUD. The existing building has been in place in some form since at least 1880 and has had many uses

including a theater, restaurant, bar and feed store. The remaining land is currently intended for parking, and is entitled to be improved with up to 5 townhomes.

4. Summary of Proposed Modification

The Owners are proposing to modify the current PUD for resiliency and flood protection. The interior floor has been raised approx. 30". Openings on the De Soto side of the building have been eliminated. All openings on the Granada side of the building have been closed, and the new entrances to the building will be accessed on the north side from an elevated deck. The Granada St. elevations have been modified to maintain the feel and patterns of other City buildings, and to create building resiliency. Three awnings have been added to the Granada side of the building. The three awnings previously planned for the De Soto side have been eliminated. Because the sidewalk along Granada is so narrow, the palm tree planters previously planned have been eliminated to make walking easier. Upon Modification, the Property will include approx. 7,400 square feet of retail/commercial space including all uses allowed within CL1 zoning category in addition to allowing all alcoholic beverages to be served on-site, limited to a SRX liquor license. A standalone bar shall not be permitted. Liquor sales for onsite consumption shall only be permitted in conjunction with a restaurant. Permitted uses including available seating in restaurants will be limited by the available parking onsite in compliance with the City parking Code. Amplified music shall not be permitted. Individual restaurant owners shall be responsible to organizing rideshare programs for their employees to reduce the impact of employee parking on the adjacent neighborhoods. Management of the business or businesses within the PUD shall provide employee incentives to encourage non-vehicular commuting by employees to the site, or rideshare options for the employees. This plan for alternative methods of commuting to the site shall be memorialized by each business within the PUD. This plan must be provided to the City upon request for purposes of code enforcement. A bike rack will also be provided for securing employee and patrons' bicycles. Large group rentals of restaurants, such as weddings, shall not be permitted. Tattoo shops shall not be permitted. The balance of the site will be limited to parking.

The net change in requesting this Modification will be a much more resilient and flood protected structure, while still maintaining the architectural integrity of the building. The uses allowed, and the parking requirements will not change.

A master development plan depicting the locations of the proposed land uses is attached as **Exhibit "B"** (the "**Master Development Plan**"). City staff shall be permitted to approve minor deviations from the Master Development Plan.

The Property includes approximately .75 acres of uplands. There are no wetlands on the Property.

C Proposed Development (Code Section 28-289 provisions in BOLD).

Consistency with every relevant goal, policy and objective of the Comprehensive Plan, including but not limited to density and intensity limitations of the Future Land Use Map category for the property.

As set forth in Section B.3 above, the Property has a FLUM designation of Commercial Low Intensity.

City Comprehensive Plan Future Land Use Element ("FLUE") states that Commercial Low Intensity (CLI) is intended to apply to those areas where small groups of low intensity commercial uses may be appropriately located to serve within convenient traveling distance from one (1) or several neighborhoods. The district is intended for low traffic generating commercial uses including general retail sales, and service-related uses intended to serve local neighborhoods. In addition, professional and business offices, compatible tourist accommodations and similar uses are encouraged. Appropriate uses may include recreation, public and institutional uses, Open Land (Conservation), multi-family, and residential or non-residential mixed uses.

Future Land Use Element Objective 4 encourages the use of innovative and sustainable land development practices that maximize the use of existing services and facilities, such as planned unit developments. The 36 Granada project is a single use redevelopment PUD and will connect to existing utilities and other infrastructure, which have capacity to serve the Property. The Property is located on the corner of Granada Street and Desoto Place which are public roads. The project will provide ample parking.

The Transportation Element Goal emphasizes the maintenance of a coordinated multimodal transportation system which provides for the safe, efficient and economical movement of people, goods and services and protects the City's natural, cultural and historical resources. The project is located in downtown St. Augustine, within walking distance of most destinations. Many customers will either be staying in local hotels or living or working in the local area. Many of these visitors will either walk or bike to the Property. Ample parking will also be available at the Property.

Transportation Element Objective 1.5 requires the City to identify and pursue strategies to reduce the vehicle miles traveled by establishing locations for compact, mixed-use development, increasing opportunities for job creation proximate to higher density residential, facilitating future opportunities for transit-oriented development and encouraging new developments to be connected by roadways, bikeways and pedestrian systems that encourage travel between neighborhoods and access to transit without requiring use of the major thoroughfare system. The 36 Granada PUD meets most of these objectives by providing redevelopment of an existing building, central to downtown and creating jobs within the area where people live and work. The Property is connected to downtown St. Augustine and Lincolnville by roadways, bikeways and pedestrian systems. The Property is already on trolley and other transit routes.

Recreation and Open Space Element Policy 4.1 requires certain residential developments to provide parks and recreational facilities, based on the number of proposed units. For

development of 100 or more units, this parkland or open space must provide at least one (1) active recreational facility and one (1) passive recreational facility per 100 units. The 36 Granada PUD does not include residential development.

The Conservation and Coastal Management Element Goal is to protect and conserve natural areas, environmentally sensitive areas, natural vegetative communities, wildlife habitats, marine resources, federal and state listed species, and other renewable and non-renewable natural resources. The Property does not contain any environmentally sensitive lands, vegetative communities or wildlife habitats.

Conservation and Coastal Management Policy 2.1.1 requires the City to maintain three (3) Conservation Overlay Zones ("COZs"). Conservation Overlay Zone 1 allows passive recreation, wildlife preservation and conservation areas, green space, and fishing piers, boat docks, and other water dependent uses, including boat ramps and marinas. Conservation Overlay Zone 2 allows for all of the uses within Zone 1, as well as specialized, scenic or linear parks and boardwalks, off-street parking areas; and residential development, provided that they are (1) located so as to minimize impacts to Conservation Overlay Zone 1 vistas and scenic areas, and (2) densities are limited to those defined by the underlying Future Land Use Category. Conservation Overlay Zone 3 allows a variety of land uses and development subject to performance standard requirements governed by the City's Comprehensive Plan, including the underlying Future Land Use Category, and the City's land development regulations. The 36 Granada project is not subject to the Conservation Overlay zones.

The Infrastructure Element requires the provision of sanitary sewer, potable water and solid waste services to support intended development. The 36 Granada project is already connected to the City's existing sanitary sewer and potable water systems, and any modification to such connections will be at the expense of the Owners (in compliance with Capital Improvement Objectives 4 and 5), and the Owner will make improvements to the extent required solely for the project. The project will use water-wise Florida native landscaping and materials, minimizing irrigation and fertilizer. Native landscape species shall be verified by City staff. The project will also utilize City solid waste services. The Stormwater Management Sub-Element requires developments to provide their own stormwater management systems. As an existing facility the project is exempt from this provision.

Capital Improvement Element Objective 6 and Public School Facilities Element Goal 2 require the City to ensure existing deficiencies and future needs are addressed consistent with the adopted level of service standards for public schools. This is not applicable to this project as there is no residential element.

For properties currently in the HP-1, HP-2, HP-3, HP-4 and HP-5 districts requesting rezoning to PUD, identification of the specific proposed benefits or enhancements to the property that promote the goals of these historic districts.

Not applicable.

The need and justification for a rezoning to PUD or PUD amendment, including identification of each proposed development condition that would otherwise not be

allowed under the existing zoning, including, but not limited to, maximum lot coverage, signage, setbacks, allowable zoning uses and uses by exception.

The Owners desire to modify the PUD in order to provide a more resilient and flood protected building in light of the significant redevelopment the building will undergo.

The following development standards shall apply to the Property:

Allowable uses: Allowable uses within the Property shall be approximately 7,400 square feet of any of the uses permitted in CL1, with the addition of all alcohol sales (limited to service and consumption on premises in conjunction with a restaurant and a SRX liquor license). A standalone bar, tattoo shop and amplified music are not permitted. The locations of the proposed uses are depicted on the Master Development Plan,

Exhibit "B". Parking shall comply with City Parking Code provisions.

a. Setbacks: The minimum building setbacks are as follows:

1. A minimum of zero (0) feet from each property line along Granada St. and Desoto Place.(existing setback)

2. The north side and rear (west) setbacks shall be ten (10) feet from the building to the adjacent property line. The parking in the rear of the building shall not require a setback or landscaping buffer as it is adjacent to the main parking.

b. Maximum building height: Buildings shall not exceed 35 feet in height.

c. Minimum lot size: None.

d. Minimum lot width: None.

e. Maximum lot coverage: 75 percent for the Parcel 1 Property.(existing)

f. Parking: Parking will be provided onsite and will meet the requirements of the City's 2020 Land Development Regulations

Parking among the various uses within the PUD will be shared. Parking is shown on the attached conceptual site plan. Primary access to parking shall be off Granada. The area, labeled patio on the north side of the building may be converted to parking if required for final restaurant seating.

Parking will be provided in the existing surface lots on the Property. Uses in the project include coffee shop, bakery and restaurants. Those uses have parking requirements that vary depending on time of day and day of the week.

Signage: Project signage will be categorized as Commercial Zone 1, the requirements for which are set forth in Section 3-66(c) of the Code. Notwithstanding, the Owner shall paint the historic sign shown on the attached elevations on one side of the building, which shall not be counted against the maximum number or square feet of signage permitted under the Code, because it is for historical and decorative purposes and does not advertise any business located in the building. The size, location and scope of this historic sign is shown on the attached elevations. Historic sign approximate dimensions are 11' wide and 6'6" high.

- g. Roads: No internal roads are being provided in the PUD.
- h. Sidewalks: No internal sidewalks are being provided in the PUD.
- i. Stormwater: Parcel 1 of the project is exempt from stormwater requirements as an existing facility with no additional impervious surfaces proposed. Parcel 2 will comply with City Code regarding stormwater requirements.
- j. Lighting. Project lighting shall comply with applicable Code provisions.
- n. Accessory Uses. Project accessory uses shall comply with applicable Code provisions.
- o. Temporary Uses. Project temporary uses shall comply with applicable Code provisions. Temporary offices and construction trailers shall be allowed on the Property during construction of any building and may be moved throughout the site if necessary but shall be removed within 30 days of issuance of a final Certificate of Occupancy by the City for the final building within the Property. Parking may be provided for the temporary offices and trailers in a temporary defined, but unpaved, area which meets applicable Code provisions.
- p. Utilities: Project will utilize existing utility connections to the extent permitted.
- q. Landscaping: A landscape plan is attached as a part of **Exhibit "B"**.
- r. Tree Mitigation: Project tree removal and replacement will comply with applicable provisions of Code Chapter 25, Article III.
- s. Conservation Overlay Zone Development: None of the Property is within the Conservation Overlay Zone.

D Compliance with the purpose and intent and criteria in Code Section 28-286.

The 36 Granada PUD complies with Code Section 28-286 by:

Promoting more efficient and economic use of land by offering redevelopment of an infill site with an existing building that is progressively deteriorating.

- k. Encouraging a more compatible and harmonious development of contiguous lands by creating uses that will enhance the sense of community/
- l. Providing flexibility to meet changing needs, technologies, economics and consumer preferences in the Master Development Plan and this text;
- m. Providing a process to assess a development's impact on the proposed site, the surrounding neighborhoods or areas, and the city as a whole;
- n. Demonstrating the coordinating of architectural styles, building forms, and building relationships within a planned development, as well as, the planned development's relationship with the existing and preferred architectural context surrounding the project;
- o. Providing an environment of consistent character compatible with the surrounding areas; and
- p. Permitting specific limitations and requirements in excess of those included in other zoning districts, based on the unique characteristics of the individual site, where necessary to the public health, safety or welfare, or for the protection or preservation of lands, neighborhoods or areas of the city deemed unique or historic based on the proposed location of the planned development.

E. Compliance with Code Section 28-288 and justification for any zoning uses.

As stated in Section C.4 hereof, the allowable uses within the Property shall be approximately 7,400 square feet of retail/commercial space including all uses allowed within CL1 zoning category in addition to allowing all alcoholic beverages to be served on-site and a current maximum 204 seats (250 seat limit with appropriate additional parking, see section 7.g) for all restaurants on the Property (combined). A master development plan depicting the locations of the proposed land uses is attached as **Exhibit "B", Master Development Plan**. The proposed uses are permitted in the FLUM designation for the Property.

Development standards for the Property are set forth in Section C.3 hereof. These standards will mitigate for any negative impacts of the development on surrounding lands.

Benefits to the community from the 36 Granada project include:

- a. Improvements to the streetscape of Granada St. and Desoto St. See **Exhibit "B"** for a proposed plan for the improvement, and a more attractive elevation on the north side of the building.
- b. Providing a redevelopment infill project of a deteriorating facility,
- c. Planting of Florida native landscaping and materials that minimize irrigation and fertilizer,

- d. Implementation of incentive based ride share program for employees to minimize auto traffic through adjoining neighborhoods,
- e. Use of pervious pavers for new parking areas,
- f. Eliminating one existing curb cut for better neighborhood walkability and installation of bicycle racks to encourage non car transportation,
- g. Utilizing existing infrastructure, at no cost to the City.
- h. Increasing the number of jobs available to City residents, thus allowing them to work locally, even within walking and biking distance from their homes.

The phasing of the PUD or PUD amendment, including all sub-phases; each phase addressing the types of approval required or obtained (i.e.: entry corridor, HARB, building plan, landscaping, etc.) and the proposed commencement and completion of such development according to the plans approved by such ordinance or other related permit.

The 36 Granada project will be developed in one (1), three-year phase. Construction shall commence within one (1) year of the City Commission's adoption of this PUD Modification ordinance and shall be completed within two (2) years of commencement. For purposes of this PUD, "commencement" shall be defined as the City's approval of building permits, and "completion" shall be defined as the City's approval of a certificate of occupancy.

Identification of the legally responsible entity or entities for continuing operations and maintenance to such areas, functions and facilities as are not to be provided, operated or maintained by the city pursuant to written agreement.

The Owners will record one or more access and utility easement and maintenance agreements against title to their respective lands to ensure for the continuing operation and maintenance of project infrastructure.

A termination date after which the PZB shall be required to evaluate whether all or part of the PUD has been abandoned by failure to timely commence and complete development of all or part of the phases of the PUD as identified pursuant to subsection (6) or other circumstances have contributed to the development delay, if so, one (1) year extension(s) may be granted by the PZB at an advertised public hearing, after two (2) such extensions if no activity has been initiated the city commission shall deem the PUD abandoned which shall act as a reversion of the zoning to its pre-PUD zoning district for the areas not in compliance with the phasing schedule.

If not timely commenced and completed pursuant to Section 11 above, this PUD shall terminate 3 years from its adoption by the City Commission unless otherwise extended or amended pursuant to the Code or Florida law.

5. If a reversion to pre-PUD zoning district pursuant to subsection (8) would otherwise be inconsistent with the Comprehensive Plan in effect at the time of the reversion, said reversion shall not become effective unless a Comprehensive Plan amendment is duly adopted.

The proposed PUD is consistent with the underlying future land use designation of the Property.

6. An infrastructure impact analysis or equivalent impact analysis to clearly outline the project's potential impact on transportation networks, circulation patterns, and infrastructure of the city.

The proposed PUD will not significantly impact public facilities. By redevelopment of an existing building the proposed uses will maintain existing connections to city infrastructure and will not affect circulation patterns or transportation networks. Therefore an impact analysis is not required for this project.

7. A signed statement voluntarily acknowledging and binding the applicant(s), property owner(s), and each of their successors in title, to every commitment made in their application and at hearing relating to the rights, terms, conditions and limitations of the PUD text narrative and final site development plan, including but not limited to the phasing, termination and reversion clauses.

See Section E hereof.

C. Performance Standards (Code Section 28-291).

The Performance Standards of Code Section 28-291 only apply to residential and mixed use developments. The 36 Granada PUD does not include residential development.

D. Performance Standards (Code Section 28-292).

Standards and criteria for redevelopment and infill PUD developments

1. General development patterns. The proposed PUD will maintain the existing building while enhancing the streetscape and architectural appeal of the building. In doing so it shall respect the existing development patterns and provide for compatibility within the existing area. The architectural and landscape enhancements will contribute significantly to the area and increase the value of the surrounding area.

2. Contributions to existing community. The proposed PUD will demonstrate consideration for the existing neighborhoods and street patterns by not changing or impacting either. The building shall remain substantially as it has for over 100 years, but with aesthetic and architectural improvements. Parking, via a driveway off of Granada St. will be provided in the rear of the building (in an area already used for parking) to limit impact on pedestrian access and remain consistent with other commercial uses along Granada St. The PUD will be consistent with the character and history of this area. The uses proposed will be designed to create a unique sense of place with appropriate design, massing, screening and architectural techniques as demonstrated on the attached renderings.

3. Redevelopment and infill projects. The existing building, while old, is structurally sound and does not warrant demolition. Significant exterior improvements will be made, primarily

for aesthetic purposes. Further, significant interior improvements will be made to maximize use and aesthetic value and to bring the existing facility up to current code and health standards. Detailed drawings of the existing and new streetscape are attached. By placing the parking in the rear off of Granada St., impacts to the pedestrian nature of Granada St. will be minimized. The site is already cleared and tree removal is not required.

E. Ownership Agreement.

The Owners, on behalf of themselves and their successors and assigns, hereby agree and stipulate to proceed with the proposed development in accordance with the PUD ordinance for this application as adopted by the City of St. Augustine City Commission. The Owners also agree to comply with all conditions and safeguards established by the St. Augustine City Commission with respect to this Planned Unit Development application.

36 Granada LLC,
a Florida limited liability company

By: _____
Name: _____
Title: _____
Date: _____

Exhibit "A"

Legal Description of the Property

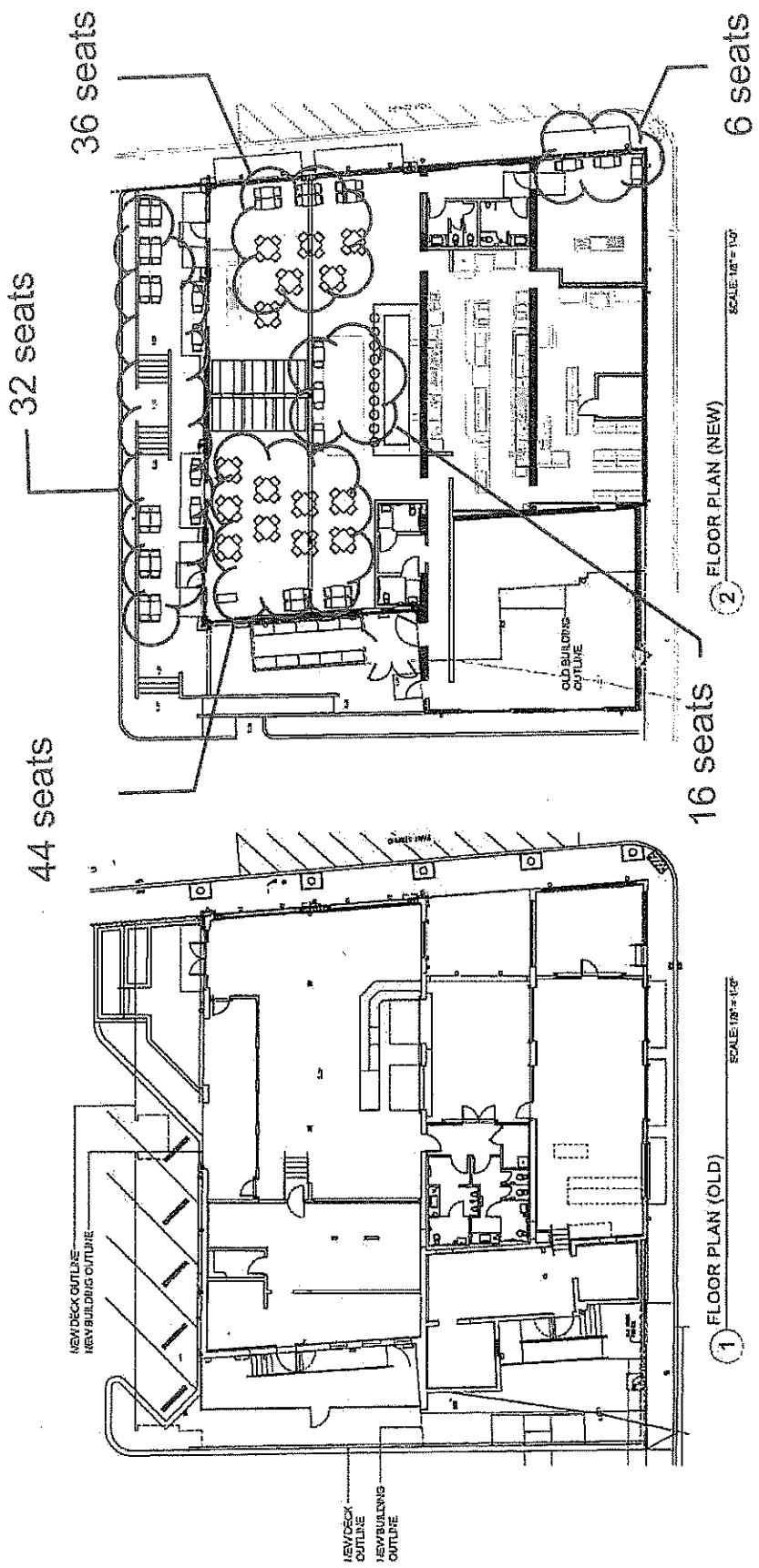
EXHIBIT B

Site Plan

DO NOT MEASURE DRAWINGS
FIRST OF CONSTRUCTION AND UTILITY SETS

CROWN DUCHI
ARCHITECTURAL

1100 N. 1st St. Suite 100
Phoenix, AZ 85004
Tel: 602.441.1100
Fax: 602.441.1101
www.crownarchitect.com



134 seats in total
204 seat max. per PUD language

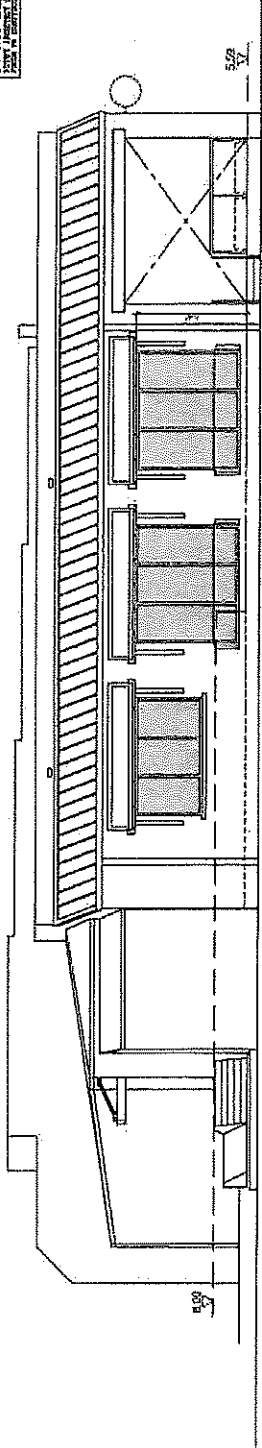
50% Issue - Design Development - Phase 1 - 04.04.2022

FRENCH PASTRY LITTLE MISS ILL ST. AUGUSTINE
NEW CONSTRUCTION
RECONSTRUCTION ST. AUGUSTINE PLANNED UNIT DEVELOPMENT
FLOOR PLANS
A1.1

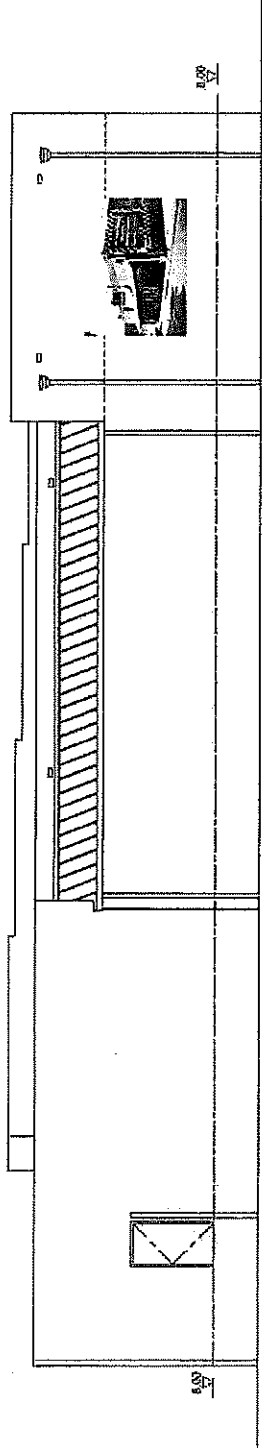
DO NOT MEASURE DRAWINGS
FOR CONSTRUCTION OF RECORD

CRONK DUCH
ARCHITECTS P.A.
10000 N. 15th Ave., Suite 100
Miami, FL 33181
Tel: 305.555.1234
Fax: 305.555.1235
www.cronkduch.com

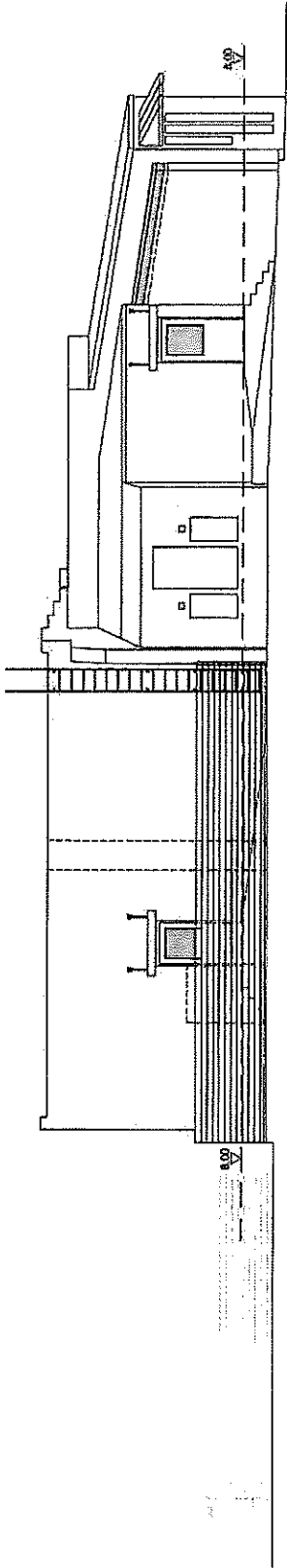
PROJECT NAME	50% ISSUE - DESIGN DEVELOPMENT - PHASE 1 - 04.04.2022
PROJECT ADDRESS	11111 N. 15th Ave., Suite 100, Miami, FL 33181
PROJECT OWNER	CRONK DUCH ARCHITECTS P.A.
PROJECT ARCHITECT	CRONK DUCH ARCHITECTS P.A.
PROJECT ENGINEER	CRONK DUCH ARCHITECTS P.A.
PROJECT LANDSCAPE ARCHITECT	CRONK DUCH ARCHITECTS P.A.
PROJECT INTERIOR ARCHITECT	CRONK DUCH ARCHITECTS P.A.
PROJECT MECHANICAL ENGINEER	CRONK DUCH ARCHITECTS P.A.
PROJECT ELECTRICAL ENGINEER	CRONK DUCH ARCHITECTS P.A.
PROJECT PLUMBING ENGINEER	CRONK DUCH ARCHITECTS P.A.
PROJECT FIRE ENGINEER	CRONK DUCH ARCHITECTS P.A.
PROJECT STRUCTURAL ENGINEER	CRONK DUCH ARCHITECTS P.A.
PROJECT ENVIRONMENTAL ENGINEER	CRONK DUCH ARCHITECTS P.A.
PROJECT HISTORIC PRESERVATION	CRONK DUCH ARCHITECTS P.A.
PROJECT TRANSPORTATION ENGINEER	CRONK DUCH ARCHITECTS P.A.
PROJECT SPECIALTIES	CRONK DUCH ARCHITECTS P.A.
PROJECT DATE	04.04.2022
PROJECT SCALE	1/4" = 1'-0"
PROJECT SHEET	A2.2



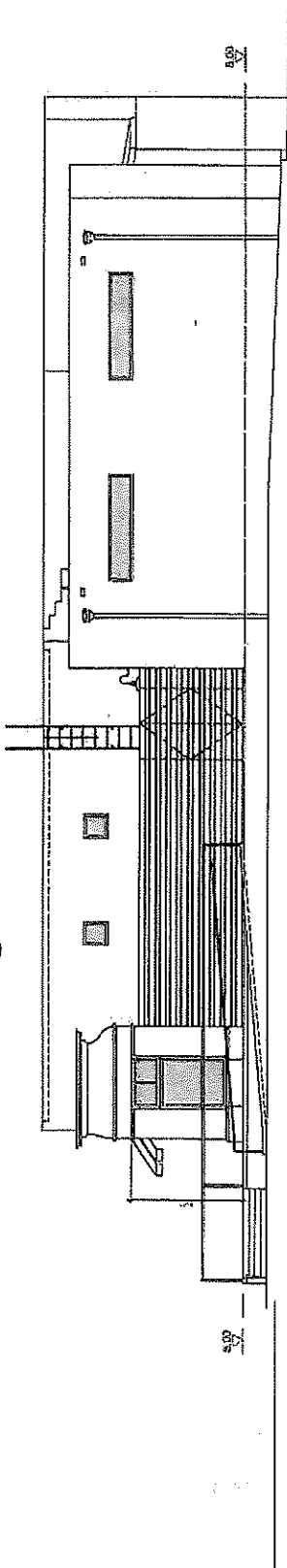
1 DE SOTO PLACE ELEVATION (OLD)
SCALE 1/4" = 1'-0"



2 DE SOTO PLACE ELEVATION (NEW)
SCALE 1/4" = 1'-0"



3 PARKING ELEVATION (OLD)
SCALE 1/4" = 1'-0"



4 PARKING ELEVATION (NEW)
SCALE 1/4" = 1'-0"

50% Issue - Design Development - Phase 1 - 04.04.2022



LANDSCAPE PLAN

MEM

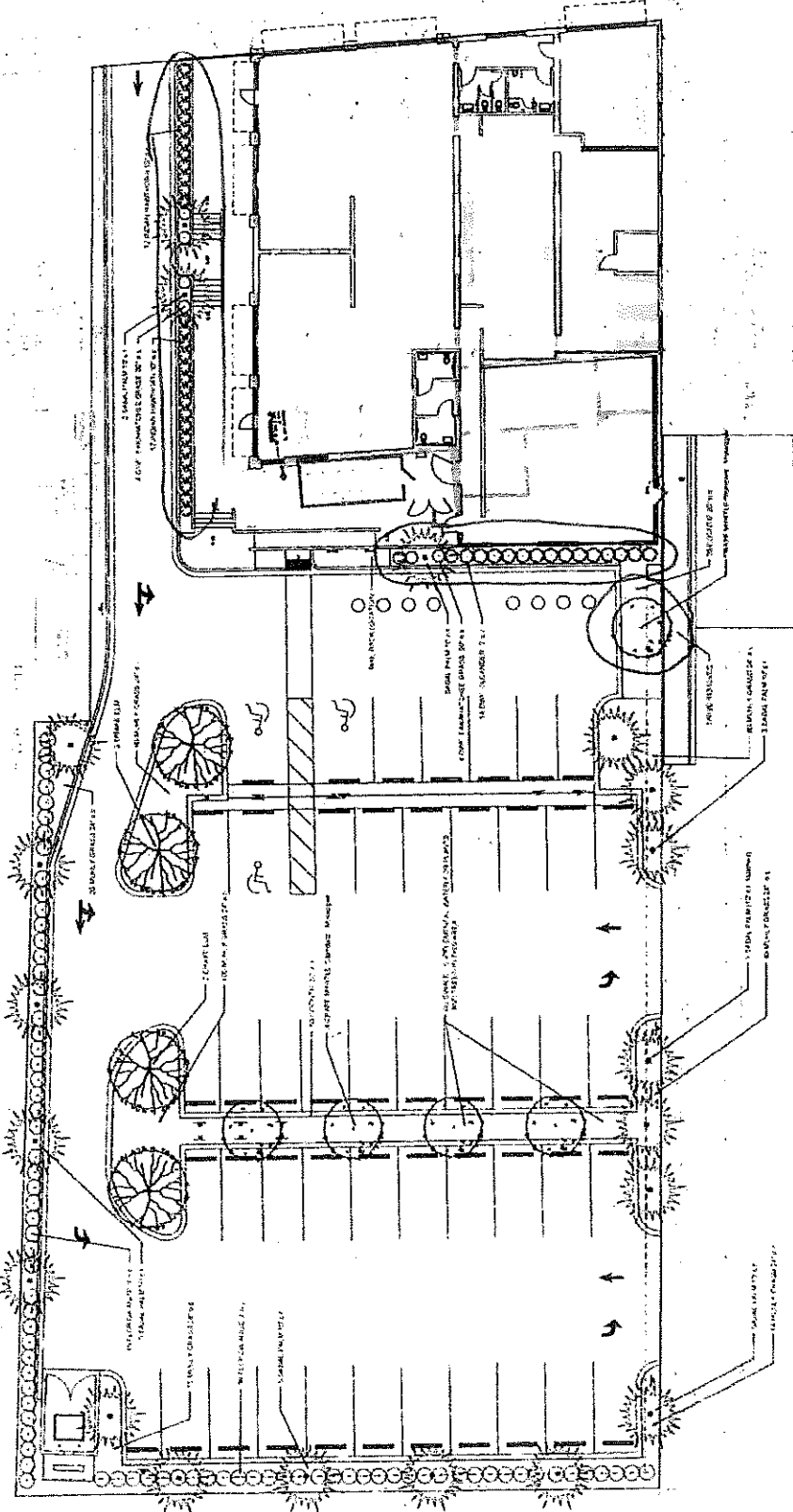
DATE: 4.7.22

**APPROVAL
DOCUMENTS**

6-7

[illegible]


 American Society of Human Genetics
 11 Dupont Circle, N.W.
 Washington, D.C. 20036
 Tel: 202/638-2600
 Fax: 202/638-2601
 E-mail: ashg@ashg.org
 Web: www.ashg.org



PLANT SCHEDULE

[illegible]

NOTE: BY QUANTITY, 91% OF THE PROPOSED LANDSCAPE MATERIAL IS INTENDING TO BE OBTAINED ON AUTOMATICALLY ORDERED SYSTEMS. THE PLANT MATERIAL TO BE OBTAINED ON ORDER TO MEET THE PLANTS IDEALITY AND VARIETY DURING PERIOD OF EXTENSIVE GROWTH. THE PLANTS IDEALITY AND VARIETY

DO NOT MAKE ANY CHANGES TO THE DRAWINGS
NOTIFY ARCHITECT IMMEDIATELY OF ANY DISCREPANCIES
PRIOR TO CONSTRUCTION OF THE GENERAL NOTES

CRONK DUCH ARCHITECTURE

San Mateo District, Room 101, Jacksonville, Florida 32202
(904) 944-2625 FAX (904) 944-2625

[illegible]

READ ONLY, FILE #0.	SEE DRAWING	READ UPPER JOI	INDS	LEGAL DESCRIPTION
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PROJECT NAME	SCHMATIC DESIGN
PROJECT NUMBER	

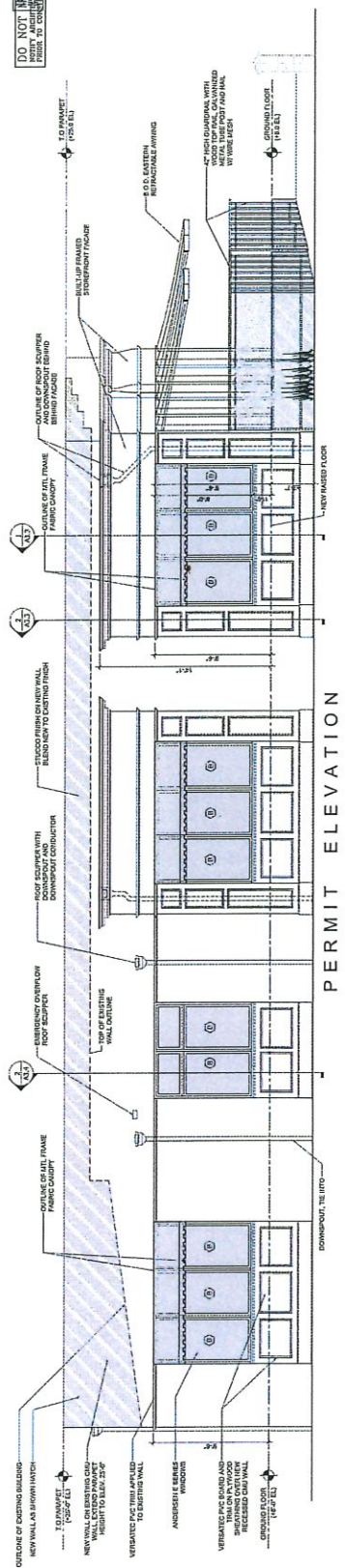
**FRENCH PANTRY
LITTLE MISS HA
ST. AUGUSTINE
RENOVATION / ADDITION**

36 GRANADA ST.
ST. AUGUSTINE
FLORIDA 32084

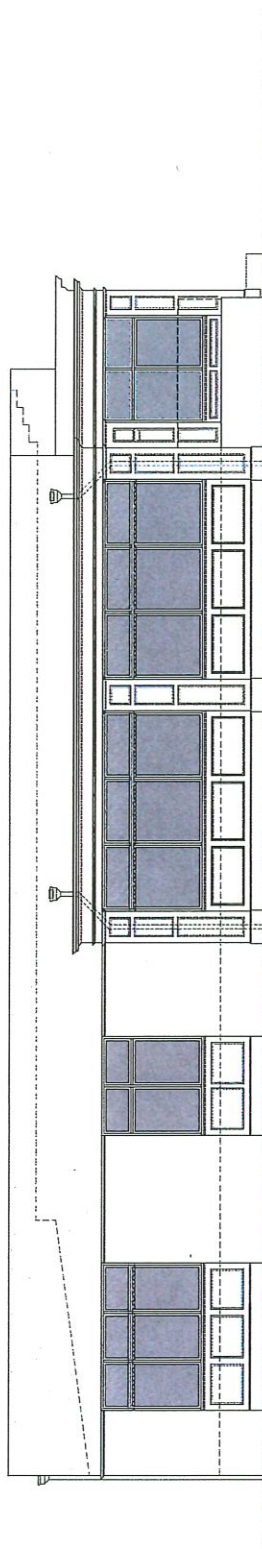
ELEVATIONS

A2.1

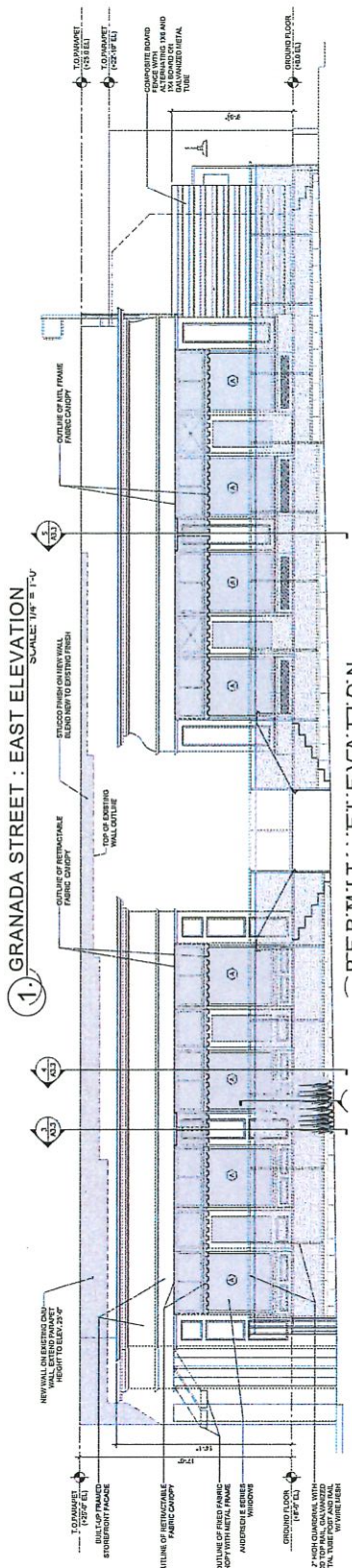
Page 204 of 226

PROPOSED ELEVATION COMPARISON 01.12.24
Permit Set - 01.20.2023

PERMIT ELEVATION



PROPOSED ELEVATION



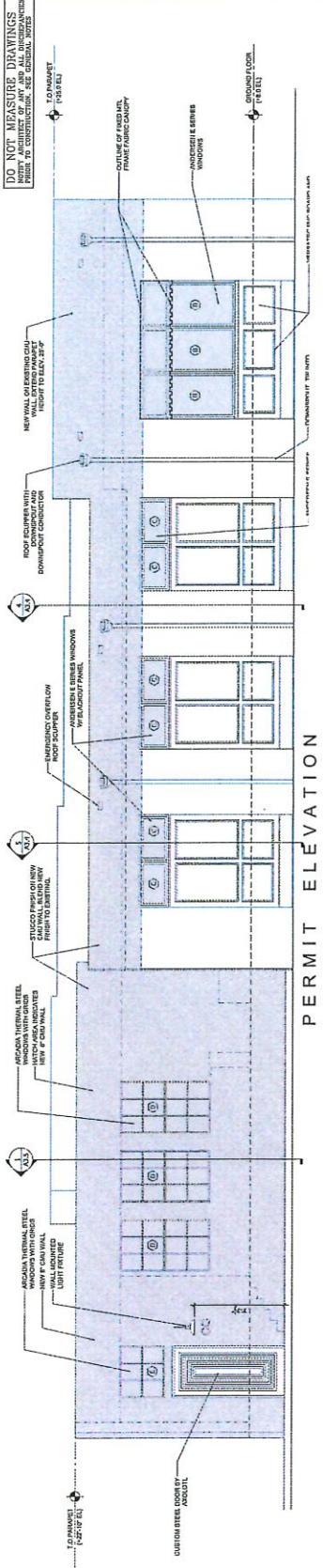
1. GRANADA STREET : EAST ELEVATION



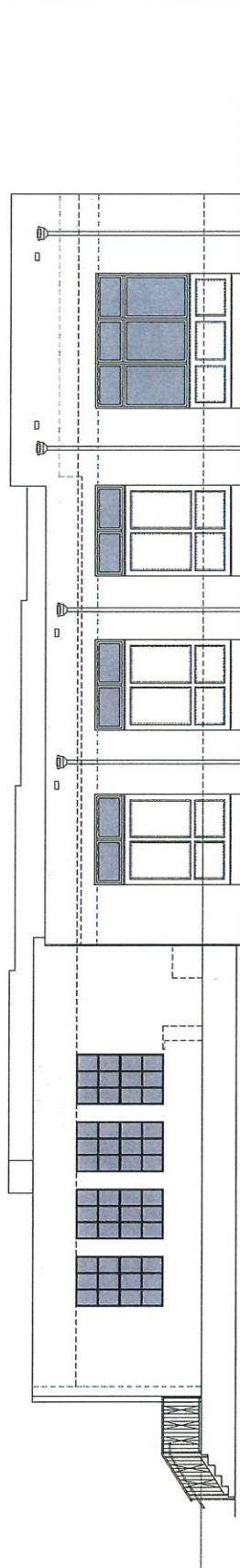
PROPOSED ELEVATION

2 DRIVEWAY : NORTH ELEVATION

DO NOT MEASURE DRAWINGS
FOR CONSTRUCTION. SEE GENERAL NOTES
P. 100 FOR MEASUREMENTS.

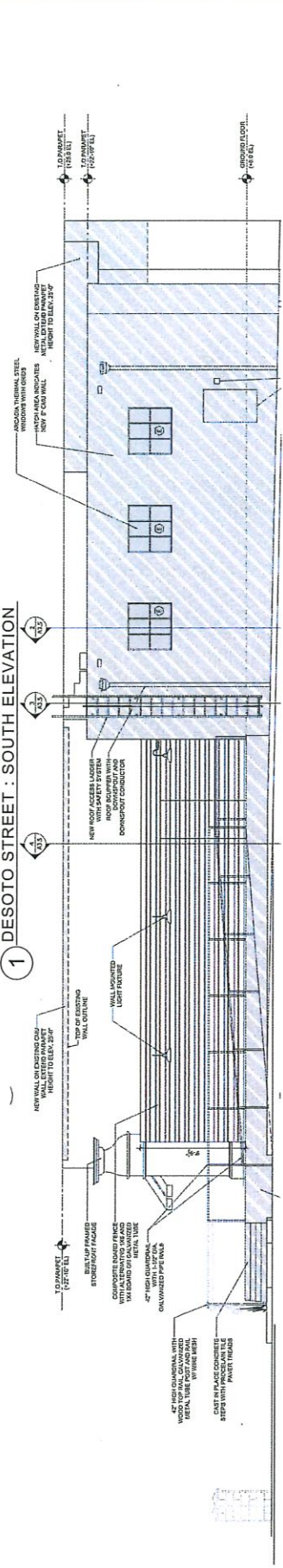


PERMIT ELEVATION

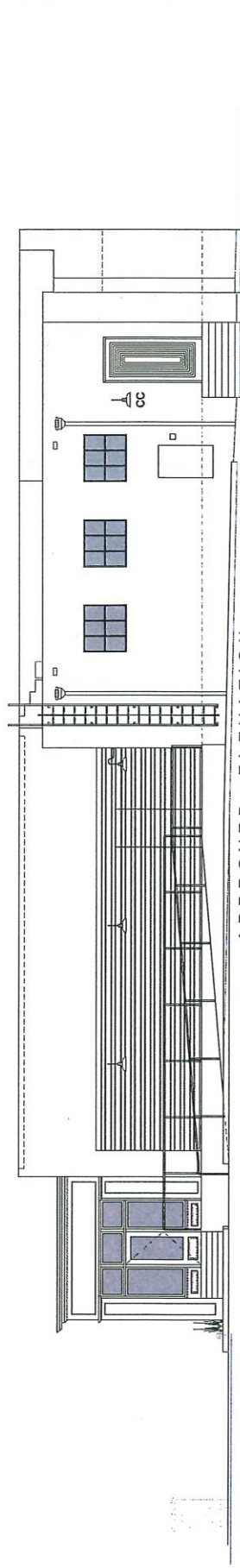


APPROVED ELEVATION

1 DESOTO STREET : SOUTH ELEVATION



PERMIT ELEVATION



APPROVED ELEVATION

2 PARKING VIEW : WEST ELEVATION



PROJECT NAME:	FRENCH PANTRY
PROJECT NUMBER:	1010192
PROJECT ADDRESS:	1010192
PROJECT CITY:	JACKSONVILLE, FLORIDA
PROJECT STATE:	FLORIDA
PROJECT ZIP:	32202
PROJECT PHONE:	904.444.1111
PROJECT FAX:	904.444.1111
PROJECT EMAIL:	info@cronkduch.com
PROJECT WEBSITE:	www.cronkduch.com
PROJECT DESCRIPTION:	RENOVATION / ADDITION
PROJECT ARCHITECT:	JOSEPH S. CRONK
PROJECT ENGINEER:	JOSEPH S. CRONK
PROJECT DATE:	01.12.24
PROJECT PERMIT:	01.12.24
PROJECT SCALE:	1/8\"/>

PROPOSED ELEVATION COMPARISON 01.12.24
Permit Set - 01.20.2023

DO NOT MEASURE DRAWINGS FROM TO CONSTRUCTION. SEE GENERAL NOTES

CRONK DUCH ARCHITECTURE

1500 N. 2nd Street, Suite 100, St. Augustine, FL 32080
TEL: 321.281.1234 FAX: 321.281.1235
WWW.CRONKDUCH.COM

PROJECT NO.	2024-001
DATE	01/10/2024
PROJECT NAME	ST. AUGUSTINE HISTORIC DISTRICT
CLIENT	ST. AUGUSTINE HISTORIC DISTRICT
ARCHITECT	Cronk Duch Architecture
DESIGNER	Cronk Duch Architecture
DRAWN BY	JD
CHECKED BY	JD
DATE	01/10/2024



CAD FILE NO.	2024-001
DATE	01/10/2024
PROJECT NAME	ST. AUGUSTINE HISTORIC DISTRICT
CLIENT	ST. AUGUSTINE HISTORIC DISTRICT
ARCHITECT	Cronk Duch Architecture
DESIGNER	Cronk Duch Architecture
DRAWN BY	JD
CHECKED BY	JD
DATE	01/10/2024

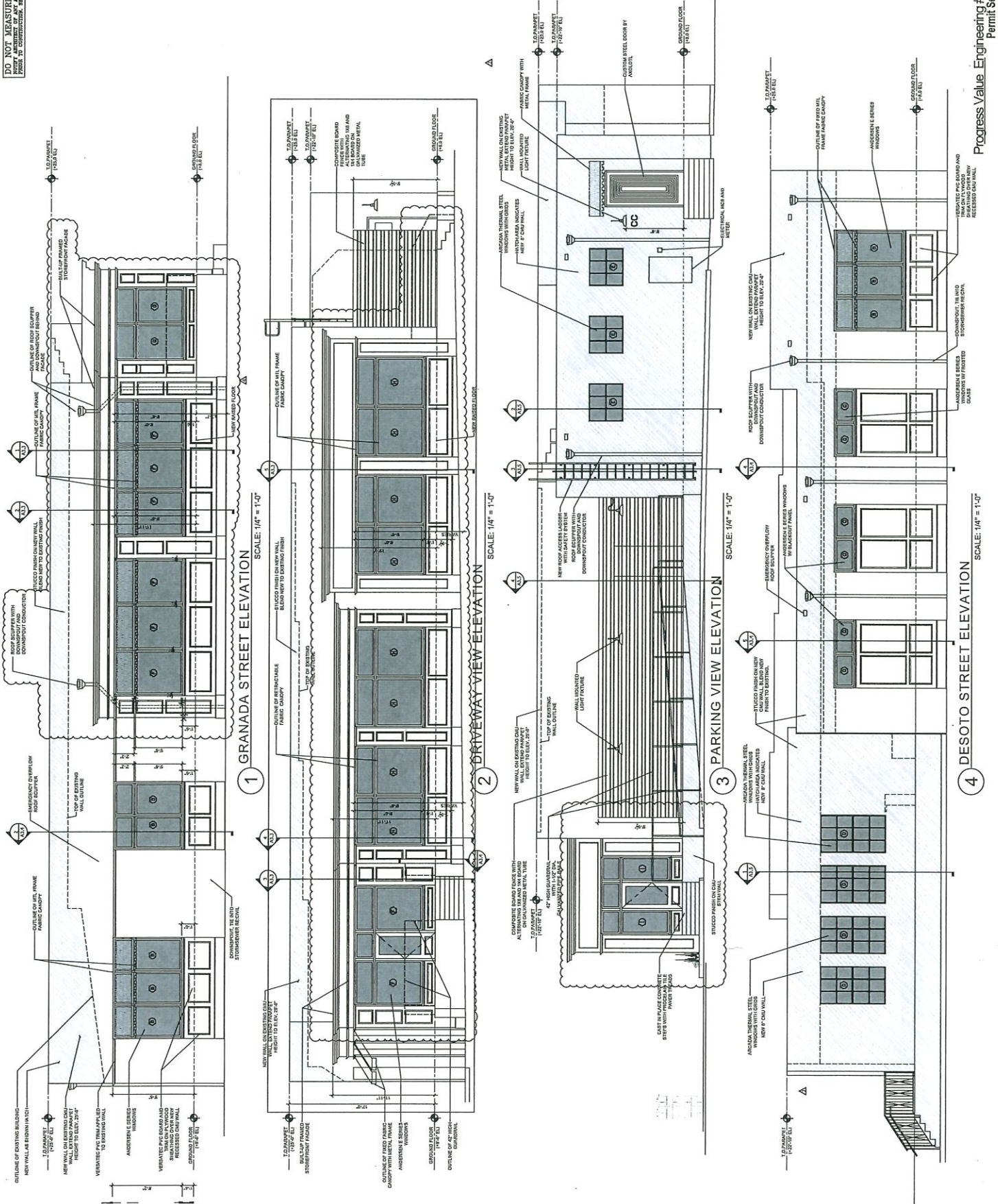
PROJECT NAME	ST. AUGUSTINE HISTORIC DISTRICT
PROJECT NUMBER	2024-001
PROJECT LOCATION	ST. AUGUSTINE HISTORIC DISTRICT
PROJECT DESCRIPTION	ST. AUGUSTINE HISTORIC DISTRICT
PROJECT DATE	01/10/2024
PROJECT DRAWN BY	JD
PROJECT CHECKED BY	JD
PROJECT DATE	01/10/2024

PROJECT NAME	ST. AUGUSTINE HISTORIC DISTRICT
PROJECT NUMBER	2024-001
PROJECT LOCATION	ST. AUGUSTINE HISTORIC DISTRICT
PROJECT DESCRIPTION	ST. AUGUSTINE HISTORIC DISTRICT
PROJECT DATE	01/10/2024
PROJECT DRAWN BY	JD
PROJECT CHECKED BY	JD
PROJECT DATE	01/10/2024

Progress Value Engineering #2 11.29.23
Permit Set - 01.20.2023

A2.1

Page 208 of 226



To: City Commissioners of St. Augustine Florida

From: Gina Burrell, Greater Fullerwood Neighborhood Association 

RE: Wiles Park Plaque for George Gardner

Date: January 22, 2024

At the January 8, 2024, City Commission meeting the Commissioners approved the placement of a plaque to honor former Mayor George Gardner. The request was made from the Greater Fullerwood Neighborhood Association. The Commissioner agreed that the exact location, design, and wording would be presented at a later meeting for final approval. The attached information is to satisfy this request.

Please find attached maps of the proposed location of the plaque to honor former Commissioner and Mayor George Gardner. Also attached is a representation of the proposed plaque itself including the wording.

It is requested that the plaque (8" x 10") be permanently attached to a piece of Coquina Stone. The stone would be lifted off the ground by three metal post. The post would be mounted into the ground and glued to the stone to prevent theft. The plaque would be engraved into weather resistant steel plaque.

Sally Gardner, wife of George Gardner has approved the wording of the plaque.

It is our understanding, that if this draft is approved, the city will coordinate installation.

Thank you

CITY OF ST. AUGUSTINEMEMORANDUM

TO: Commissioners

DATE: December 18, 2023

RE: Plaque for George Gardner

Members of The Greater Fullerwood Neighborhood Association have contacted myself and Commissioner Blonder asking for permission to place a plaque in the Herbie and Annette Wiles Park on East Park Avenue honoring former Mayor George Gardner.

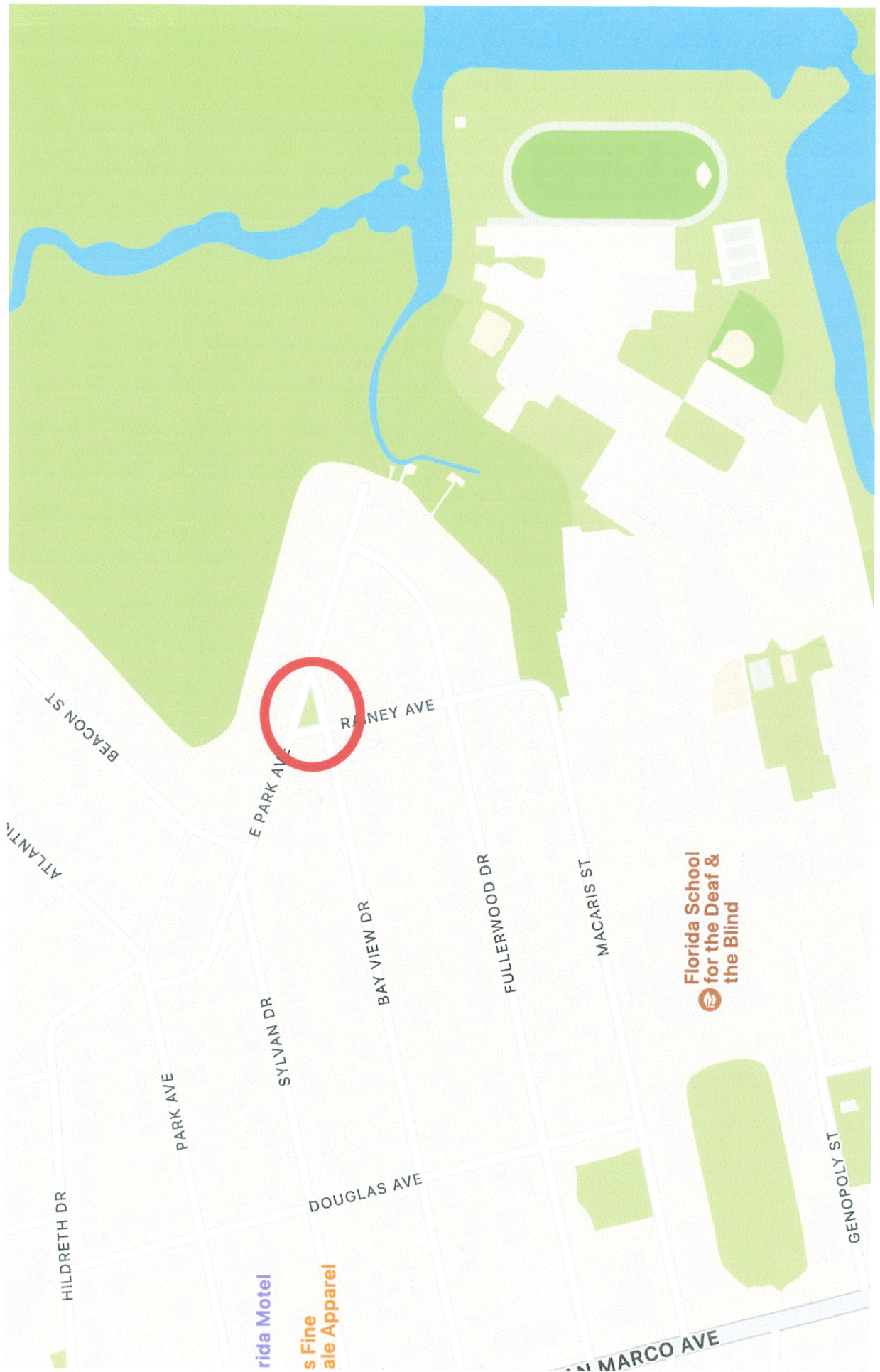
Mayor Gardner was a long-time friend of the City and had numerous accomplishments making the City a better place to live.

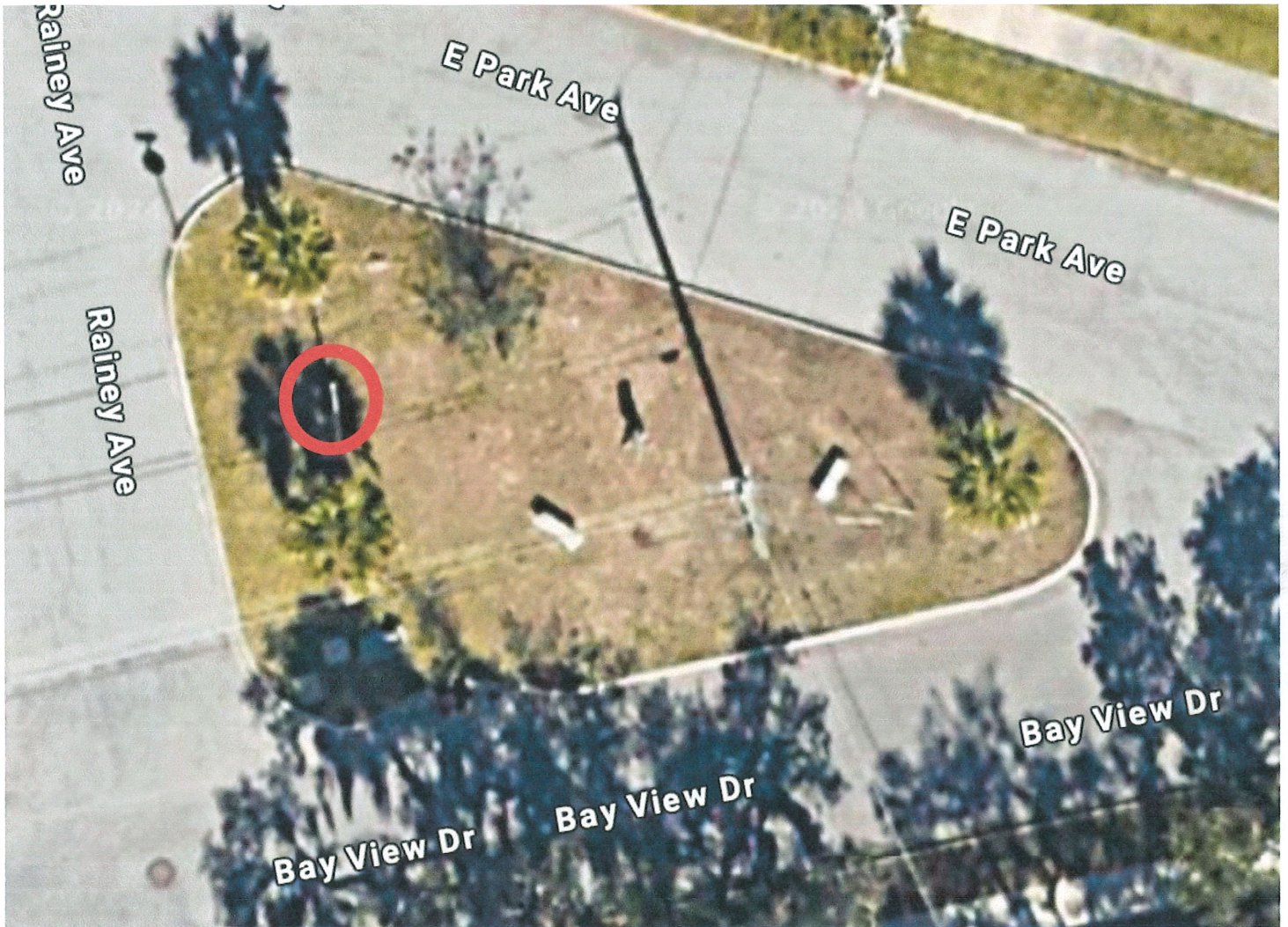
These members have gotten permission from the Wiles family to place a memorial plaque in the park and are now asking for permission from the City Commission to place the memorial plaque in the park.

If approval is granted, the exact location of the plaque, the design of the plaque and the wording on the plaque will be submitted to the City Commission for final approval.



Nancy Sikes-Kline
Mayor







GEORGE R.L. GARDNER

1937-2021

Mayor, Commissioner, City of St. Augustine

2002-2008

*“George loved his family and community,
and we are all better off from his lasting
contributions to make St. Augustine a better place.”*

Mayor Tracy Upchurch - 2021

George and his wife, Sally, resided
at 57 Fullerwood Drive, St. Augustine.

CITY OF ST AUGUSTINE, FLORIDA

MEMORANDUM

TO: David Birchim
City Manager

DATE: February 15th, 2024

RE: Noise Ordinance Review Update

Mr. David Birchim,

At the next scheduled City Commission, February 26th, 2024 at 5:00 P.M., I will be prepared to update the Commission on the current progress of the review and update of the City of St. Augustine Noise Ordinance. The update will include but not limited to:

- Introduction
- Eric Zwerling
 - A. Background and Credentials
 - B. History with the City of St. Augustine and Police Department
- Current Progress
 - A. SAPD Assisting Mr. Zwerling with Noise Meter Sample Reading
 - B. Mapping locations
- Current method of noise meter reading
- Proposed method of noise meter reading with Mr. Zwerling's Comments
- Questions or Comments


Anthony W. Cuthbert
Assistant Chief of Police

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim
City Manager

DATE: February 16, 2024

RE: February 26, 2024 Staff Presentation regarding contract between the City of St. Augustine and SJC Cultural Events Inc. regarding the Sing Out Loud Festival concert event.

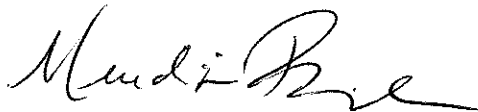
Following the 2023 Sing Out Loud Festival concert on Francis Field, SJC Cultural Events Inc. presented an overview of the event to the City Commission and requested the use of Francis Field for future years. City staff and SJC Cultural Event Inc staff worked together to develop a License Agreement that we feel captures the needs of each organization and incorporates the guidance given to us by the City Commission.

The License Agreement is for 2024 through 2028, with an ability to extend for an additional five years, is included in this agenda item. The agreement includes detail on the standard rental rate of the field and surrounding areas as depicted in Exhibit A, an estimated cost of City Services to be reimbursed as depicted in Exhibit B and an allocation of proceeds that equals \$1 per ticket for a mutually agreed upon and locally beneficial program within the City.

Please place this item on the February 26, 2024 Regular Commission Agenda under staff presentations.

I am available if you have any questions regarding this license agreement.

Thank you,



Meredith Breidenstein, CPA
Assistant City Manager
Attachments

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (hereinafter referred to as "Agreement") is made and entered into by and between **CITY OF ST. AUGUSTINE, FLORIDA**, a municipal corporation organized and existing under and by virtue of the laws of the State of Florida (hereinafter referred to as "the CITY"), whose mailing address is P.O. Box 210, St. Augustine, Florida 32085, and **SJC Cultural Events Inc.** (hereinafter referred to as "SJCCE"), whose mailing address is 1340C AIA S, St. Augustine, FL 32080.

(1) LICENSED PREMISES: The CITY does hereby license unto SJCCE, and SJCCE does take from the CITY, for a Term provided in section (2) below, and in all instances in the condition as presented as of the date of this License, the following described premises known as "Francis Field" for the purpose of the Festival concert Event, the CITY's Historic Downtown Parking Facility known as "The Parking Garage" for the purpose of evacuation should instance necessitate per the Life Safety Plan and for the purposes otherwise provided herein, and the adjacent areas of Francis Field and the Parking Garage located in St. Augustine, St. Johns County, Florida (hereinafter referred to as "Licensed Premises"), see Exhibit A, to-wit:

Francis Field
25 W Castillo Dr
St. Augustine, FL 32084

PARKING GARAGE
1 Cordova St
St. Augustine, FL 32084

(2) TERM: The Term of this License shall be for a mutually agreeable weekend in September, including the two weeks prior to and one week subsequent to that weekend, each year, for a duration of five years. This period will commence on September 1st, 2024, and expire on September 30th, 2028. There is an option to renew for an additional five years, subject to the terms and conditions set forth herein.

(3) USE: SJCCE shall have the exclusive right to use the Licensed Premises for the purpose of managing, producing, and conducting a 2-day live music festival (Hereinafter the "Event") and conducting all related activities and operations within the Licensed Premises. Activities permitted on Francis Field, include, but are not limited to, live music entertainment, concessions, sale of food and beverages, sale of merchandise, marketing and promotional activities, installation and use of patron access control equipment, sale of tickets, and the sale and consumption of alcoholic beverages (Hereinafter "Permitted Uses on Francis Field"). Activities permitted in the Parking Garage and adjacent areas to the Parking Garage and Francis Field include installation and use of patron access control equipment, sale of tickets and street closures (as mutually agreed to by the parties). The area known as "Project SWING" will be included in this agreement only so that use and access can be restricted. There will be no other activity in this area. The area of the Licensed Premises are shown on Exhibit "A" hereto and the parties recognize that the exact area of the Licensed Premises is subject to change if mutually agreed upon.

(a) Francis Field may be used by SJCCE and its vendors, concessionaires and contractors during the Term as defined in Section (2) for the Permitted Uses and for the purpose of deliveries, loading in, installing equipment, preparing the Licensed Premises, constructing stages, packing, removal of all equipment and demobilization and removal of stages and such other purposes as are reasonably related to the use for which SJCCE has been allowed to use the Licensed Premises .

(b) SJCCE will use good faith efforts, and shall cause its vendors, concessionaires and contractors to use good faith efforts, to minimize any material adverse and/or disruptive effects from the Event on the residents of and the businesses located in the CITY.

(c) City grants SJCCE a permit consistent with section 11-92 of the municipal code.

(4) FEES/PAYMENT: SJCCE shall remit to the CITY, as rental fees for the use of the Licensed Premises 1) standard rental rate for the field, 2) reimbursement for City

Services provided in Exhibit "B". and 3) support for a mutually agreed upon and locally beneficial program within the City for which allocated proceeds from the event will be contributed.

(a) City Services: SJCCE shall reimburse the CITY for all necessary emergency services and services solely able to be provided by the CITY. SJCCE shall reimburse the CITY for all other services elected by SJCCE in SJCCE's sole discretion. The CITY shall provide SJCCE with a line-item invoice for all services to be provided 30 days prior to the Event.

(b) Allocation of Proceeds: The parties shall allocate \$1 per ticket as proceeds for the mutually agreed upon and locally beneficial program within the City. Future increases will be subject to the negotiation and mutual agreement of the parties. A report that details all expenses of the City and all ticket sale information from SJCCE will be shared with each party at the conclusion of the event for final financial reconciliation.

(5) UTILITIES: SJCCE shall, at its sole cost and expense, contract with applicable third parties or the CITY for the provision of electricity, water and other utility services necessary for the Event, provided, however that the CITY shall cooperate, at no cost or expense to the CITY, and reasonably assist SJCCE with obtaining such services, including but not limited to granting reasonable access rights to the applicable service providers for the purpose of installing and providing such services. Notwithstanding anything contained herein to the contrary, the CITY shall operate and maintain the existing municipal infrastructure serving the Licensed Premises in good operating condition for the Event, including but not limited to utilities, lights, pipes, plumbing, sewer and water, and water drainage. In addition, the CITY shall coordinate turning on and off lights in and around the Licensed Premises , as requested by SJCCE . SJCCE understands and acknowledges that Francis Field is a natural turf facility open to the elements and may deteriorate due to weather conditions.

(6) LICENSES/PERMITS: SJCCE shall be responsible for obtaining and maintaining at SJCCE'S expense all licenses and permits necessary and required for

the operation of the business or businesses conducted by the SJCCE on the Licensed Premises.

(7) REPAIRS AND MAINTENANCE FOR LICENSED PREMISES: SJCCE shall keep and maintain all structures and grounds on the Licensed Premises in the same or substantially the same condition as received, subject to the natural wear and tear encompassed by the operation of the Event, including but not limited to, the interior and exterior of the structures, outdoor lighting, fence/wall and landscaping, including the turf of Francis Field. SJCCE shall not cause or suffer any lien to be filed against the Licensed Premises by reason of any repairs, restoration, reconstruction, alteration or change made thereon by SJCCE. A lien which is filed as a result of any action of SJCCE and which is not removed within ninety (90) days after being filed, shall constitute a default by SJCCE hereunder. SJCCE shall save the CITY harmless from all legal costs and charges, including attorney's fees, reasonably incurred in and about the defense and/or prosecution of any suit or proceeding in discharging the said premises, or any part thereof, from any lien caused by SJCCE.

(8) INDEMNIFICATION: SJCCE agrees, to the extent allowed by law and except and to the extent caused by the CITY's gross negligence or intentional misconduct, to protect, defend, reimburse, indemnify and hold the CITY, its agents, employees and officers and each of them forever, free and harmless at all times from and against any and all claims, liability, expenses, losses, costs, fines and damages, including reasonable attorney fees, and causes of action of every kind and character by reason of any damage to property, or the environment, including, without limitation, any contamination of the Licensed Premises, such as the soil or storm water, or by fuel, gas, chemicals or any hazardous substances, or bodily injury, including death, incurred or sustained by any party to this License, any agent or employee of any party to this License or any other person or any governmental agency arising out of or incident to or in connection with SJCCE'S performance under this License, SJCCE'S use or occupancy of the Licensed Premises, SJCCE'S acts, omissions or operations hereunder or the performance, non-performance or purported performance of this

License or any breach of the terms of this License. SJCCE recognizes the broad nature of this indemnification and hold harmless clause and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by the CITY in support of this indemnification in accordance with laws of the State of Florida. This clause shall survive the termination of this License. Compliance with the insurance requirements described in paragraph 10, below, shall not relieve the SJCCE of its liability or obligation to indemnify the CITY as set forth in this paragraph. Notwithstanding anything to the contrary in the foregoing or within this License, the CITY shall not relinquish or waive any of its rights as a sovereign local government and the CITY reserves all rights and defenses under applicable sovereign immunity law.

(9) HOLD HARMLESS; INSURANCE: SJCCE agrees that SJCCE will at all times indemnify and save and keep THE CITY harmless from any and all claims for damage and liability to persons or property occasioned, either directly or indirectly, by the use and occupancy of the Licensed Premises by the SJCCE and the SJCCE'S invitees, guests, agents and employees, including any court costs and attorney's fees, including any appeals, and shall defend the CITY against any such claims. SJCCE, at SJCCE'S expense, shall provide policies of insurance generally known as public liability and property damage insurance and/or "Owner's Landlord and Tenant Insurance" insuring the CITY and SJCCE against all claims and demands made by any persons whomsoever for injuries of any type and/or kind to persons or property incurred in connection with the operation and/or maintenance of the Licensed Premises in a coverage amount of not less than \$1,000,000 for each occurrence for damages to persons or property and \$500,000 for damages to the Licensed Premises. SJCCE shall obtain and deliver to the CITY prior to or at commencement of this License a copy of the original policy showing the CITY as a named insured along with a corresponding certificate of insurance and thereafter shall provide copies of all renewals of said policy. Failure to so provide such a policy or renewals shall constitute a default hereunder. The SJCCE also shall provide to the CITY proof of current Worker's Compensation coverage to the extent such coverage is required by law.

(10) NO WAIVER OF SOVEREIGN IMMUNITY: Nothing in this Agreement shall be construed as a waiver of sovereign immunity beyond that provided in Section 768.28, Florida Statutes, nor shall anything in this Agreement be construed as increasing the limits of the sovereign immunity of the CITY as provided in Section 768.28, Florida Statutes.

(11) USE CONDITIONS: SJCCE shall not perform nor shall SJCCE permit anyone to perform any unlawful acts on said Licensed Premises. SJCCE shall use the Licensed Premises for the purpose of operating the Event. SJCCE shall open Licensed Premises for the Event and maintain an occupancy consistent with the submitted life safety plan provided to the CITY. SJCCE's allowed hours of operation for the Event will be from as early as 10:00 AM to as late as 11:00 PM on each Event date. SJCCE will not nor will SJCCE allow any person to reside on the Licensed Premises, however, SJCCE will be permitted to have security personnel on the Licensed Premises overnight.

(12) INSPECTION AND REPAIRS:

(a) The CITY and the CITY'S agents shall have the right to make such inspection of the Licensed Premises as THE CITY may from time to time desire, such inspection to be at reasonable times.

(b) If the CITY or the CITY'S agents find that the Licensed Premises are not in good order and repair in the same or substantially the same condition as provided to SJCCE and in order to protect and preserve said Licensed Premises, the CITY may serve written notice upon SJCCE notifying SJCCE to make the desired repairs within fifteen (15) days after receipt of said notice. Upon the failure of SJCCE to make all such repairs within said fifteen (15) days, the CITY may enter upon the Licensed Premises and make repairs at SJCCE'S expense, and the costs of same shall be due and payable to the CITY upon written demand. Failure to immediately pay for repairs made by the CITY at SJCCE'S expense shall constitute a default hereunder.

(13) SIGNS, ADVERTISING AND OTHER ITEMS: Any signs, advertising or painting shall conform to all existing laws and ordinances, including the Code of the CITY of St. Augustine relating to zoning.

(14) INTELLECTUAL PROPERTY: SJCCE shall own one hundred percent (100%) of the rights to the Event's name and any related intellectual property ("Intellectual Property"). SJCCE may grant a license to the CITY to use the Intellectual Property for any purpose related to the Event, subject to the terms of a separate agreement. SJCCE agrees that it will not use any of the CITY'S registered marks without obtaining the CITY's prior written permission.

(15) ALTERATIONS, REPAIRS: SJCCE shall not make any permanent changes in or to the interior or exterior of the Licensed Premises without prior written consent of the CITY. Any approved changes, additions, alterations, improvements or repairs shall be made at the sole cost of SJCCE, unless otherwise agreed. All temporary changes, additions, alternations, improvements or repairs shall be removed and the Licensed Premises shall be returned to the same or substantially the same condition as received. Any permanent changes, additions, alterations, improvements or repairs shall immediately become part of the realty and the property of the CITY and shall remain upon said Licensed Premises and be surrendered therewith upon expiration or other termination of this License without any reimbursement being due SJCCE therefore, except for free-standing items not secured to the ceiling, walls or floor.

(16) ABANDONED PROPERTY: By signing this license, SJCCE agrees that upon surrender or abandonment, as defined by Florida Statutes, the CITY shall not be liable or responsible for the storage or disposition of SJCCE's personal property and may exercise all rights of the CITY as provided by Florida law regarding disposition of abandoned property.

(17) ASSIGNING AND SUBLETTING:

(a) SJCCE shall not assign said License, or any part thereof, or mortgage this License or any interest therein, or, if SJCCE is a corporation, SJCCE'S shareholders shall not transfer a majority interest in the company to any party or parties other than SJCCE., a Florida not-for-profit corporation, except upon the prior written approval of the CITY, which approval shall not be unreasonably withheld.

(b) Subleasing of the Licensed Premises is strictly prohibited under this License. Any subleasing of the Licensed Premises will be considered a violation of the License and considered a default for purposes of paragraph 23 on this License.

(18) FORCE MAJEURE: In the event the Licensed Premises shall be damaged or rendered untenable in whole or in part, or conditions in the City of St. Augustine, as a result of the consequences of fire or other casualty, including all weather events and acts of God, during the term, render the continuation of the Event unsafe, SJCCE at SJCCE'S option shall:

(a) Wait for the CITY to Restore same to tenantable condition within a reasonable period and incur all costs of delay of the event, consistent with paragraph 23 section (ii) (d) herein; or

(b) Terminate this License without liability of any kind to SJCCE or CITY with SJCCE responsible for all costs of cancellation of the Event. SJCCE acknowledges and agrees that City's determination of a Force Majeure event shall be final and SJCCE shall hold City harmless for said determination. If CITY shall cancel the Event due to force majeure, SJCCE shall not be liable to the CITY for any fees or payments as detailed in Section (4).

(19) RESPONSIBILITY FOR DAMAGE TO CONTENTS: For the duration of the Term as defined in Section (2), SJCCE covenants and agrees to assume full responsibility for all damage to the personal property and contents of the Licensed Premises, whether such personal property is owned by SJCCE or in possession of SJCCE, unless caused by the negligent or intentional conduct of the CITY. SJCCE agrees to hold the CITY harmless for any damage to said personal property and contents from any cause whatever unless caused by the negligent or intentional

conduct of the CITY. SJCCE shall be responsible for all costs necessary to procure and maintain insurance coverage for the personal property and contents.

(20) DEFAULT: Should SJCCE be in default under any provision of this License and should remain in default after written notice to SJCCE of said default, then in such event the CITY, without further notice, may at any time thereafter:

(a) Terminate this License, reenter the Licensed Premises and hold SJCCE liable in damages; or

(b) Utilize any and all other remedies now or hereafter existing under the common and statutory laws of the State of Florida. All remedies granted hereunder are deemed cumulative and not exclusive.

(c) If any breach of this Agreement occurs as a result of a force majeure event, the CITY and SJCCE will cooperate in good faith to define a reasonably attainable timetable with appropriate benchmarks for the CITY'S cure and compliance with the terms of this agreement. If SJCCE is unable or unwilling to agree with the timeframe or methods to cure, the terms of paragraph 20 subsection (b) shall apply.

(21) SJCCE'S CANCELLATION RIGHT: Provided no event of default exists when SJCCE delivers the Cancellation Notice, SJCCE may cancel the License upon thirty (30) days' notice to the CITY, by delivering to the CITY written notice thereof. Voluntary cancellation by SJCCE shall operate as a concurrence by SJCCE that SJCCE cannot meet the license condition and terminate this License without liability of any kind to SJCCE or CITY. SJCCE shall be responsible for any third party contractual rights, if any, resulting from its cancellation of the Event and shall indemnify and hold City harmless. Further, SJCCE shall not be liable to the CITY for any fees or payments as detailed in Section (4) or responsible for any third party contractual rights incurred by the CITY incidental to SJCCE's use of the Licensed Premises.

(22) ATTORNEY'S FEES AND COURT COSTS: The prevailing party in any action to enforce or interpret the terms of this Agreement, including actions upon

appeal, shall be entitled to recover from the adverse party reasonable attorneys' fees and costs incurred.

(23) CHOICE OF LAW; VENUE: This License shall be interpreted according to the laws of the State of Florida, and venue for any action regarding this License shall lie in a court of competent jurisdiction located in St. Johns County, Florida.

(24) LICENSE NOT RECORDABLE: This License shall not be recorded in the public records of St. Johns County, Florida, and in the event that such License is recorded contrary to this provision, the License shall terminate and SJCCE shall be responsible for all attorney's fees and court costs incurred by the CITY in removing said License from said public records.

(25) NOTICES: Any notices called for hereunder that are required to be delivered to the CITY shall be mail to the CITY, postage prepaid, certified mail, return receipt requested, at the following address:

CITY OF ST. AUGUSTINE
ATTN: MEREDITH BREIDENSTEIN
P.O. Box 210
ST. AUGUSTINE, FLORIDA 32085-0210
MLB@CITYSTAUG.COM

For purposes of any notices or correspondence to SJCCE, the CITY shall mail or e-mail same, postage prepaid, certified mail, return receipt requested, to the following address:

SJC CULTURAL EVENTS INC
1340C A1A S.
ST. AUGUSTINE, FLORIDA 32080
gpellicer@theamp.com

(26) NO DISCRIMINATION: SJCCE shall not discriminate against employees, applicants for employment, or the public because of age, race, religion, creed, color, handicap, national origin, marital status, or sex.

(27) SUCCESSORS AND ASSIGNS: The terms, covenants, conditions, provisions and agreements contained in this License shall in every case apply to, be binding upon, and inure to the benefit of the parties herein and their respective successors and assigns; it being agreed, however, that no assignment in violation of the provisions of this License shall vest any right or title in or to this License or to the estate thereby created.

(28) PARTIAL INVALIDITY: If any term or provision of this License or the application thereof to any person or circumstance to any extent, shall be held invalid or unenforceable, the remainder of this License shall not be affected thereby, and all other terms or provisions of this License shall be deemed valid and enforceable to the extent permitted by law.

(29) NON-WAIVER: No waiver or any covenants or condition of this License by either party shall be deemed to imply or constitute a further waiver of the same covenants or condition or any other covenants or condition of this License.

(30) ENTIRE AGREEMENT: This License is the entire agreement between the parties, and no amendment or modification to this License shall be effective unless made in writing and signed by all parties.

.....

IN WITNESS WHEREOF, the CITY has caused this License to be executed in its name by its duly authorized officers, and its corporate seal to be hereunto fixed, and SJCCE has hereunto set his hand and seal, this _____ day of _____, 2024.

“THE CITY”

ATTEST:

CITY OF ST. AUGUSTINE, FLORIDA,
a municipal corporation

Darlene Galambos, City Clerk

(SEAL)

BY: _____
David Birchim, City Manager

* * * ***SIGNATURES CONTINUE ON THE FOLLOWING PAGE*** * * *

Signed, sealed and delivered
in the presence of:

“SJCCE”
SJC CULTURAL EVENTS INC

Witness

BY: _____

Print Name: _____

Print Name: _____

Witness

Its: _____

Print Name: _____

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Isabelle C. Lopez, City Attorney

EXHIBIT "A"



Red Outline = City of St. Augustine

Exhibit B
SING OUT LOUD
ST. AUGUSTINE, FL
September 2024
Initial Estimates--City Services

	Unit	Rate	Initial Estimate
EXPENDITURES to be reimbursed to COSA			
Shuttle			
28 passenger mini busses	54	108.50	5,859
56 passenger coaches	140	137.50	19,250
Staff and Parking Lot Needs for shuttles			14,000
Garage:			
2 floors for event staff parking	1,135	15	17,025
2 floors for life safety plan	1,135		
SAPD	532	55.00	29,260
Other Staff on site (Events, Mobility, Fire	462	55.00	25,410
Field Rental		-	-
Weekly Prep	3	1,000.00	3,000
Event Days	2	1,000.00	2,000
Field Prep			
Fence Removal	1	5,000.00	5,000
Fence Replacement	1	5,000.00	5,000
Field Clean Up			
Rear Loaders	2	665.00	1,330
Tipping Fees & Pull Rates Garbage &	30	65.00	1,950
Restrooms surrounding field			
Portable Bathrooms	80	45.00	3,600
Cleaning of Portable Bathrooms	136	15.00	2,040
Cones/barricades Labor & Equipment	100	10.00	1,000
Administrative Fee of 10%			13,572
Covers City Manger, City Attorney, City Event Planner Time			
Total Expenditures			149,296

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim, City Manager

RE: Nomination for the 2024 Adelaide Sanchez Award
for Historic Preservation and Restoration

DATE: February 26, 2024

It is my honor to nominate Regina Gayle Phillips for the 2024 Adelaide Sanchez Award for Historic Preservation Education and Interpretation.

Ms. Phillips is currently the Executive Director at the Lincolntonville Museum and Cultural Center. She is committed to enriching our city's Black history, telling the rich and significant stories of our past, and working with the people of our community to build relationships for the future.

I have attached Ms. Phillips' resume and a short bio for your and the commission's review.

In accordance with the process outlined in Resolution 2017-08, I ask that this nomination be placed on the consent agenda for the February 26 City Commission meeting for consideration, her selection be confirmed in March, and the presentation be scheduled for May 13, the only meeting in May.

Thank you,



Barbara Blonder
City Commissioner

Regina Gayle Phillips

205 826-0609

Rgphillips@lincolnvillemuseum.org

259 Pintoresco Drive, St. Augustine, FL 32085

Lincolnvillemuseum.org

Objectives

To provide leadership and administrative operations for an African American Museum

Education

University of Florida

1980 | BA in Journalism

First Coast Technical Institute Culinary Program 2004

Florida Junior College at Jacksonville 1977

• **Writer, Editor, Business Owner**

Experience

Executive Director of Lincolnville Museum and Cultural Center (LMCC) 2018 to present. Responsible for all museum operations such as exhibits, tours, programming, community relations, fundraising and grant writing and management. Hiring and management for staff, overseeing historic preservation construction of Excelsior School building. Spearheaded transition of museum from an all-volunteer operation to its current status. Awarded nearly \$2 million in grants for programs, capacity building and historic preservation.

Served as a volunteer Event Coordinator and Board Member at the LMCC June 2015 to 2018. Duties included Board Secretary, grant writer, organized office and volunteer protocols, organized exhibits, initiated catalog and archiving process for photos and artifacts, coordinated fundraisers, live Jazz programs, lectures, live theater performances, produced flyers, press releases and event programs, prepared marketing materials, set up museum operations, represented museum at training meetings and community events.

Owner/Operator of Gayle's Gourmet Catering 2004 -2009 Established and operated food service business serving corporate, institutional, community based organizations and individual clients at events up to 500 people. Coordinated menus and food prep, managed staff, setup displays for events, prepared promotional materials. Coordinated direct contact with clients which included The University of Alabama, Stillman College, sororities, fraternities, corporate clients and pharmaceutical sales reps.

Anheuser Busch Brewery 1984-1986 Purchasing and accounting; processed receivables, coordinated parts inventory for brewery line operations.

Journalist/ Editor The Daytona Times Newspaper 1980 -1984 Wrote articles and edited content for a weekly Black Publication.

Staff writer for the Independent Florida Alligator at the University of Florida.

Skills

Writing, event planning & coordination, program development, consulting, grant-writing and awards management, strategic planning; communications, inventory control, accounting, executive presentations.

International travel experience includes: Canada, Zimbabwe, South Africa, Namibia, Ghana, Singapore, Hong Kong, Italy, Spain, Greece, Portugal, United Kingdom, Czech Republic, Mexico, Columbia, Panama Canal Zone and Central America, Mexico, Caribbean, Honduras, Australia and New Zealand.

COMMUNITY SERVICE

- Saint Johns County Tourism Development Board member appointed May 2022
- Board Member, St. Augustine Lighthouse & Maritime Museum 2016- 2023.
- Board Member Saint Augustine Historical Society 2021 to present.
- Coordinator for St. Johns Community Remembrance Project in conjunction with Equal Justice Initiative to bring a lynching marker to the City of St. Augustine. Marker installed October 20, 2022 at City of St. Augustine Visitor Information Center.
- Member of the Confederate Memorial Conceptualization Advisory Committee for City of St. Augustine 2019
- 2019 Recipient or ROWITA Award, (Recognition of Women in the Arts)
- 2019 Honoree of Enterprising Women Leadership Institute
- Former member St. Johns Housing and Finance Committee and St. Johns Housing Partnership
- The President's Volunteer Service Award 2023
- Stetson Kennedy Foundation Fellow Man & Mother Earth Award 2023
- Woman of Action Award, from EMMA Concert Guild 2023
- Florida Black History Museum Task Force appointed June 2023

PRESENTER

- University of Florida Samuel Proctor Oral History Program : From Segregation to Black Lives Matter," for dedication of the Joel Buchanan Archive of African American Oral History, March 2019
- Florida African American Historic Preservation Network on "Collaboration for Success," February 2020
- Gullah Geechee Historic Preservation Corridor Florida Regional workshop September 2019
- Numerous panel discussions on African American History and Culture in St. Augustine 2016-present
- Presented on African American history for St. Johns County 200th Anniversary, July 2021
- "Emancipation in St. Johns" at Florida African American Historic Preservation Network, panel discussion December 2021
- "Race" Panel Discussion with Dr. Michael Butler Unitarian Universalist Society March 2022
- Association of African American Museum, "Capacity Building Amid Three Storms" August 2022
- St. Johns County Public Library Talk on St. Augustine Green Book upcoming exhibit, October 2022
- Freedom to Teach panelist hosted by Flagler College and Gilder Lehrman Center: For the Study of Slavery, Resistance and abolition at Yale University fall of 2023



REGINA GAYLE PHILLIPS – 2024 Adelaide Sanchez Award Nomination

Phillips is executive director of the Lincolnvile Museum and Cultural Center which is housed in the historic Excelsior High School in St. Augustine, FL. The museum has interpretive exhibits and programs chronicling nearly 500 years of Black history.

She began at the museum as a volunteer in 2015 and has been instrumental in its transformation and development from an all-volunteer organization to a nationally recognized museum. Under her leadership the museum has established daily operations, curated new exhibits, and developed coalitions with other institutions.

Phillips, a Jacksonville native, graduated from Wolfson Sr. High School, Florida Junior College, and the University of Florida School of Journalism. She is also a graduate of the First Coast Technical Institution Culinary Program. She brings business and former journalistic skills to grant writing, exhibit curation, and museum management.

She introduced Lincolnvile Presents Jazz at the Excelsior, a Living Legends recognition and Juneteenth programs as a part of the museum's offerings. The historic preservation of the Excelsior School is among the projects she has spearheaded. That final project will be more than \$2 million at completion.

She has served on the St. Augustine Lighthouse and Maritime Museum board of directors. She currently served on the St. Augustine Historical Society, board of directors and as vice chairperson of the St. Johns County Tourism Development Council and on the Florida Black Museum Task Force. She lives in St. Augustine with her husband of 37 years, Floyd who also serves as president of the museum's board of directors.

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: David Birchim, City Manager

DATE: February 15, 2024

RE: **ORDER RELEASING CODE ENFORCEMENT LIEN: 118 LINCOLN STREET**

Please find enclosed an Order Releasing Lien for 118 Lincoln Street, owned by the Direct Home Buyer 1, Inc. This release reflects the previously outstanding Code Enforcement lien levied against this property. The outstanding balance of \$5,000.00 has been paid in full.

Please place the Order Releasing Lien on the consent agenda for consideration and execution at the February 26, 2024, City Commission meeting.

Should you have any questions or comments, please do not hesitate to contact me. Thank you.

/s/ Isabelle C. Lopez

Isabelle C. Lopez
City Attorney

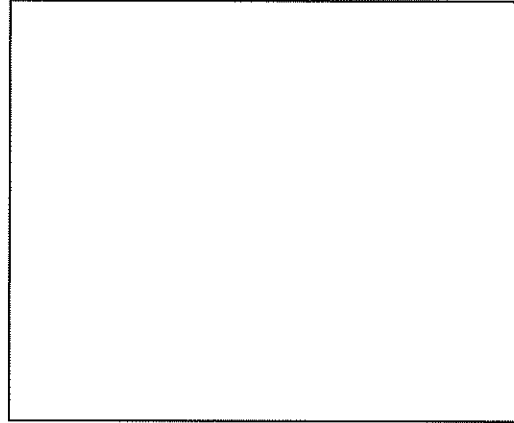
/s/
Attachment

xc: Meredith Breidenstein, Assistant City Manager
Reuben Frankline, Assistant City Manager
Darlene Galambos, City Clerk (*with original*)

Agenda Title:

Order releasing the Code Enforcement lien levied against 118 Lincoln Street as paid in full.

BEFORE THE
CODE ENFORCEMENT,
ADJUSTMENTS & APPEALS BOARD
OF THE CITY OF ST. AUGUSTINE, FLORIDA



ORDER RELEASING LIEN
CEAAB CASE NO. 2023-0259

IN THE MATTER OF: **DIRECT HOME BUYER 1, INC.**
 C/O CHRISTA JACKSON
 118 LINCOLN STREET
 ST. AUGUSTINE, FLORIDA 32084

VIOLATION OF SECTION(S): Code of Law and Ordinances of St. Augustine, Florida:
 CITY CODE, CHAPTER 8, SECTION 8-608

LIEN FILED AGAINST: **DIRECT HOME BUYER 1, INC.**

VIOLATION SITE: **118 LINCOLN STREET, ST. AUGUSTINE, FLORIDA 32084**

LEGAL DESCRIPTION: **GENOVAR ADDN CITY LOT 13 BLK E OR5489/1941**

PARCEL NUMBER: **209900-0000**

.....
ORDER

THIS MATTER having come to be heard before the Code Enforcement, Adjustments and Appeals Board of the City of St. Augustine, and this Board having entered the following Order:

➤ **ORDER IMPOSING LIEN**

- Dated September 12, 2023
- Recorded in O.R. Book 5829, Page 517 on September 21, 2023

And the Board, being fully advised in the premises, hereby finds:

➤ **THE ABOVE REFERENCED LIEN HAS BEEN PAID IN FULL.**

THEREFORE, it is hereby ordered that the lien against the property, as established in the Order referenced herein, is hereby released.

IN WITNESS WHEREOF, this Order Releasing Lien has been duly signed and executed by the Lienor, this _____ day of _____, 2024.

**CITY OF ST. AUGUSTINE, FLORIDA,
a municipal corporation**

ATTEST:

By: _____
Nancy Sikes-Kline, Mayor-Commissioner

Darlene Galambos, City Clerk
(S E A L)

.....

I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, **NANCY SIKES-KLINE**, by means of [] physical presence or [] online notarization, who is personally known to me, who is the person who executed the foregoing instrument and who acknowledged before me that she executed the same for the uses and purposes therein expressed.

WITNESS my hand and official seal, this _____ day of _____, 2024.

Notary Public, State of Florida
(S E A L)

BEFORE THE
CODE ENFORCEMENT,
ADJUSTMENTS & APPEALS BOARD
CITY OF ST. AUGUSTINE, FLORIDA

**ORDER
IMPOSING LIEN
CEAAB CASE NO. 2023-0259**

Public Records of St. Johns County, FL
Clerk number: 2023074872
BK: 5829 PG: 517
9/21/2023 3:22 PM
Recording \$18.50

IN THE MATTER OF:

Direct Home Buyer 1 Inc.
C/O Christa Jackson
118 Lincoln St.
St. Augustine, FL 32084
(Hereinafter referred to as Respondent)

RE: VIOLATION OF SECTION(S): Code of Law and Ordinances of St. Augustine, Florida:

City Code, Chapter 8, Section 8-608 Permits required.

ORDER

THIS MATTER originally came before the Board for public hearing on **May 9, 2023**, after due notice to the Respondent(s), at which time the Board heard testimony under oath and received evidence. The Board issued findings of fact, conclusions of laws, and an oral order reduced to writing and furnished to the Respondent(s) to take corrective action by a time certain, as more specifically set forth in that order. Based on the evidence and testimony presented at the hearing, the Board issued an "**Order Finding Violation**" and stipulate a fine of \$5,000 be issued. The Respondent was given thirty (30) days from the date of the order to pay the fine in full. Prior to the recordation of lien, the applicant(s) requested a reduction of fines. On **August 8, 2023**, at a public hearing, the Code Enforcement, Adjustments and Appeals Board heard the Applicant(s) request for a reduction of fine. After consideration of the factors in 162.09 (2)(B), the Board **declined** to reduce the fines. The Respondent is given thirty (30) days from the date of this order to pay the fines in full.

Based on the evidence and testimony presented at the **September 12, 2023** hearing, the Board finds that the required corrective action **has not** been taken as ordered which constitutes non-compliance with the City Code, Chapter 8, Section 8-608.

The Board's previous order set forth a compliance date of **September 8, 2023**, and a fine of \$5,000. The Board acknowledged that as of September 8, 2023 the fine had not been paid. On **September 12, 2023**, the Board ordered the fine would be imposed in the form of a lien.

IT IS HEREBY ORDERED that the above described fine in the amount of \$5,000 is hereby pending against the Respondent(s) for the violation that existed upon the following described property, situated in St. Augustine, Florida, to wit:

Violation Site: 118 Lincoln Street, St. Augustine, FL 32084
Legal Description: GENOVAR ADDN CITY LOT 13 BLK E OR5489/1941
Parcel Number: 209900 0000

THIS ORDER SHALL BE RECORDED IN THE OFFICIAL RECORD BOOKS OF ST. JOHNS COUNTY FORTHWITH AND SHALL CONSTITUTE A LIEN AGAINST THE ABOVE DESCRIBED PROPERTY, AND UPON ANY OTHER REAL OR PERSONAL PROPERTY OWNED BY THE VIOLATOR, PURSUANT TO SECTIONS 162.08 AND 162.09, FLORIDA STATUTES. FURTHER INFORMATION ON THIS MATTER MAY BE OBTAINED BY CONTACTING THE BUILDING AND CODE ENFORCEMENT DIVISION, P.O. BOX 210, ST. AUGUSTINE, FL 32085-0210, (904) 825-1066.

DONE AND ORDERED THIS 12TH DAY OF SEPTEMBER, 2023. In open session at the Alcazar Room, 75 King Street, St. Augustine, Florida.

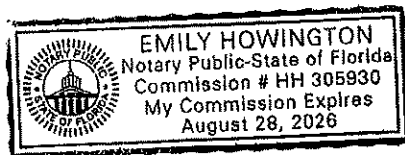


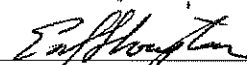
Jan Kelly, Chairman
Code Enforcement, Adjustments & Appeals Board

STATE OF FLORIDA
COUNTY OF ST. JOHNS

I HEREBY CERTIFY that on this day, personally appeared before me, an officer duly authorized to administer oaths and take acknowledgments, Jan Kelly, who is personally known to me who is the person described in and who executed the foregoing instrument and acknowledged before me that she executed the same for the purposes therein expressed.

Witness my hand and official seal, this 21 day of August, A.D., 2023.





Notary Public, State of Florida

You have 30 days in which to appeal this order to the Circuit Court of St. Johns County. The Code Enforcement, Adjustments and Appeals Board, upon notification by the Code Enforcement Inspector that a previous order of the Board has not been complied with by the set time, may order the violator to pay a maximum fine of \$500 for each day the violation continues past the date set for compliance. A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists, or upon any other real or personal property owned by the violator; and it may be enforced in the same manner as a court judgment by the Sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for the enforcement purposes. After three (3) months from filing of any such liens which remain unpaid, the Code Enforcement, Adjustments and Appeals Board may authorize the local governing body attorney to foreclose on the lien.