CITY OF ST. AUGUSTINE CITY COMMISSION

REGULAR MEETING AGENDA
MONDAY, OCTOBER 14, 2019 - 5:00 PM

ALCAZAR ROOM

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1. CALL TO ORDER

- ❖ Roll Call
- ❖ Invocation and Pledge of Allegiance

2. ADMINISTRATIVE ITEMS

2.A. Modification and Approval of **REGULAR AGENDA**

3. SPECIAL PRESENTATIONS, RECOGNITIONS AND PROCLAMATIONS

- Proclamation 2019-22 proclaiming October 2019 as Domestic Violence Awareness Month. *(T. Upchurch, 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 – Modification(s); Motion to Approve

6. APPEALS

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. The Form is available at:

http://www.citystaug.com/document_center/Administration/CityClerk/PresentationSupportServicesRequest04152016.pdf

A. GENERAL PUBLIC PRESENTATIONS

7.A.1. PUBLIC COMMENT: Presentation by Stanley Paris, Ph.D. and the St. Augustine Yacht Club regarding a proposal to donate property at 110 Carver Street East to the City to be used as a sailing center. *(J. Regan, City Manager).*

7.A.2. PUBLIC COMMENT: Request for Vesting Determination regarding the Santa Maria Restaurant for the owner, White's Wharf, LLC. by attorney, Robert McLeod II. *(J. Regan, City Manager).*

B. ITEMS OF GREAT PUBLIC IMPORTANCE

7.B. PUBLIC COMMENT: **Charter Amendments**: Discussion and direction regarding amending Sec. 2.03 of the City Charter to provide for a residency requirement for City Commissioners of a period of one (1) year prior to the date of qualification for election and amending Sec. 2.01 and Sec. 4.09 to provide for a four (4) year term for the candidate elected to City Commission Seat Three and to allow the mayor and vice-mayor to be elected by the members of the City Commission. *(I. Lopez, City Attorney).*

C. OTHER ITEMS REQUIRING PUBLIC HEARING

8. ORDINANCES AND RESOLUTIONS – PUBLIC HEARING REQUIRED

A. ORDINANCES – SECOND READING

8.A.1. *Ordinance 2019-15*: Amends all sections necessary to use gender neutral terminology. *(I. Lopez, City Attorney).*

8.A.2. *Ordinance 2019-23*: Charter update to Article III, Sections 3.02, 3.04 and 3.05 updating reference to state and federal regulations, removing reference to municipal courts and conforming language to current usage. *(I. Lopez, City Attorney).*

8.A.3. ***Ordinance 2019-38***: Creates Section 28-355, providing regulations for the cultivation, distribution, and retail sale of hemp and hemp extract. *(J. Cary, Assistant City Attorney).*

B. ORDINANCES – FIRST READING *(ONLY IF REQUIRED BY LAW)*

C. RESOLUTIONS – PUBLIC HEARING *(ONLY IF REQUIRED BY LAW)*

9. ORDINANCES AND RESOLUTIONS – NO PUBLIC HEARING REQUIRED

A. ORDINANCES – FIRST READING

9.A.1. Ordinance 2019-24: Charter update to Article IV, Sections 4.01, 4.07, 4.09, 4.10, 4.12, 4.13, 4.14, 4.16, 4.19, 4.21 and 4.44 updating the powers and authority of executive and administrative officers, removing reference to municipal judges and the department of public safety and welfare and conforming language to current usage and policies of the City. *(I. Lopez, City Attorney).*

9.A.2. Ordinance 2019-25 Ordinance 2019-25: Charter update to Article V, Sections 5.21 and 5.28 clarifying the city attorney's responsibility to approve resident petition driven ordinances as to form only prior to consideration before the City Commission and requiring that ordinances passed as emergency measures are subject to federal and state requirements, not referendum type procedures. *(I. Lopez, City Attorney).*

9.A.3. Ordinance 2019-40: Amendment to Sec. 28-37 to modify the defined development permits to conform to state statute and to provide for review and resolution of conflicts between development permit applications and other legal documents. *(I. Lopez, City Attorney).*

9.A.4. Ordinance 2019-43: Updates Section 28-29 of the Zoning code to provide lot coverage variances for handicapped accessibility in zoning districts HP-1, HP-2 and HP-3. *(D. Birchim, Director, Planning and Building).*

9.A.5. Ordinance 2019-46: Vacates the street rights-of-way in the Antigua Phase One residential subdivision. *(M. Cullum, Director, Public Works).*

B. RESOLUTIONS

9.B.1. Resolution 2019-41: Establishes the City Manager's authority to close city streets for certain events. *(P. Williamson, Director, Public Affairs).*

9.B.2. Resolution 2019-42: Allows for the extension of the 2019-2020 *Nights of Light*s program. *(P. Williamson, Director, Public Affairs).*

10. STAFF REPORTS AND PRESENTATIONS

11. ITEMS BY CITY ATTORNEY *(See Consent Agenda also)*

11.A. Sunshine, Public Records and Ethics Minute. No Presentation. Documentation to be e-mailed individually. Information provided by the City Attorney's office as an on-going series to keep the Commission abreast of relevant developments.

11.B. **Short-Term Rental Committee Memo**: Discussion and direction regarding possible codification of short-term (vacation) rental regulations based on the STR Committee recommendations. *(I. Lopez, City Attorney).*

12. ITEMS BY CITY CLERK *(See Consent Agenda also)*

13. ITEMS BY CITY MANAGER *(See Consent Agenda also)*

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 City of St. Augustine encourages anyone wishing to present the invocation at city commission meetings to contact the City Clerk's office, to be placed on the rotation list, and encourages people of all religious affiliations or of no religious affiliation to present a non-denominational invocation to inspire us in the work of the City Commission.

CONSENT AGENDA – OCTOBER 14, 2019

CA.1. Preview of upcoming Commission meetings.

a) The following ordinances are tentatively scheduled for second reading on October 28, 2019:

- Ordinance 2019-24
- Ordinance 2019-25
- Ordinance 2019-40
- Ordinance 2019-43

b) Reminder of upcoming meetings:

- October 28, 2019, 4:00 p.m., LCRA Regular Meeting
- October 28, 2019, 5:00 p.m., Regular Meeting
- November 12, 2019, 5:00 p.m., Regular Meeting
- December 9, 2019, 5:00 p.m., Regular Meeting

CA.2. Approval of Minutes from prior commission meetings:

- June 24, 2019 Regular Meeting
- September 12, 2019 Community Redevelopment Agency Special Meeting
- September 12, 2019 Special Meeting
- September 19, 2019 Special Meeting
- September 23, 2019 Regular Meeting

CA.3. Releases of Lien for Unit Connection Fee Mortgage(s):

- Sharon L. Badger, Sherry Lynn Badger and Dawn Louann Brown – 2725 South Collins Avenue

CA.4. Proposed Proclamations, Certificates of Appreciation/Recognition. (Commission approval required). (To be read at a subsequent meeting).

- 2019-10CA - Certificate of Recognition to Charlotte Pichotta on her hundredth birthday. *(N. Sikes-Kline, Commissioner).*

CA.5. Invoice in the amount of $4,704.00 dated September 30 from Cavendish Partners, P.A. for legal services regarding the Seavin v. City of St. Augustine matter. *(I. Lopez, City Attorney).*

End of Consent Agenda

ITEM 3.

Proclamation 2019-22

City of St. Augustine

La Lealisíma y Valerosa Cuidad de San Agustín de la Florida

Est. 1565

PROCLAMATION

WHEREAS, *domestic violence is a major public concern for our State and Nation and is now the single largest cause of injury to women; and*

WHEREAS, *all persons have a basic right to feel safe from harm, especially in their homes, yet more than 700 domestic violence calls were made to law enforcement officers in St. Johns County last year; and*

WHEREAS, *domestic violence violates an individual's privacy, dignity, security and humanity and affects people of all ages, racial, socioeconomic, educational, religious, and occupational segments of our society, especially children; and*

WHEREAS, *children from violent homes are physically abused or seriously neglected at a rate significantly higher than the national average and have greater risks of alcohol/drug abuse, juvenile delinquency, cognitive and developmental problems as well as fear, anxiety and guilt; and*

WHEREAS, *domestic violence is not a private family matter but a crime, the consequences of which reach with devastating effect on the communities, schools and workplaces of our nation; and*

WHEREAS, *perpetrators of domestic violence must be held accountable for their crimes; and*

WHEREAS, *domestic violence represents a pattern of assault and coercive behavior that will escalate in frequency and severity if intervention does not occur, and*

WHEREAS, *public awareness and education about domestic violence are needed as well as uniform efforts on the part of government, health professionals, law enforcement, religious organizations, educators, and community associations to address domestic violence through prevention, intervention, and treatment for victims and perpetrators.*

NOW, THEREFORE, *the City Commission of the City of St. Augustine does hereby proclaim the month of* ***OCTOBER, 2019*** *as* ***Domestic Violence Awareness Month*** *and urges all citizens to speak out against domestic violence and support local efforts to assist victims of these crimes in finding the help and healing they need.*

IN WITNESS WHEREOF, *I hereunto set my hand and do cause the Seal of the City of St. Augustine to be affixed this 14th day of October in the year of our Lord two thousand and nineteen; and the four hundred and fifty fourth year of the founding of St. Augustine, the Nation's Oldest City.*

Tracy W. Upchurch, Mayor

2019-22

"Most Loyal and Valorous"
Title conferred on the Presidio of St. Augustine by King Philip V of Spain, November 26, 1715

ITEM 7.A.1.

Academy Proposal

ITEM 7.A.2.

Request for Vested Rights

dotloop signature verification: dtlp.us/N9os-B0XK-sFfx

St. Augustine Yacht Club, Inc.

442 Ocean Vista Avenue, St. Augustine, Florida 32080
Tel (904) 824-9725 • Fax (904) 824-7744

September 30th, 2019

City Commission
City of St. Augustine
75 King Street
St. Augustine, FL 32084

Dear Commissioners,

Greetings and thank you for your important work on behalf of the city of St. Augustine, and for allowing us the opportunity to present a special project for your consideration.

In the 1500's, our city was founded from the sea. In the 1800's our yacht club was formed to celebrate the city's maritime connection; and for centuries, St. Augustinians have made a living from and enjoyed recreation upon inland and coastal waters. Now, in the 2000's, you, as commissioners, and we, as community volunteers, strive to make our city a more livable, more enjoyable, more inclusive place for our residents. Alongside each other, we work to promote positive, healthy cultural and recreational opportunities for children and families. This is why each year, SAYC volunteers organize the Regatta of Lights, St. Augustine Race Week, the Blessing of the Fleet, and deliver youth boating programs which are open to all in our community, members and non-members alike.

We value our long-standing role as contributors to our city's vibrant culture and economy and want to do more to advance our city's vision, especially as it relates to children.

With this project, we have a once in decades opportunity to leverage significant local philanthropy and volunteerism to make a meaningful impact on the lives of our community's children. We invite you to read on, share your questions and thoughts with us, and allow us to move forward and make St. Augustine an even better place.

With warm regards,

Barbara A. Dolan

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Commodore

Youth Sailing Project –

A Proposal to the City of Saint Augustine

A project of the St. Augustine Yacht Club and
the St. Augustine Yacht Club Foundation, Inc.,
funded by the Paris family.

October 4, 2019

Contents

I. Introduction

II. Gift deed agreement: Paris family to City of St. Augustine

III. Lease agreement: City of St. Augustine and St. Augustine Yacht Club

IV. Benefits to residents in the Lighthouse Park neighborhood

V. Benefits to the City of St. Augustine and its residents

VI. Benefits to Saint Augustine's future youth sailors and families

VII. Summary

VIII. Exhibits

I. Introduction:

From the City of St. Augustine Vision Plan 2014 and Beyond:

> THE VISION STATEMENT
>
> St. Augustine will be a livable, authentic, waterfront city that builds upon its rich history and environment to create a distinctive community character founded on a healthy and vibrant economy, a diverse mix of people and experiences, and a valuing of its natural assets.

The Paris family and the members of the St. Augustine Yacht Club share this vision too and we're ready to take action. We believe children and families in a shoreline city deserve and benefit from increased access to our unique waterfront and on-water recreational and educational experiences. Such access makes our city more livable, more inclusive, and enriches residents' lives.

Specifically, we propose to advance the city's vision by shifting SAYC's existing youth sailing program from its current location, at Lighthouse Park, to property currently owned by the Paris family, so we can improve our program offering for local youth. This will make our programs safer, increase their impact, and enlarge a public park.

We propose the following two agreements, which would be executed together.

The Blessing of the Fleet (organized by SAYC).

II. Gift deed agreement: Paris family to City of St. Augustine:

The Paris family, as grantor, will gift Carver Street East lots 8 and 9 to City of St. Augustine, as grantee, with these deed restrictions:

- Grantee may only use the land, structures, and fixtures thereon for the purpose of a sailing center operated by the St. Augustine Yacht Club, a not-for-profit corporation, or a St. Augustine Yacht Club affiliated not-for-profit corporation.

- Should the St. Augustine Yacht Club or its affiliated not-for-profit corporation be unable or unwilling to continue the operations of the sailing center in the future, grantee may seek another not-for-profit operator for the sailing center, however if this condition cannot be met, grantee may use the land, structures, and fixtures for a nature preserve and interpretive center, or in the event the structures thereon are demolished and removed, for the purpose of a passive park. In the event the grantee cannot comply with this covenant, the land, structures, and fixtures thereon shall revert to the grantor.

- The grantee shall endeavor to rezone the property conveyed to the government use zoning district as described in the municipal code of the city of St. Augustine, consistent with state law and local regulations, with time being of the essence. In the event the grantee cannot comply with this covenant, the land, structures, and fixtures thereon shall revert to the grantor.

- Lease term will be 99 years for $1.00 per year.

Advanced SAYC sailors during a class.

III. Lease agreement: City of St. Augustine and St. Augustine Yacht Club:

- Carver Street lots 8 and 9 will be leased to St. Augustine Yacht Club, a not-for-profit corporation, or a SAYC-affiliated not-for-profit corporation.

- SAYC will make primary vehicular access to lots 8 and 9 be from the existing SAYC parking lot. Access from Carver St. will be by exception or if access to the site from Red Cox drive is limited or not possible.

- SAYC will create a new walking path from Carver St. eastward to the beach, to allow neighborhood residents better, more direct access to the beach.

- SAYC will work proactively with government authorities to increase usable beach for the neighborhood while complying with environmental laws.

- SAYC will be responsible for all maintenance and utilities.

- Use of 6 moorings in Salt Run near SAYC will be included in this lease for lots 8 and 9.

- Lease term will be 99 years for $1.00 per year, (to reflect present value of $1.2 million gift to the city in lieu of future lease payments).

- Any necessary rezoning or permitting changes to allow operation of the facility as proposed above will be the responsibility of the city.

IV. Benefits of the project to residents in the Lighthouse Park Neighborhood:

- **Expand the amount of beach available to the neighborhood** by shifting current SAYC youth boat storage off the park's beach to the new site.

- **Reduce public boat ramp and dock congestion and improve safety** by shifting current SAYC youth program activities over to new grounds and dock.

- **Increase neighbors' waterfront access along Salt Run** by including, within the project, construction of a new walking path to the waterfront.

- **Improve site aesthetics and safety** by renovating the site consistent with the neighborhood's character, and by being good stewards of the site.

- **Positively impact neighborhood property values**; A yacht club is a desirable amenity which benefits a neighborhood with higher home values.

- **Improve a neighborhood amenity**; SAYC welcomes neighborhood children in our youth program, whether they're members or not, and invites adult neighbors to join us as regular members.

Beginner sailors at SAYC sail camp.

V. Benefits to the City of St. Augustine and its residents:

- **Permanently protect shoreline from adverse development** by bringing increasingly scarce waterfront property under city ownership and control and having deed restrictions on it.

- **Expand amount of park available to the community** as SAYC shifts its boats off the beach and activities away from the public boat ramp, dock, and parking lot.

- **Help preserve character of historic, shoreline neighborhood** by accepting property donation and leasing it back to a local nonprofit with a proven record of good stewardship (versus leaving the parcel open to further development).

- **Provide subsidized recreational programs for local youth** at no cost to the city.

- **Generate more than $1.2 million of initial direct investment** with this project.

- **Empower a nonprofit that is an impactful contributor to local culture** with special events and which provides scholarships for youth recreation.

The Regatta of Lights (organized by SAYC).

VI. Benefits to Saint Augustine's future youth sailors and families:

- **Children's safety will improve** by shifting kids' hands-on boating activities away from the busy public parking lot, boat ramp, beach, and dock in Lighthouse Park to a less crowded, child-dedicated space.

- **Quality of instruction will improve** due to more efficient facilities, fewer traffic and safety distractions, and with kids being able to spend more time on water.

- **Kids' learning and enjoyment will be enhanced** as extra time and stress of competing with recreational powerboats, their trailers, and trucks are eliminated.

- **Youth will gain an all-weather, waterfront classroom** where they will learn safe boating, US Sailing's STEM curriculum, environmental topics, etc.

- **Children's lives will be enriched** as they learn new skills, including science and math; gain confidence and self-esteem that comes with operating small boats; develop positive interpersonal communication and teamwork skills; experience our community's extraordinary marine environment; and participate in unique, well-supervised recreational experiences. Also, more experienced children will learn how to compete capably and fairly in our interclub racing program and older youth will have the opportunity to gain work experience, leadership skills, and credentials as certified sailing instructors in our programs.

SAYC sail camp kids.

VII. Summary:

The Lighthouse Park neighborhood has a history of being a vibrant, mixed use section of Saint Augustine. Currently, it is home to a small waterfront park, a maritime museum, and many private residences, from humble inland cottages to waterfront mansions with private docks. A public youth sailing program is an appropriate and beneficial use of waterfront land in this neighborhood.

As an active shoreline city, local families are eager for waterfront access and children's recreation. This project will free up part of the park currently used by the yacht club's youth program by shifting it to what is now vacant private property. Community access to the water and SAYC's youth programs will increase in the process.

The children who participate in the SAYC youth program, members and non-members alike, will gain improved, safer, richer learning and recreational experiences. They'll have subsidized, lower cost access to sailing, kayaking, and marine education in a properly designed, more manageable environment. A waterfront community like ours should provide these opportunities to its children.

If the city agrees to accept this project, it will be an overall gain for Saint Augustine's children and families. In line with the City's expressed vision, it will make our city more livable, more engaging, and offer more valuable life experiences relating to the water and nature – especially for our city's youth. And, its positive impact will be funded through private philanthropy and managed by a local nonprofit organization with a proven record of community service.

A SAYC sailor sharing a smile.

VIII. Exhibits:

A. Current shoreside situation for SAYC youth sailors and instructors:

The public parking lot which young sailors and their boats need to cross 2-4 times each day.

1-3 instructor/safety boats need to be launched and hauled on the public ramp each day.

On a normal day, the public ramp and dock are often busy with little or no room for kids or boats.

Public dock is active even during quiet times, with power boats, paddle boarding classes, etc.

B. Examples/potential models for proposed sailing center docks and boat storage:

Kids' instructional program docking segregated from non-program dock usage for safety.

Docks should be designed so kids can launch, rig, and retrieve boats without distraction.

Boats strapped down in dock-mounted cradles.

Shoreside spaces should be free of vehicles

C. Sailing program activities and the outcomes:

Sailing programs encourage youth leadership and create youth internships and jobs.

Saling is a shared endeavor that creates friendships and memories that last a lifetime.

Sailing requires communication and teamwork.

Competitive sailing is empowering.

D. Preliminary drawing of proposed youth sailing program relocation:

Key guidance to planners:

- Relocate current youth program operations from area of Lighthouse Park south of SAYC to Carver St. East parcels 8 and 9, north of SAYC.

- Primary vehicular access to youth sailing center should be through existing SAYC parking lot, not Carver St. East, to minimize traffic through residential part of neighborhood.

- Fences on lots 8 and 9 should be removed wherever possible; construction of walls that block views should be avoided.

- Design landscaping so curbside appeal of lots 8 and 9 is consistent with the character of the neighborhood and park.

- A walking path should be added to benefit neighbors' access to beach.

- Maximize open space and vegetation (e.g., maintain or reduce building footprint, replace hardscape with grass, add vegetation where possible).

E. Sample of shoreline cities with youth sailing centers/programs:

- Clearwater, FL
- Jensen Beach FL
- Key West, FL
- Miami, FL
- Naples, FL
- St. Petersburg FL
- Sarasota, FL
- New Orleans, LA
- Savannah, GA
- Charleston, SC
- Norfolk, VA
- Baltimore, MD
- Washington, DC
- Mystic, CT
- Stonington, CT
- Newport, RI
- Providence, RI
- Boothbay, ME
- Boston, MA
- Nantucket, MA
- Portland, ME

(Sarasota)

St. Petersburg Sailing Center

Savannah Sailing Center

Naples Community Sailing Center

Key West Community Sailing Center

F. Impact of yacht clubs on residential vales:

Sports clubs, such as golf clubs, tennis clubs, and yacht clubs, positively affect residential property values. These sports clubs are similar in purpose, operation, and amenities offered. As yacht clubs are less common there was no formal research available, so golf clubs are a suitable analogy. A well-cited article by university researchers published in the Journal of Sports Management found homes near country clubs benefit from a 25.8% price premium versus similar homes elsewhere in the same community. Other articles in real estate publications support this price effect with some citing as high as a 40% premium.

See all › 32 Citations See all › 27 References

The Impact of a Golf Course on Residential Property Values

Article *in* Journal of Sport Management 21(4):555-570 · October 2007 *with* 2,227 Reads

DOI: 10.1123/jsm.21.4.555

Cite this publication

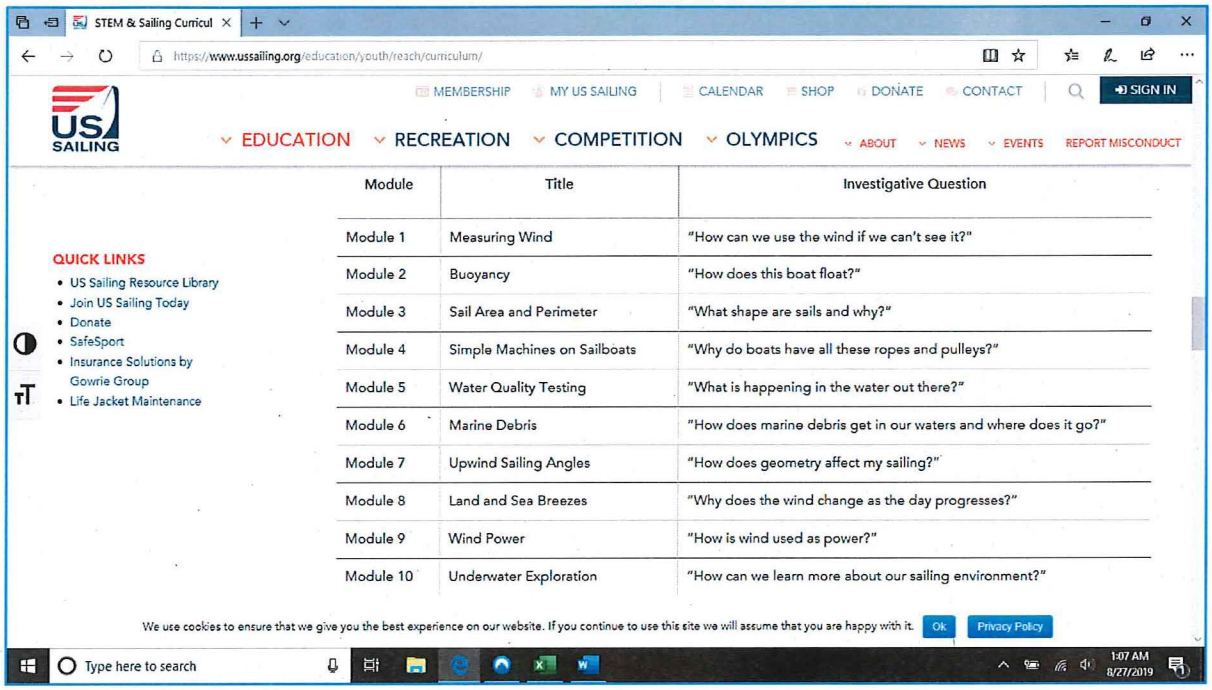
Sarah Nicholls
22.59 · Swansea University

John Crompton
38.26 · Texas A&M University

Abstract

A large proportion of golf courses currently under construction are part of larger real-estate projects. The objective of this study was to identify the magnitude of the increase in property prices created by the golf course in one such amenity. A hedonic analysis was undertaken using a sample of 305 sales transactions in a golf course subdivision in College Station, Texas. For comparative purposes, the assessed valuations of these properties were used as an alternative dependent variable. The premiums on lots adjacent to the golf course were $61,074 and $45,759, based on sales prices and assessed valuations, respectively. These premiums represented 25.8% of the average sales price of the homes, and 19.2% of the average assessed value. Prices and assessed values were also found to decline significantly with, distance to the country club (by $8-10 per foot from the entrance).

G. US Sailing Association's STEM curriculum which we would like to introduce once we have a youth classroom:



STEM & Sailing Curricul

https://www.ussailing.org/education/youth/reach/curriculum/

MEMBERSHIP | MY US SAILING | CALENDAR | SHOP | DONATE | CONTACT | SIGN IN

US SAILING

EDUCATION | RECREATION | COMPETITION | OLYMPICS | ABOUT | NEWS | EVENTS | REPORT MISCONDUCT

QUICK LINKS

- US Sailing Resource Library
- Join US Sailing Today
- Donate
- SafeSport
- Insurance Solutions by Gowrie Group
- Life Jacket Maintenance

Module	Title	Investigative Question
Module 1	Measuring Wind	"How can we use the wind if we can't see it?"
Module 2	Buoyancy	"How does this boat float?"
Module 3	Sail Area and Perimeter	"What shape are sails and why?"
Module 4	Simple Machines on Sailboats	"Why do boats have all these ropes and pulleys?"
Module 5	Water Quality Testing	"What is happening in the water out there?"
Module 6	Marine Debris	"How does marine debris get in our waters and where does it go?"
Module 7	Upwind Sailing Angles	"How does geometry affect my sailing?"
Module 8	Land and Sea Breezes	"Why does the wind change as the day progresses?"
Module 9	Wind Power	"How is wind used as power?"
Module 10	Underwater Exploration	"How can we learn more about our sailing environment?"

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1:07 AM 8/27/2019

Holly Ln
Holly Ln
Salt Run
Carver St E
Lighthouse Park
Red Cox
50 feet

This instrument was prepared under the direction and supervision of Isabelle C. Lopez, City Attorney, P.O. Box 210, St. Augustine, Florida 32085

WARRANTY DEED

THIS INDENTURE, made this 14th day of October, 2019, by and between **PATRIS YC, LLC** ("GRANTOR"), and the **CITY OF ST. AUGUSTINE**, **FLORIDA**, a Florida municipal corporation, whose mailing address is P.O. Box 210, St. Augustine, Florida, 32085 ("GRANTEE").

WITNESSETH:

That the said GRANTOR, for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS to it in hand paid by GRANTEE, the receipt of which is hereby acknowledged, has granted, bargained and sold to GRANTEE, its heirs, successors and assigns forever, the following described land situate in St. Johns County, Florida, to wit:

LOT 8 AND 9, KEEGAN'S ADDITION TO ANASTASIA, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 6, PAGE(S) 33, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

TOGETHER WITH THAT PORTION OF CARVER STREET VACATED BY ORDINANCE NO. 584 RECORDED IN DEED BOOK 186, PAGE 257 LYING ADJACENT TO LOTS 8, AND 9, KEEGAN'S ADDITION TO ANASTASIA, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 6, PAGE 33 OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.

PARCEL ID NUMBER: 158730-0000

And GRANTOR does hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever.

Subject to the following covenant and reverter:

GRANTEE may only use the land, structures and fixtures thereon for the purpose of a sailing center operated by the St. Augustine Yacht Club as a not-for-profit corporation. Should the St. Augustine Yacht Club or its not-for profit corporation be unable or unwilling to continue the operations of the sailing center in the future, GRANTEE may seek another operator for the sailing center, however if this condition cannot be met, GRANTEE may use the land, structure and fixtures for the purpose of a nature preserve and interpretive center, or in the event the structures and fixtures thereon are demolished and removed, for the purpose of a passive park.

In the event GRANTEE cannot comply with the covenant, the land, fixtures and structures thereon shall revert to GRANTOR.

Additionally, GRANTEE shall endeavor to rezone the property conveyed to the Government Use zoning district as described in the municipal code of the City of St. Augustine, consistent with state law and local regulations, with time being of the essence.

TO HAVE AND TO HOLD the same in fee simple forever, together with all and singular tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the said GRANTOR, either in law or equity, to the only proper use, benefit and behalf of the said GRANTEE.

GRANTOR hereby covenants with said GRANTEE that the GRANTOR is lawfully seized of said land in fee simple; that the GRANTOR has good right and lawful authority to sell and convey said land; that the GRANTOR hereby fully warrants the title to said land and will defend same against the lawful claims of all persons whomsoever; and that the land is free of all encumbrances.

IN WITNESS WHEREOF, GRANTOR has caused this instrument to be executed on the date first written above.

Signed, sealed and delivered
in the presence of:

Witness:

_____

Print:_____

Witness:

_____

Print:_____

"GRANTOR"
PATRIS YC, LLC

By:_____

Its:_____

Print:_____

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, _____, 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/she executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this _____ day of _____, 2019.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
Isabelle Lopez, City Attorney

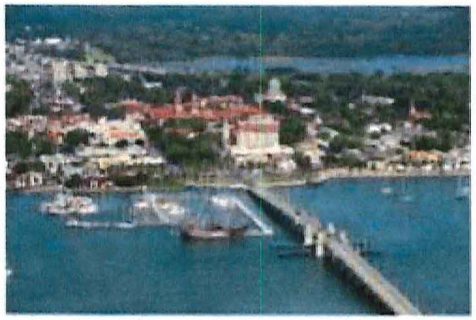
_____
Notary Public, State of Florida

A Proposal to the City of Saint Augustine:

The Saint Augustine Youth Sailing Center

A project of the St. Augustine Yacht Club and
the St. Augustine Yacht Club Foundation, Inc.,
funded by the Paris family.

October 5, 2019



CITY OF ST. AUGUSTINE

VISION PLAN

2014 AND BEYOND

Prepared by: Vision 2014 & Beyond Steering Committee
Prepared for: City of St. Augustine City Commission

Completed June 2015

THE VISION STATEMENT

St. Augustine will be a livable, authentic, waterfront city that builds upon its rich history and environment to create a distinctive community character founded on a healthy and vibrant economy, a diverse mix of people and experiences, and a valuing of its natural assets.

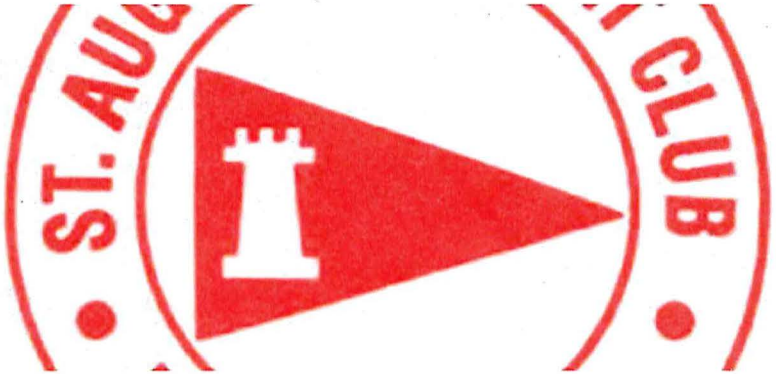
GUIDING PRINCIPLE: BALANCE

The development and execution of the Vision Plan will constantly seek to develop and use a set of governing principles, practices, and processes that balance the interests of residents, businesses, institutions, and visitors which contribute to a livable, authentic, character based, and vital community.

THE VISION STATEMENT

St. Augustine will be a livable, authentic, waterfront city that builds upon its rich history and environment to create a distinctive community character founded on a healthy and vibrant economy, a diverse mix of people and experiences, and a valuing of its natural assets.

From City of St. Augustine Vision Plan 2014 and Beyond


ST. AUG
CLUB

FANTASEA

We want to do *more* and we're ready to take action?

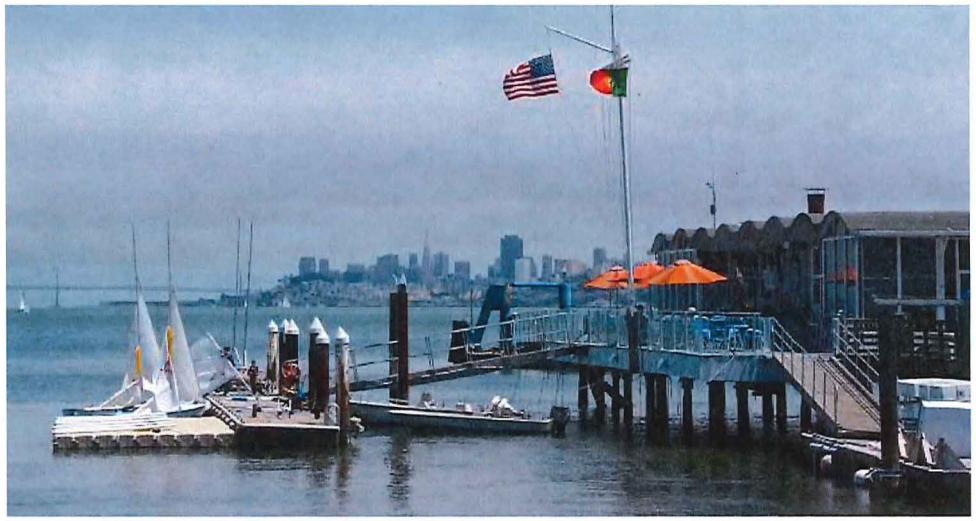
We propose establishing a youth sailing center on what is now private property abutting Lighthouse Park.

New vehicular circulation / parking (+10 spaces)
Landscape Buffer
Parent pick up / drop off
Opti Storage Building
Existing Building (Footprint to remain)
New Dock / Dry Storage
Kayak / Boat Launch
Proposed Bulkhead
Lawn / Flex
Lot 7 (residential)
Gate (typ)
Old Lighthouse Foundation
Sidewalk w/ steps
Beach Access
Carver Street ROW
5' Shell Pathway
Existing Pier
Event Lawn
New 5' Pedestrian Pathway
Existing Tennis Courts
CASTLE BAY
DESIGN STUDIO
Site plan for conceptual purposes only. Final site plan to be determined
0 20' 40'
St. Augustine Yacht Club
Youth Sailing Center
conceptual site plan

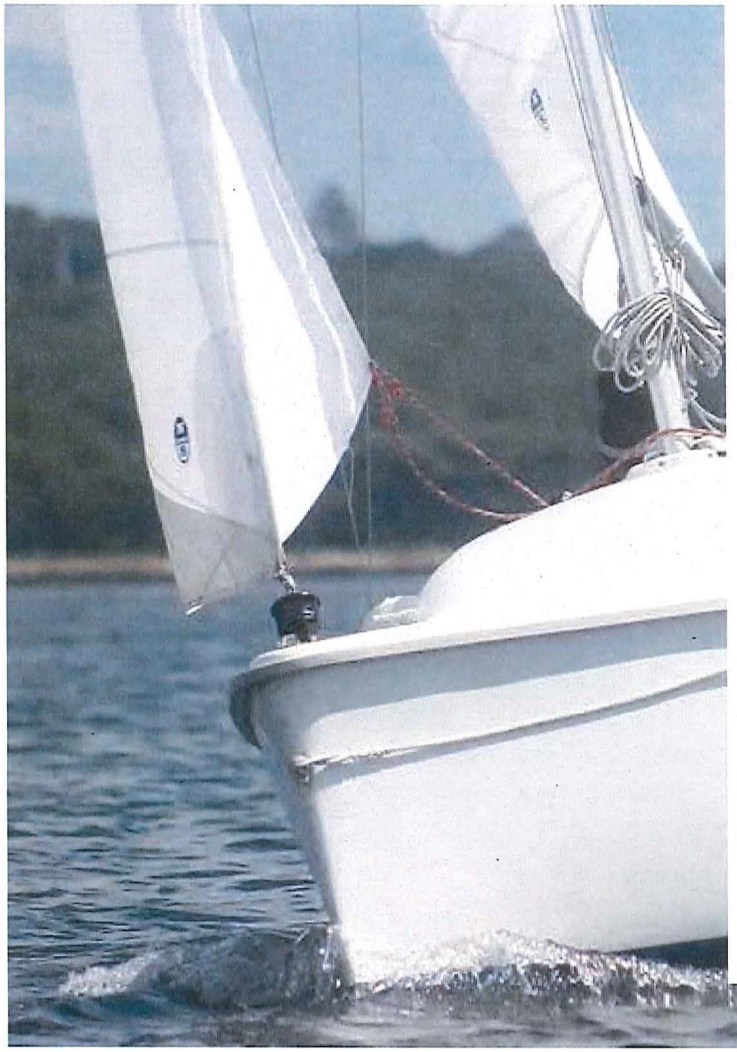
MERCURY

ST. AUGUSTINE YACHT CLUB

USA
USA
USA
USA



NCS

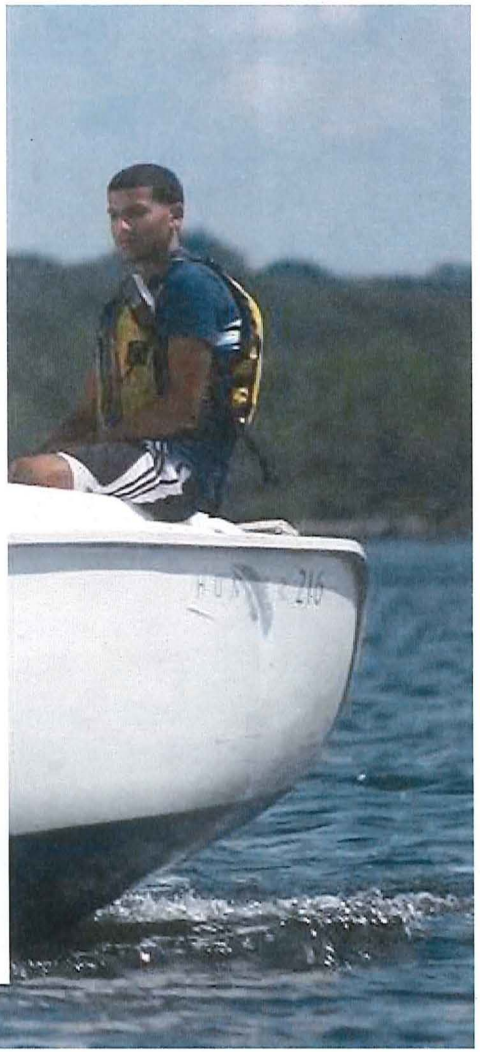


Today 1:38 PM

Brian [redacted] - single mom who offered to trade janitorial services to have him attend sailing camp. Started sailing with us at age 8. By age 12 we had to create a job for him even though he was technically too young to be an instructor- but he was more responsible than many of our 16 year olds... Joined Mass Maritime when he graduated from private high school. Has been an engineer on the PVD/NPT ferry for last two years. Just saw him - he ships out on a tanker end of the season...

Outstanding, mom, Brian and CBC!

Delivered



Benefits to the City and all its residents:

- Permanently **protect shoreline** from adverse development
- **Expand** amount of **park** available to all residents of St. Augustine
- Help **preserve character** of a historic shoreline neighborhood
- Generate **$1.2 million** of initial **direct investment**
- **Provide** subsidized **recreational programs** for local youth
- **Empower a nonprofit** that is an impactful contributor to local culture

Benefits to residents in the Lighthouse Park neighborhood:

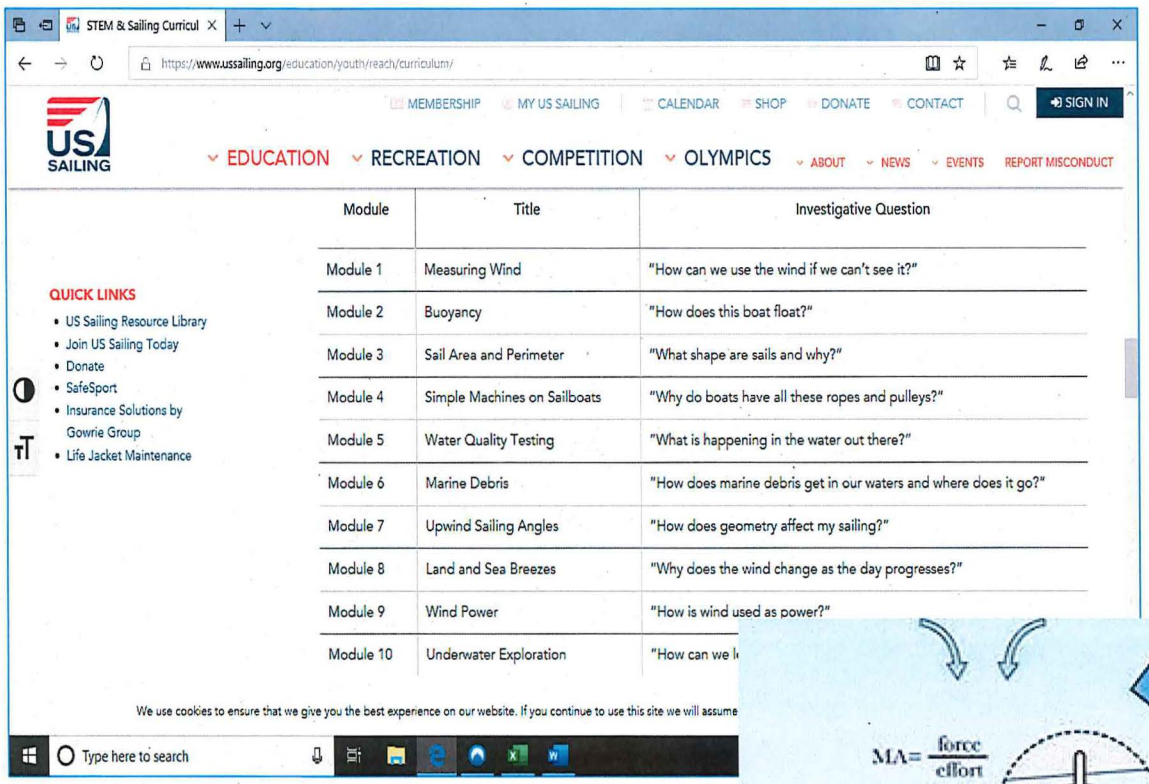
- **Expand** amount of **beach** available to the neighborhood
- **Reduce** public boat ramp and dock **congestion**
- **Increase** neighbors' **waterfront access** along Salt Run
- **Improve** site **aesthetics**
- **Upgrade** a neighborhood **amenity**
- **Positively impact** neighborhood property **values**

Benefits to local kids and their families:

- **Improve child safety**
- **Higher quality** of instruction
- Kids' **learning and enjoyment** will be **enhanced**
- Youth will gain all-weather, **waterfront classroom**
- Children's **lives will be changed for the better**…

Sailing programs change kids' lives – they:

- **Learn new skills**, including science and math
- **Gain confidence and self-esteem**
- **Develop positive communication and teamwork** skills
- **Experience** our community's extraordinary **marine environment**
- Older youth will gain **work experience, leadership skills, and credentials**



STEM & Sailing Curricul

https://www.ussailing.org/education/youth/reach/curriculum/

MEMBERSHIP | MY US SAILING | CALENDAR | SHOP | DONATE | CONTACT | SIGN IN

US SAILING

EDUCATION | RECREATION | COMPETITION | OLYMPICS | ABOUT | NEWS | EVENTS | REPORT MISCONDUCT

QUICK LINKS

- US Sailing Resource Library
- Join US Sailing Today
- Donate
- SafeSport
- Insurance Solutions by Gowrie Group
- Life Jacket Maintenance

Module	Title	Investigative Question
Module 1	Measuring Wind	"How can we use the wind if we can't see it?"
Module 2	Buoyancy	"How does this boat float?"
Module 3	Sail Area and Perimeter	"What shape are sails and why?"
Module 4	Simple Machines on Sailboats	"Why do boats have all these ropes and pulleys?"
Module 5	Water Quality Testing	"What is happening in the water out there?"
Module 6	Marine Debris	"How does marine debris get in our waters and where does it go?"
Module 7	Upwind Sailing Angles	"How does geometry affect my sailing?"
Module 8	Land and Sea Breezes	"Why does the wind change as the day progresses?"
Module 9	Wind Power	"How is wind used as power?"
Module 10	Underwater Exploration	"How can we l

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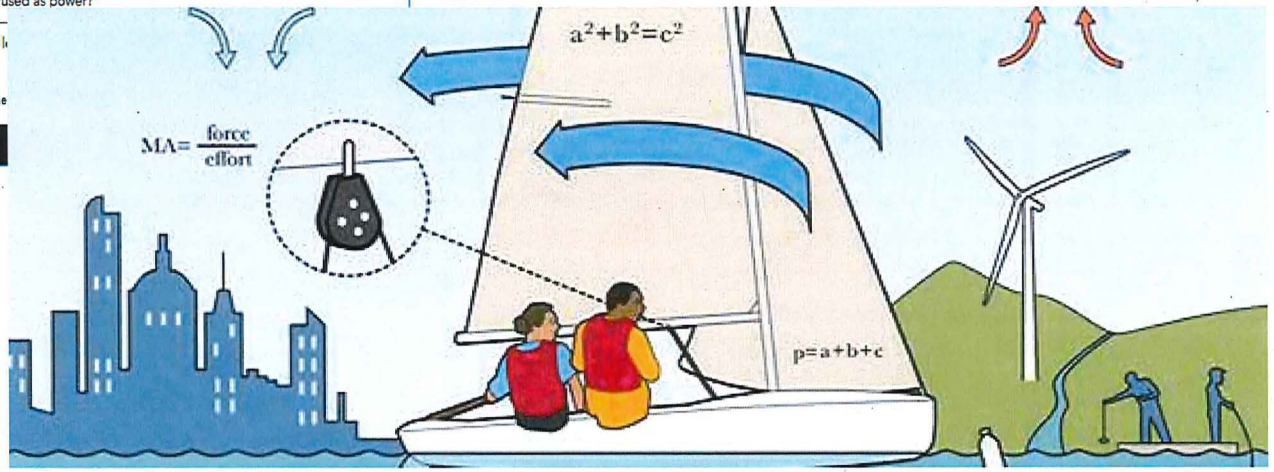
REACH

US SAILING'S STEM EDUCATION INITIATIVE

Science, Technology, Engineering & Math



Sample of municipalities with youth sailing centers and programs:

- Clearwater, FL
- Jensen Beach FL
- Key West, FL
- Miami, FL
- Naples, FL
- St. Petersburg FL
- Sarasota, FL
- New Orleans, LA
- Savannah, GA
- Charleston, SC
- Norfolk, VA
- Baltimore, MD
- Washington, DC
- Mystic, CT
- Stonington, CT
- Newport, RI
- Providence, RI
- Boothbay, ME
- Boston, MA
- Nantucket, MA
- Portland, ME

(Sarasota)

St. Petersburg Sailing Center

Savannah Sailing Center

Naples Community Sailing Center

Questions?

ST. AUGUSTINE YACHT CLUB
FOUNDED 1873

Thank you!

ST. AUGUSTINE YACHT CLUB

FOUNDED 1873

the mcleod firm
attorneys

1200 Plantation Island Drive South, Suite 140
Saint Augustine, Florida 32080

October 4, 2019
VIA EMAIL

Isabelle Lopez, Esq.
City Attorney
City of St. Augustine
75 King Street
St. Augustine, Florida 32084

Re: Amended Request for Vested Rights Determination/White's Wharf, LLC, 135 Avenida Menendez, St. Augustine

Dear Ms. Lopez:

Our firm represents White's Wharf, LLC ("White's Wharf"), the owner of real property located at 135 Avenida Menendez in the City of St. Augustine, (the "Property"). I am formally requesting a vested rights determination that the Property has historically been used as a restaurant and bar and is therefore, exempt from certain current laws and regulations as set forth in detail below.

BACKGROUND

The Property is located east of Avenida Menendez, at the eastern end of Bravo Lane. The property starts with a small amount of riparian upland with most of the property water ward of the bulkhead along the Matanzas River. The existing restaurant and its associated boardwalk and dock are over the water. Publically recorded cross easements currently exist.

The Property has been in continuous use since at least 1910. According to the Florida Master Site File Historic Properties Inventory Form for Site No. 8SJ197, (as reported by David Nolan in 1980 regarding the Santa Maria Restaurant), the Property was built as a private residence between 1910 and 1917. See **Exhibit 1**. The residence was originally built for W.S.M. Pinkham, who served as both St. Augustine's mayor and St. Johns County's State Representative. The building, known as Pinkham's Wharf or Pinkham's Dock, served as a residence and oyster house through the mid to late 1920s, and then became Corbett's Fish House in 1930. See **Exhibit 1**. At the time Mr. Nolan completed the Historic Properties Inventory Form for the Property in 1980, he noted that the then Santa Maria restaurant was the only building remaining in St. Augustine that extended into the Matanzas River.

Historic photographs and maps provide the following timeline for the Property's continuous use (See **Composite Exhibit 2**, taken from September 8, 2015 Architectural and Historical Condition Assessment Report for Certificate of Demolition for Santa Maria Restaurant prepared by Rick Gonzalez, AIA, a complete copy of which is attached as **Exhibit 3**):

- 1917 – Sanborn map showing Pinkham's Wharf. See **Composite Exhibit 2**, Page 1.
- 1924 – Sanborn map showing Bravo Lane Dock. See **Composite Exhibit 2**, Page 2.

- 1920s – Photograph showing dock and structure extending into the Matanzas River at the end of Bravo Lane. See **Composite Exhibit 2**, Page 3.

- 1930 - Sanborn maps showing Bravo Lane Dock and Corbett's Fish House. See **Composite Exhibit 2**, Page 4.

- 1930s – Photograph showing dock and structure at the end of Bravo Lane. See **Composite Exhibit 2**, Page 5.

- 1930 to 1947 – 1930 Sanborn map updated to 1947 showing Corbett's Restaurant. See **Composite Exhibit 2**, Page 6.

- 1947 – Photograph showing dock and structure at the end of Bravo Lane. See **Composite Exhibit 2**, Page 7.

- 1930 to 1957 – Sanborn map showing Santa Maria Restaurant. See **Composite Exhibit 2**, Page 8.

- 1950s – Photograph of the Santa Maria Restaurant/Spanish Landing. See **Composite Exhibit 2**, Page 9.

- 1962 – Photograph of the Santa Maria Restaurant. See **Composite Exhibit 2**, Page 10.

- 1980 - Historic Properties Inventory Form for Site No. 8SJ197, Santa Maria Restaurant, with photographs. See **Exhibit 1**.

- 2015 – Photographs of the Santa Maria Restaurant. See **Composite Exhibit 2**, Pages 11-17.

The Santa Maria Restaurant still exists on the Property today, more than 100 years after the dock and building were first constructed.

LAND USE AND ZONING LAWS

The City of St. Augustine was created by the State of Florida in 1925. See Laws of Fla. (1925) ch. 11148, § 5. The City adopted Charter Laws, including limited zoning regulations, for its governance in 1964.

Prior to 1985, the State of Florida did not require the City and other local governments to adopt comprehensive plans or land development regulations for use of real property within their jurisdictions. In 1985, the Florida Legislature adopted the Growth Management Act, Chapter 163, Part II, Florida Statutes (the "Act"), which required all local governments in the state to adopt comprehensive plans, including future land use maps, and implementing land development regulations. The City complied with the Act and adopted a Comprehensive Plan and land development regulations to implement the Comprehensive Plan.

Although the Act required local governments to provide future land use map designations for every parcel of real property within their jurisdictions, the City did not assign such a designation to the Property, which in 1985 was being operated as the Santa Maria Restaurant. The City has assigned a zoning designation of Open Land to the Property. Restaurants are allowed by exception in the Open Land zoning district. We have found no documentation that a zoning exception was ever granted for use of the Property as a restaurant. That is likely because the restaurant pre-dated the City's zoning code and thus was not required to obtain an exception.

The restaurant was also in existence prior to the City enacting parking, utility and other land development regulations. Those regulations were enacted after 1964, with the Charter Laws and subsequent Code of Ordinances.

The City deems it to be in the public interest to recognize the value of the Property as St. Augustine's last over-water restaurant and to establish certain use and vested rights for the Property.

SETTLEMENT AGREEMENT/RESTAURANT EXPANSION

In 1992, the owners of the Bayfront Inn filed a lawsuit against the then-owners of the Santa Maria Restaurant and the City of St. Augustine to attempt to prevent the expansion of the restaurant. See Henry Whetstone and Esther Whetstone v. Marguerite S. Connell and Carl Wayne Connell, Santa Maria, Inc., Frank Usina and City of St. Augustine, Florida Seventh Judicial Circuit, Case No. 92-754 CA. After several years of litigation, the parties entered into a Settlement Stipulation and Agreement dated September 23, 1996, a copy of which is attached as **Exhibit 4** (the "Settlement Agreement"). All parties, including the City, signed the Settlement Agreement.

In the Settlement Agreement, the owners of the restaurant agreed not to expand the restaurant to the north or south for a period of 30 years from the date of the Settlement Agreement. See **Exhibit 4**, Page 4 of recorded settlement. The restaurant owners also agreed not to expand the restaurant upward for a period of 16 years from the date of the Settlement Agreement. Regarding the upward expansion, the Settlement Agreement provided that the restaurant owners could not construct a second story on the building, raise the roof, elevate the roofline or otherwise expand the restaurant upward during the 16-year prohibition period.

In 2015, White's Wharf filed applications with the City to demolish the existing Santa Maria Restaurant and construct another restaurant on the Property. During the public hearing process on the applications, Virginia Whetstone, the owner of the Bayfront Inn, wrote a letter to City Planning and Building Director David Birchim dated October 21, 2015 reminding the City that the Settlement Agreement prohibits northward and southward expansion of the restaurant until October 10, 2026. See **Exhibit 5**, page 2. The letter acknowledged that the Settlement Agreement prohibition on upward expansion had expired. The letter also noted that the City was a party to the Settlement Agreement and is bound by its terms.

Following public hearings, the City's Historic Architectural Review Board approved the demolition of the existing Santa Maria Restaurant and the construction of another, taller restaurant on the Property. See **Exhibit 6** for HARB Case No. 2015-0138 Order, **Exhibit 7** for

HARB Case No. 2015-0141 Order and **Exhibit 8** for HARB Case No. 2015-0203 Order (collectively, the "HARB Approvals"). Copies of the approved site plan and elevations for the new restaurant on the Property are attached as **Exhibit 9**.

In HARB orders, the City approved the demolition of the existing restaurant on the Property and the design of a vertically expanded establishment thereon, consistent with the Settlement Agreement.

VESTED RIGHTS CASE LAW

Because the Property has been used as a restaurant for more than 100 years prior to the City's enactment of its Comprehensive Plan and land development regulations, White's Wharf has vested rights to use the Property in similar fashion. Florida common law provides vested rights may be established if a property owner has, (1) acted in good faith reliance, (2) upon some act or omission of government, (3) made a substantial change in position or has incurred extensive obligations and expenses, (4) such that it would make it highly inequitable to interfere with the acquired right. See Franklin County v. Leisure Properties, Ltd., 430 So.2d 475 (Fla. 1st DCA 1983); Equity Resources, Inc. v. Leon County, 643 So.2d 1112 (Fla. 1st DCA 1994); Ganson v. City of Marathon, No. 3D12-777, 2016 WL 5404070, at *10, n14 (Fla. 3d DCA Sept. 14, 2016); Citrus County v. Florida Rock Indus., Inc., 726 So. 2d 383 (Fla. 5th DCA 1999).

As Florida courts have determined, "Stripped of the legal jargon which lawyers and judges have obfuscated it with, the theory of estoppel amounts to nothing more than an application of the rules of fair play. One party will not be permitted to invite another onto a welcome mat and then be permitted to snatch the mat away to the detriment of the party induced or permitted to stand thereon. A citizen is entitled to rely on the assurances or commitments of a zoning authority and if he does, the zoning authority is bound by its representations, whether they be in the form of words or deeds..." Town of Largo v. Imperial Homes Corp., 309 So.2d 571, 573 (Fla. 2nd DCA 1975).

VESTED RIGHTS REQUEST

Prior to White's Wharf undertaking the approved demolition of the Santa Maria Restaurant, we respectfully request a determination of vested rights for the Property, pursuant to City of St. Augustine Comprehensive Plan Future Land Use Element Policies 1.6 and 1.7, Section 70.01, Florida Statutes, and the above-cited case law. Structures were constructed on the Property prior to the establishment of the City of St. Augustine, and a restaurant began operating on the site prior to the City adopting land use, zoning and other regulations to govern its use. Because most of the Property is located waterward of the bulkhead along Avenida Menendez and has no upland area for parking, its owners have never been required to provide parking for patrons.

Based on the facts and case law set forth in this letter, White's Wharf respectfully requests the City of St. Augustine issue a determination that the Property is vested for the following:

1. **Use by Exception of the Property.** The Property has historically been used as a restaurant with a bar and this use by exception in open land zoning, is vested.

2. **HARB Approvals, Boardwalks, Walkways.** Demolition and design elements in the HARB Approvals are vested. Boardwalks, walkways, and catwalks as described in the 2012 submerged land lease and exhibits attached thereto and recorded in O.R. Book 4004 PG 1511-1540 are vested and the owner can construct the latter as set forth in the HARB Approvals.

3. **Vertical Expansion.** The Owner has the right to expand the restaurant building vertically, to two (2) stories, pursuant to the plans approved by HARB with the HARB Approvals and the Settlement Agreement. Because the Property is primarily submerged land, building height will be measured per HARB Approvals.

4. **Intensification of Use.** The Property has historically been used as a restaurant with a bar, predating the City Comprehensive Plan and Land Development Code, and the Property is vested from current land development regulations regarding minimum lot size, maximum lot coverage, minimum yard requirements (i.e., setbacks), consistent with HARB Approvals.

5. **Seating.** The historic Santa Maria restaurant included 150 interior (fixed) seats and 48 outdoor (fixed) seats. The Owner has the right to include vested 198 permanent seats within the new restaurant. **See Exhibit 10.**

6. **Utility Connections.** The historic Santa Maria restaurant included 150 interior seats and 48 outdoor seats. The Owner shall not be required to pay utility connection fees for 198 seats.

7. **Parking.** The Property is primarily submerged land and has historically not provided parking to patrons. Hence, no parking will be required for the 198 vested seats. **See Exhibit 10.**

8. **Signage.** The historic Santa Maria restaurant included signage that pre-dates the City Land Development Code and other sign ordinances. The Owner has the right to replace historic building signage, provided such signage is in the same locations on the reconstructed building and within the Property, is comprised of the same or similar materials, and has the same dimensions, advertising display area and illumination.

White's Wharf acknowledges that it must comply with the provisions of the Settlement Agreement and the HARB Approvals for redevelopment of the Property, and other local, state, federal regulations other than stated above in this document.

We appreciate your consideration of this vested rights determination request. If you have

any questions regarding the request, please do not hesitate to contact me.

Sincerely,

Robert L. McLeod II, B.C.S.
(Signed in his absence to avoid delay)

cc: David White
John Regan
David Birchim

EXHIBIT 1

ORIDA MASTER SITE FILE

HISTORIC ST. AUGUSTINE PRESERVATION BOARD

HISTORIC PROPERTIES INVENTORY FORM

I. LOCATION & LEGAL DESCRIPTION

FDAHRM 802== Site No. 8SJ197 1009==

Site Name: Santa Maria Restaurant 830== Survey Date: 7912 820==

Address: 135 Avenida Menendez, St. Augustine, FL 32084 905==

Instructions for Locating: Extends into Matanzas Bay almost due east of Bridge Street/ 813== County: St. Johns 808==

Location: City of St. Augustine (subdivision) Water lying East of Bay Street on West (block) (lot) 868==

Shore of Mantanzas Bay. 868==

Owner of Site: Name: Connell Louis;

Address: St. Augustine Fl 32084

902==

Occupant or Manager: Santa Maria Restaurant 904==

Type of Ownership: Private 848== Zoning: HP-2

NR Classification Category: Building 916== Recording Date: 832==

UTM: 17 (zone) 470120 (easting) 3306510 (northing) 890== Location: T07S (T) R30E (R) S17 (S) 812==

Map Reference: USGS St. Augustine MIN 1956 (PR 1970) 809==

Recorder: Name & Title: Nolan, David (Historic Sites Specialist);

Address: H.S.A.P.B. 818==

II. SITE DESCRIPTION

Condition of Site:

( ) Excellent 863==

(X) Good 863==

( ) Fair 863==

( ) Deteriorated 863==

Integrity of Site:

(X) Altered 858==

( ) Unaltered 858==

(X) Original Site 858==

( ) Restored - Date: 858==

( ) Moved - Date: 858==

Threats to Site:

( ) Zoning 878==

( ) Development 878==

( ) Deterioration 878==

( ) Borrowing 878==

( ) Transportation 878==

( ) Fill 878==

( ) Dredge 878==

( ) Other 878==

II. SITE DESCRIPTION, con ed.

Original Use: Priv. Res. 838== Present Use: Commercial 850==

Date: +1917 844== Period: 20th cent. 845== Culture: American 840==

Architect: 872==

Builder: 874==

Style: Frame Vernacular 964==

Plan Type: Rectangular 966==

Exterior Fabrics: Wood, drop siding, with cornerboard

854==

Structural Systems: Wood frame 856==

Features of Structure: (942)

Window Type: DHS 2/2 (metal), 1/1 attic louver 942==

Foundation: Poured concrete piers 942==

Roof Type: Gable 942==

Secondary Roof Structures: Porch, hip 942==

Porches & Balconies:

942==

Chimney Location: 942==

Materials: (882)

Chimney: 882==

Roof Surfacing: Composition shingles 882==

Ornament Exterior:

882==

Quantitative Data: (950-954)

Chimneys: 952== Dormers: 954== Stories: 1 950==

Other: 956==

Surroundings: Bayfront 864==

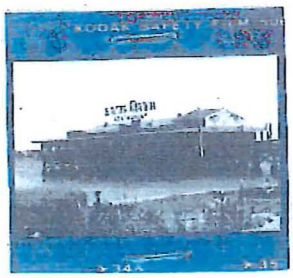
Relationship to Surroundings: Extends into Matanzas Bay

859==

III. PHOTOGRAPHY

Photographic Records Numbers: 860==

Contact Prints



IV. SIGNIFICANCE

Areas of Significance: Architecture, Maritime, Politics/Government, Commerce

920==

Statement of Significance: (911==)

ARCHITECTURE

This one-story Frame Vernacular building at 135 Avenida Menendez was built as a private residence between 1910 and 1917. The structure has been remodeled over time with, a gable roof added to the west side and porches enclosed to the north. The building, is the only building remaining in St. Augustine which extends into Matanzas Bay.

The area of the colonial city south of the plaza and north of Bridge Street includes buildings ranging from colonial to modern times. It contains a significant number of St. Augustine's surviving colonial buildings as well as many fine Victorian buildings from the Flagler era like the development along Palm Row. Some remodeling and construction have taken place in the St. Augustine Colonial Revival style. The narrow colonial street plan is retained, and some of the streets are still surfaced in brick. Aviles Street retains some colonial ambiance with many buildings constructed on the street line, with overhanging balconies, and coquina walls. The visual effect of other streets tends to be mixed Colonial and Victorian, except along the bayfront, which is dominated by modern motels. Along this stretch of the bayfront are the last surviving buildings projecting out over the water. It is an area of combined usages--residential, commercial, educational and religious--all of which produce traffic and parking problems. As a result, many significant buildings, particularly Flagler era hotels and mansions, have been demolished over the years for parking lots or other facilities. The area is bounded on the west by the old Alcazar Hotel (now City Hall) and on the east by the seawall and bayfront. It is part of the National Landmark District, and listed on the National Register of Historic Places.

HISTORY

This section of the walled colonial city has been continuously occupied since the 16th century and represents the location of the 1565 settlement of St. Augustine. The small blocks and narrow streets of the early city are still evident.(1) All structures were destroyed during the 1702 attack by the South Carolinians, but by mid-century, the Rosario defense line had been erected along the present-day location of Cordova Street, and numerous buildings had been rebuilt throughout the area, although den-

(over)

V. BIBLIOGRAPHY

1. Kathleen Deagan, et. al, "A Sub-Surface Survey of the St. Augustine City Environs," (Tallahassee, 1976); Anon., "S. Augustini pars et terrae Florida," 1588.

2. Juan Jose Elixio de la Puente, "Plano . . . de la Plaza de San Agustin," January 22, 1764; Mariano de la Rocque, "Plano Particular de la Ciudad de San Agustin," April 25, 1788; East Florida Papers, Escrituras, 1784-1821; Albert Manucy, The Houses of St. Augustine, 1565-1721 (St. Augustine, 1962), pp. 22-25 and 41-47.

sity was greater towards the bayfront. In the 18th and early 19th centuries, this section contained a number of governmental and ecclesiastical structures, including La Soledad parish church and school on St. George Street and the hospital and jail on Aviles (Hospital) Street. Moreover, the largest number of extant colonial buildings are found in this section of the city: Hourritiner, MacMillan, and Murat Houses on St. George Street; Segui, Fatio, O'Reilly, and Toledo Houses on Aviles Street; Solano House on Charlotte Street; and the Jacinto House on Marine Street. The southern border of this area, Bridge Street, led to one of three late colonial San Sebastian River ferry crossings.(2) Certain patterns of earlier development persisted into the American period as this section, particularly on Aviles Street, contained a disproportionately large number of public and educational facilities such as the Territorial City Council Meeting House, and in the late 19th century, the Peabody School, city jail, library, and police and fire departments. St. Joseph's Academy opened in the 1870's on St. George Street. Several prominent hotels also opened in this section, including the Ocean View on the bayfront and the St. George adjacent to Trinity Episcopal Church. Since the Civil War, St. George Street has remained a residential neighborhood and contained some stately homes of the city's more prominent residents and visitors. The streets to the east have contained some residences, but mainly commercial and institutional buildings. The area as a whole has one of the largest concentrations of 18th and 19th century structures within the walled city despite the demolition of several of the stately residences and hotels along St. George Street and Avenida Menendez (Bay Street).(3)

The bayfront building at 135 Avenida Menendez was originally built as a private residence for W. S. M. Pinicham, Mayor of St. Augustine and State Representative for St. Johns County at the turn of the 20th century.(4) The building, known as "Pinicham's Whart" or "Pinicham's Dock," served as a residence-Oyster house through the mid- or late 1920's, becoming Corbett's Fish House in 1930.(5) Today the building houses the Santa Marie seafood Restaurant.

---

3. Anon., "Copy of a Plan of the City of St. Augustine," 1833; 1885 and 1894 Birds-Eye Views; Sanborn Fire Insurance Maps, 1884-1958.

4. Allen Morris, The People of Lawmaking in Florida, 1822-1979. (Tallahassee, 1979 ; Thomas Graham, The Awakening of St. Augustine (St. Augustine 1978).

5. Sanborn Map, 1917, 1924, 1930; St. Johns County Illustrated (St. Augustine, n.d.), p. 45.

SOUTH END VIEW OF THE SEAWALL AND BAY, SHOWING PINKHAM'S DOCK AND THE LIGHTHOUSE IN THE DISTANCE

SITE DATA SHEET

CARTOGRAPHIC, ARCHITECTURAL, PHOTOGRAPHIC, OR OTHER DATA

Address 135 Ave. Menendez Block & Lot

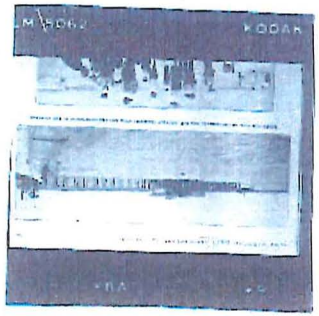
CARTOGRAPHIC

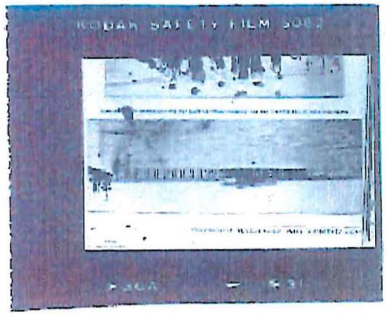
+1917 "priv. res" – "~~Pinkham~~ Pinkham's Wharf"
+1924 "priv. res."
+1930 "Corbetts Fish Ho."

ARCHITECTURAL

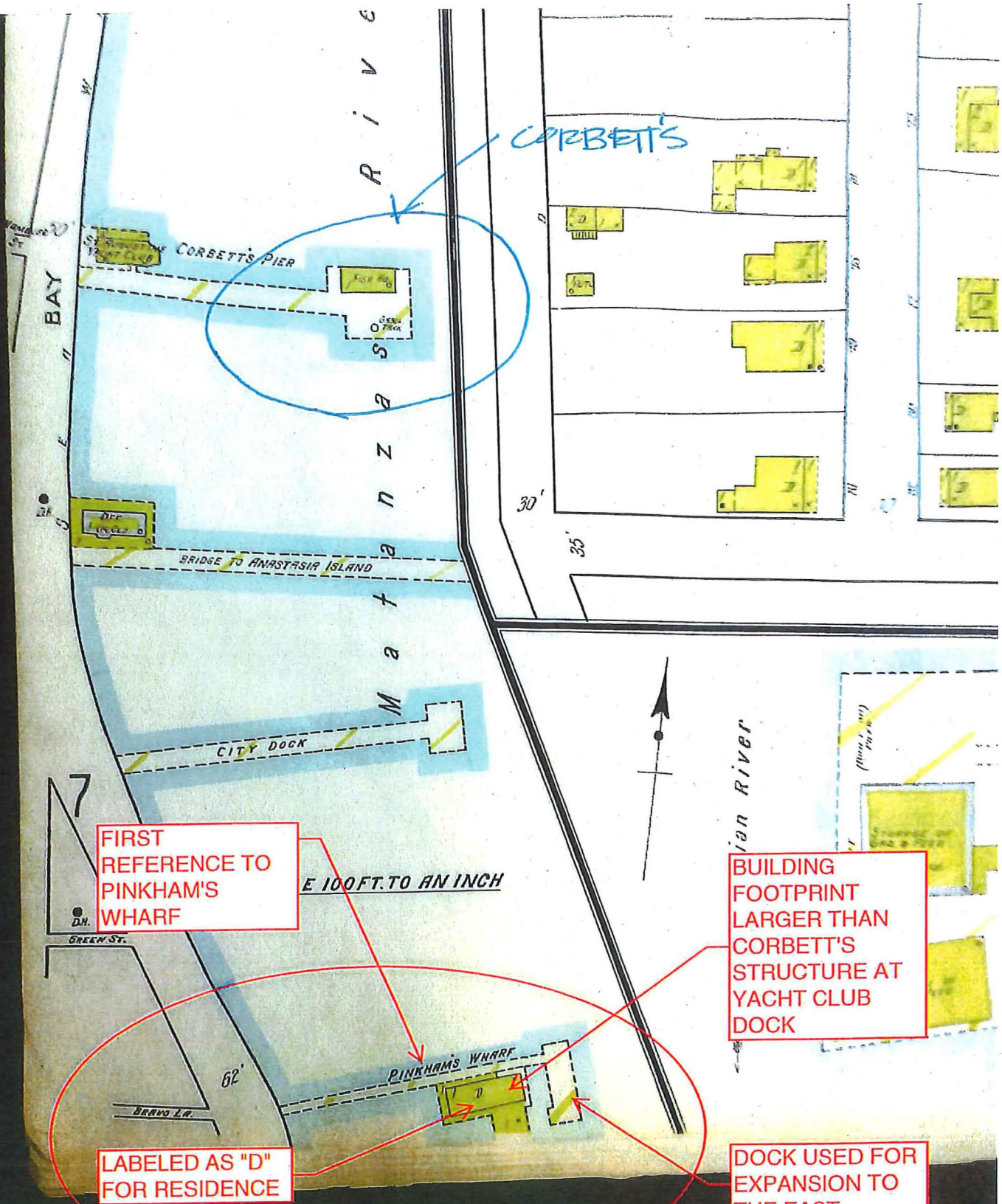
PHOTOGRAPHIC

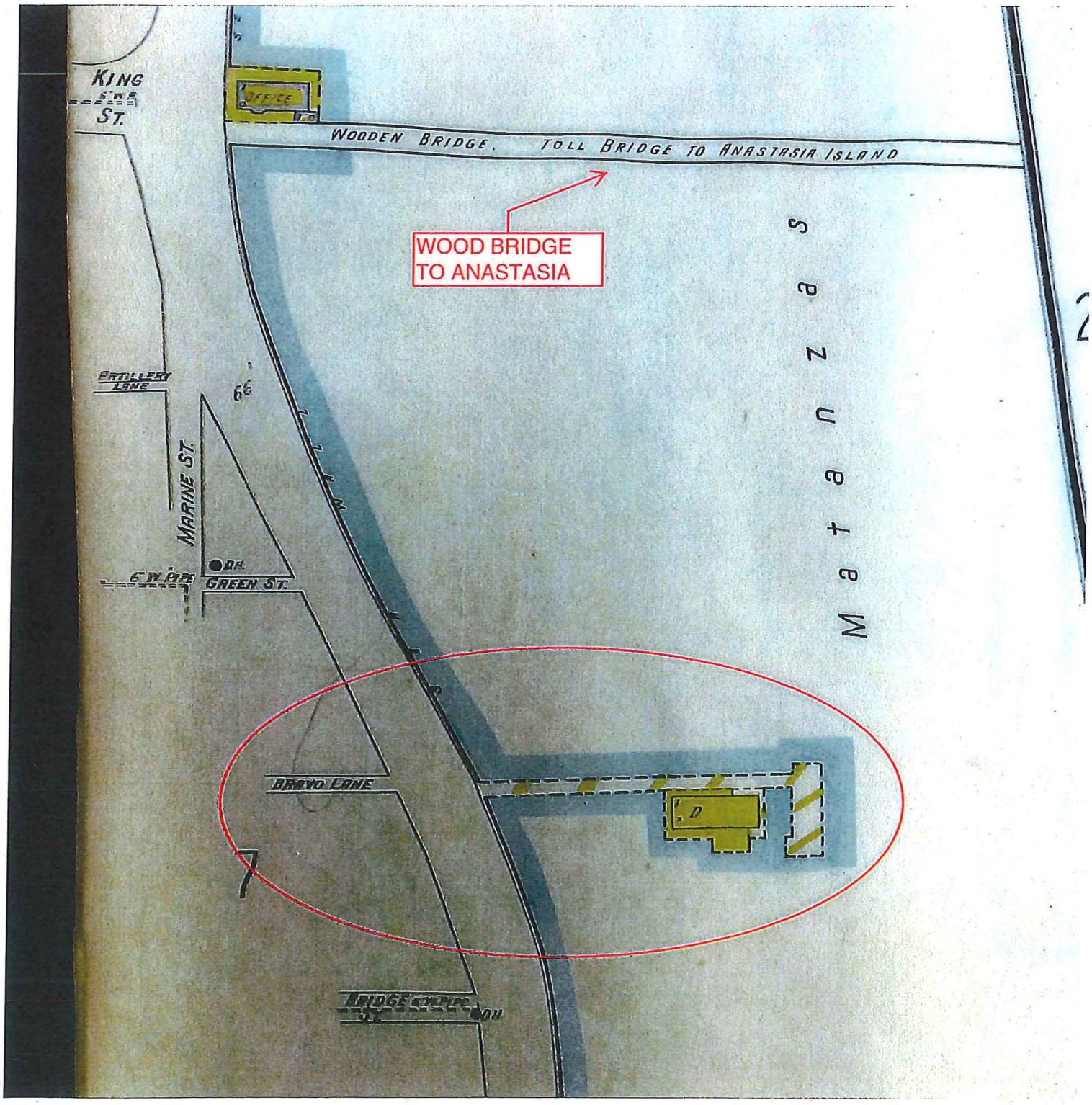
OTHER



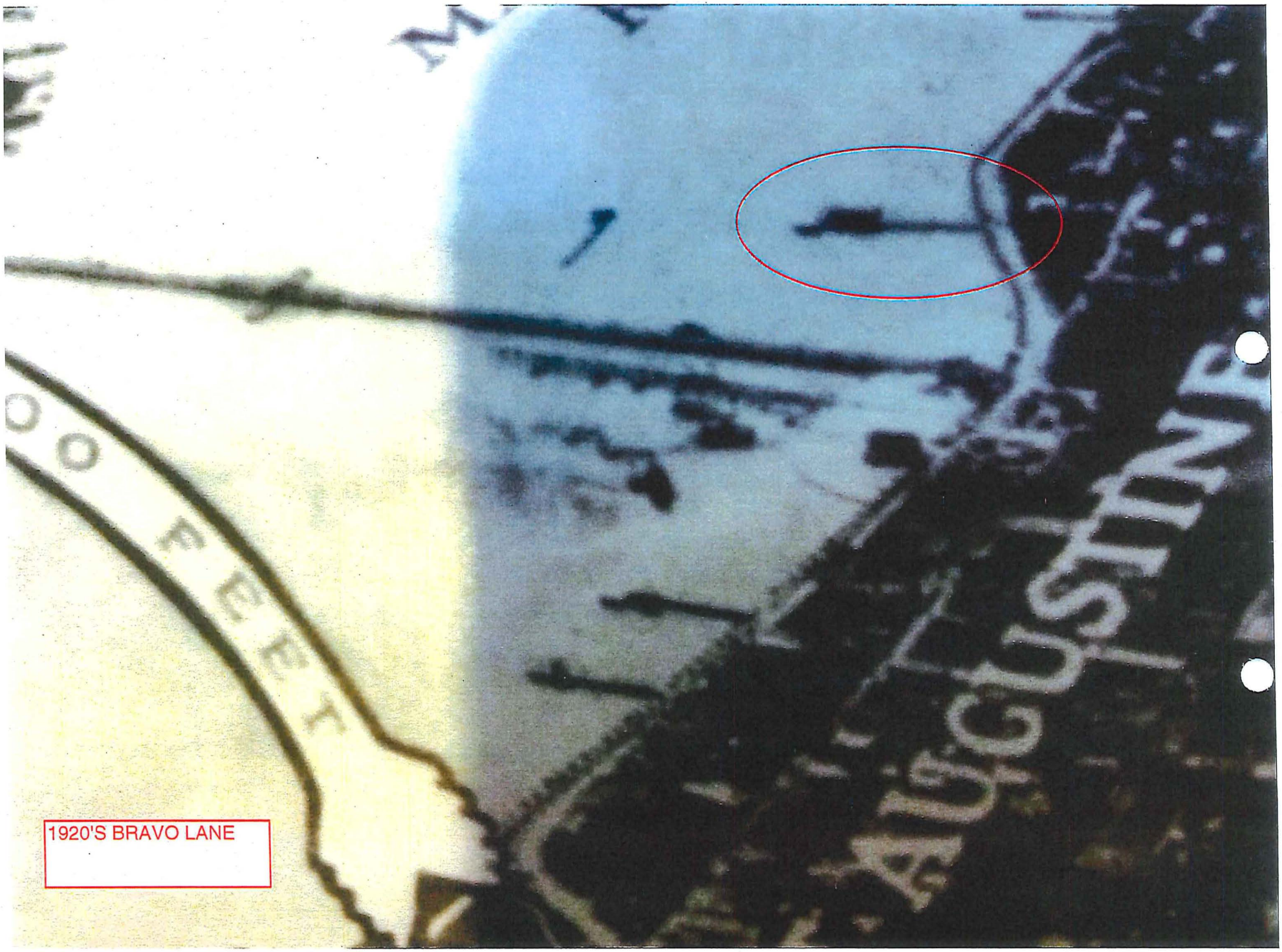


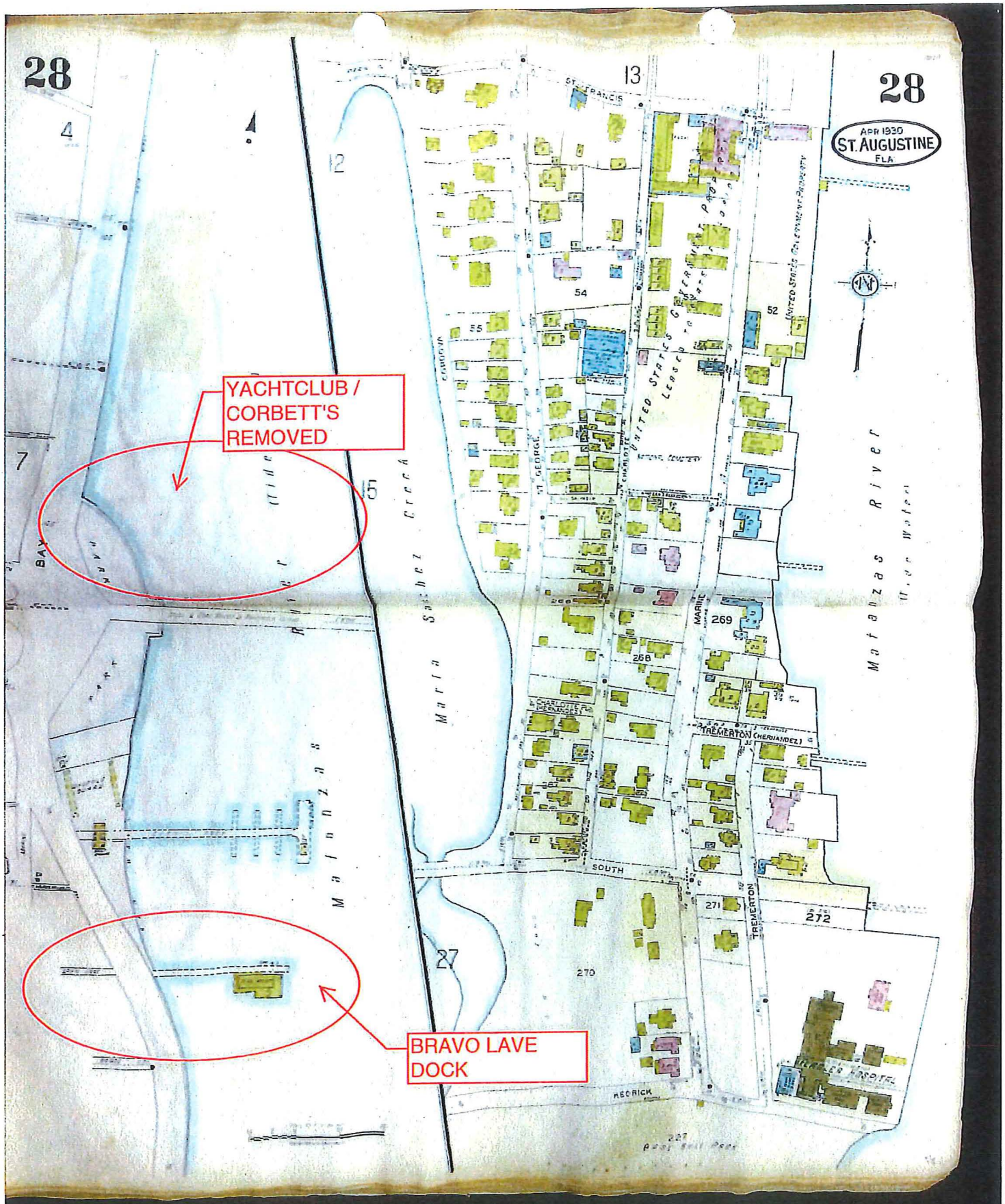
COMPOSITE EXHIBIT 2


CORBETT'S
CORBETT'S PIER
BRIDGE TO ANASTASIA ISLAND
CITY DOCK
PINKHAM'S WHARF
E 100 FT. TO AN INCH
GREEN ST.
BRAVO LA.
62'
30'
35'
D.H.
FIRST REFERENCE TO PINKHAM'S WHARF
BUILDING FOOTPRINT LARGER THAN CORBETT'S STRUCTURE AT YACHT CLUB DOCK
LABELED AS "D" FOR RESIDENCE
DOCK USED FOR EXPANSION TO THE EAST
1917 SANBORN ENLARGED



1924 SANBORN ENLARGED

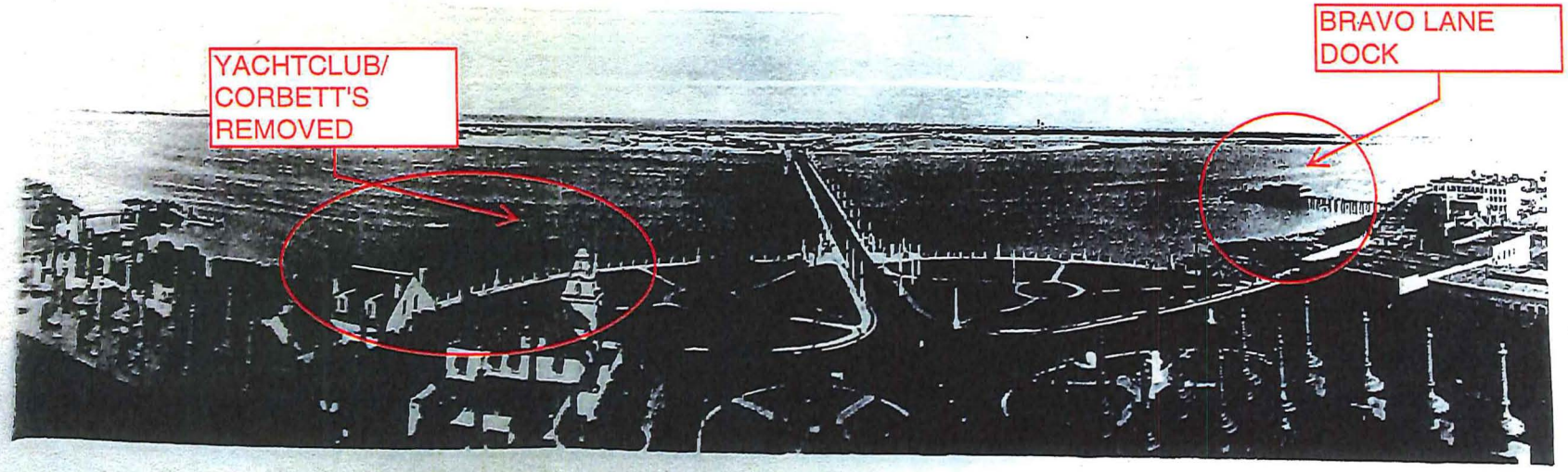

1920'S BRAVO LANE



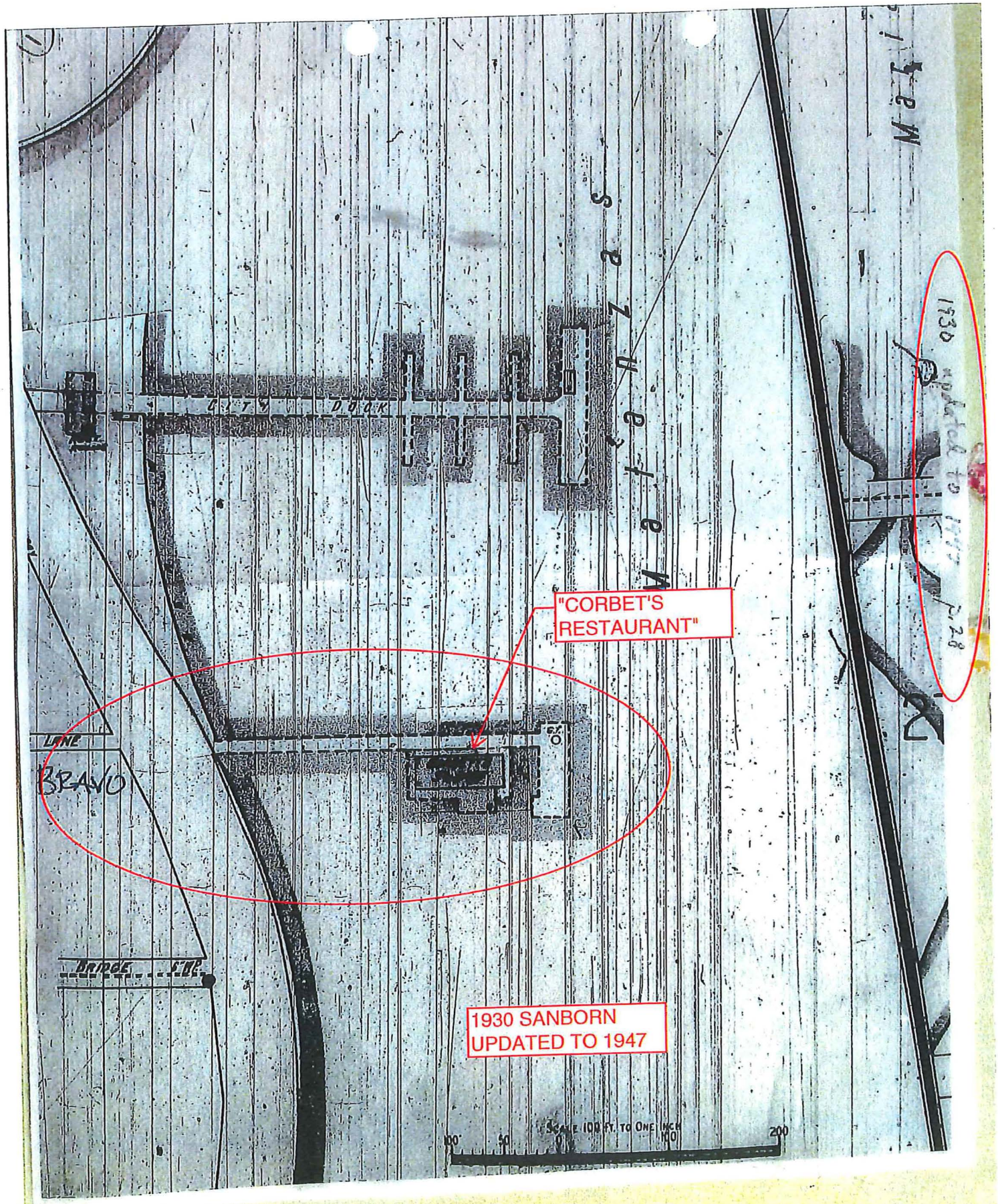
1930 SANBORN

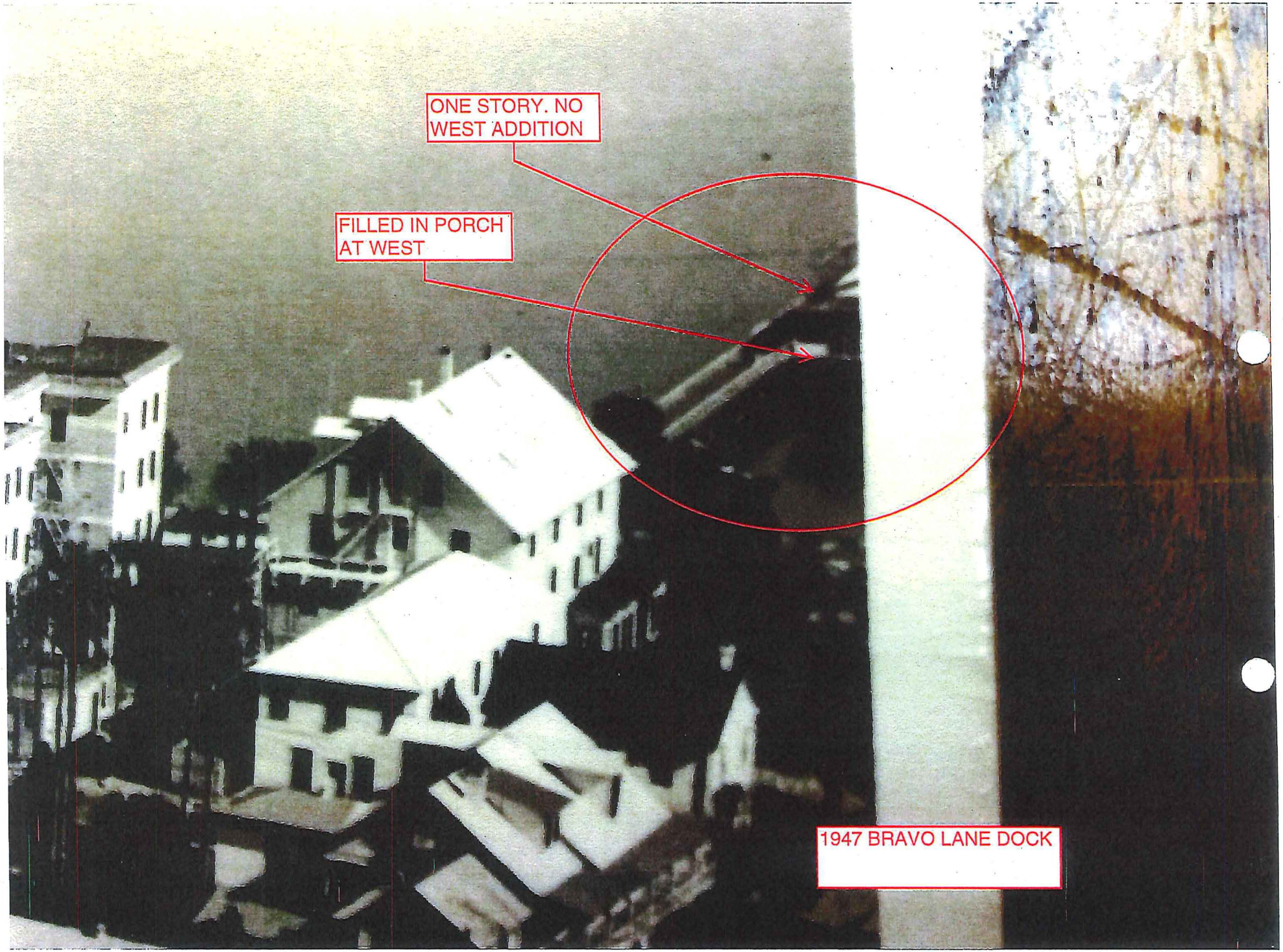
55 - 5A - 6A

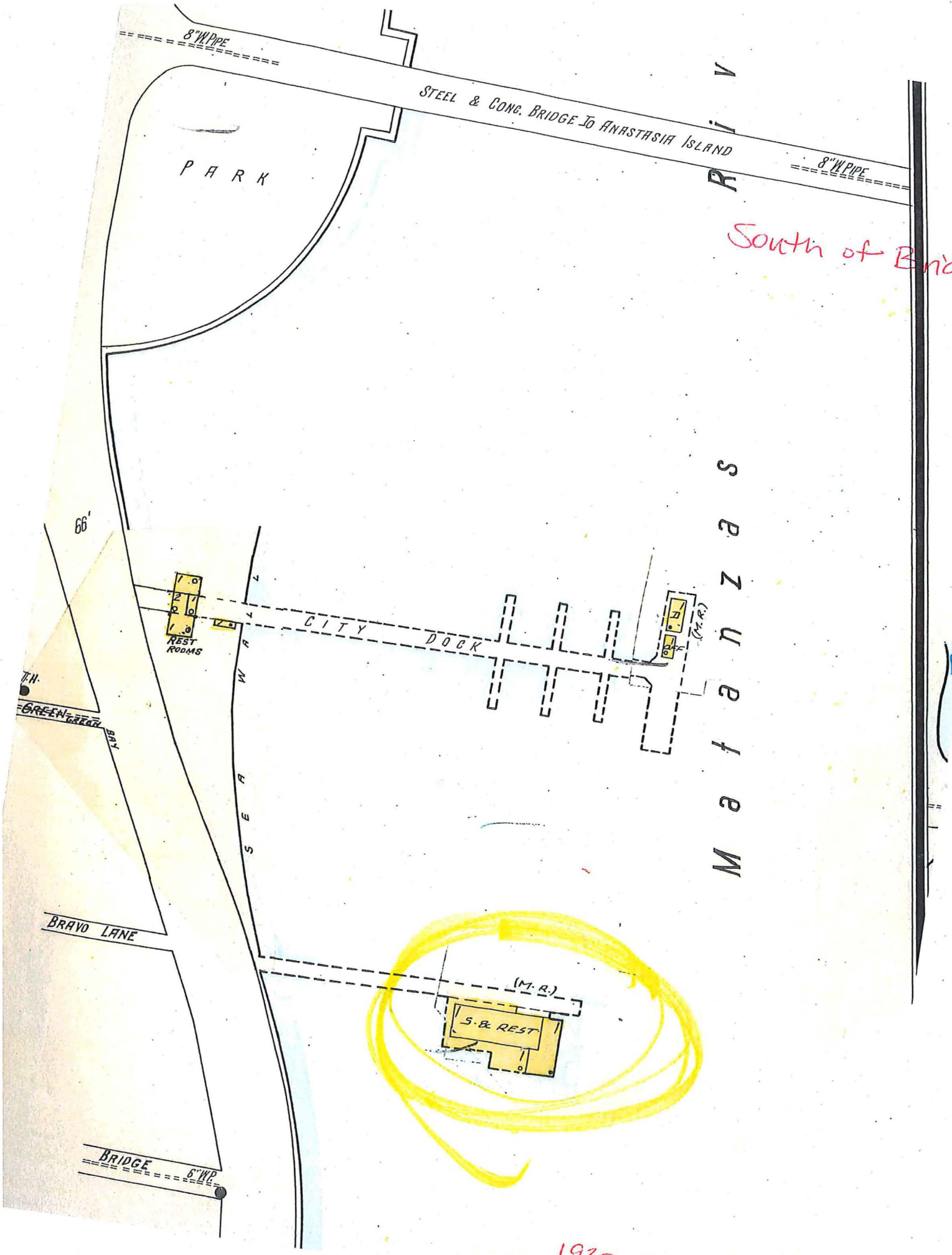
AUG.



BRAVO LANE
1930'S


"CORBET'S RESTAURANT"
1930 SANBORN UPDATED TO 1947
CITY DOCK
LANE
BRAVO
BRIDGE
SCALE 100 FT. TO ONE INCH
100
50
0
100
200


ONE STORY. NO
WEST ADDITION
FILLED IN PORCH
AT WEST
1947 BRAVO LANE DOCK


8" W. PIPE
STEEL & CONC. BRIDGE TO ANASTASIA ISLAND
8" W. PIPE
PARK
Matanzas River
South of Bridge
66'
REST ROOMS
CITY DOCK
(M.R.)
T.H.
GREEN BAY
SEA WALL
BRAVO LANE
(M.R.)
S.& REST
BRIDGE
8" W.P.

1930-1955

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Santa Maria Restaurant, Old Spanish Landing, St. Augustine, Florida.

Credit this photo: State Archives of Florida, *Florida Memory*, https://floridamemory.com/items/show/156352 (please include photographer's name when noted).

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Title

Santa Maria Restaurant, Old Spanish Landing, St. Augustine, Florida.

Image Number

N048457

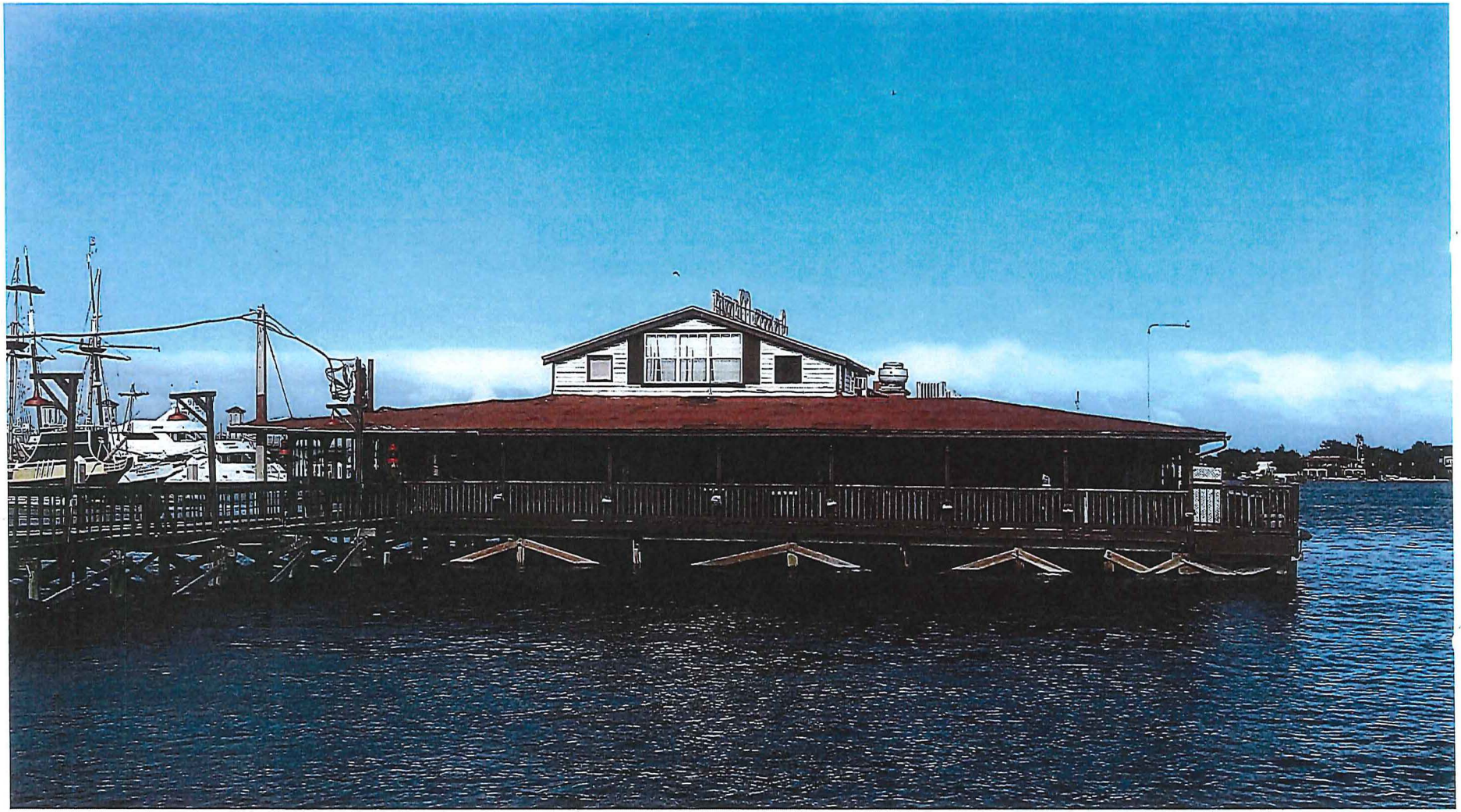
1962
HURRICANE

Santa Maria
RESTAURANT

Santa Maria
RESTAURANT

Santa Maria
RESTAURANT

SANTA MARIA RESTAURANT



Santa Maria
RESTAURANT

EXHIBIT 3

September 18, 2015

Architectural and Historical Condition Assessment Report for:

Certificate of Demolition Request for Santa Maria Restaurant 135 Avenida Menendez St. Augustine, FL 32084

Prepared by:
Rick Gonzalez, AIA, President
REG Architects, Inc.
300 Clematis Street, 3rd Floor
West Palm Beach, FL 33401

RECEIVED
OCT 05 2015
Planning/Building Dept.

REG ARCHITECTS, INC.
ARCHITECTURE * INTERIOR DESIGN * PLANNING

September 17, 2015

City of St. Augustine
Historic Architectural Review Board

RE: Certificate of Demolition Request for the Santa Maria Restaurant
located at 135Avenida Menendez, St. Augustine, Florida 32084

Dear Sirs:

Please accept the following architectural and historical condition assessment report together with a separate structural evaluation report, as part of the requirements to satisfy the review of a request for demolition of a contributing structure adjacent to a Historic District as required by the City of St. Augustine code. As a preservation architect with 30 years of historic preservation experience around the State of Florida, it is rare for me to assist in the demolition of such a structure but, in this case, due to the following reasons, I believe the request has merit as follows:

1) Historic Setting:

It is unfortunate that as in many historic coastal towns in Florida as at this location similar removal of historic fabric has occurred over time. Although the historic setting to the south in HP-1 has withstood significant changes over time, the immediate setting north and west in relationship to the Santa Maria Restaurant has not favored well. The building is connected to the north and west via a pedestrian bridge onto land that is not within the district and is known as Bayfront

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Park and Marina. This adjacent property has also been changed significantly over time. The docks are relatively new, service yards face the Santa Maria Restaurant and the relatively modern dockmaster building is located to the immediate north. The only historic context left is the Historic Bayfront Mini Golf just to the north of the dockmaster and just south of the completely rebuilt new Bridge of Lions (see Exhibit 1).

The St. Augustine Code of Ordinances requires your Board to review properties abutting historic districts (HP-2) as is the case of this proposal (see Exhibit 1). The odd thing about this project is that although it may have been contributing some time ago, today it is not for reasons to follow.

Your application requests buildings "in" historic districts not "next to" historic districts. The City maps for National Register Districts (Exhibit 2) and Historic Preservation Zoning Districts (Exhibit 3) clearly shows this property is outside and not "in" a historic district. This should allow the board the opportunity to consider this change at this time, just as prior boards approved many modern changes to the adjacent Bayfront Park, Marina and Dockmaster facilities some time ago. The proposed new restaurant replacement building would be the fourth commercial building on this site in more than 100 years.

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In any event, when you do review the historic setting as it abuts HP-2 district as per your requirements, unfortunately there is nothing historic abutting across the street! What is in place immediately to the west, are two (2) large suburban type Florida motels probably from the 1950's with the typical non-historic non-urban approach of parking lots and pools facing historic Avenida Menendez and flat "L"-shape non-historic motel buildings set back from the street. The only historic setting remaining and visible is the award winning historic Bulkhead (recently restored) and pedestrian promenade directly to the south in HP-1 district. For this reason and the lack of adjacent HP-2 historic setting remaining, and the fact that the Santa Maria Restaurant's predecessors were early 20th Century framed vernacular it was suggested to CDA Architects to respond to the historic setting of HP-1 and the prior earlier period of significant structures for the proposed new design replacement.

2) Contributing Structure:

In reviewing the Florida Master Site File (Exhibit 4) as recorded by David Nolan in 1980 (35 years ago with no current data available), this building was noted as "contributing" in 1980. In the one (1) page statement of significance (page 3 of recording), the only reason the building is deemed contributing is due to one (1) sentence, "The building is the only building remaining in St. Augustine which extends into Matanzas Bay". This of course, is an obvious fact that makes this request difficult, yet following I will present to you why its former

"contributing" status has so determined that it now needs replacement. Unfortunately in the "statement of significance", the report vaguely mentions "remodeled over time" with no mention to two former buildings on site that were replaced by the Santa Maria Restaurant.

In most cities and towns in Florida, the criteria for "contributing" structures or "landmark" usually follows the Secretary of the Interior Standards that can be well summarized in the two (2) Florida town and city examples as follows:

A) Town of Palm Beach Example (similar to Secretary of Interior Standards): A "landmark" or "contributing structure" shall meet at least one of the following criteria:

1) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, state, country or town.
2) Is identified with historic personages or with important events in national, state or local history.
3) Embodies distinguishing characteristics of an architectural type or is a specimen inherently valuable for the study of a period, style, method of construction or use of indigenous materials or craftsmanship.

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4) Is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized or who influenced his age.

B) City of St. Augustine Example (condensed Secretary of Interior Standards version):

2) "Contributing" property shall mean a building, site structure or object which adds to the historical architectural qualities, historic associations or archaeological values for which a district is significant because (a) it was present during the period of significance of the district and possesses historic integrity reflecting its character at that time; (b) is capable of yielding important information about the period; or (c) it independently meets the National Register of Historic Places criteria for evaluation.

In both cases, and in the Secretary of the Interior Standards, the key words are "distinguishing characteristics" and "historic integrity reflecting its character at that time". It is unfortunate that at this time, the Santa Maria Restaurant has been so drastically changed over time that it has completely lost the historic integrity of its time and very little (if any) of its distinguishing characteristics of early 20th Century framed vernacular remains. Its only "contributing" feature is that it is the

last building on piles in Matanzas Bay. The building has been significantly modified in an unsympathetic way many times over the years (Exhibits 5, 6, 7). In fact, the building has been "replaced" three (3) times as it first was the early adaptive reuse/relocation "Fish and Oyster Depot", and then replaced by "The Old Spanish Landing Building" (Exhibit 8) which also no longer exists, both of which were much smaller and with truly distinguishing characteristics of the framed vernacular style! By the time the "Santa Maria Restaurant" came, few if any distinguishing characteristics remained (exhibit 9).

In closing, on behalf of my client, I appeal to the board that after reviewing the drastic changes to 1) historic setting and 2) contributing structure as described above and shown through the exhibits, to please allow for the demolition and replacement with a new building (fourth one on this site) in character with the adjacent historic district to the south and across the street (HP-1).

You will also see in CDA Architects additional documents such as cost analysis, economic analysis and structural analysis additional supporting evidence for our demolition request. CDA Architects in fact, has tried many times in the recent past to salvage, rebuild and restore the original prior three (3) buildings; "The Oyster Depot"; "The Old Spanish Landing Building" and the "Santa Maria Restaurant" and indeed were hoping to return it to its former glory similar in a way to our "uncovering", historic reconstruction and adaptive reuse of the 1916

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Palm Beach County Court House (Exhibit 10). Another reason why it is not feasible to reconstruct (and to which building period of significance?) this waterside building is because the 1916 Palm Beach County Court House (at $500/SF in 2005 dollars), was rebuilt on solid ground while the "Santa Maria Restaurant" and the other prior structures were build on water over piers and a foundation exposed to the harsh salt water environment over many decades. CDA's proposed design for the new building (the fourth one to be built on this site) has captured the essence and "distinguishing characteristics" of the prior three (3) buildings with design integrity and exceptional detailing that will respect it's important location in Matanzas Bay and will be for the enjoyment of current and future generations of citizens and visitors alike (Exhibit 11).

We respectfully request this certificate of demolition in order to proceed with CDA Architect's properly designed building which will be compatible and complimentary to the historic fabric of St. Augustine.

Sincerely,

Rick Gonzalez, AIA, President
REG Architects, Inc.

cc: Clifford D. Duch, AIA, Cronk Duch Partners Architects
Joe Cronk, Associate AIA, Cronk Duch Partners Architects

enclosures: Exhibits 1-12

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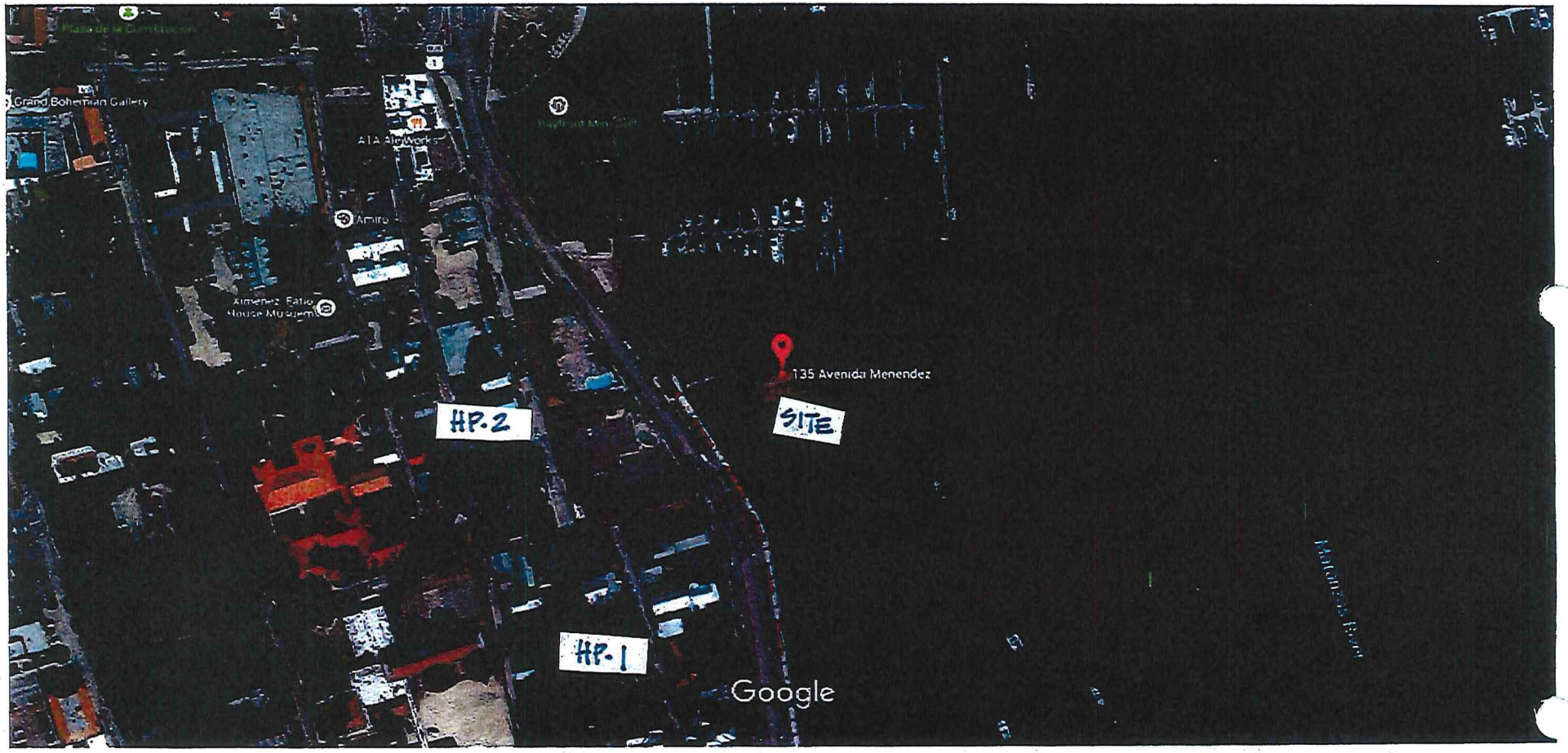
EST. 1988

Google Maps 135 Avenida Menendez

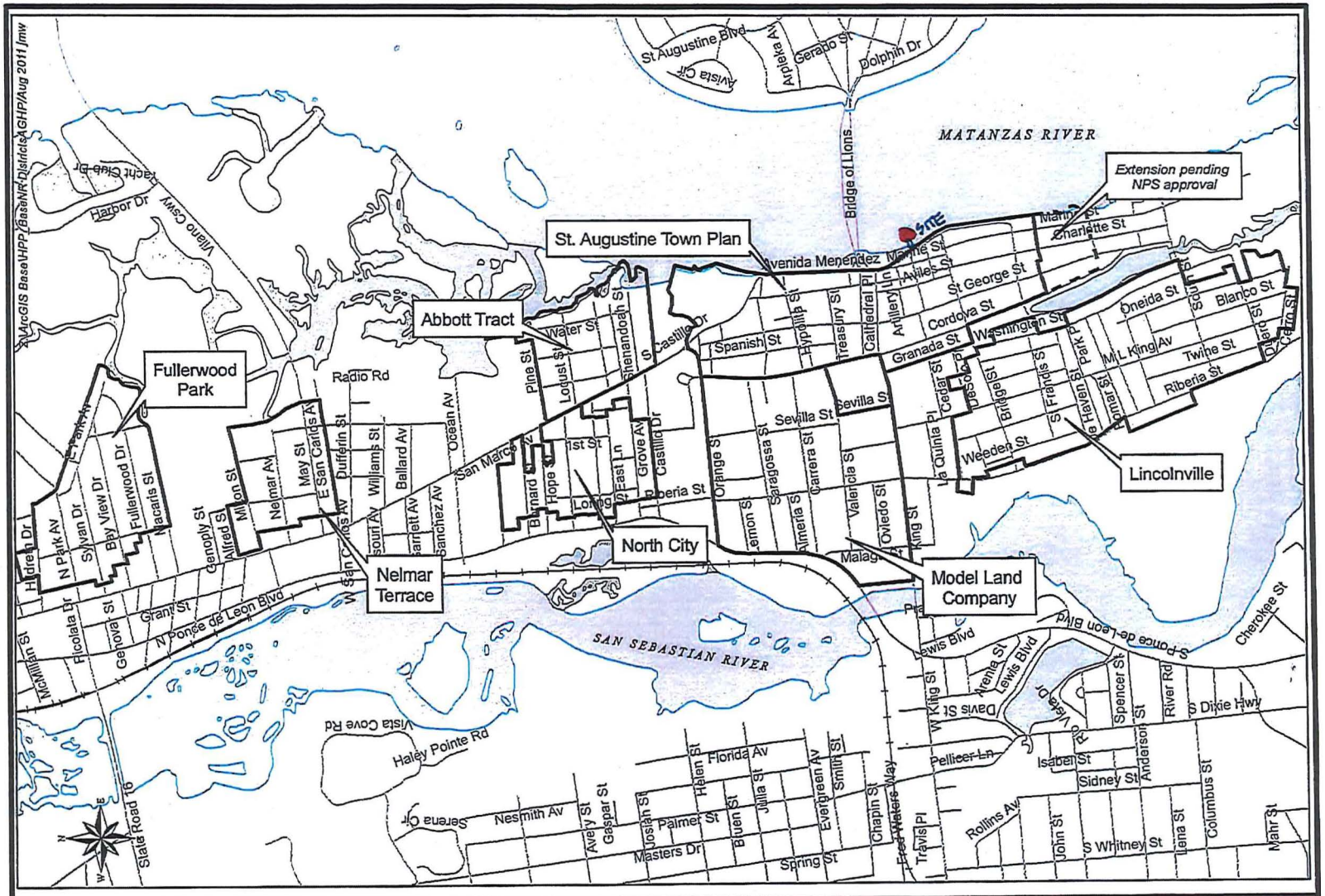
Exhibit 1



Imagery ©2015 Google, Map data ©2015 Google 100 ft

135 Avenida Menendez
St Augustine, FL 32084

Exhibit 2

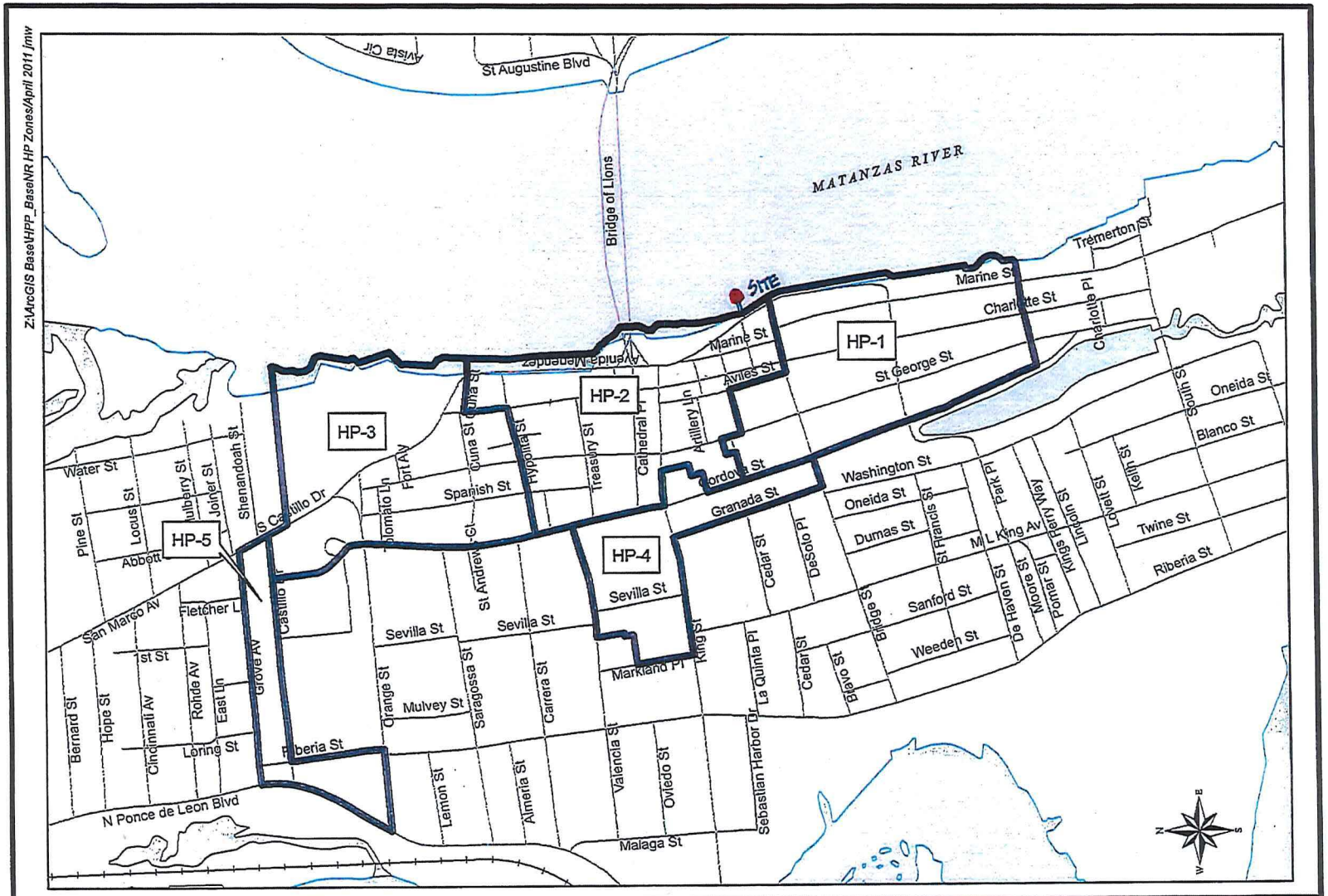


City of St. Augustine
PLANNING AND BUILDING DEPARTMENT
P.O. Box 210, St. Augustine, FL 32085 Phone: (904) 825-1065

National Register Districts
Districts listed on the National Register through 2011

SHEET
1 of 1

Exhibit 3



City of St. Augustine
PLANNING AND BUILDING DEPARTMENT
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Historic Preservation Zoning Districts
HP-1, HP-2, HP-3, HP-4, HP-5

SHEET
1 of 1

EXHIBIT 7

SEE SITE FILE STAFF FOR ORIGINAL PHOTO(S) OR MAP(S)

FLORIDA MASTER SITE FILE

HISTORIC ST. AUGUSTINE PRESERVATION BOARD

HISTORIC PROPERTIES INVENTORY FORM

I. LOCATION & LEGAL DESCRIPTION

FDAHRM 802== Site No. 8SJ197 1009==

Site Name: Santa Maria Restaurant 830== Survey Date: 7912 820==

Address: 135 Avenida Menendez, St. Augustine, FL 32084 905==

Instructions for Locating: Extends into Matanzas Bay almost due east of Bridge Street/ 813== County: St. Johns 808==

Location: City of St. Augustine (subdivision) Water lying East of Bay Street on West (block) (lot) 868==

Shore of Mantanzas Bay. 868==

Owner of Site: Name: Connell Louis;

Address: St. Augustine Fl 32084

902==

Occupant or Manager: Santa Maria Restaurant 904==

Type of Ownership: Private 848== Zoning: HP-2

NR Classification Category: Building 916== Recording Date: 8010 832==

UTM: 17 (zone) 470120 (easting) 3306510 (northing) 890== Location: T07S (T) R30E (R) S17 (S) 812==

Map Reference: USGS St. Augustine MIN 1956 (PR 1970) 809==

Recorder: Name & Title: Nolan, David (Historic Sites Specialist);

Address: H.S.A.P.B. 818==

II. SITE DESCRIPTION

Condition of Site:

( ) Excellent 863==

(X) Good - 1980 863==

( ) Fair 2015 863==

( ) Deteriorated 863==

Integrity of Site:

(X) Altered 858==

( ) Unaltered 858==

(X) Original Site 858==

( ) Restored - Date: 858==

( ) Moved - Date: 858==

Threats to Site:

( ) Zoning 878==

( ) Development 878==

( ) Deterioration 878==

( ) Borrowing 878==

( ) Transportation 878==

( ) Fill 878==

( ) Dredge 878==

( ) Other 878==

II. SITE DESCRIPTION, continued.

Original Use: Priv. Res. 838== Present Use: Commercial 850==

Date: +1917 844== Period: 20th cent. 845== Culture: American 840==

Architect: 872==

Builder: 874==

Style: Frame Vernacular 964==

Plan Type: Rectangular 966==

Exterior Fabrics: Wood, drop siding, with cornerboard

854==

Structural Systems: Wood frame 856==

Features of Structure: (942)

Window Type: DHS 2/2 (metal), 1/1 attic louver 942==

Foundation: Poured concrete piers 942==

Roof Type: Gable 942==

Secondary Roof Structures: Porch, hip 942==

Porches & Balconies:

942==

Chimney Location: 942==

Materials: (882)

Chimney: 882==

Roof Surfacing: Composition shingles 882==

Ornament Exterior:

882==

Quantitative Data: (950-954)

Chimneys: 952== Dormers: 954== Stories: 1 950==

Other: 956==

Surroundings: Bayfront 864==

Relationship to Surroundings: Extends into Matanzas Bay

859==

III. PHOTOGRAPHY

Photographic Records Numbers: 860==

Contact Prints

IV. SIGNIFICANCE

Areas of Significance: Architecture, Maritime, Politics/Government, Commerce

920==

Statement of Significance: (911==)

ARCHITECTURE

This one-story Frame Vernacular building at 135 Avenida Menendez was built as a private residence between 1910 and 1917. The structure has been remodeled over time with, a gable roof added to the west side and porches enclosed to the north. The building, is the only building remaining in St. Augustine which extends into Matanzas Bay.

The area of the colonial city south of the plaza and north of Bridge Street includes buildings ranging from colonial to modern times. It contains a significant number of St. Augustine's surviving colonial buildings as well as many fine Victorian buildings from the Flagler era like the development along Palm Row. Some remodeling and construction have taken place in the St. Augustine Colonial Revival style. The narrow colonial street plan is retained, and some of the streets are still surfaced in brick. Aviles Street retains some colonial ambiance with many buildings constructed on the street line, with overhanging balconies, and coquina walls. The visual effect of other streets tends to be mixed Colonial and Victorian, except along the bayfront, which is dominated by modern motels. Along this stretch of the bayfront are the last surviving buildings projecting out over the water. It is an area of combined usages--residential, commercial, educational and religious--all of which produce traffic and parking problems. As a result, many significant buildings, particularly Flagler era hotels and mansions, have been demolished over the years for parking lots or other facilities. The area is bounded on the west by the old Alcazar Hotel (now City Hall) and on the east by the seawall and bayfront. It is part of the National Landmark District, and listed on the National Register of Historic Places.

HISTORY

This section of the walled colonial city has been continuously occupied since the 16th century and represents the location of the 1565 settlement of St. Augustine. The small blocks and narrow streets of the early city are still evident.(1) All structures were destroyed during the 1702 attack by the South Carolinians, but by mid-century, the Rosario defense line had been erected along the present-day location of Cordova Street, and numerous buildings had been rebuilt throughout the area, although den-

(over)

V. BIBLIOGRAPHY

1. Kathleen Deagan, et. al, "A Sub-Surface Survey of the St. Augustine City Environs," (Tallahassee, 1976); Anon., "S. Augustini pars et terrae Florida," 1588.

2. Juan Jose Elixio de la Puente, "Plano . . . de la Plaza de San Agustin," January 22, 1764; Mariano de la Rocque, "Plano Particular de la Ciudad de San Agustin," April 25, 1788; East Florida Papers, Escrituras, 1784-1821; Albert Manucy, The Houses of St. Augustine, 1565-1721 (St. Augustine, 1962), pp. 22-25 and 41-47.

sity was greater towards the bayfront. In the 18th and early 19th centuries, this section contained a number of governmental and ecclesiastical structures, including La Soledad parish church and school on St. George Street and the hospital and jail on Aviles (Hospital) Street. Moreover, the largest number of extant colonial buildings are found in this section of the city: Hourritiner, MacMillan, and Murat Houses on St. George Street; Segui, Fatio, O'Reilly, and Toledo Houses on Aviles Street; Solano House on Charlotte Street; and the Jacinto House on Marine Street. The southern border of this area, Bridge Street, led to one of three late colonial San Sebastian River ferry crossings.(2) Certain patterns of earlier development persisted into the American period as this section, particularly on Aviles Street, contained a disproportionately large number of public and educational facilities such as the Territorial City Council Meeting House, and in the late 19th century, the Peabody School, city jail, library, and police and fire departments. St. Joseph's Academy opened in the 1870's on St. George Street. Several prominent hotels also opened in this section, including the Ocean View on the bayfront and the St. George adjacent to Trinity Episcopal Church. Since the Civil War, St. George Street has remained a residential neighborhood and contained some stately homes of the city's more prominent residents and visitors. The streets to the east have contained some residences, but mainly commercial and institutional buildings. The area as a whole has one of the largest concentrations of 18th and 19th century structures within the walled city despite the demolition of several of the stately residences and hotels along St. George Street and Avenida Menendez (Bay Street).(3)

The bayfront building at 135 Avenida Menendez was originally built as a private residence for W. S. M. Pinicham, Mayor of St. Augustine and State Representative for St. Johns County at the turn of the 20th century.(4) The building, known as "Pinicham's Whart" or "Pinicham's Dock," served as a residence-Oyster house through the mid- or late 1920's, becoming Corbett's Fish House in 1930.(5) Today the building houses the Santa Marie seafood Restaurant.

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3. Anon., "Copy of a Plan of the City of St. Augustine," 1833; 1885 and 1894 Birds-Eye Views; Sanborn Fire Insurance Maps, 1884-1958.

4. Allen Morris, The People of Lawmaking in Florida, 1822-1979. (Tallahassee, 1979 ; Thomas Graham, The Awakening of St. Augustine (St. Augustine 1978).

5. Sanborn Map, 1917, 1924, 1930; St. Johns County Illustrated (St. Augustine, n.d.), p. 45.

Exhibit 10

REG ARCHITECTS, INC.

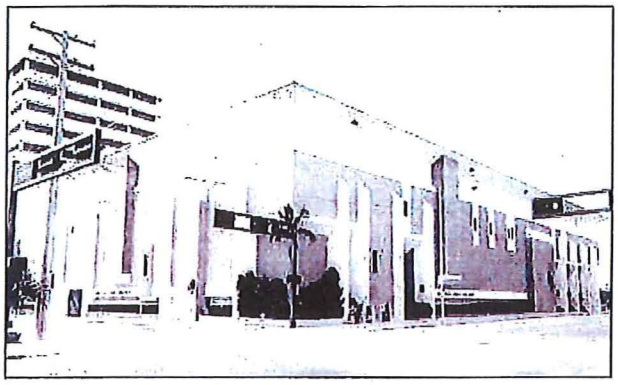
ARCHITECTURE * INTERIOR DESIGN * PLANNING

(561) 659-2383 AA 0002447 www.regarchitects.com

PALM BEACH COUNTY 1916 COURT HOUSE RESTORATION

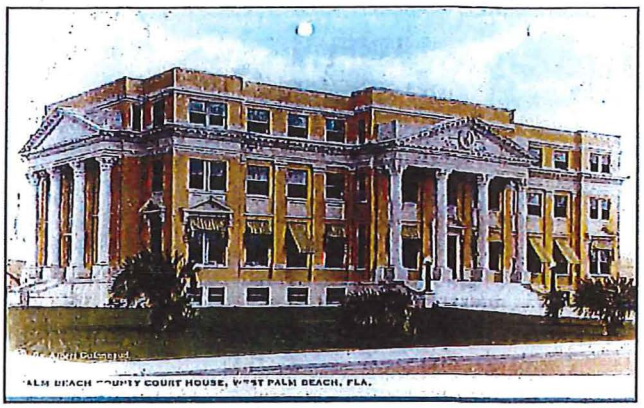
US 1 and 3rd STREET

WEST PALM BEACH, FLORIDA



1970

Old 1916 Palm Beach County Court House with wrap around 1970's offices expansion



2002

Feasibility Study showing historic 1916 post card

2005

Restoration & Adaptive reuse work well underway

2008

Palm Beach County 1916 Court House restored to original grandeur

SANTA MARIA RESTAURANT SITE
Site Research 9/18/2015 - Sources and Timeline

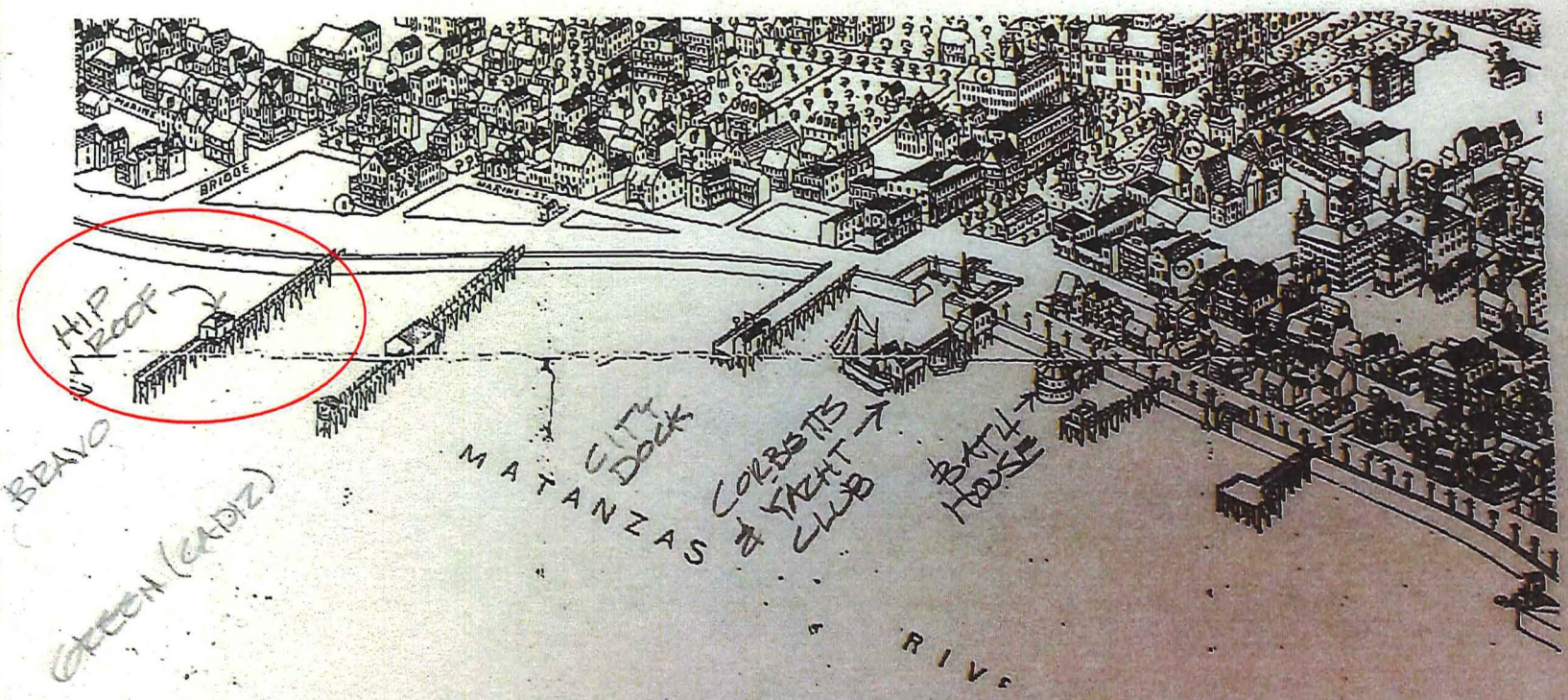
- **City Maps**
  - 1895 Birds Eye (not official) shows Corbett/Yacht Club
    - Shows dock & Hip roof structure at Bravo Lane (Santa Maria site)
  - 1905 Official City Map
    - No Dock shown at Bravo
  - 1912 Robert Ranson Map
    - No Dock shown - BUT City Directory lists ***Pinkham's*** in 1911/1912 City Directory by address
  - 1914 HS Wyllie Map
    - shows dock at Bravo
  - 1923 - Official City Map June 1923
    - Shows dock but in odd location a little south of Bravo
  - 1925 - Davis Shores Advertisement Ariel *Photo* (oct 25' Pg. 15 BTAD - sales started nov 15 25')
    - shows gable roofed structure on dock at Bravo
  - 1933 Official City Map
    - shows yacht pier only. No Dock at Bravo Lane
- **City Directory**
  - 1907/1908 - no Pinkham's or Corbett's listed for site address. No reference to site
  - 1911 - ***Pinkham's Oyster Parlor*** "across from 132 Avenida Menendez (or old name)" listed as address (waterfront address likely not yet created)
  - 1912 – Nothing listed by name or address
  - 1914 - ***Recreational Pier & Pinkham's Oyster Parlor & Indian River Navigation Company*** listed
  - 1916/1917 - ***Recreational Pier & Pinkham's Oyster Parlor & Indian River Navigation Company***
  - 1918 – ***Corbett's & Recreation Pier***
  - 1920 – ***Corbett's and Indian River Navigation Company***
  - 1922 –described as " across from 128 Avenida Menendez" address
  - 1930-1945 ***Corbett's Fish Market***
  - 1947-1954 ***Corbett's Fish Market & Bay Gull Grill Restaurant***
  - 1954 - Date referenced as start of Santa Maria in Bridge to a Dream
  - 1955 nothing listed under Santa Maria or Old Spanish Landing. Address listed as vacant
  - 1957 ***Ancient Mariners Kitchen*** listed by address
- **Sanborn Insurance Maps**
  - 1893 - No reference to dock at site location
  - 1910 - shows base of dock at Bravo only (map stops at water edge and not referenced on another map so likely not included in Sanborn. Shows yacht club/Corbitt's to the north at original location
  - 1917 – site dock listed as ***Pinkham's Wharf*** and labeled as 1 story wood frame Dwelling (residential house)
  - 1924 - shown as 1 story wood frame dwelling (no Pinkham's listed on dock). Shows Corbett's at original north location . Shows original wooden bridge to Anastasia. No City Dock
    - NOTE- how could buildings be on both the Corbett's dock AND the Santa Maria dock at same time? This confirms that the original Corbett's building on the yacht

club pier was not relocated to Santa Maria Site (Bravo Street pier). See photos for architectural verification

- NEW-The structure footprint on Santa Maria dock is same proportion as Corbett's (rectangular) but 30% larger. This also confirm that Corbett's was not moved to the Santa Maria site even thou the dock was owned by Corbett's. They would have to have demolished the structure shown on 1924 Sanborn map at the Santa Maria site and then moved Corbett's to Santa Maria site. This does not make sense. Building footprint of Corbett's is 40'x21' plus south porch. Pinkham's Oyster House is 75'x28' plus north and west porch

- 1930 - shows as "S 8c Restaurant" (no "D" for dwelling listed anymore). The footprint of the structure shown on 1930 Sanborn is very close to the footprint shown on the 1924 Sanborn with exception of dock configuration. This is evidence that perhaps Corbett's was NOT moved to Santa Maria site. NOTE-PHOTO OF CURRENT 1930 SANBORN MAP HAS BEEN UPDATED BY PASTING OVER (DATE UNKNOWN). IT SHOWS A MODIFICATION AT THE SW CORNER THAT VARIES FROM 1924. MICR0-FICHE COPY OF ORIGINAL 1930 SHOWS SAME AS 1924. PHOTOS OF 1930's SHOWS GABLE STRUCTURE AT WEST BUT OPEN AIR WALLED STRUCTURE AT EAST. WALLS ALIGN BUT APPEAR TO BE ADDED TO 1924 FOOTPRINT.

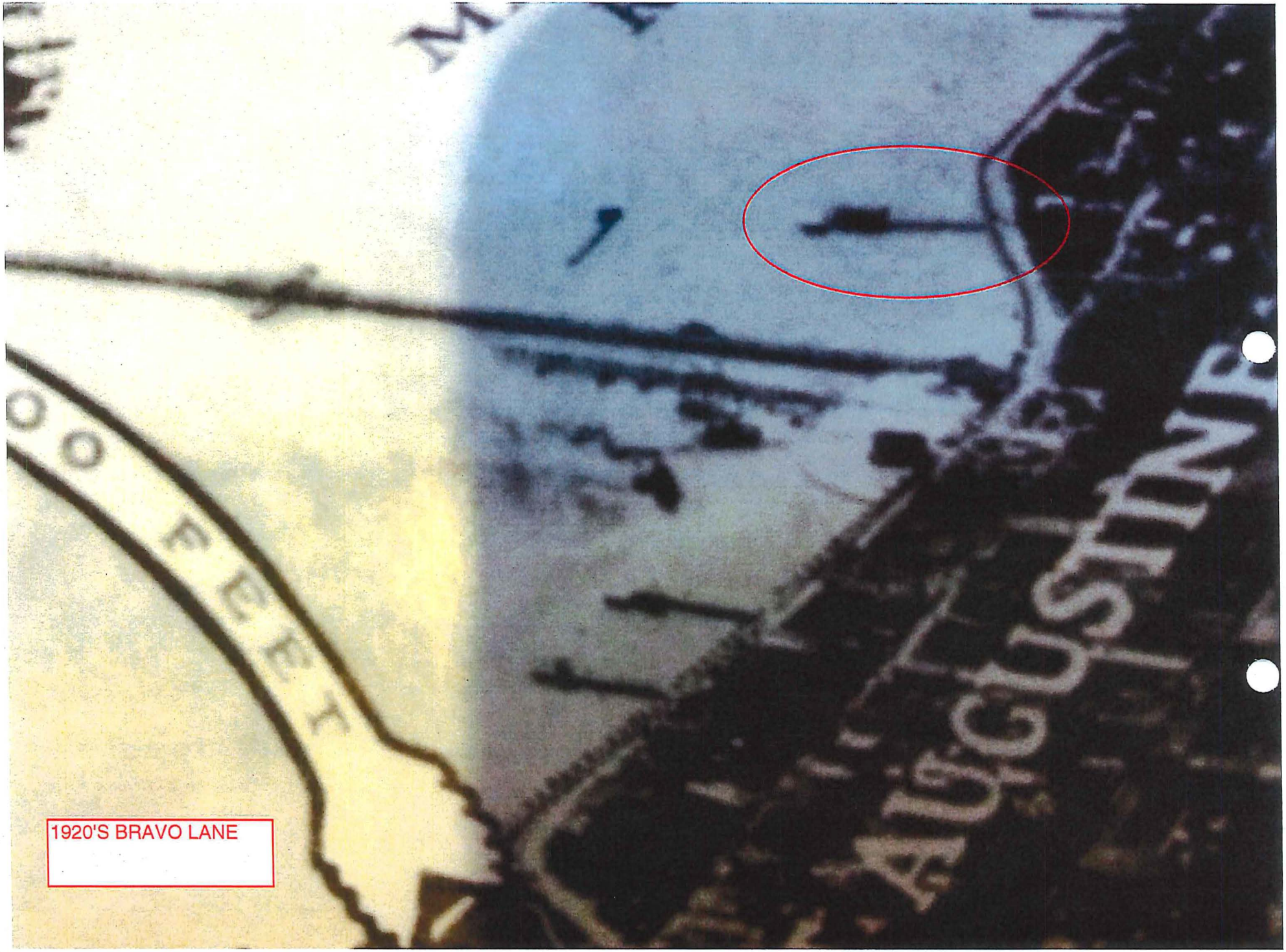
- **Photos**
  - Photos from *Bridge to a Dream* & Historical Society achieves: page 63 shows Corbett's ready to move and disconnected from pier (pier removed Sept 1, 1925 by city under enforcement).
  - Page 77 shows Corbett's still there Feb 1, 1926 (placed on temporary structure not original pier).
  - Page 91 shows Corbett's gone from original site (yacht club too) in May of 26.
  - Pg 94 shows structure at dock. Listed as "early 1926".
  - Pg 170 shows gable structure similar to todays lower roof. April 2, 1927.
    1930s PHOTO OF CORBETT'S AT BRAVO. CONFIRMS THIS IS NOT THE ORIGINAL CORBETT'S BUILDING FROM YACHT CLUB DOCK RELOCATED TO BRAVO SITE.



BEAVO (CADIZ)

1895 BIRDSEYE

1895 Birdseye

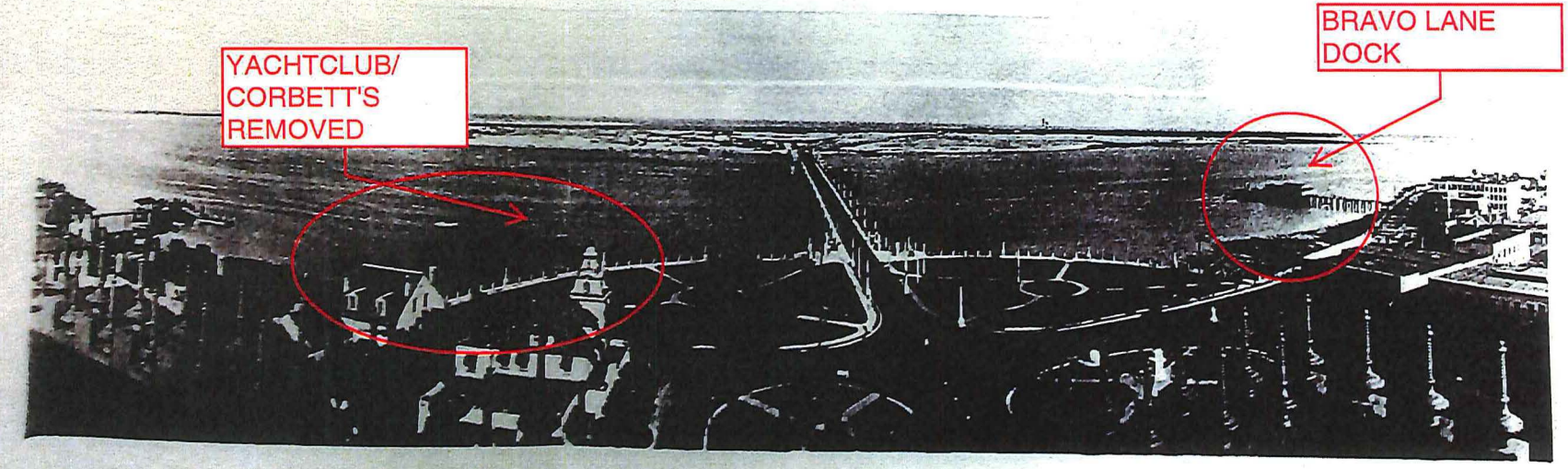


1920'S BRAVO LANE

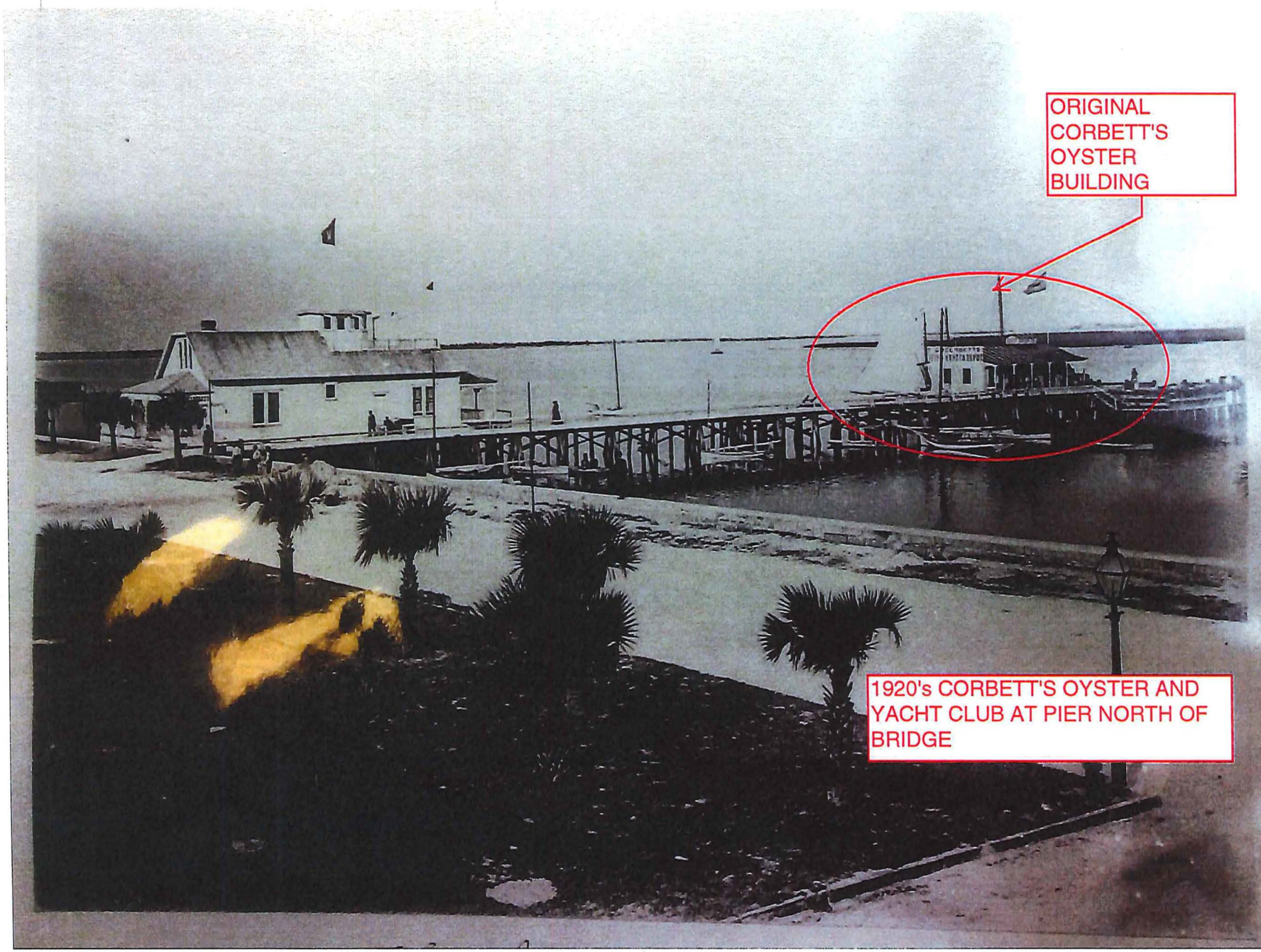
1920'S STRUCTURE BRAVO LANE

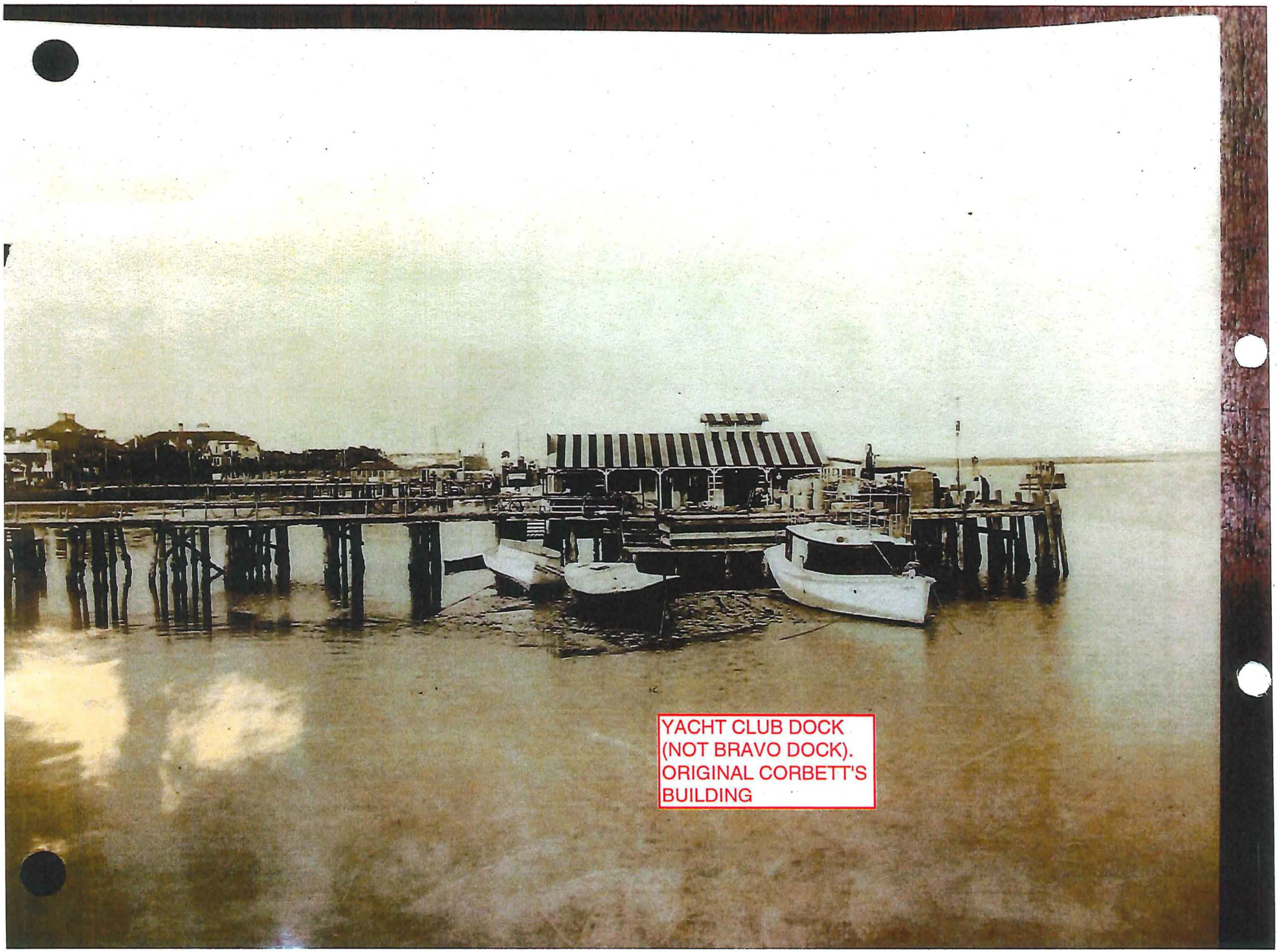
Drainage Drawing → 55 - SA - 6A

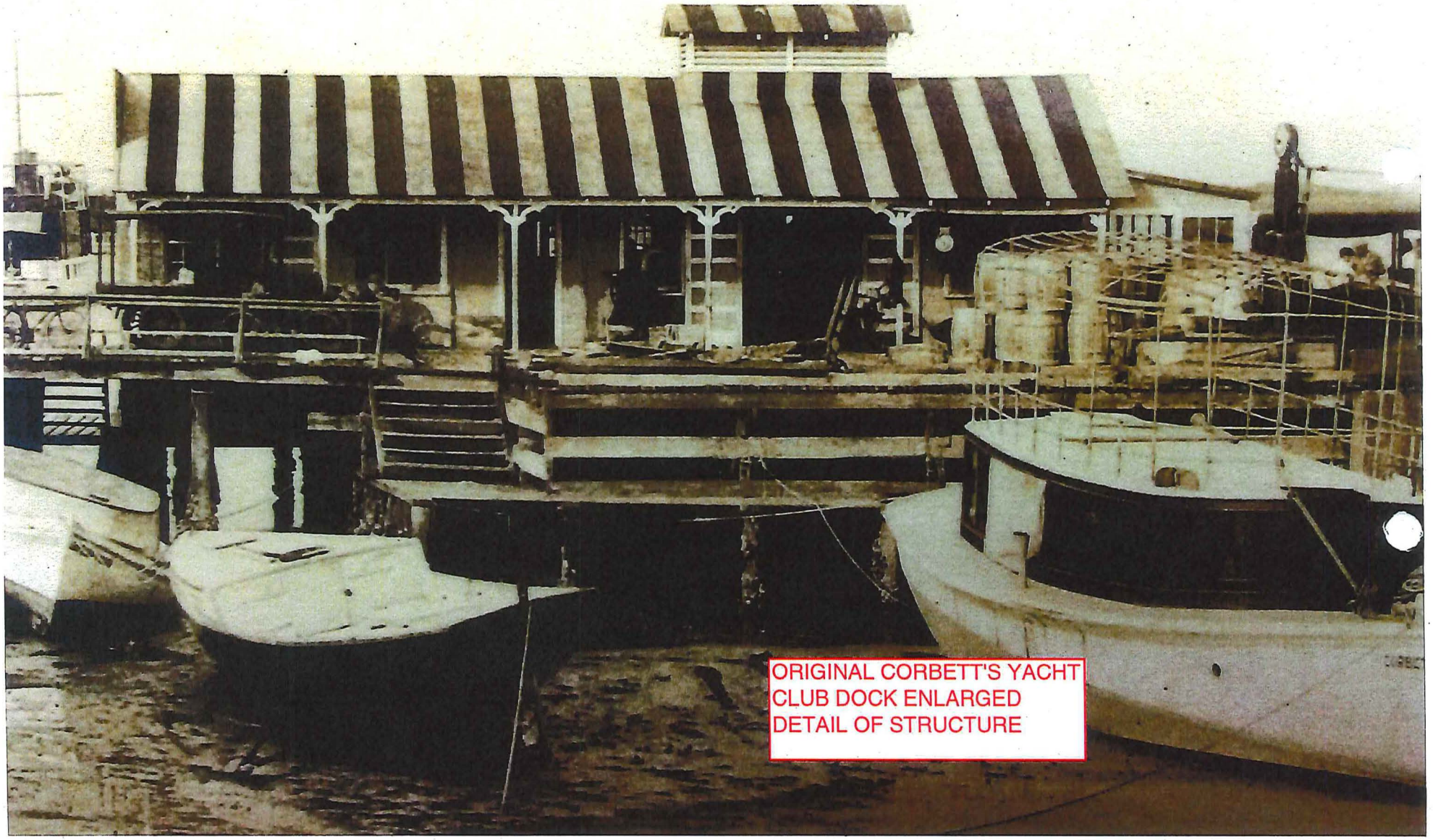
ST. AUG. ARCH



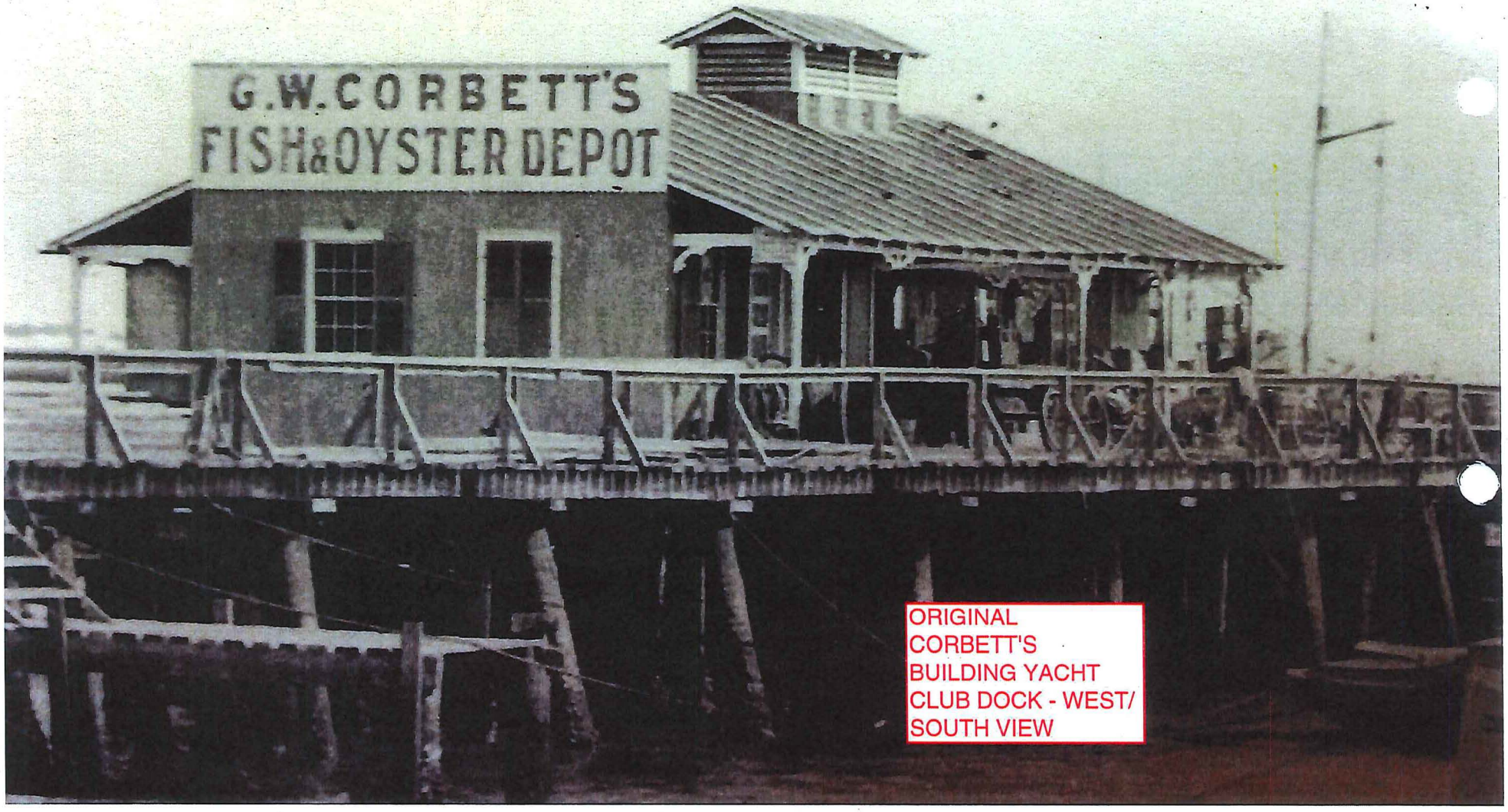
BRAVO LANE
1930'S


ORIGINAL
CORBETT'S
OYSTER
BUILDING
1920's CORBETT'S OYSTER AND
YACHT CLUB AT PIER NORTH OF
BRIDGE

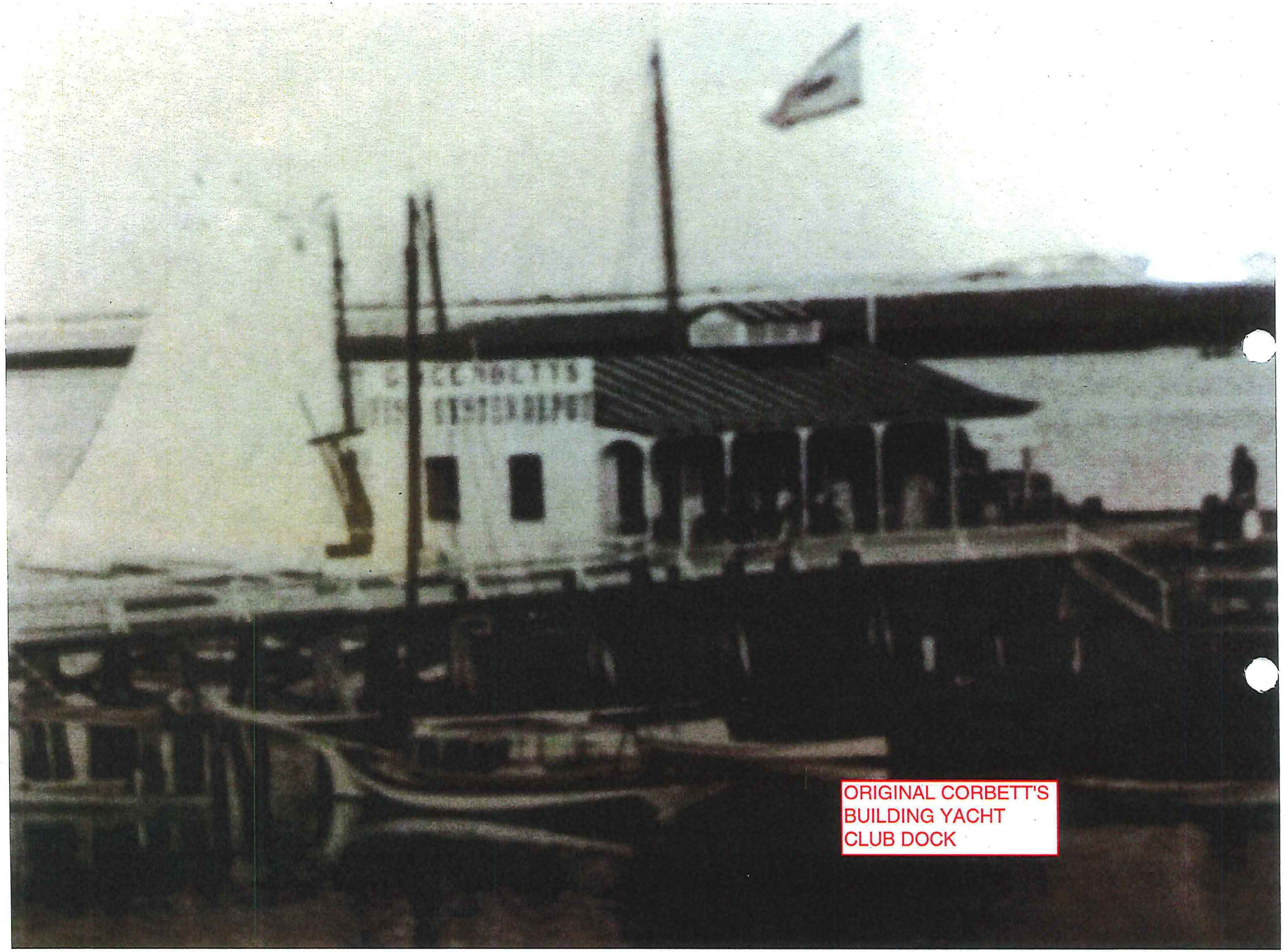

YACHT CLUB DOCK
(NOT BRAVO DOCK).
ORIGINAL CORBETT'S
BUILDING



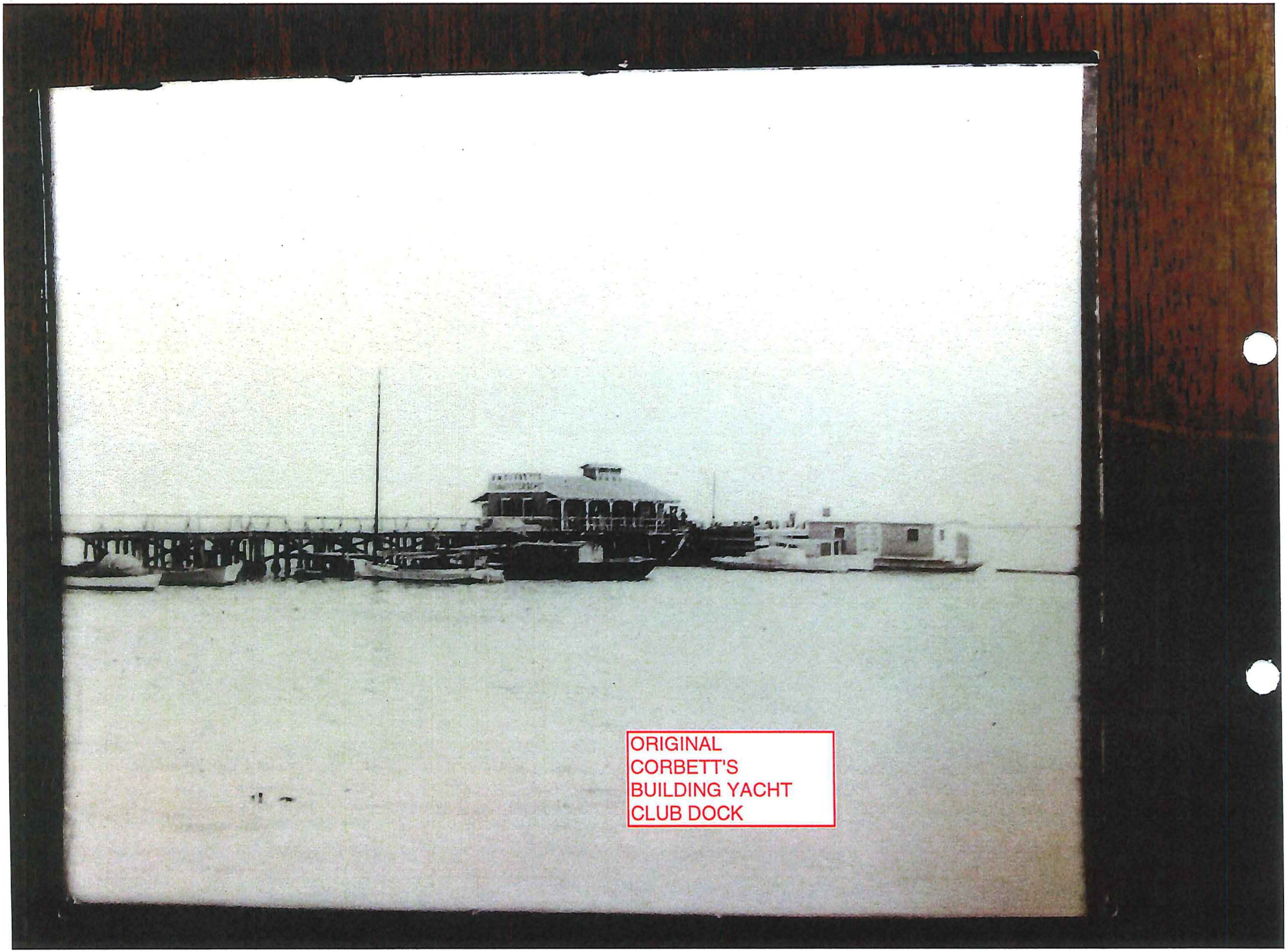
ORIGINAL CORBETT'S YACHT
CLUB DOCK ENLARGED
DETAIL OF STRUCTURE



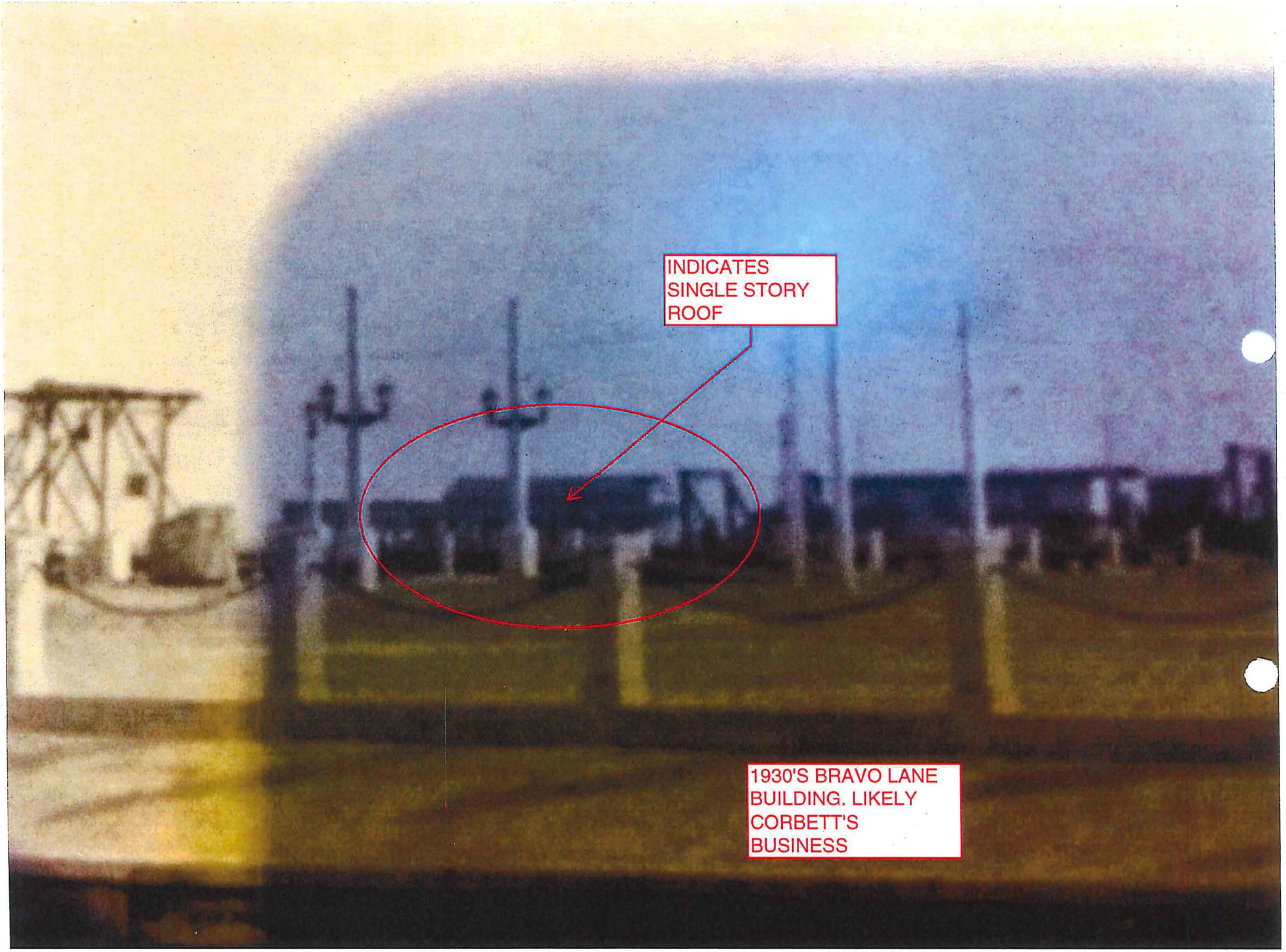
ORIGINAL
CORBETT'S
BUILDING YACHT
CLUB DOCK - WEST/
SOUTH VIEW

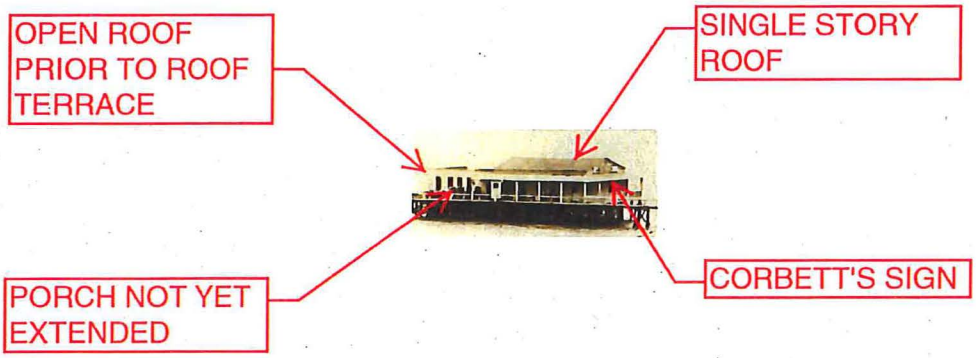


ORIGINAL CORBETT'S
BUILDING YACHT
CLUB DOCK


ORIGINAL
CORBETT'S
BUILDING YACHT
CLUB DOCK

"Santa Maria Restaurant"
Old Spanish Landing
St. Augustine, Fla.
56N
OLD SPANISH LANDING
Roof much shorter in length than current with East & West Additons
Roof top Terrace
Open deck at east space
Shows low plate height. No 2nd floor West Addition at this point in time
Open deck width of dock
Open porches vs. Closed in porches. These porches, North Wall & West Wall later removed for enclosed additions and New Two Story Addition to West

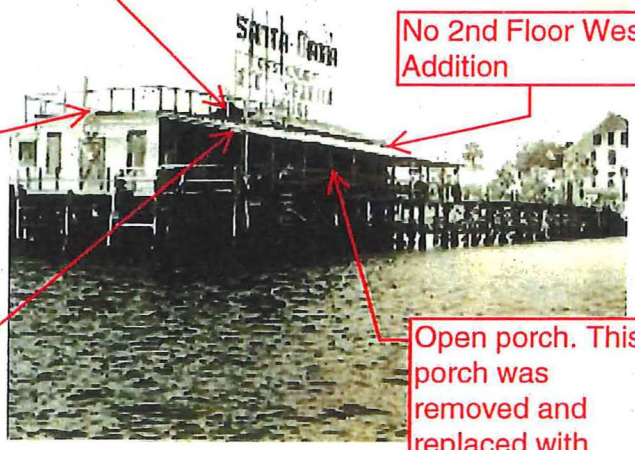

INDICATES SINGLE STORY ROOF
1930'S BRAVO LANE BUILDING. LIKELY CORBETT'S BUSINESS


OPEN ROOF PRIOR TO ROOF TERRACE
SINGLE STORY ROOF
PORCH NOT YET EXTENDED
CORBETT'S SIGN

This roof does not run as far east as current roof

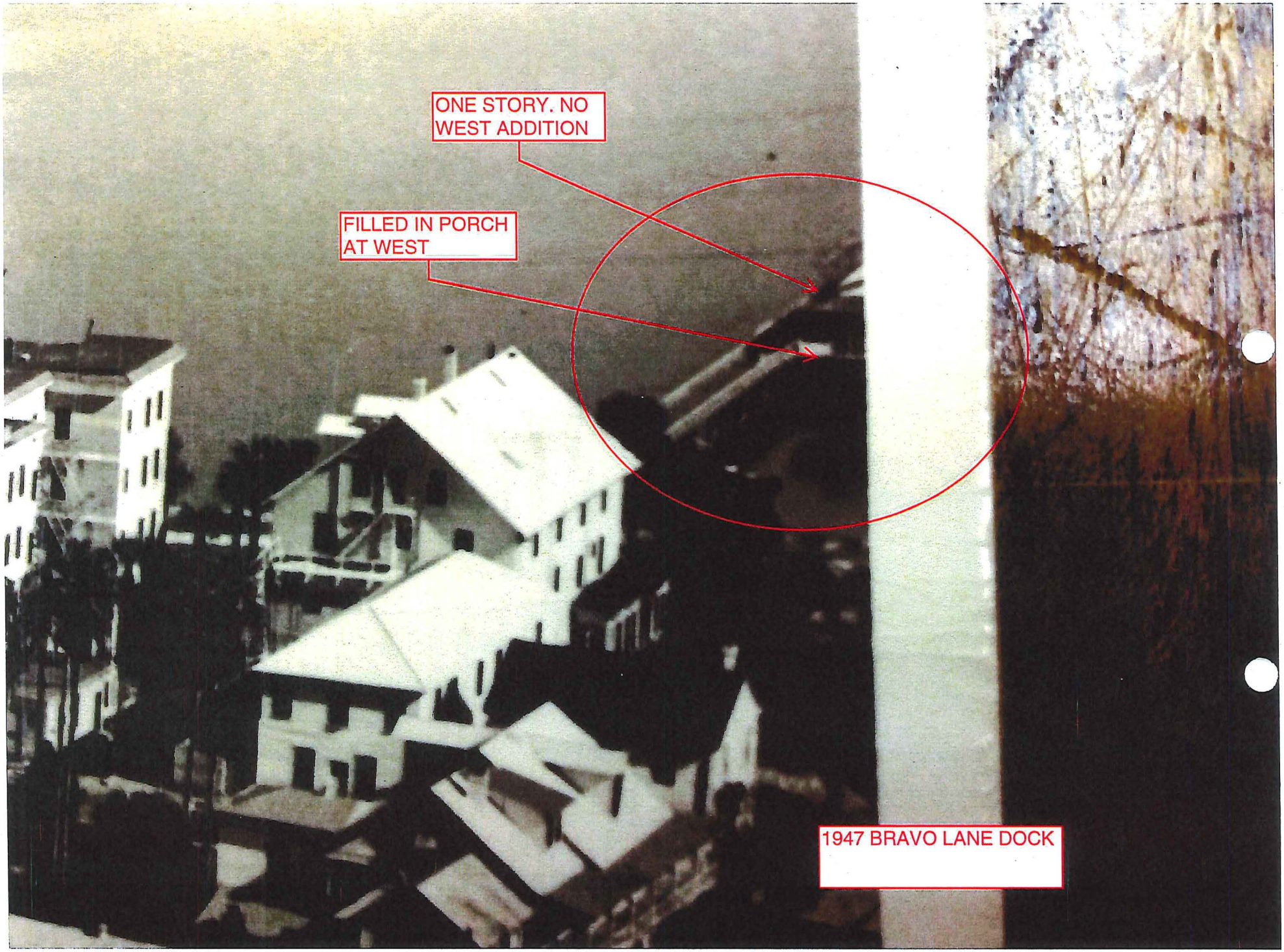
No 2nd Floor West Addition

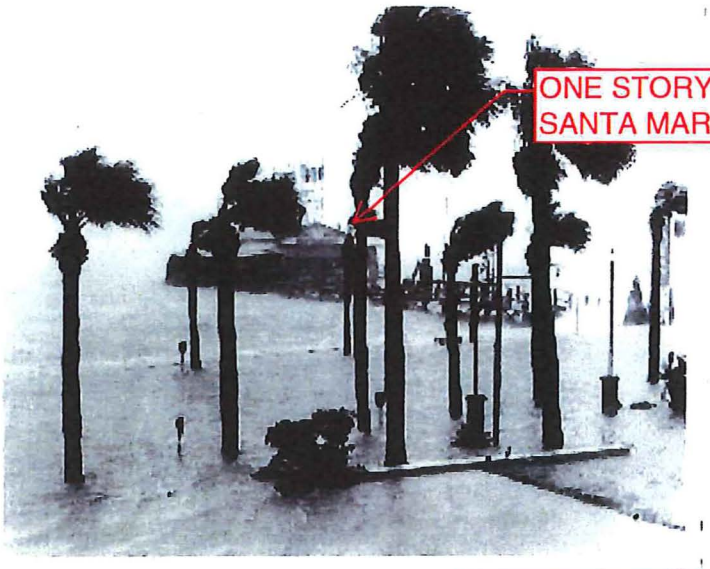
Roof & Roof Deck deck Added. Later removed and roof extruded east



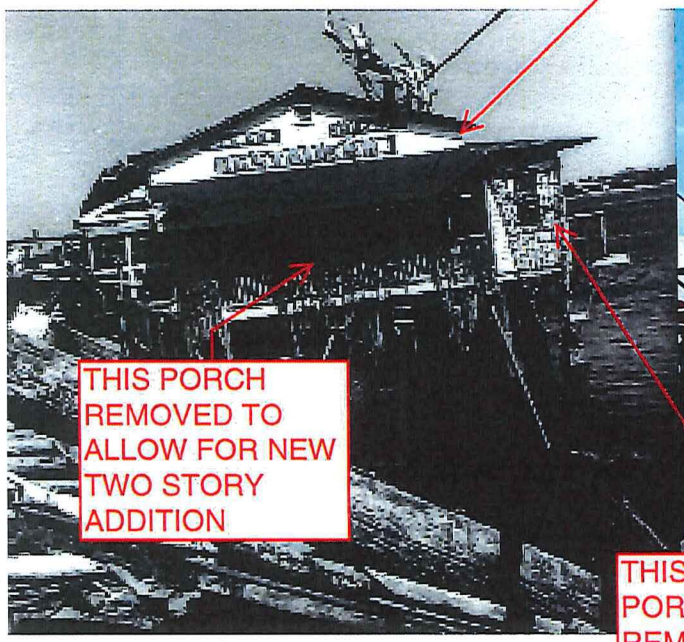
This porch extended across roof deck

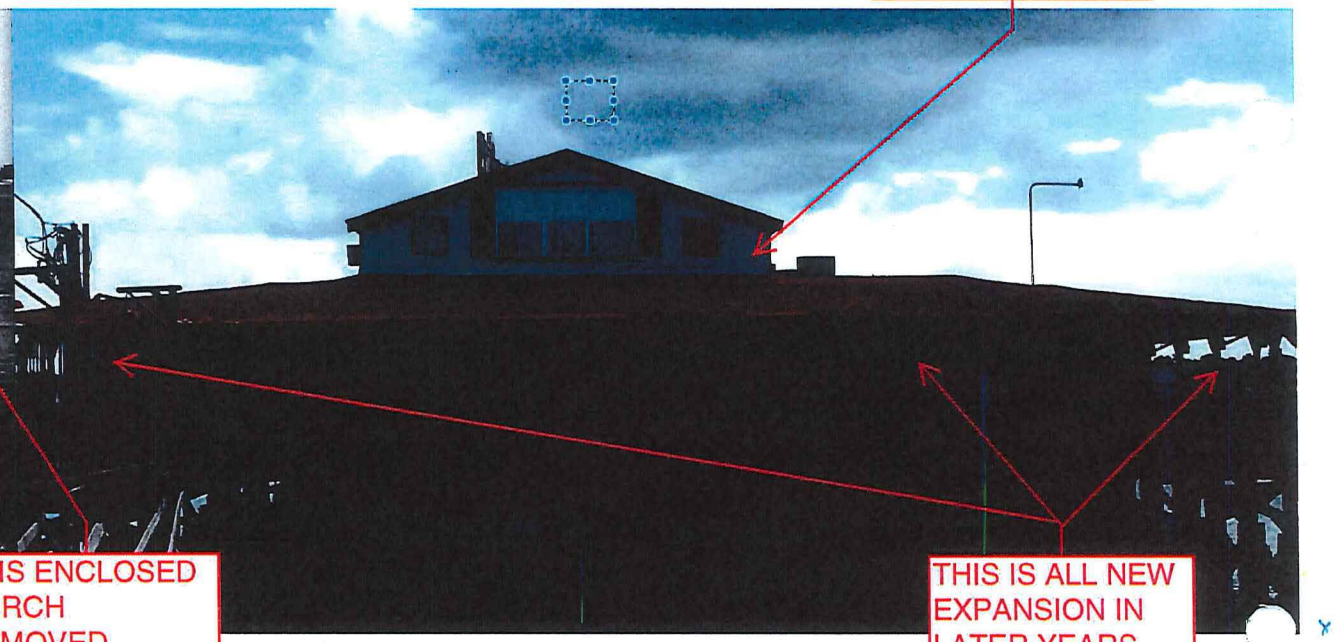
Open porch. This porch was removed and replaced with Enclosed Addition to the North

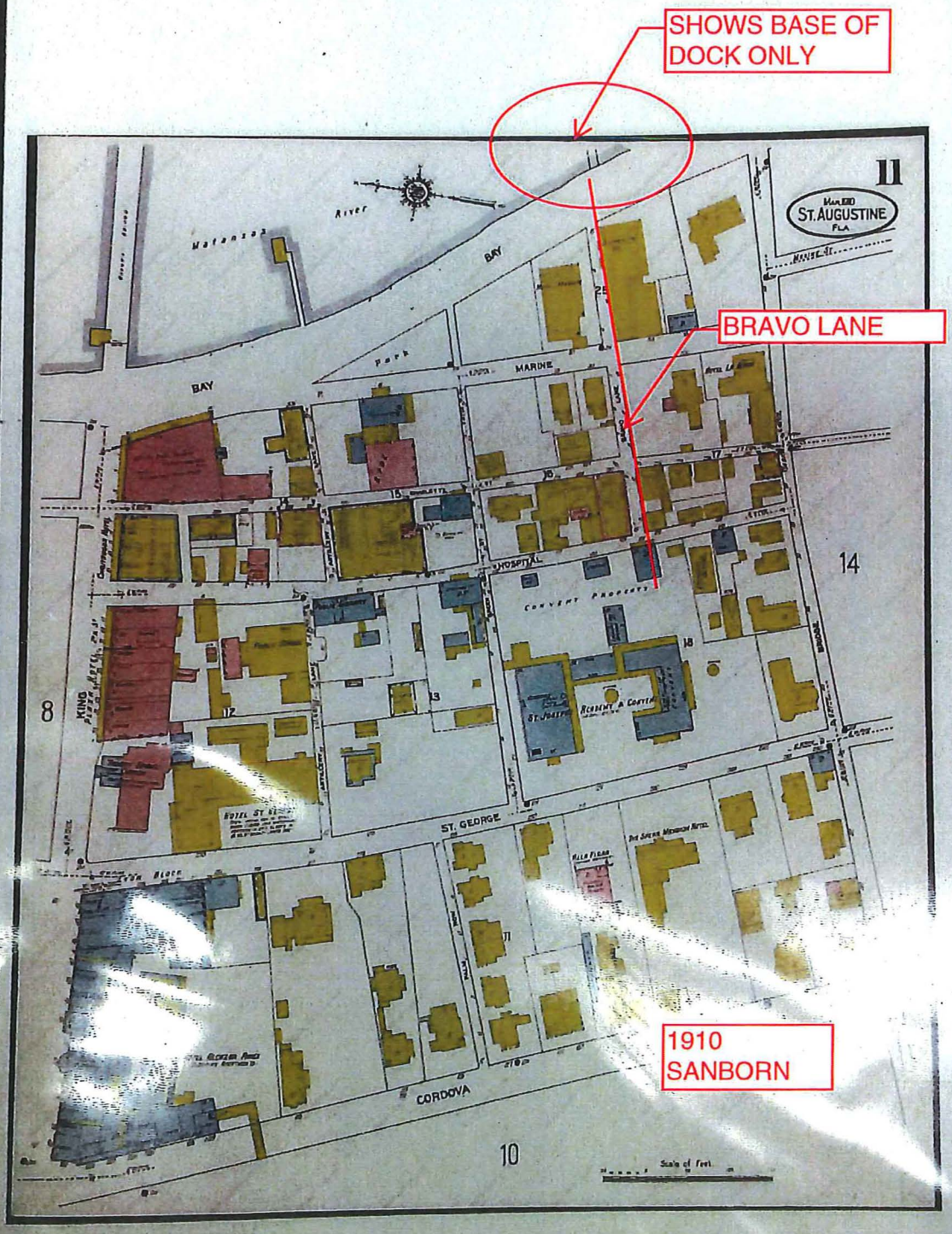

ONE STORY. NO
WEST ADDITION
FILLED IN PORCH
AT WEST
1947 BRAVO LANE DOCK



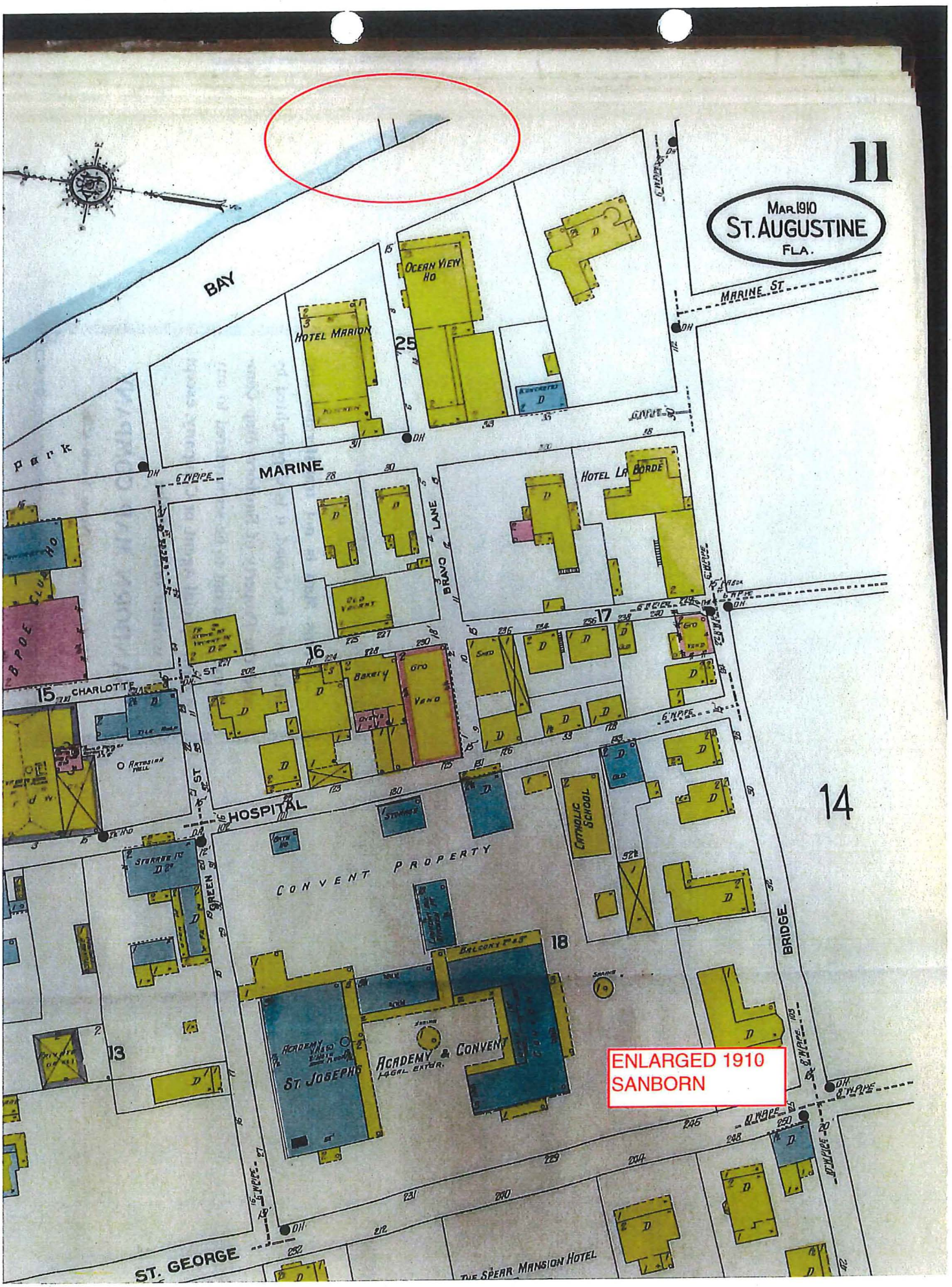
1962
HURRICANE

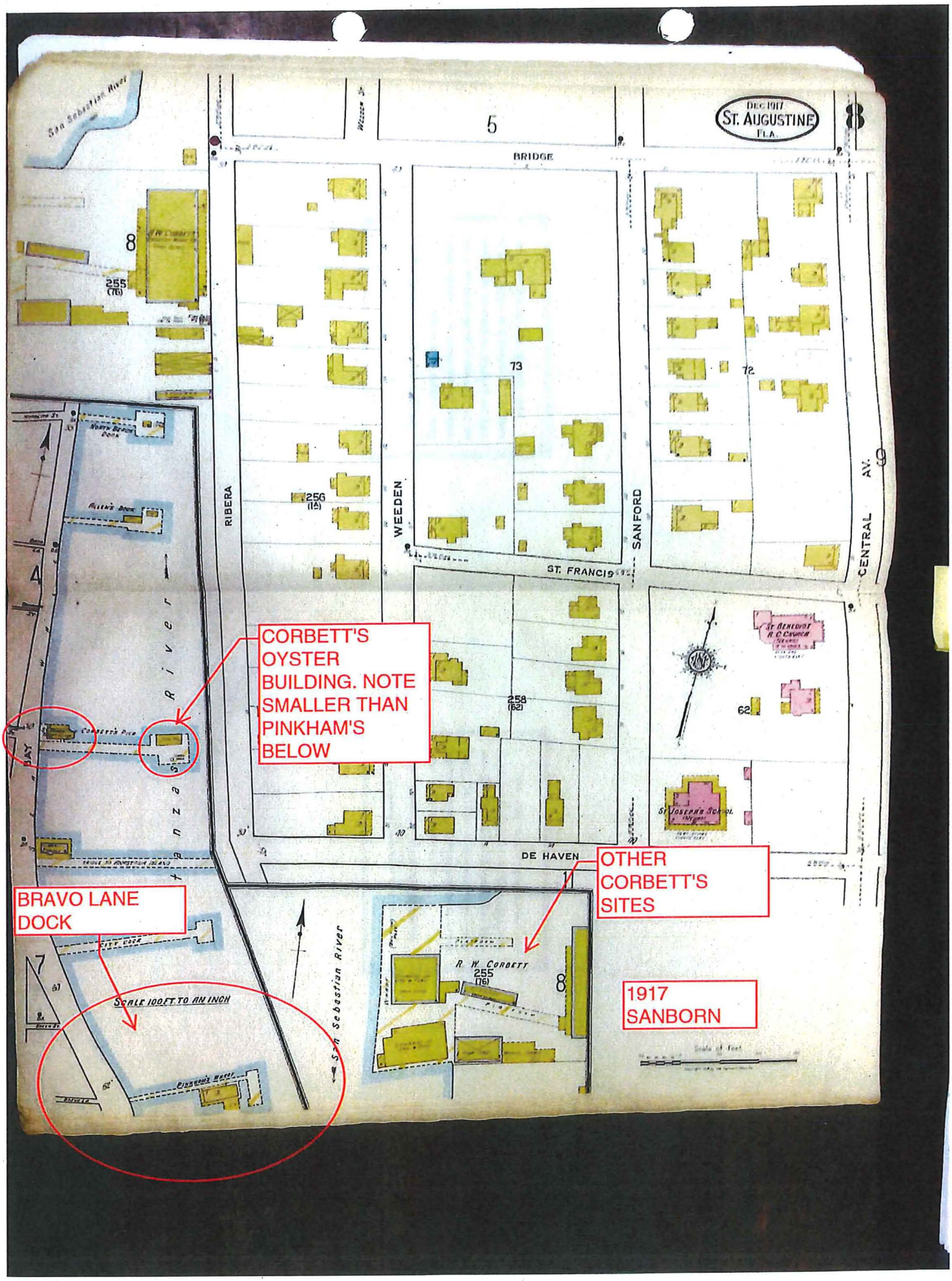

NO WEST TWO STORY ADDITION
THIS PORCH REMOVED TO ALLOW FOR NEW TWO STORY ADDITION
THIS ENCLOSED PORCH REMOVED
1962

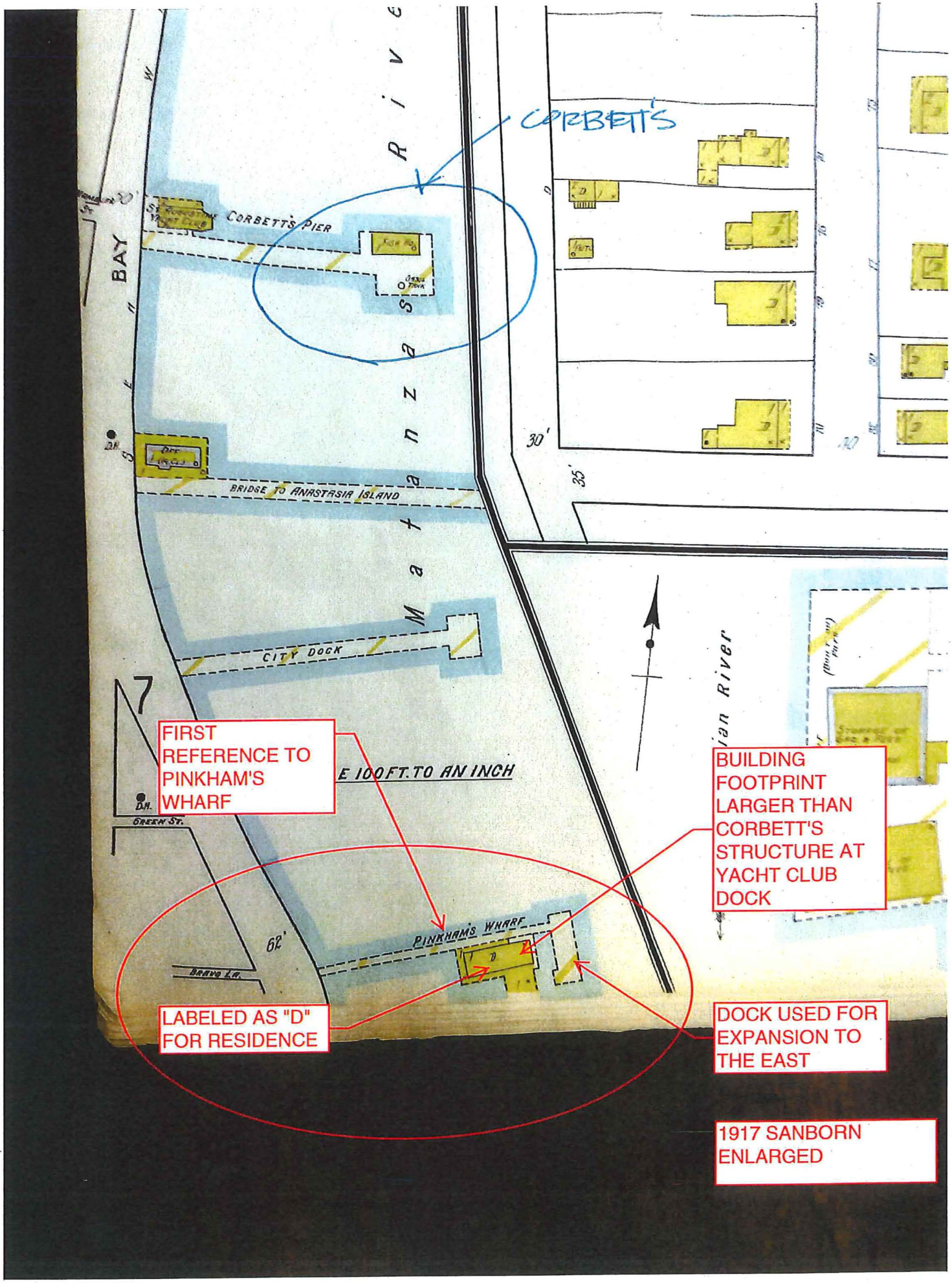

INDICATES ADDED TWO STORY WEST ADDITION. ESTIMATED AT MID 1960'S FOR WEST ADDITION
THIS IS ALL NEW EXPANSION IN LATER YEARS
2015

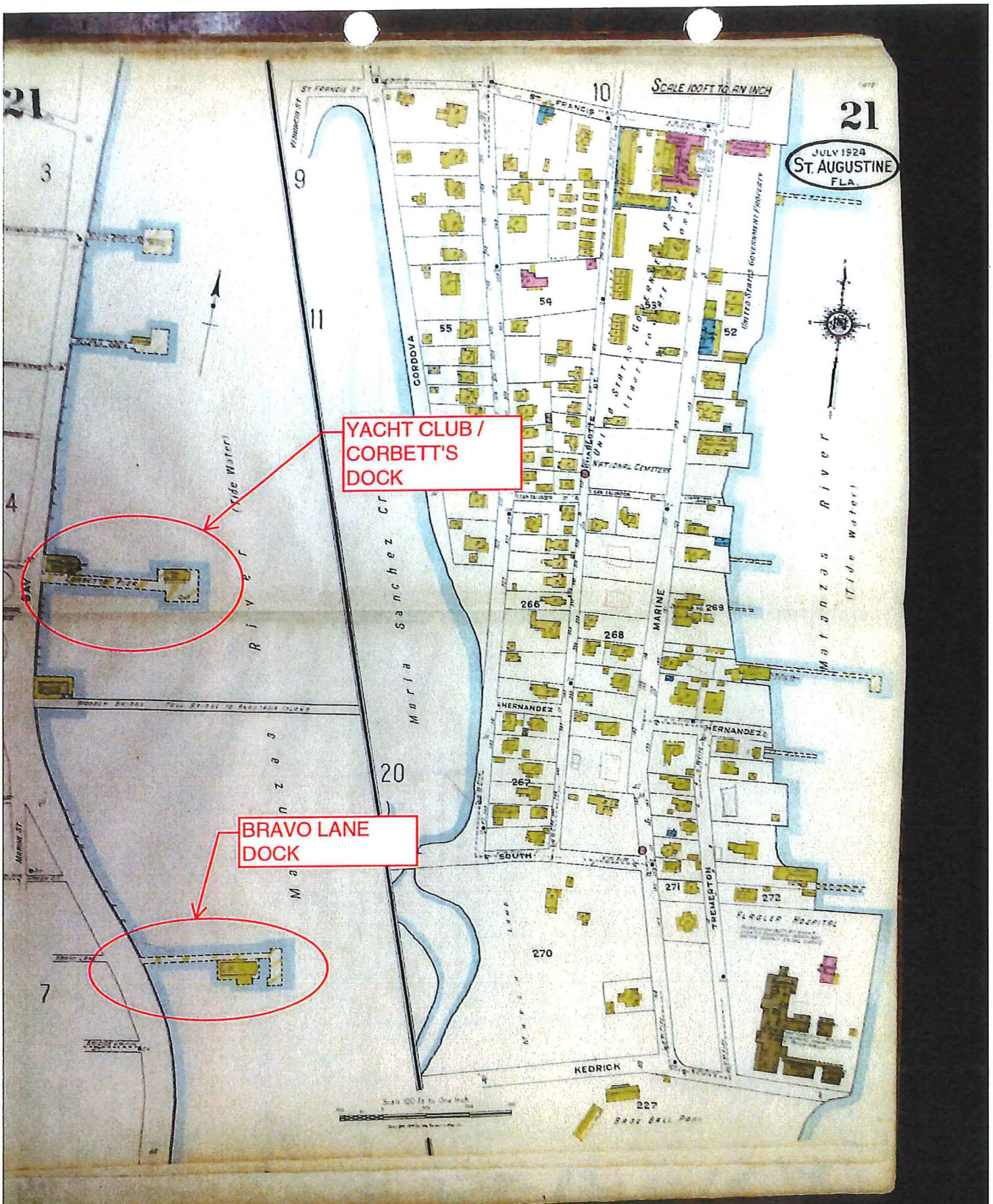


Sheet 011, 1910
Order Number: 36809. Item No: US1624498

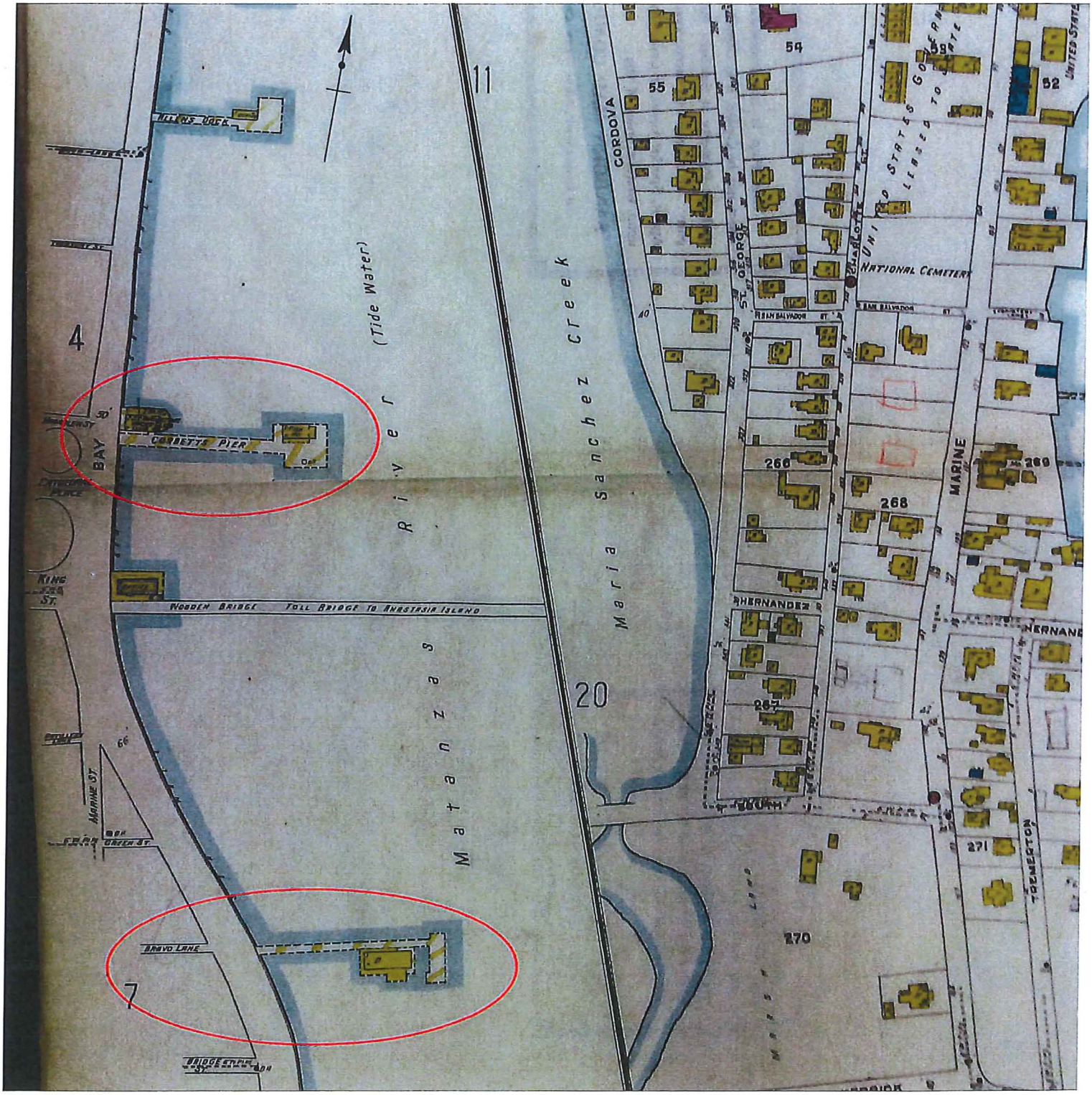

11
MAR. 1910
ST. AUGUSTINE
FLA.
BAY
Park
MARINE
MARINE ST
HOTEL MARION
OCEAN VIEW HO
HOTEL LA BORDE
BRAVO LANE
CHARLOTTE ST
HOSPITAL
GREEN ST
CONVENT PROPERTY
CATHOLIC SCHOOL
ACADEMY & CONVENT
ST JOSEPHS
BRIDGE
ST. GEORGE
THE SPEAR MANSION HOTEL
14
ENLARGED 1910
SANBORN


DEC 1917
ST. AUGUSTINE
FLA.
BRIDGE
RIBERA
WEEDEN
SANFORD
CENTRAL AV.
ST. FRANCIS
DE HAVEN
Anza River
San Sebastian River
R. W. CORBETT
255
(76)
256
(12)
258
(62)
73
72
62
8
9
4
7
1
CORBETT'S OYSTER BUILDING. NOTE SMALLER THAN PINKHAM'S BELOW
OTHER CORBETT'S SITES
BRAVO LANE DOCK
1917 SANBORN
SCALE 100 FT. TO AN INCH

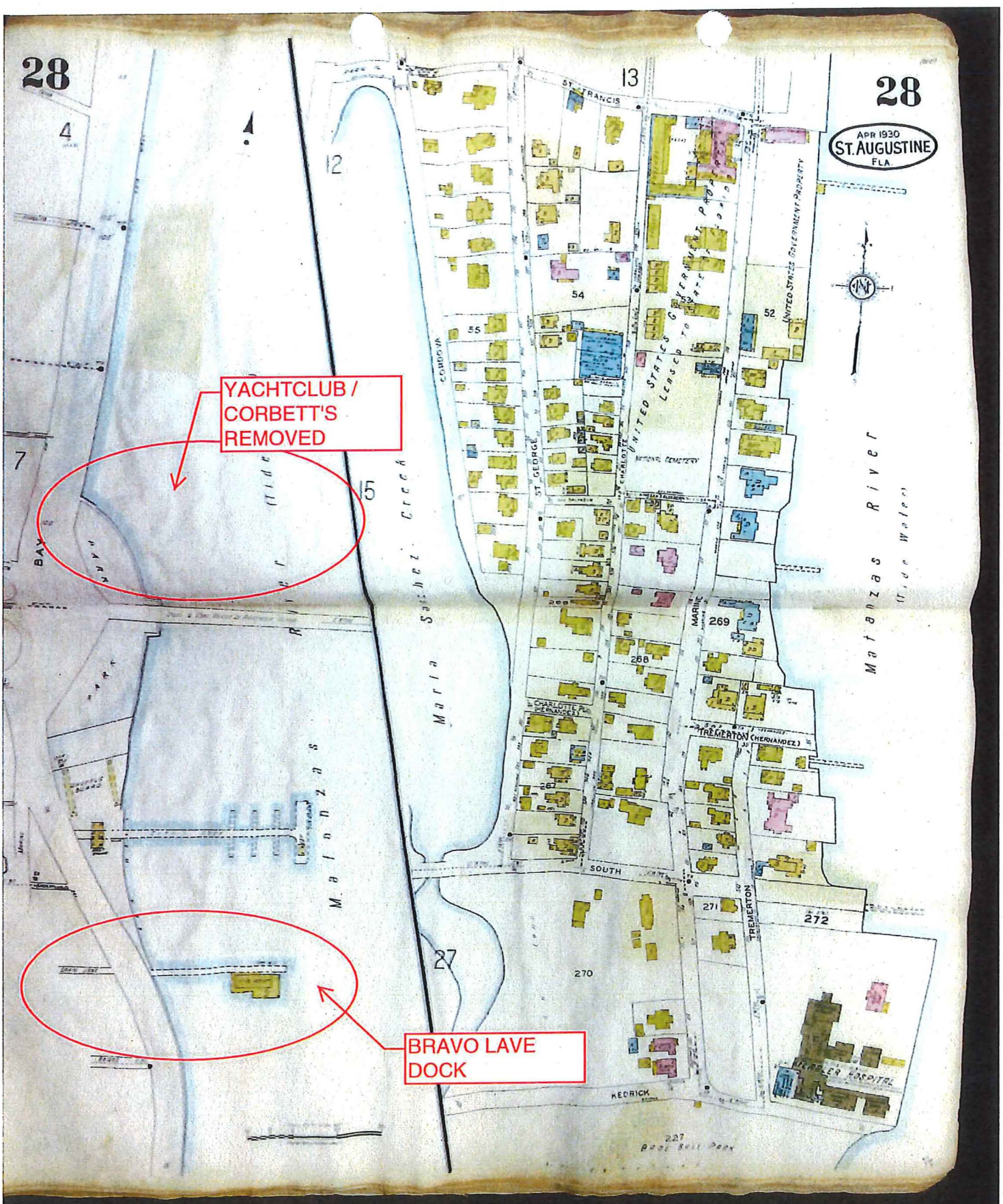

CORBETT'S
CORBETT'S PIER
BAY
River
Matanzas
BRIDGE TO ANASTASIA ISLAND
CITY DOCK
E 100 FT. TO AN INCH
GREEN ST.
PINKHAM'S WHARF
BRAVO LA.
62'
30'
35'
FIRST REFERENCE TO PINKHAM'S WHARF
BUILDING FOOTPRINT LARGER THAN CORBETT'S STRUCTURE AT YACHT CLUB DOCK
LABELED AS "D" FOR RESIDENCE
DOCK USED FOR EXPANSION TO THE EAST
1917 SANBORN ENLARGED



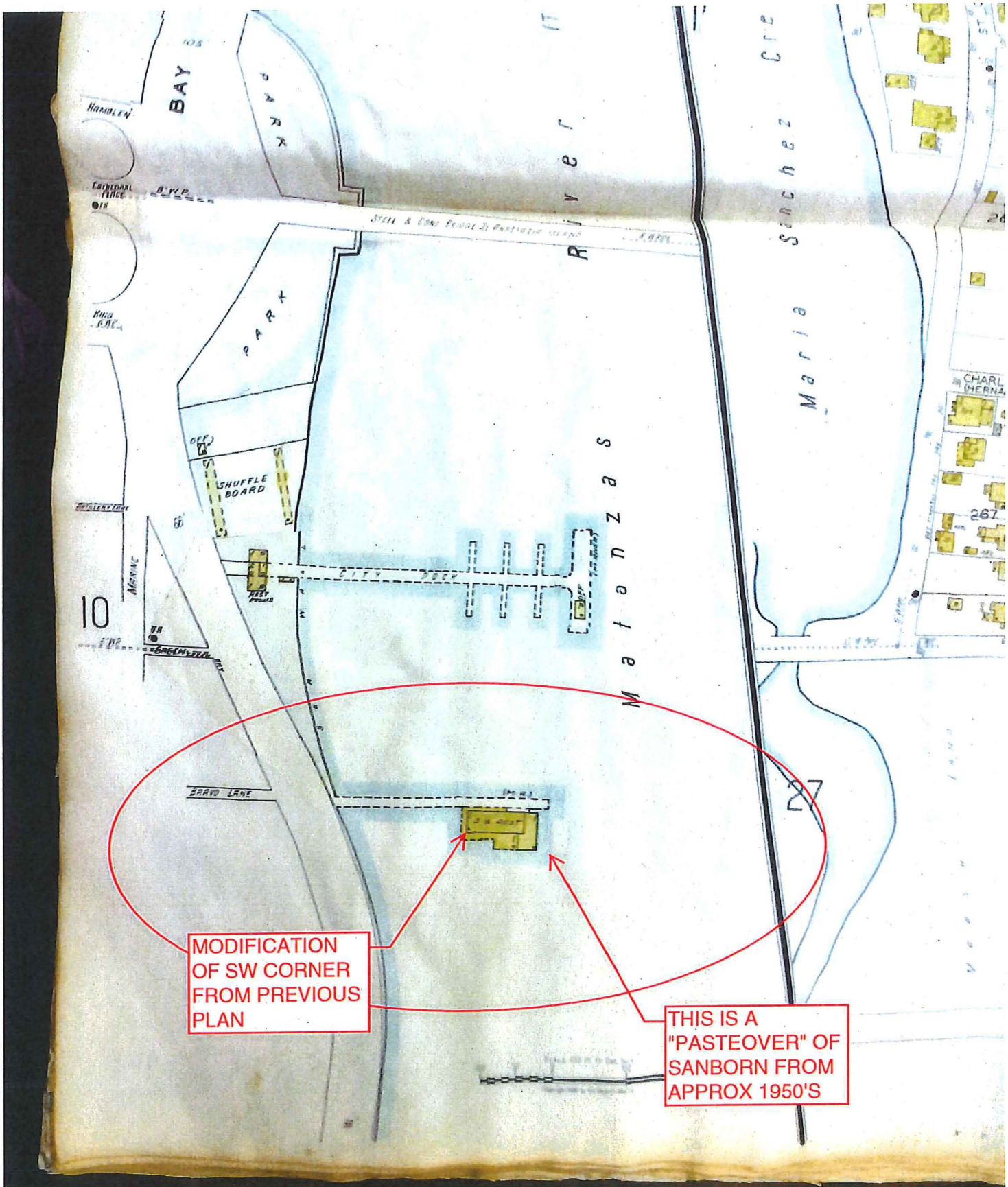
1924 SANBORN



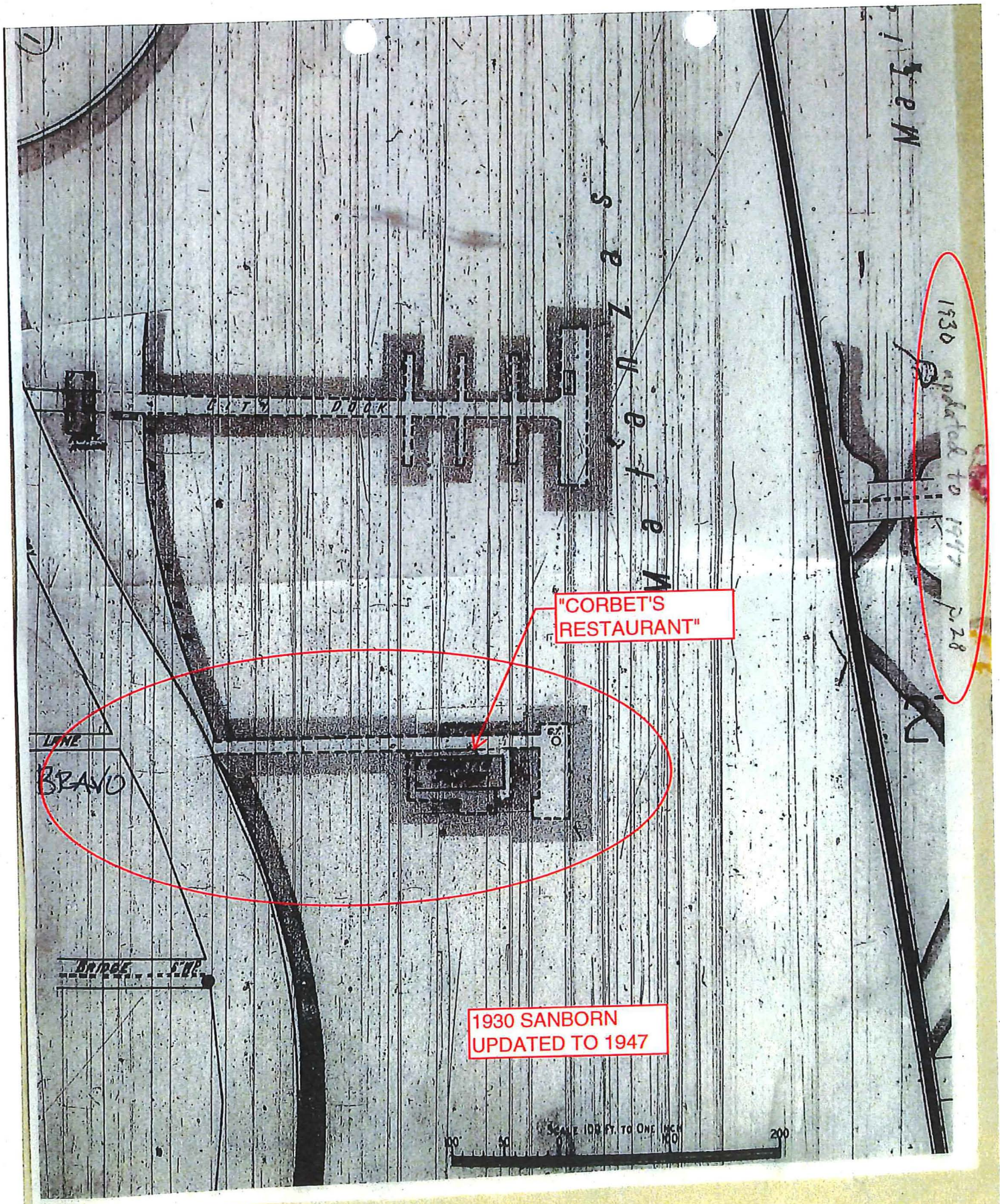
1924
SANBORN



1930 SANBORN



1930 SANBORN (MODIFIED)


1930 updated to 1947 p.28
"CORBET'S RESTAURANT"
1930 SANBORN UPDATED TO 1947
CITY DOCK
BRAVO
LINE
BRIDGE
SCALE 100 FT. TO ONE INCH
100
40
0
100
200

REG

Rick Gonzalez, AIA
President

Professional Experience

Rick Gonzalez, AIA has over 30 years of experience in the architectural profession. Rick received two architectural degrees from the Catholic University of America in Washington, D.C., with additional course work completed at Miami-Dade College, Francisco Marroquin University in Guatemala City and the Autonomous University of Central America in San Jose, Costa Rica. Mr. Gonzalez is a member of the American Institute of Architects and was appointed to the Florida Historical Commission (FHC) by Governor Charlie Crist in 2008 (Vice-Chair 2011-2015) and to Florida Board of Architecture and Interior Design (BOAID) by Governor Bush for two terms 2000-2007 (Chairman 2005 & 2006). Mr. Gonzalez is an award winning architect, whose design standards have been used as examples for Palm Beach County's Architectural Guidelines, Florida CNU Guidebook & ULI Land Development Handbook.

Historic Preservation, Adaptive Reuse

- Historic Lake Worth Beach Casino, Lake Worth, FL
- Old Boynton Beach High School, Boynton Beach, FL
- Palm Beach County Cultural Council Headquarters, Lake Worth, FL
- Old 1916 Palm Beach County Court House Restoration, West Palm Beach, FL
- Mar-A-Lago Private Club, Palm Beach, FL
- The Harriet Himmel Theatre for Cultural & Performing Arts at CityPlace, West Palm Beach, FL
- St. Ann's Campus Renovation, West Palm Beach, FL
- Harris Music Lofts, Downtown West Palm Beach, FL
- Old Ft. Pierce Post Office, Ft. Pierce, FL
- Old St. Anastasia School, Ft. Pierce, FL
- Historic Ruth Jones Cottage/"Little House" Restaurant, Boynton Beach, FL
- Sperry Boathouse, Jupiter, FL
- Old Belle Glade City Hall, Belle Glade, FL
- Sunset Lounge, West Palm Beach, FL
- Lincoln Theatre, Ft. Pierce, FL
- Children's Museum, Boynton Beach, FL
- Dubois Pioneer House, Jupiter, FL
- St. Ann's Church & Parish, West Palm Beach, FL
- Lunt Cottage, Palm Beach, FL

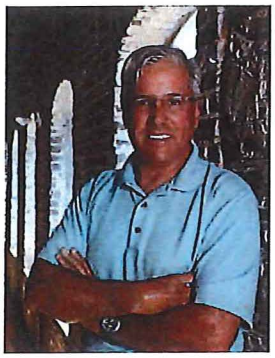
Mixed Use/Urban & Master Planning

- Town Architect for Abacoa POA, & Admiral's Cove POA, Jupiter and BallenIsles, Palm Beach Gardens, FL
- Juno Pointe, Juno Beach, FL
- Testa's, Palm Beach, FL.
- Blue Harbor, Ft. Pierce, FL
- Landmark Town Center @ Doral, FL
- Vista del Lago Town Center, Cutler Bay, FL
- Melody Place, Downtown Ft. Pierce, Ft. Pierce, FL
- Transit Village, West Palm Beach, FL
- Lake Okeechobee/Palm Beach County LORE Design Guidelines
- Delray Beach CRA, 9th Avenue Redevelopment, Delray Beach, FL
- Virginia Key Master Plan, Virginia Key, FL
- Northwood Facades Study, West Palm Beach, FL
- Historic Delray Design Guidelines, Delray Beach, FL
- DDA Downtown Facades, West Palm Beach, FL
- Yesteryear Village at the South Florida Fair Master Plan, West Palm Beach, FL
- Pahokee Main Street, Pahokee, FL

Government, Municipal Facilities

- Boynton Beach Amphitheatre, Boynton Beach FL
- Wellington Amphitheatre, Wellington, FL
- West Palm Beach Fire Station #5 & EOC, West Palm Beach, FL

RECEIVED
OCT 08 2015
Planning/Building Dept.



Registrations
State of Florida- 1992
NCARB- 1992

Education

The Catholic University of America, Washington, D.C.
Bachelor of Science in Architecture - 1984
Bachelor of Architecture - 1985
Miami-Dade College, Miami, FL
Associate of Arts Degree - 1982
Francisco Marroquin University, Guatemala City, Guatemala, Architectural Studies - 1980
Autonomous University of Central America, San Jose, Costa Rica, Architectural Studies - 1979

Awards

2013

- Florida Trust for Historic Preservation Award for Cultural Council of Palm Beach County
- AIA Palm Beach Chapter Excellence Award for Historic Cultural Council of Palm Beach County
- AIA Palm Beach Chapter Merit Award for Private Equestrian Facility
- Florida Community Redevelopment Award for Outstanding Reuse for "Little House" Restaurant

2009

- AIA Palm Beach Firm of the Year Award
- AIA Palm Beach Chapter Recognition Award for Corporate Place at Tradition
- Silver National Excellence Award for the Palm Beach County SWA Transfer Station at I-95 and Lantana Rd.

2008

- Florida Trust Award (FTHP) & AIA Palm Beach Historic Restoration Excellence Award for the 1916 Palm Beach County Historic Court House, West Palm Beach, FL
- AGC's "Build Florida Award" for $4m and above category for the 1916 Palm Beach County Court House, West Palm Beach, FL
- DBA's Historic Preservation Test of Time Award for the Mar-A-Lago Club work done for Donald Trump 1995-2005 in Palm Beach, FL
- ABC's Design Award for Public Works under $5m; Northern Palm Beach County Improvement District Admin/EOC in Palm Beach Gardens, FL
- PBC Hispanic Chamber's Business Leader of the Year Award

2007

- The Delray Beach Site Plan Review & Appearance Board (SPRAB) Award for Excellence in Design in the category of New Residential Development for "Old Palm Grove" Estate Homes & Apartments

2006

- AIA Palm Beach Community Service Award
- *SE Construction News* Best Municipal Complex; Sebastian City Hall & Police Station

2005

- Excalibur Award - Small Business *Sun Sentinel Newspaper*

EST. 1988

Rick Gonzalez, AIA (Continued) – Page 2

- St. Lucie County Administration Annex, Port St. Lucie, FL
- LaLechuza Caracas Equestrian & Polo Facility, Wellington, FL
- Ocean Cay Park, Jupiter, FL
- Miami Beach Parks Bond Improvement, Miami Beach, FL
- Marine Life Center of Juno Beach, FL
- Isla Carroll Farm, Wellington, FL
- Trump International Golf Club, West Palm Beach, FL
- Wycliffe Communities Guardhouses, Wellington, FL
- Miami Beach Golf Clubhouse at Bayshore Drive, Miami Beach, FL
- Children's Museum, Boynton Beach, FL
- Westgate/Belvedere Pump Station, West Palm Beach, FL
- Wellington 9/11 Memorial, Wellington, FL
- Palm Beach County Solid Waste Transfer Facility, Lantana, FL
- Lake Park Fire Station, Lake Park, FL
- City of Sebastian City Hall and Police Station, Sebastian, FL
- Northern Palm Beach EOC, Palm Beach Gardens, FL

Parks, Community Centers, Equestrian, Hospitality & Fine Art Centers

- Marriott Hotel & Spa, Singer Island, FL
- Glenspur Equestrian Farm, Wellington FL
- Zacara Equestrian Farm, Wellington, FL
- Sara Sims Park Master Plan, Boynton Beach, FL
- Acreage Park South Master Plan, The Acreage, FL
- Scott's Place Park & Patriot's Memorial Park, Wellington, FL
- Pine Creek Hunting Club, Okeechobee, FL
- Marco Island Amphitheatre & Veteran's Park Master Plan, Marco Island, FL
- Trump International Golf Club, West Palm Beach, FL
- Morgan Hotel, West Palm Beach, FL
- Northwood Community Center, West Palm Beach, FL
- Lindsey Davis Community Center, Riviera Beach, FL
- West Jupiter Community Center, Jupiter, FL
- Palm Beach International Polo Club, Wellington, FL

Churches, Schools and Institutions

- Northwood University Master Plan, West Palm Beach, FL
- Cardinal Newman High School, West Palm Beach, FL
- St. Jude Catholic Church Multi-purpose Hall, Boca Raton, FL
- Grace Episcopal Church, West Palm Beach, FL
- Poinciana Day School MP, West Palm Beach, FL
- Holy Cross Catholic Church, Indiantown, FL
- All Saints Catholic School, Sports Facility, Jupiter, FL

Office/Retail

- Jon Smith Subs, Jupiter, FL
- Baer's Furniture Stores, North Palm Beach, FL & Boca Raton, FL
- Addison Place, Delray Beach, FL
- Boysaw & Associates Law Office Building, West Palm Beach, FL
- Corporate Place @ Tradition Office Campus, Port St. Lucie, FL
- Bill Bone Professional Building, West Palm Beach, FL
- Iberia Bank, West Palm Beach, FL
- PNC Bank, Delray Beach, FL
- Mirasol Town Center, Palm Beach Gardens, FL
- Havana Restaurant, West Palm Beach, FL

Multi Family & Single Family Residential

- Big Cypress Townhomes, Big Cypress, FL
- "The Residences" at Providencia Park, West Palm Beach, FL
- Paul Laurence Dunbar Senior Complex, West Palm Beach, FL
- Peninsula Estate, Loxahatchee River, FL
- West Palm Beach Infill Housing, West Palm Beach, FL
- Pinnacle Palms Senior Housing, West Palm Beach, FL
- Old Palm Grove, Delray Beach, FL
- Tim Hernandez Residence, Ft. Lauderdale Golf Course

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OCT 08 2015
Planning/Building Dept.

2004

- AIA Palm Beach Award for Miami Beach, (Bayshore) Golf Clubhouse, Miami Beach, FL.

2003

- AIA Palm Beach – Honor Award for Design of the Harriet Himmel Theatre at CityPlace
- The Delray Beach Site Plan Review and Appearance Board Award for Excellence in Design in the Category of New Commercial Development for Fidelity Federal Bank at 5th Avenue (SPRAB)

2001

- Florida Trust for Historic Preservation- Outstanding Achievement Award in the Field of Non-Residential Restoration/Rehabilitation for the Harriet Himmel Theatre at CityPlace

1998

- Outstanding Achievement Award in the Field of Restoration/ Rehabilitation for the Mar-A-Lago Conversion to a Private Club

Affiliations

Maryland Institute and College of Art (MICA)
Board of Trustees 2011-2014
University of Florida, School of Architecture, Historic Preservation Dept. Board of Advisors & DSO St. Augustine, 2009 – Present
FL Trust for Historic Preservation Board 2008 –Present
Vice-President 2012- 2013, President 2013-2015
Florida Historical Commission (FHC) 2008 – Present
Vice Chair 2011-Present
W. Palm Bch. Cultural Affairs Committee 2008- 2013
Catholic University of America/School of Architecture Advisory Board, Washington, DC 2004 – 2014
State of Florida Department of Professional Regulation, Board of Architecture and Interior Design, Chair, 2005 – 2007, 2 terms 2000-2007
American Institute of Architects 1986 – Present
Chamber of Commerce of the Palm Beaches, Trustee 2014-Present
City of West Palm Beach Planning Board 1993-1999
Palm Beach County Cultural Council 2000-2008
Palm Beach County Committee for Public Art 2002-2008
Business Development Board of Palm Beach County 2003 - Present

Publications/Articles

Miami Herald/WLRN judge for "Best Urban Block" competition of South Florida, 2012
National Trust for Historic Preservation June 2009 Issue Article on 1916 Palm Beach County Courthouse Restoration in *Preservation Magazine*
A Guide to New Urbanism in Florida Doral Town Center, Old Palm Grove, City Place, Downtown West Palm Beach
"For the Good of the Community", *The Prospector*, Business Development Board Publication, Winter 2004
"Having a Ball", Real Estate Review, *Daily Business Review*, 2004
Place Making: Developing Town Center, Main Streets and Urban Villages Case Study: CityPlace. Urban Land Institute, 2002
"Downtown Walking Tours", *Palm Beach Post*, November 2002
"South Florida Today" *WXEL* - November 2003
"A Walk Through History", *Sun Sentinel*, November 2003

Lectures

"Filling in the Gaps"- Sanford, FL 2015
FL Trust for Historic Preservation Conferences 2008-2015
History of Downtown W. Palm Beach/Florida Zoning 2014

EST. 1988

EXHIBIT 4

Recorded in Public Records St. Johns County, FL
Clerk# 96036106 O.R. 1201 PG 324 04:05PM 10/10/1996
Recording $0.00 Surcharge $0.00

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

CASE NO. 92-754 CA
DIVISION 55

HENRY WHETSTONE and ESTHER
WHETSTONE,

Plaintiffs

v.

MARGUERITE S. CONNELL and
CARL WAYNE CONNELL, SANTA
MARIA, INC., FRANK USINA
and CITY OF ST. AUGUSTINE,

Defendants.

Filed Civil

CONSENT FINAL JUDGMENT

The parties having consented to the entry of this final judgment and the Court being fully advised in the premises, the Court finds:

1. Plaintiffs Henry Whetstone and Esther Whetstone own the Bayfront Inn, located across Avenida Menendez from Matanzas Bay in St. Augustine.

2. The Santa Maria Restaurant is located on a wharf extending into Matanzas Bay, across the street from the Bayfront Inn. Subject to a life estate in the life of Defendant Marguerite S. Connell (assigned to Defendant Hyacinth), Defendant Carl Wayne Connell owns the Santa Maria

Closed

CDA3

Paper No. _____ Case No. CA92-754

Restaurant, underlying submerged lands and bayshore (collectively, "the Santa Maria Property"), more particularly described as follows:

> The wharf and each and every building located thereon, all structures on that certain piece of land lying east of the Seawall in width 52½ feet between the north and south lines of Lot 1, Block 21, according to the Official Map of the City of St. Augustine dated 1905, as extended eastwardly across Bay Street and the seawall to the channel of the Matanzas River; together with all riparian rights, if any, of the Grantor thereto appertaining; including the erection of the wharf above described being commonly known as "Corbett's Wharf and Fish Market."

3. By their fourth amended complaint, the Plaintiffs claim that the Defendants unlawfully constructed a floating dock and other improvements to the Santa Maria Property.

4. On August 28, 1996, the parties entered into a Settlement Stipulation and Agreement which imposes certain covenants and restrictions governing the use of the Santa Maria Property. A copy is attached as Exhibit A. The parties have agreed to the entry of this Consent Final Judgment incorporating and enforcing the covenants, restrictions and other terms of the Settlement Stipulation

and Agreement.

THEREFORE, it is ORDERED and ADJUDGED as follows:

1. The covenants, restrictions, conditions and other terms of the Settlement Stipulation and Agreement dated August 28, 1996 and attached hereto as Exhibit A, are incorporated by reference into this judgment, and the parties shall comply with such covenants, restrictions, terms and conditions.

2. The Court reserves jurisdiction to enforce the covenants, restrictions, conditions and other terms of the Settlement Stipulation and Agreement.

DONE and ORDERED in Chambers, St. Augustine, St. Johns County, Florida, this 10th day of October, 1996.

Circuit Court Judge

10/10/96

cc: Sidney F. Ansbacher, Esq.
Joseph L. Boles, Jr., Esq.
George M. McClure, Esq.
Frank D. Upchurch, III

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

CASE NO. 92-754 CA
DIVISION 55

HENRY WHETSTONE and ESTHER WHETSTONE,

Plaintiffs

v.

MARGUERITE S. CONNELL and CARL WAYNE CONNELL, SANTA MARIA, INC. and FRANK USINA,

Defendants.

FILED BEFORE THE COURT
OCT 1 0 1996
Richard O. Watts
Circuit Judge Seventh Judicial Circuit of Florida

SETTLEMENT STIPULATION AND AGREEMENT

THIS SETTLEMENT STIPULATION AND AGREEMENT, made on the 28th day of August, 1996, by and between Henry Whetstone and Esther Whetstone ("the Whetstones"), The City of St. Augustine ("the City"), Marguerite S. Connell and Carl Wayne Connell ("the Connells"), Santa Maria, Inc., and Hyacinth Corporation ("Hyacinth").

Preliminary Statement

A. Carl W. Connell owns the Santa Maria Restaurant ("the Restaurant") in St. Augustine, Florida, subject to a life estate in Marguerite S. Connell owned by Hyacinth Corporation. The Connells are the principals of Hyacinth and Santa Maria, Inc. The Whetstones own the Bayfront Inn located across Avenida Menendez from the

EXHIBIT
A

Santa Maria Restaurant.

B. The Whetstones are the plaintiffs in Whetstone v. Connell, et al., Case No. 92-754, now pending in the Circuit Court of St. Johns County, Florida. In the lawsuit, the Whetstones claim that the Connells and Usina unlawfully constructed a floating dock, catwalk and other improvements to the Santa Maria Restaurant. They allege, inter alia, that such improvements were constructed without proper permits, were located over submerged lands belonging to the City and violated applicable City zoning and land use regulations.

C. After protracted litigation and negotiations, the parties reached a settlement agreement intended to amicably resolve the dispute arising out of the above-mentioned expansion of the Restaurant. As part of the settlement, the City has agreed to enter into a lease with Hyacinth and the Connells leasing them certain submerged lands beneath the Restaurant to the extent they lie outside the lands to which the Connells have title. As further consideration for the settlement, Hyacinth and the Connells have agreed that they will not further expand the Restaurant to the north or south, nor upwards.

D. The purpose of this agreement is to document

the terms and conditions of the settlement agreement among the parties, for incorporation into a Consent Final Judgment to be entered in the lawsuit.

IN CONSIDERATION of the above promises, and the mutual covenants hereinafter set forth, the parties agree as follows:

1. Definitions. For purpose of this Agreement, the following definitions apply:

a) "The Restaurant" means the Santa Maria Restaurant and all appurtenant structures, including without limitation the wharf beneath the Restaurant, the pier leading to the Restaurant from the seawall, catwalk and decking around the perimeter of the Restaurant, pilings and floating dock.

b) "DeVino Survey" refers to the Special Purpose Location and Boundary Survey prepared by DeVino & Associates attached as Attachment A.

c) "Restaurant Footprint" means the footprint of the Restaurant shown and cross-hatched on the DeVino Survey, Attachment A.

2. The Lease. The City, the Connells and Hyacinth shall enter into a lease under which the City shall lease to the Connells and Hyacinth the portion of the submerged lands lying beneath the Restaurant Footprint to the extent they lie outside the lands to which they have title.

3. Dock Removal. Within thirty (30) days after entry of the Consent Final Judgment, the Connells shall remove the floating dock located at the east end of the Restaurant.

4. No Northerly or Southerly Expansion. Neither Hyacinth, the Connells nor their successors-in-interest shall expand the Restaurant to the north or south. More particularly, no addition, improvement or structure shall be constructed to the north of the northern boundary of the Restaurant Footprint and any easterly extension of such boundary, nor south of the southern boundary of the Restaurant Footprint and any easterly or westerly extension of such boundary.

5. No Upwards Expansion. Neither Hyacinth, the Connells nor their successors in interest shall construct a second story on the Restaurant, raise the roof, elevate the roofline, or otherwise expand the Restaurant upwards.

undec in 2012

6. No Enclosure of Catwalk. The catwalk running along the south side of the Restaurant structure shall not be enclosed nor shall it be utilized for any purpose other than as a pedestrian walkway for access and circulation.

7. Eastward Expansion. This Agreement is not intended to impose restrictions upon eastward expansion of the Restaurant, subject to proper permitting, so long as such expansion does not contravene the restrictions in paragraphs 4, 5 and 6. The parties shall be free to pursue such expansion in accordance with applicable rules and regulations of the City and other agencies having jurisdiction over such an application.

8. Reservation of Rights. By executing this Agreement, neither the City nor the Whetstones shall be deemed to have waived the requirements of and any rights they may have under applicable zoning, land use and other regulations governing the use of the Restaurant and underlying submerged lands. The parties expressly reserve their rights to object to and contest any future proposed modification or expansion of the Restaurant, or change in use, including any proposed easterly expansion for which the Connells may apply pursuant to paragraph 7.

9. Compensation. The Connells shall pay the Whetstones the sum of $10,000.00 as part of the settlement of their differences, with $5,000 payable ten (10) days after the entry of the Consent Final Judgment and the balance ninety (90) days after entry.

NO N & S expansion — no inclosure of SS extend K

10. Duration. The restrictions imposed by paragraphs 4 and 6 of this settlement agreement shall expire thirty (30) years from the entry of the Consent Judgment. The restriction against upward expansion imposed by paragraph 5 shall expire in sixteen (16) years subject to the Connells' option, beginning on the first day of the eighth year after the date of the entry of the Consent Judgment, to secure the release of such restriction at the rate of $5,000 for each year and portion thereof remaining of such sixteen (16) year term. For example, if the Connells seek to buy out such restriction nine (9) years and two (2) months after the date of the entry of the Judgment, they shall pay the Whetstones $35,000.

raise roof or go up (now it has been 10 yrs)

10A. Sale of the Bayfront Inn. Notwithstanding paragraph 10, the restrictions imposed by paragraphs 4, 5 and 6 of this Agreement shall expire upon the transfer of ownership should the ownership of the Bayfront Inn business

and property pass outside the Whetstone family to any third person who is not a lineal descendant of the Whetstones or to any business entity which is not owned or controlled by the Whetstones OR their lineal descendant. HMW LOM X MSC

11. Parties Bound; Effect. This Agreement shall inure to the benefit of and be binding upon and enforceable by the parties, their successors, heirs and assigns. The restrictions contained in paragraphs 4, 5 and 6 shall run with the land for the duration of this Agreement.

12. Effect of Settlement. The parties have entered into this settlement solely to avoid the expense and inconvenience of litigation. The Consent Final Judgment is not intended and shall not be construed as an admission of liability on the part of any party nor as an adjudication on the merits on any claim or defense.

13. Joinder of Hyacinth. In order to assure that Hyacinth will be subject to the Consent Final Judgment, prior to its entry, the Whetstones will file an amended complaint adding Hyacinth as a defendant in the lawsuit. The Connells shall accept service and shall forthwith file an answer on its behalf.

IN WITNESS WHEREOF, the parties hereunto set their hands and seals this 23rd day of September, 1996.

WITNESSES:

Witness

Witness

Witness

Witness

HENRY WHETSTONE

ESTHER WHETSTONE

THE CITY OF ST. AUGUSTINE

By

Its Mayor-Commissioner

Witness

Witness

THE SANTA MARIA RESTAURANT, INC.

Witness

Witness

By _____
Its _____

HYACINTH CORPORATION

Witness

Witness

By _____
Its _____

Jane R Sullivan
Witness

Marguerite S. Connell
MARGUERITE S. CONNELL

Witness

Witness

CARL WAYNE CONNELL

Witness

Witness

FRANK USINA

Witness

O:\FDU\WHETSTONE\AGREEMENT

O.R. 1201 PG 0336

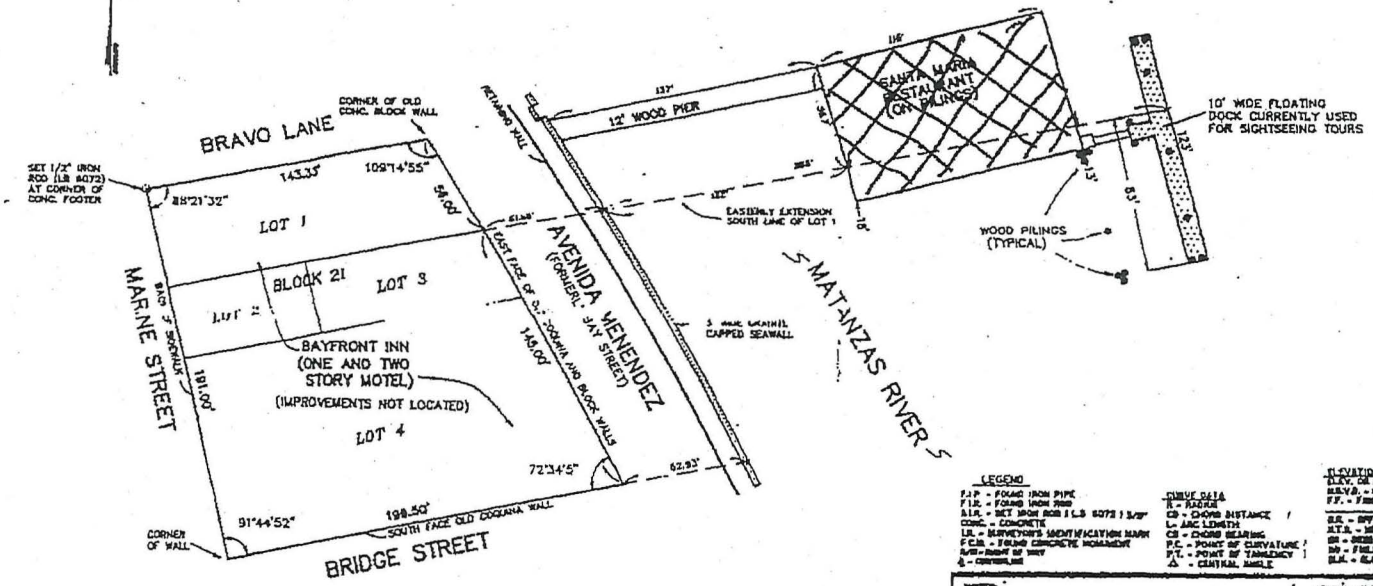
SPECIAL PURPOSE LOCATION AND BOUNDARY SURVEY

OF LOTS 1, 2, 3 AND 4, BLOCK 21, DISTRICT No. 6, AS SHOWN ON THE OFFICIAL MAP OF ST. AUGUSTINE, FLORIDA, DATED JUNE 12, 1923 OF PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.
AND ALSO SHOWING THE EASTERLY EXTENSION OF THE SOUTHERLY LINE OF LOT 1, BLOCK 21 AND THE LOCATION OF THE SANTA MARIA RESTAURANT AND FLOATING DOCK CURRENTLY USED FOR SIGHTSEEING TOURS.

(THE SURVEY AS SHOWN HEREON WAS MADE PER CLIENT'S INSTRUCTIONS. OWNERSHIP OF PROPERTIES LYING EAST OF SEAWALL NOT DETERMINED.)

GRAPHIC SCALE

(IN FEET)
1 inch = 40 ft.



LEGEND
F.I.P. - FOUND IRON PIPE
F.I.R. - FOUND IRON ROD
S.I.R. - SET IRON ROD (L.B. 6072) 1/2"
CONC. - CONCRETE
I.R. - SURVEYOR'S IDENTIFICATION MARK
F.C.M. - FOUND CONCRETE MONUMENT
R/W - RIGHT OF WAY
℄ - CENTERLINE

CURVE DATA
R - RADIUS
CD - CHORD DISTANCE
L - ARC LENGTH
CB - CHORD BEARING
P.C. - POINT OF CURVATURE
P.T. - POINT OF TANGENCY
Δ - CENTRAL ANGLE

ELEVATIONS
ELEV. OR EL. - ELEVATION
N.G.V.D. - NATIONAL GEODETIC VERTICAL DATUM 1929
F.F. - FINISHED FLOOR ELEVATION

O.R. - OFFICIAL RECORDS BOOK/PAGE
N.T.S. - NOT TO SCALE
M - MEAS MEASUREMENT
M - FIELD MEASUREMENT
BLK. - BLOCK

NOTES:
- The parcel of land as shown hereon lies within Federal Flood Zone N/A as depicted on Flood Insurance Rate Map Community-Panel No. ____ for St. Johns County, Florida as revised ____
- Basis of bearing elevation: NORTH ASSUMED SCALED FROM PLAT. FIELD ANGLES ARE SHOWN.
- Overexceedments as shown hereon are only those above-ground, visible objects observed by the surveyor.
- No underground structures, utilities or foundations were located or determined by this survey.
- This survey not valid unless signed and embossed with raised seal.
- This survey made without benefit of an abstract of title. No rights-of-ways or easements of record were furnished to this firm except as shown.
- All distances, bearings or angles are as field measured. Deed or plat measurements are noted if different.
- Basis of elevations: ____
- The certification as provided on this survey is a statement of professional opinion based on the minimum field and documentary evidence available at the time this survey was prepared.

CERTIFICATION: I HEREBY CERTIFY that the survey shown hereon meets Minimum Technical Standards as set forth in Chapter 21HH-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Professional Land Surveyor
FL CERT No. LS # 5040

CERTIFIED TO:
Henry M Wheatstone
Estie S Wheatstone
Wheatstone's Bayfront Inn

DEVINO & Associates, Inc.
ENGINEERS-SURVEYORS
3608 U.S. 1 SOUTH, SUITE 3
ST. AUGUSTINE, FLORIDA 32086
904-797-1867 FAX 904-797-3046

FIELD BOOK: 406-14
FIELD WORK: 3-25-92
SIGNED: 3-26-92
SCALE: 1" = 40'
JOB NO: 92-0132
TYPE SURVEY:
SPECIAL PURPOSE

I 1037

EXHIBIT 5

BAYFRONT INN

138 Avenida Menendez St. Augustine, Florida 32084 (904) 824-1681 (800) 558-3455

October 21, 2015

RECEIVED
OCT 22 2015
Planning/Building Dept.

Mr.David Birchim
Director of Planning & Building Dept.
City of St. Augustine
PO Box 210
St. Augustine, FL 32085-0210

RE: Santa Maria Restaurant Applications for
Certificate of Demolition
Certificate of Appropriateness

Dear David:

Please accept this letter as it is intended. Specifically, to advise the City of St. Augustine staff, the Members of the Historic Architectural Board and other pertinent personnel of specific legal limitations and restrictions placed on the Santa Maria Restaurant, which may not be common knowledge, but which definitely affects the above referenced applications. All quotations in this letter are pulled from either the ***"Consent Final Order",*** signed by Judge Richard Watson on October 10, 1996, or the ***"Settlement Stipulation and Agreement"*** signed by all parties on September 23, 1996.

Between 1992 and 1996, the Connell family and the Whetstone family struggled through a lawsuit involving the Santa Maria Restaurant and eventually included the City of St. Augustine. The lawsuit (Case No. 92-754 CA) was filed by Henry and Esther Whetstone (Plaintiffs) against the Connells, Santa Maria, Inc, Frank Usina and the City of St. Augustine (Defendants) for three reasons. First was to stop the "...unlawfully constructed...floating dock and other improvements to the Santa Maria Property." Second was to reinforce the Whetstone's ownership claim of waterfront property which extended beyond Avenida Menendez. Third was to prevent intrusion by the Defendants' actions into the Whetstone's riparian rights.

First, please note the specific language contained in Judge Watson's ***"Consent Final Order":***

> "...the parties entered into a Settlement Stipulation and Agreement which imposed certain covenants and restrictions governing the use of the Santa Maria Property."
>
> "The parties have agreed to the entry of this Consent Final Judgment incorporating and enforcing the covenants, restrictions and other terms of the Settlement Stipulation and Agreement."
>
> "The covenants, restrictions, conditions and other terms...are incorporated by reference into this judgment, and the parties shall comply with such covenants, restrictions, terms and conditions."

"The Court reserves jurisdiction to enforce the covenants, restrictions, conditions and other terms of the Settlement Stipulation and Agreement."

Second, please review and note the specific language contained in the ***"Settlement Stipulation and Agreement"***

Para C. "As further consideration for the settlement, Hyacinth and the Connells have agreed that they will not further expand the Restaurant to the north or south, nor upwards."

Para 4. No Northerly or Southerly Expansion. "Neither Hyacinth, the Connells nor their successors-in-interest shall expand the Restaurant to the north or south."

Para 5. No Upwards Expansion. "Neither Hyacinth, the Connells nor their successors in interest shall construct a second story on the Restaurant, raise the roof, elevate the roofline, or otherwise expand the Restaurant upwards."

Para 6. No Enclosure of Catwalk. "The catwalk running along the south side of the Restaurant structure shall not be enclosed nor shall it be utilized for any purpose other than as a pedestrian walkway for access and circulation."

Para 7. Eastward Expansion. "This Agreement is not intended to impose restrictions upon eastward expansion of the Restaurant, subject to proper permitting, so long as such expansion does not contravene the restrictions in paragraphs 4, 5 and 6."

Para 10. Duration. "The restrictions imposed by paragraphs 4 & 6 of this settlement agreement shall expire thirty (30) years from the entry of the Consent Judgment. The restriction against upward expansion imposed by paragraph 5 shall expire in sixteen (16) years...."

Para 11. Parties Bound: Effect. "This Agreement shall inure to the benefit of and be binding upon and enforceable by the parties, their successors, heirs and assigns."

Here is the bottom line.

As our first choice, the Whetstone family would prefer and heartily support the renovation of the existing historical building as long as it keeps its existing character (no expansions).

Our second choice and for safety purposes only, the Whetstone family is not averse to the demolition of the building, **IF** a new replacement building is constructed to the same design features and character as the historic Santa Maria Restaurant structure.

The restrictions as described in Paragraphs #4 & #6 are still enforceable until October 10, 2026. Specifically, the restaurant cannot be expanded to the north or the south beyond its current footprint, and the catwalk must be used only as a pedestrian walkway and cannot be enclosed.

BAYFRONT INN

138 Avenida Menendez St. Augustine, Florida 32084 (904) 824-1681 (800) 558-3455

The restriction as described in Paragraph #5 has expired. However, the Whetstone family strongly opposes the upward expansion of the building based on the historical character of this iconic structure.

The jurisdiction for this ***"Consent Final Order"*** lies within the Court, not the City. Remember, the City was added to the lawsuit as a Defendant. Len Weeks, the Mayor of St Augustine, signed the ***"Settlement Stipulation and Agreement"*** on behalf of the City.

Finally, as with so many neighbors and residents, we have concerns over two potential issues.

First is the contemporary architectural design of the building. As proposed, it does not match any other building in the City and definitely does not replicate the original structure that has become a unique icon in the City.

Second is the implied movement of the Santa Maria Restaurant towards a large scale "events" type business. More specifically, the structure as proposed by the applicant, is designed to accommodate large scale functions – a purpose which never existed in the current Santa Maria.

The first floor and second floor open decks encourage intense partying with amplified music. However, the existing floor plan for the Santa Maria limits the size of the parties, which are contained indoors thereby limiting noise problems. Remember, noise travels louder and further over open water than it does over land.

We believe the Santa Maria should continue to operate as it has for the last 50+ years. It is a unique part of St. Augustine's history and should be renovated as a successful restaurant.

If you have any questions, please contact me at 904-347-3170.

Sincerely,

Virginia Whetstone
Property Manager

Cc: David White, White's Wharf LLC
Joseph Cronk, Cronk Duch Architects
Isabelle Lopez, City Attorney

EXHIBIT 6

BEFORE THE
HISTORIC ARCHITECTURAL REVIEW BOARD FOR THE
CITY OF ST. AUGUSTINE, FLORIDA

TYPE OF REQUEST:

☐ Appeal of Architectural Review Official
☐ Certificate of Appropriateness
☐ Certificate of Demolition
☐ Certificate of Relocation
☐ Certificate of Appropriateness for Preservation Approach for Ad Valorem Tax Exemption
☐ Preliminary Design Approval for Entry Corridors
☐ Certificate of Completeness and Recommendation for Historic Property Tax Exemption
☒ Opinion of Appropriateness
☐ Variance to Design Standard

IN THE MATTER OF:

Case No.: 2015-0138
Applicant: Cronk Duch Architects
Owner: White's Wharf LLC
Address: 135 Avenida Menendez
Parcel Number: 196210-0000

RE: Opinion of Appropriateness, pursuant to Section 28-89, City of St. Augustine Code, to construct a replacement building for the existing restaurant characterized by a grouping of buildings with shingle-covered, gable roof systems and shed dormers, a covered wrap-around porch, and two detached hipped roof structures.

THE HISTORIC ARCHITECTURAL REVIEW BOARD HAS HEARD TESTIMONY AND EXAMINED EVIDENCE AT A PUBLIC HEARING HELD ON DECEMBER 17, 2015, 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 or representative ☒ was present at the December 17, 2015 Historic Architectural Review 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 zoning classification of Open Lands.
4. The above-described Opinion of Appropriateness is subject to Section 28-89 of the Code of the City of St. Augustine.

Opinion of Appropriateness
135 Avenida Menendez
HARB Case No. 2015-0138

ORDER:

Based upon the evidence presented, the Historic Architectural Review Board determined that the requested action **MEETS / DOES NOT MEET** the requirements of Section 28-89, City of St. Augustine Code, and **APPROVES / DENIES / CONTINUES** the Applicant's request to construct a replacement building for the existing restaurant characterized by a grouping of buildings with shingle-covered, gable roof systems and shed dormers, a covered wrap-around porch, and two detached hipped roof structures.

Subject to the following conditions:

- Staff Option a
- - Reduction of Scale in terms of height
- details are to be provided ~~subsequent~~ in the Subsequen
- Certificate of Appropriateness application include a
- reduction of the overall height to the proposed mid-level
- roof ridge, and compatible materials and feature details
- with the historic district.

DONE AND ORDERED, at a public hearing on the 17th day of December, A.D., 2015, in the Alcazar Room, 75 King Street, St. Augustine, Florida.

OOA F2015-0138 **REQUEST APPROVED / DENIED / CONTINUED**

Sign Name

Randal Roark, Chair
Print Name
HISTORIC ARCHITECTURAL REVIEW 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, Randal Roark 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 17th day of December, A.D., 2015.

Notary Public, State of Florida

EXHIBIT 7

BEFORE THE
HISTORIC ARCHITECTURAL REVIEW BOARD FOR THE
CITY OF ST. AUGUSTINE, FLORIDA

TYPE OF REQUEST:

☐ Appeal of Architectural Review Official
☐ Certificate of Appropriateness
☒ Certificate of Demolition
☐ Certificate of Relocation
☐ Certificate of Appropriateness for Preservation Approach for Ad Valorem Tax Exemption
☐ Preliminary Design Approval for Entry Corridors
☐ Certificate of Completeness and Recommendation for Historic Property Tax Exemption
☐ Opinion of Appropriateness
☐ Variance to Design Standard

IN THE MATTER OF:

Case No.: 2015-0141
Applicant: Cronk Dutch Architects
Owner: White's Warf LLC
Address: 135 Avenida Menendez
Parcel Number: 196210-0000

RE: Certificate of Demolition, pursuant to Section 28-89, City of St. Augustine Code, to demolish a contributing building to the St. Augustine National Register Historic District built between 1910 and 1917.

THE HISTORIC ARCHITECTURAL REVIEW BOARD HAS HEARD TESTIMONY AND EXAMINED EVIDENCE AT A PUBLIC HEARING HELD ON NOVEMBER 19, 2015, 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 or representative ☒ was present at the November 19, 2015 Historic Architectural Review 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 zoning classification of Open Lands.
4. The above-described Certificate of Demolition is subject to Section 28-89 of the Code of the City of St. Augustine.

Certificate of Demolition
135 Avenida Menendez
HARB Case No. 2015-0141

ORDER:

Based upon the evidence presented, the Historic Architectural Review Board determined that the requested action **MEETS / DOES NOT MEET** the requirements of Section 28-89, City of St. Augustine Code, and **APPROVES / DENIES / CONTINUES** the Applicant's request to demolish a contributing building to the St. Augustine National Register Historic District built between 1910 and 1917.

Subject to the following conditions:

- Archival Documentation Presented
- Permit not approved until final design is approved by HARB
- Neon sign is salvaged & report on salvaged material is presented to staff

DONE AND ORDERED, at a public hearing on the 19 day of November, A.D., 2015, in the Alcazar Room, 75 King Street, St. Augustine, Florida.

C.O.D 2015-0141 **REQUEST APPROVED / DENIED / CONTINUED**

Sign Name

H. RANDAL ROARK
Print Name

HISTORIC ARCHITECTURAL REVIEW 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, H. Randal Roark 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 19 day of November, A.D., 2015.

Notary Public, State of Florida

CANDICE J SEYMOUR
MY COMMISSION #FF122937
EXPIRES May 13, 2018
(407) 398 0153 FloridaNotaryService.com

EXHIBIT 8

BEFORE THE
HISTORIC ARCHITECTURAL REVIEW BOARD FOR THE
CITY OF ST. AUGUSTINE, FLORIDA

TYPE OF REQUEST:

☐ Appeal of Architectural Review Official
☒ Certificate of Appropriateness
☐ Certificate of Demolition
☐ Certificate of Relocation
☐ Certificate of Appropriateness for Preservation Approach for Ad Valorem Tax Exemption
☐ Preliminary Design Approval for Entry Corridors
☐ Certificate of Completeness and Recommendation for Historic Property Tax Exemption
☐ Opinion of Appropriateness
☐ Variance to Design Standard

IN THE MATTER OF:

Case No.: 2015-0203
Applicant: Cronk Duch Architecture, LLC
Owner: White's Wharf, LLC
Address: 135 Avenida Menendez
Parcel Number: 196210-0000

RE: Certificate of Appropriateness, pursuant to Section 28-89, City of St. Augustine Code, to construct a new 1-1/2 story building on an existing dock characterized by a series of smaller buildings with metal covered, gable roof systems and shed dormers, wood siding and a covered wood deck.

THE HISTORIC ARCHITECTURAL REVIEW BOARD HAS HEARD TESTIMONY AND EXAMINED EVIDENCE AT A PUBLIC HEARING HELD ON JANUARY 21, 2016, 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 or representative ☒ was present at the January 21, 2016 Historic Architectural Review 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 zoning classification of Open Lands (OL).
4. The above-described Certificate of Appropriateness is subject to Section 28-89 of the Code of the City of St. Augustine.

Certificate of Appropriateness
135 Avenida Menendez
HARB Case No. 2015-0203

ORDER:

Based upon the evidence presented, the Historic Architectural Review Board determined that the requested action **MEETS / DOES NOT MEET** the requirements of Section 28-89, City of St. Augustine Code, and **APPROVES / DENIES** the Applicant's request to construct a new 1-1/2 story building on an existing dock characterized by a series of smaller buildings with metal covered, gable roof systems and shed dormers, wood siding and a covered wood deck.

Subject to the following conditions:

- No Conditions
-
-
-
-
-
-
-

DONE AND ORDERED, at a public hearing on the 21st day of January, A.D., 2016, in the Alcazar Room, 75 King Street, St. Augustine, Florida.

COA F2015-0203 **REQUEST APPROVED / DENIED**

Sign Name
Chair, Randal Roark
Print Name
HISTORIC ARCHITECTURAL REVIEW 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, H. Randal Roark 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 21st day of January, A.D., 2016.

Notary Public, State of Florida

CANDICE J SEYMOUR
MY COMMISSION #FF122937
EXPIRES May 13, 2018
(407) 398-0153 FloridaNotaryService.com

EXHIBIT 9

landscaping features to include lighting, paving, property walls, the amphitheater, and a pool. The motion was SECONDED by Ms. Duncan.

VOTE ON MOTION:
AYES: Wallace, Duncan, Armstrong, Roark
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

6. (c) Certificate for Ad Valorem Tax Exemption F2015-0169 – Old Island Hotels, Inc. – Applicant & Owner
Multiple Addresses/PID 199490 (143 Cordova St)

Mr. Weaver recused himself as a consultant on the project.[5]

To review plans for building rehabilitations at 244, 246, and 250 St. George Street for an ad valorem tax exemption application.

Ms. Wolfe said based on a review of the AGHP and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** a CERTIFICATE OF APPROPRIATENESS for the proposed and existing alterations to the Rose, Howell, and Murat Houses at 244, 246, and 250 St. George Street with the following conditions:

1. The applicant will revise the project drawings to reflect the verbal and written testimony of the corrections and/or alterations.
2. The applicant will provide a corrected state application form that corresponds with the project drawings.

Don Crichlow reviewed the application with a presentation.

Ex Parte Communication:

Ms. Wallace spoke with Herschel Shepherd regarding some items in the application.

Public hearing was opened; however there was no response.

The Board discussed:

- The use of Portland cement in the coquina restoration.
- Exposure and/or plastering of interior coquina in the addition to the Murat House.

MOTION

Ms. Wallace MOVED to APPROVE Certificate for Ad Valorem Tax Exemption application F2015-0169, Multiple Addresses located at 143 Cordova Street to apply for historic preservation property tax exemption for three buildings on the property: the Murat House, the Rose House, and the Howell House, including that the applicant will revise the project drawings to reflect the verbal and written testimony of the corrections and/or alterations. Motion SECONDED by Mr. Armstrong.

VOTE ON MOTION:
AYES: Wallace, Armstrong, Duncan, Roark
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

6. (d) Opinion of Appropriateness F2015-0138 – Cronk Duch Architects – Applicant
White's Wharf LLC – Owner
135 Avenida Menendez

To construct a replacement building for the existing restaurant characterized by a grouping of buildings with shingle-covered, gable roof systems and shed dormers, a covered wrap-around porch, and two detached hipped roof structures. *The building faces the HP-2 zoning district and the visible facades to*

[5] Attached to original minutes.

the historic district must be found to be reasonably compatible.

Ms. Wolfe reviewed the application and said based on a review of the AGHP and without the support of evidence to the contrary, staff finds that the Board can consider the following options for the request for an **OPINION OF APPROPRIATENESS** to construct a new building at **135 Avenida Menendez:**

a. **Approve** an Opinion of Appropriateness with condition that details provided in the subsequent Certificate of Appropriateness application include a reduction of the overall height to the proposed mid-level roof ridge and compatible materials and feature details with the historic district.
b. **Approve** an Opinion of Appropriateness as presented because the applicant provided evidence at the meeting to substantiate reasonable compatibility of the proposed building's height, mass, and scale with the historic district.
c. **Continue** an Opinion of Appropriateness application to allow the applicant to consider significant design revisions or to provide additional material specified by the Board to substantiate the compatibility of the building as proposed.

Joe Cronk reviewed the application.

Ex Parte Communication:

(None)

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

The Board discussed:

- Mass and scale of the proposed structure
- Pitch of the roof
- Beam height over the deck
- Architectural changes to lower to appearance of the roof.

MOTION

Mr. Roark MOVED to APPROVE Opinion of Appropriateness application F2015-0138 for a new building at 135 Avenida Menendez with condition and details provided in the subsequent Certificate of Appropriateness application including a reduction of the overall height to the proposed mid-level roof ridge and compatible materials and feature details with the historic district. Motion SECONDED by Mr. Weaver.

VOTE ON MOTION:
AYES: Roark, Weaver, Duncan, Wallace
NAYES: NONE
MOTION CARRIED UNANIMOUSLY[6]

6. (e) Certificate of Demolition F2015-0122 – Gary and Shawna Mitchell – Applicant
Gregory and Cassandra Johnson – Owner
96 Park Place

To demolish a contributing building to the Lincolnville National Register Historic District constructed circa 1924.

Ms. Wolfe said based on the review of information submitted by the applicant, the Architectural Guidelines for Historic Preservation, applicable city ordinances, and without the support of evidence to the contrary, staff finds that the Board may take the following actions for a Certificate of Demolition for the property located at **96 Park Place:**

1. **CONTINUE** the application for a Certificate of Demolition to allow the applicant an opportunity to provide and consider the following:

[6] Mr. Armstrong was not present for the vote.

8. (b) F2015-0200 – Don Crichlow and Associates – Applicant
Steven and Randi Ross – Owner
318 St. George Street

To alter the previously approved plans for the rear façade including adding a deck, changing the window type and dormer design.

Ms. Wolfe read the staff report and said based on a review of the AGHP and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** a Certificate of Appropriateness for the casement windows, deck, and dormer at **318 St. George. Street** with the following conditions:

1. Provide window details including materials, dimensions, and profiles.
2. Provide a section detail of the deck railing.
3. Provide documentation that there are no feasible alternatives for the dormer design.

Don Crichlow and Len Weeks reviewed the application with new plans submitted to satisfy staff conditions 1 and 2.[3]

Ex Parte Communication:

(None)

Public hearing was opened.

B.J. Kalaidi thought the application should be continued because the materials were not all submitted prior to the hearing.

Public hearing was closed.

Randi Ross, owner of the property spoke regarding Ms. Kalaidi's comments stating that they were only asking to make simple changes to an already approved plan to make the building more historically correct while still meeting the owner's needs.

The Board discussed:

- The additional and overall proposed building height
- The difference in slope between the dormers and existing roof
- The dormer design
- Additional changes to the roof to avoid creating a flat roof

MOTION

Mr. Roark MOVED to APPROVE Certificate of Appropriateness application F2015-0200, 318 St. George Street, for the submitted casement windows, deck and dormers and to approve the presented roof line changes, including the conditions outlined by staff. The motion was SECONDED by Ms. Duncan.

VOTE ON MOTION:
AYES: Roark, Duncan, Weaver
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

9. Certificate of Appropriateness – Major Scope of Work[4]

9. (a) F2015-0203 – Cronk Duch Architecture, LLC – Applicant
White's Wharf, LLC – Owner
135 Avenida Menendez

To construct a new 1-½ story building on an existing dock characterized by a series of smaller buildings with metal covered gable roof systems and shed dormers, wood siding and a covered wood deck. *The building faces the HP-2 zoning district and the visible facades to the historic district must be found to be reasonably compatible.*

Ms. Wolfe read the staff report and said based on a review of the AGHP and without

[3] Attached to original minutes.

[4] Brief recess from 3:46p.m. to 3:51p.m.

the support of evidence to the contrary, staff finds that the Board can **APPROVE** the Certificate of Appropriateness for construction of a new building at **135 Avenida Menendez**.

Joe Cronk reviewed the application with an elevation which outlined the changes made to plans since the previous hearing.[5]

Ex Parte Communication:

(None)

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

The Board discussed:

- Masking the condensing units and utility connections
- Scale of the roof
- Opened perimeter
- Roof Material
- Intentions of the covered area on the southeast corner
- Design of the sign

MOTION

Mr. Weaver MOVED to APPROVE Certificate of Appropriateness application F2015-0203, 136 Avenida Menendez as presented. The motion was SECONDED by Ms. Duncan.

VOTE ON MOTION:
AYES: Weaver, Duncan, Roark
NAYES: NONE
MOTION CARRIED UNANIMOUSLY

10. Other Business

10. (a) Discussion regarding general operations of HARB meetings

Ms. Wolfe summarized the material provided in the agenda packet regarding a policy of regular conduct for the meetings to benefit applicants, the public, the Board and Staff. She asked the Board for an opinion regarding the draft policy.

The Board was in favor of instituting a document that would help the meetings run smoothly.

10. (b) Discussion regarding the Historic Preservation Master Plan

Ms. Wolfe gave an update regarding the historic preservation survey and the process of choosing of a consultant.

11. Review of Conflict Statements from Previous Meetings

12. Adjournment

There being no further business, the meeting was adjourned at 4:18 P.M.[6]

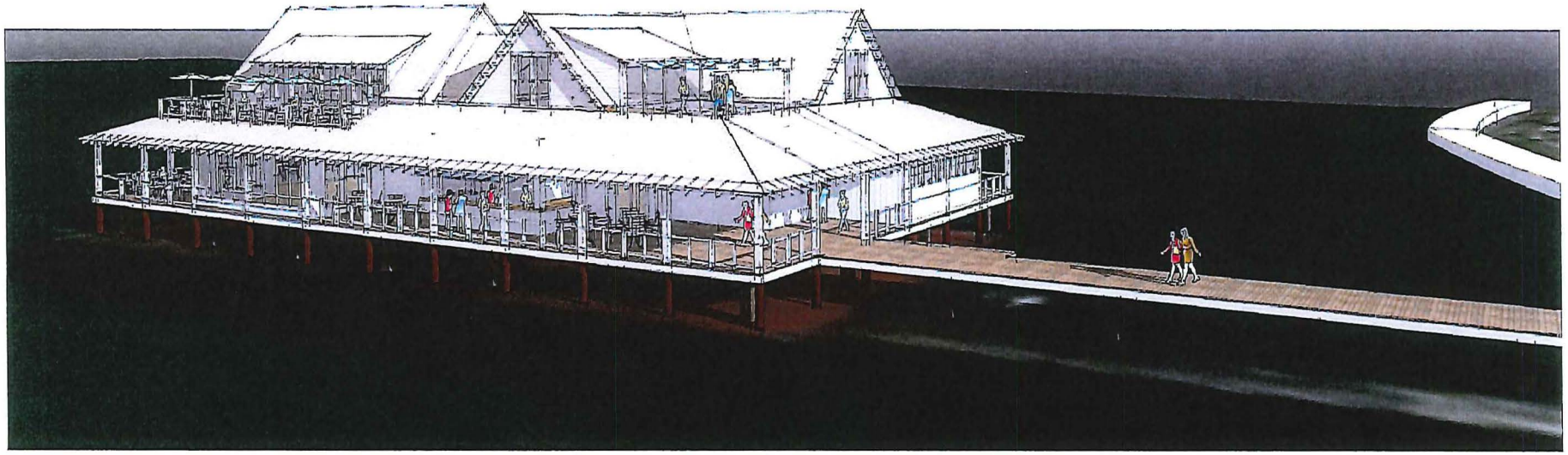
H. Randal Roark, Chairperson

[5] Attached to original minutes.

[6] Transcribed by Candice Seymour

SANTA MARIA RESTAURANT

135 AVENIDA MENENDEZ ST. AUGUSTINE, FLORIDA 32084



HARB CERTIFICATE OF APPROPRIATENESS

A0.00 - COVERSHEET
AS1.00 - ARCHITECTURAL SITE PLAN
A1.10 - FLOOR PLANS
A1.20 - SECOND FLOOR PLAN
A1.30 - ROOF PLAN
A2.10 - AERIAL VIEW & EXTERIOR ELEVATION
A2.20 - EXTERIOR ELEVATION
A2.30 - ELEVATION REFERENCE
A3.10 - BUILDING SECTION
A4.10 - DETAILS

CRONK DUCH
ARCHITECTURE

DECEMBER 18, 2015

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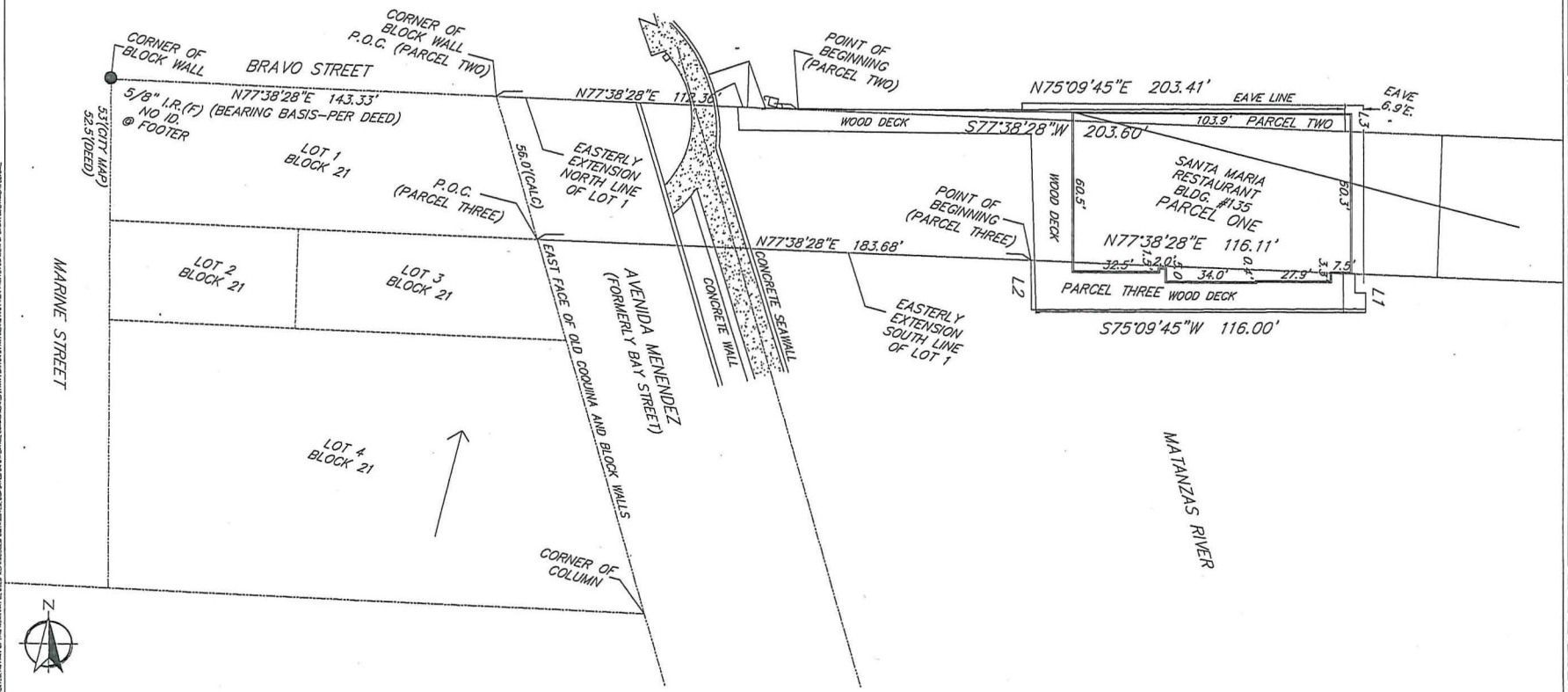

1 ARCHITECTURAL SITE PLAN
SCALE: 1/16" = 1'-0"

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CRONK DUCH ARCHITECTURE
5122 Tyndall Park Circle, Suite 201, Jacksonville, Florida 32246
Office: 904.363.9543 Fax: 904.363.9503
24 Cathedral Place, Suite 105, St. Augustine, Florida 32085
Office: 904.825.1414 Fax: 904.825.1503

COORDINATION:
SURVEY:
STRUCTURAL:

REVISIONS	DATE

ARCHITECT'S SEAL:

CADD DWGS. FILE NO.:
SCALE: AS SHOWN
CADD USER ID: C&E
LEGAL DESCRIPTION:
PROJECT STAGE: HARB CERTIFICATE OF APPROPRIATENESS
PROJECT NUMBER:

NEW PROJECT
135 AVENIDA MENENDEZ
ST. AUGUSTINE, FLORIDA 32084

SANTA MARIA RESTAURANT

ARCHITECTURAL SITE PLAN

AS1.10

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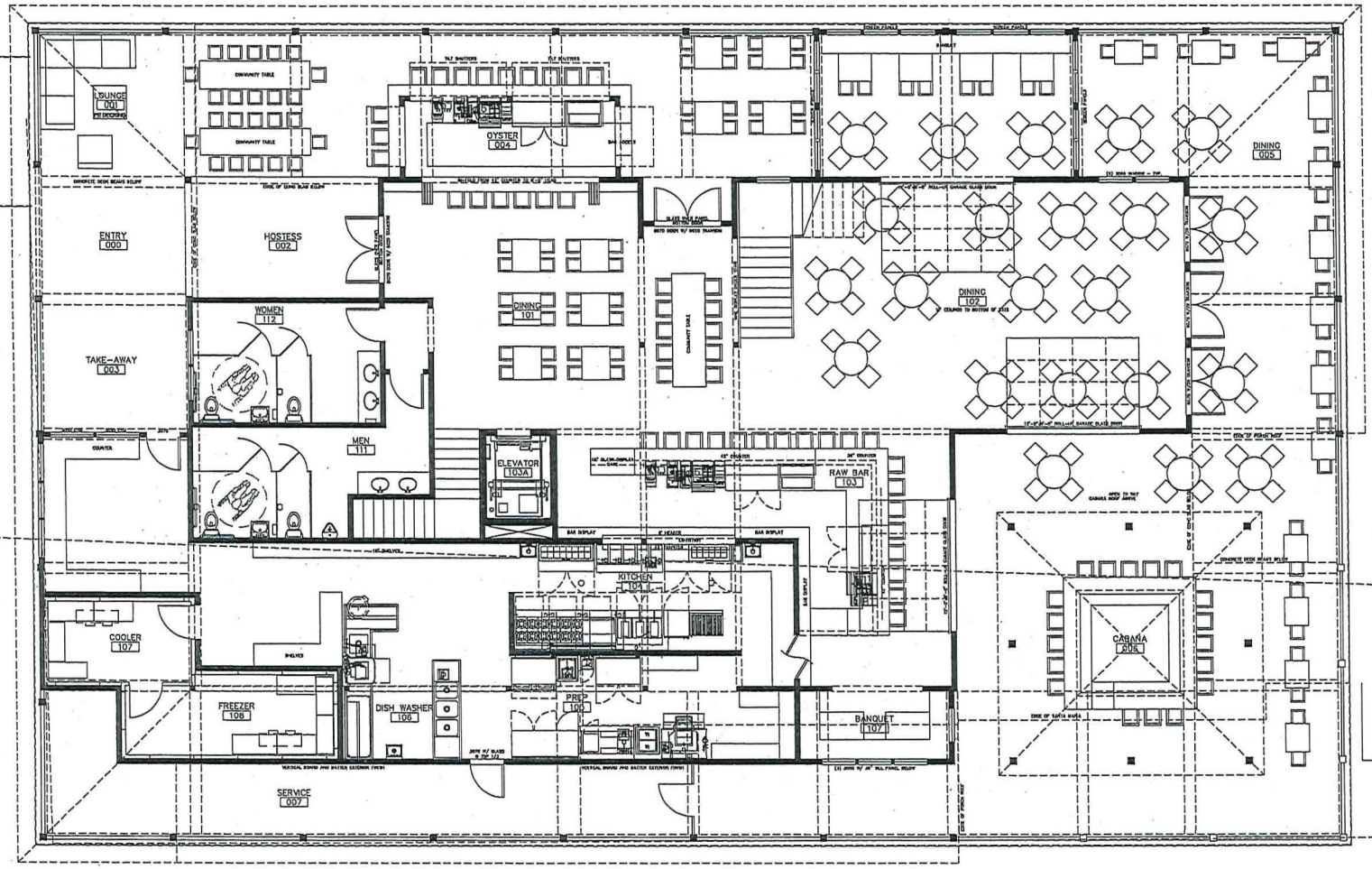

1 FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

FIRST FLOOR AREA TABULATION	
CONDITIONED AREA	: 4,369 SQ. FT.
NON-CONDITIONED AREA	: 4,556 SQ. FT.
1ST FLR. TOTAL GROSS AREA	: 8,925 SQ. FT.

N

CONSTRUCTION AREA TABULATION	
1ST & 2ND FLR. CONDITIONED AREA	: 6,770 SQ. FT.
1ST & 2ND FLR. NON-CONDITIONED AREA	: 5,419 SQ. FT.
TOTAL GROSS AREA	: 12,189 SQ. FT.

RECEIVED
DEC 21 2015
Planning/Building Dept

CRONK DUCH ARCHITECTURE
5522 Tonnelle Park Circle, Suite 201 Jacksonville, Florida 32246
OFFICE: 904.302.9348 FAX: 904.302.9349
24 Cathedral Place, Suite 405, St. Augustine, Florida 32085
OFFICE: 904.829.9484 FAX: 904.829.9483

CONSULTANTS:
SURVEY:
STRUCTURAL:

REVISIONS | DATE

ARCHITECT'S SEAL

CADD DWG. FILE NO.
SCALE: AS SHOWN
CADD USER ID: EWE
LEGAL DESCRIPTION:
PROJECT PHASE: HARB CERTIFICATE OF APPROPRIATENESS
PROJECT NUMBER:

NEW PROJECT
135 AVENIDA MENENDEZ
ST. AUGUSTINE, FLORIDA 32084

SANTA MARIA RESTAURANT

FIRST FLOOR PLAN

A1.10

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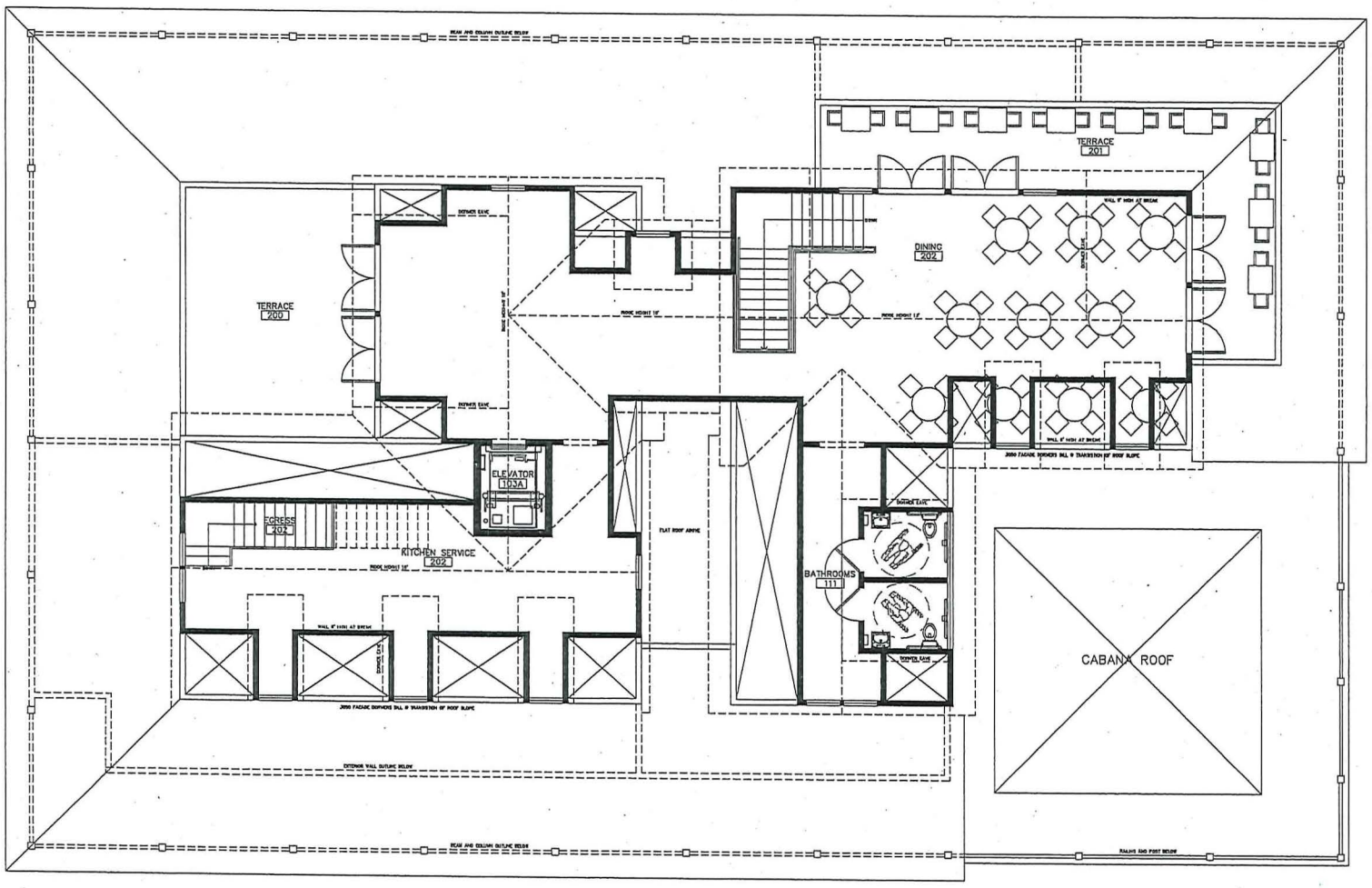

1 SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0"

SECOND FLOOR AREA TABULATION	
CONDITIONED AREA	: 2,401 SQ. FT.
NON-CONDITIONED AREA	: 863 SQ. FT.
2ND FLR. TOTAL GROSS AREA	: 3,264 SQ. FT.

N

RECEIVED
DEC 21 2015
Planning/Building Dept

CRONK DUCH
ARCHITECTURE
5322 Tarquin Park Circle, Suite 201 Jacksonville, Florida 32246
Office: 904.322.1538 Fax: 904.322.9620
24 Cathedral Place, Suite 425, St. Augustine, Florida 32085
Office: 904.825.3454 Fax: 904.397.2530

CONSULTANTS:
SURVEY:
STRUCTURAL:

REVISION | DATE

ARCHITECT'S SEAL

CADD DWG. FILE NO.
SCALE: AS SHOWN
CADD USER ID: EdgE
LEGAL REPRESENTATIONS
PROJECT PHASE: HARB CERTIFICATE OF APPROPRIATENESS
PROJECT NUMBER

NEW PROJECT
135 AVENIDA MENENDEZ
ST. AUGUSTINE, FLORIDA 32084

SANTA MARIA RESTAURANT

SECOND FLOOR PLAN

A1.20

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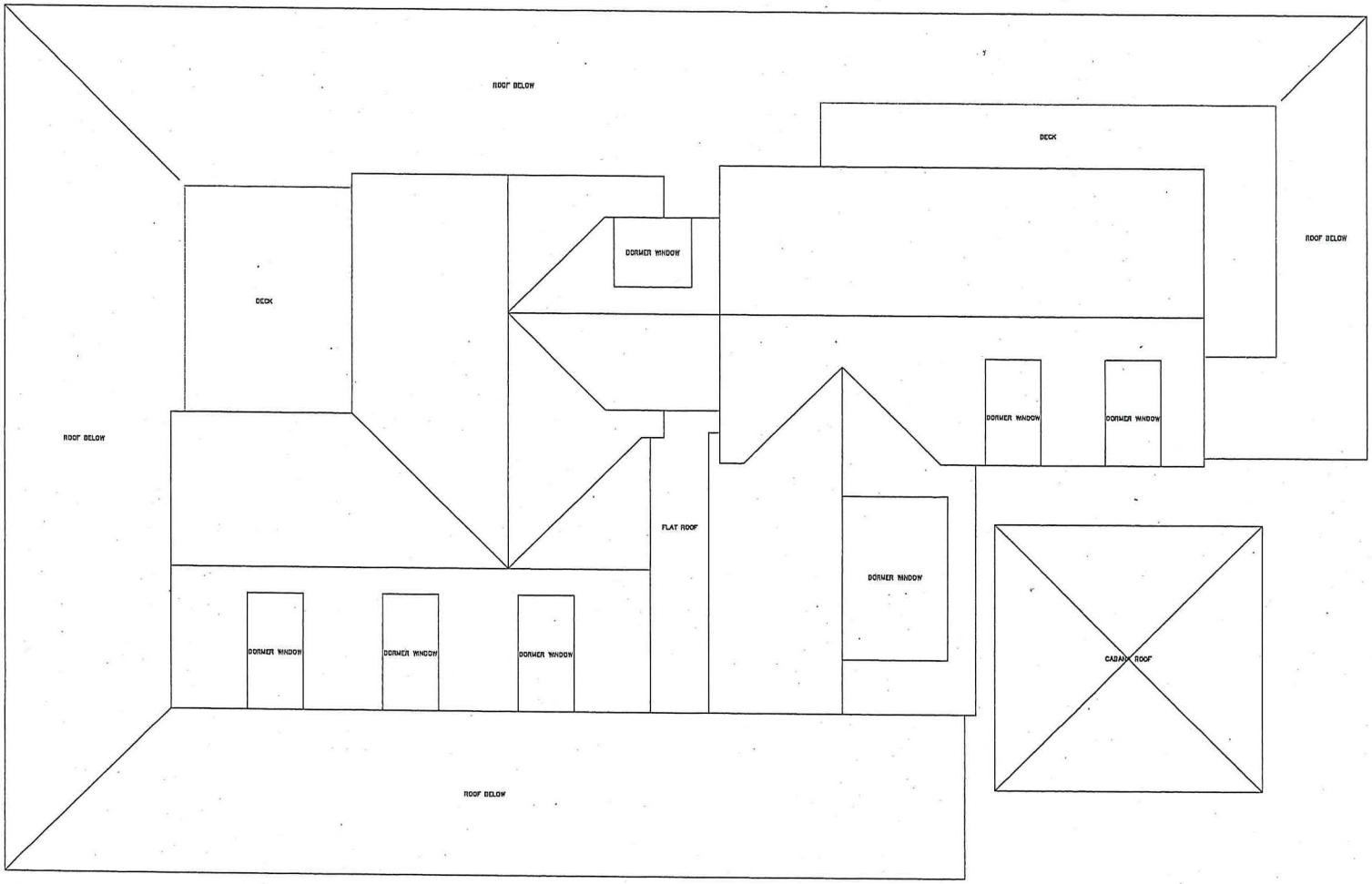

1 ROOF PLAN
SCALE: 1/4" = 1'-0"

RECEIVED
DEC 21 2015
Planning/Building Dept.

CRONK DUCH ARCHITECTURE
5122 Tyndall Park Circle, Suite 201 Jacksonville, Florida 32246
Office: 904.332.3348 Fax: 904.332.3350
21 Cathedral Place, Suite 405, St. Augustine, Florida 32085
Office: 904.829.3454 Fax: 904.829.3453

CONSULTANTS:
SURVEY:
STRUCTURAL:

REVISION | DATE

ARCHITECT'S SEAL

CADD DWG. FILE NO.

SCALE: AS SHOWN

DRAWN BY: EdsE

SEAL DESCRIPTION

PROJECT PHASE: HARB CERTIFICATE OF APPROPRIATENESS

PROJECT NUMBER

NEW PROJECT
135 AVENIDA MENENDEZ
ST. AUGUSTINE, FLORIDA 32084

SANTA MARIA RESTAURANT

ROOF PLAN

A1.30

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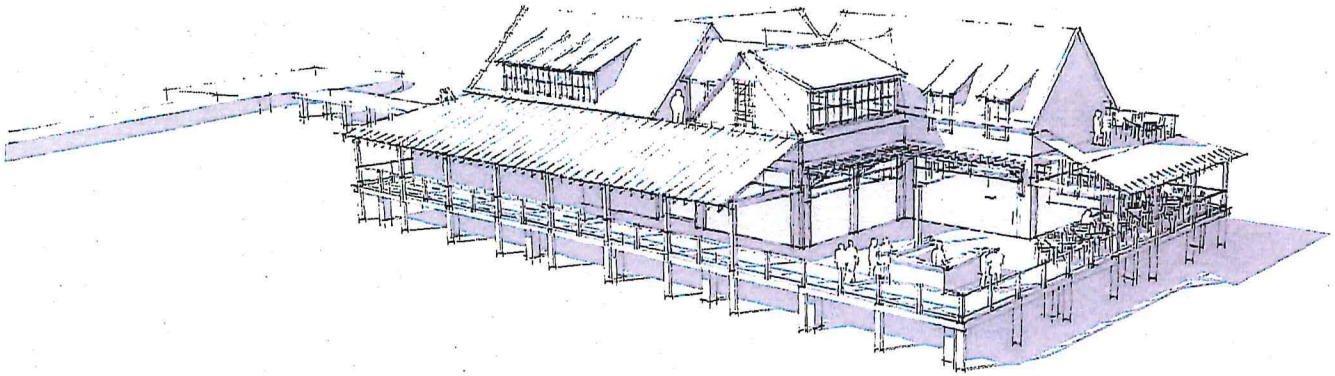
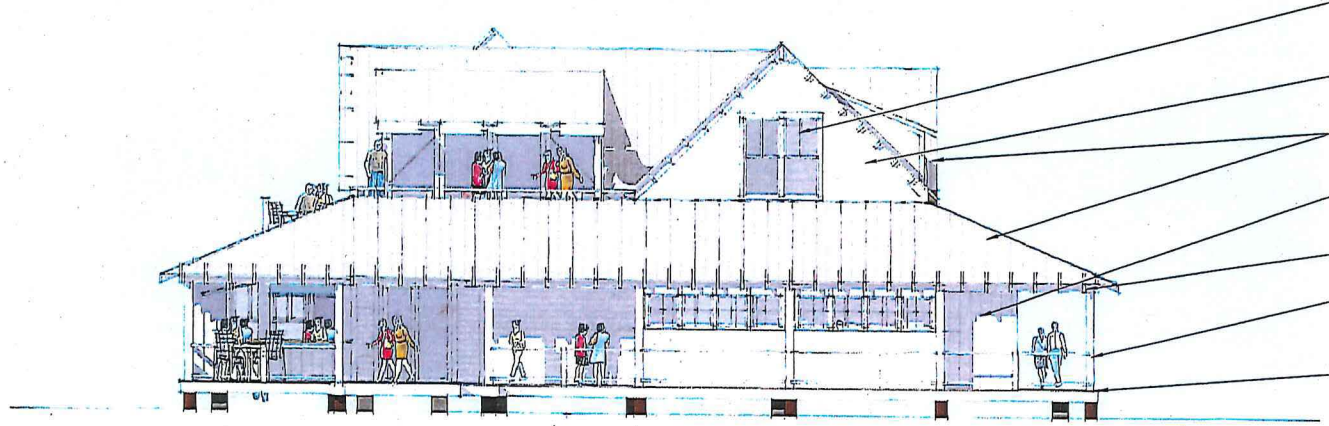
DO NOT MEASURE DRAWINGS
NOTIFY ARCHITECT OF ANY AND ALL DISCREPANCIES PRIOR TO CONSTRUCTION. SEE GENERAL NOTES



1 AERIAL VIEW
SCALE: NTS



2 WEST ELEVATION
SCALE: 1/4" = 1'-0"

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Planning & Zoning

CRONK DUCH ARCHITECTURE
8323 Tyrosity Park Circle, Suite 201 Jacksonville, Florida 32256
Office: 904.3923948 Fax: 904.3923953
24 Cuna del Pilar, Suite 105, St. Augustin, Florida 32095
Office: 904.826.3454 Fax: 904.3923953

CONSULTANTS:
SURVEY:
STRUCTURAL:

REVISION	DATE

ARCHITECTS SEAL:

CADD DWG. FILE NO.:
SCALE: AS SHOWN
DATE UPDATED: 8/8/15
INITIAL DISTRIBUTION:
PERMIT PROGRESS: HARD CERTIFICATE OF APPROPRIATENESS
PROJECT NUMBER:

NEW PROJECT
135 AVENIDA MENENDEZ
ST. AUGUSTINE, FLORIDA 32084

SANTA MARIA RESTAURANT

AERIAL VIEW AND EXTERIOR ELEVATION

A2.10

DO NOT MEASURE DRAWINGS
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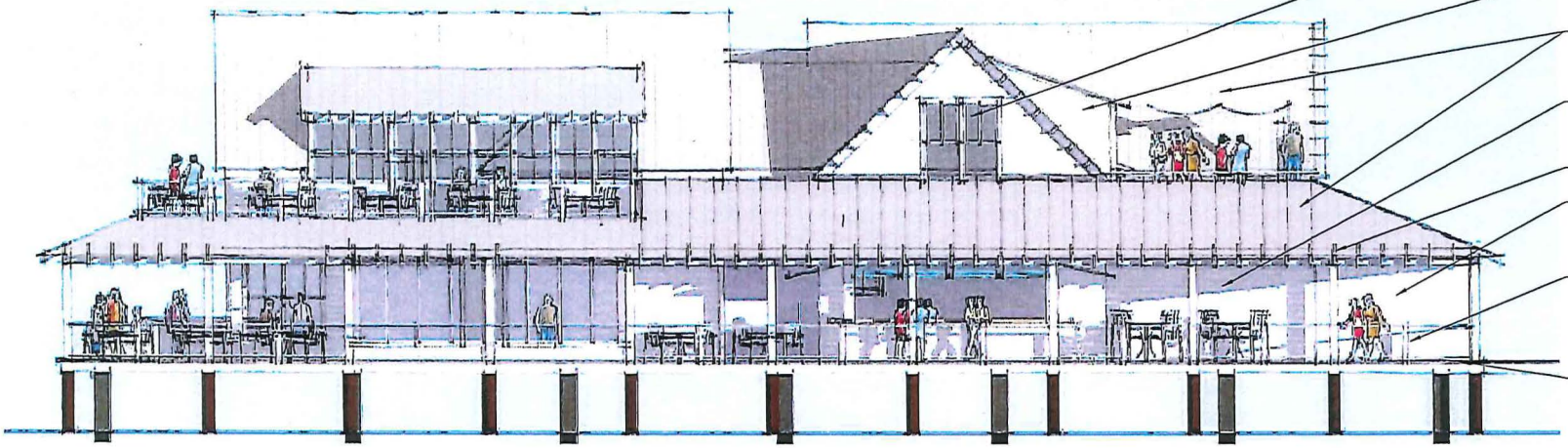
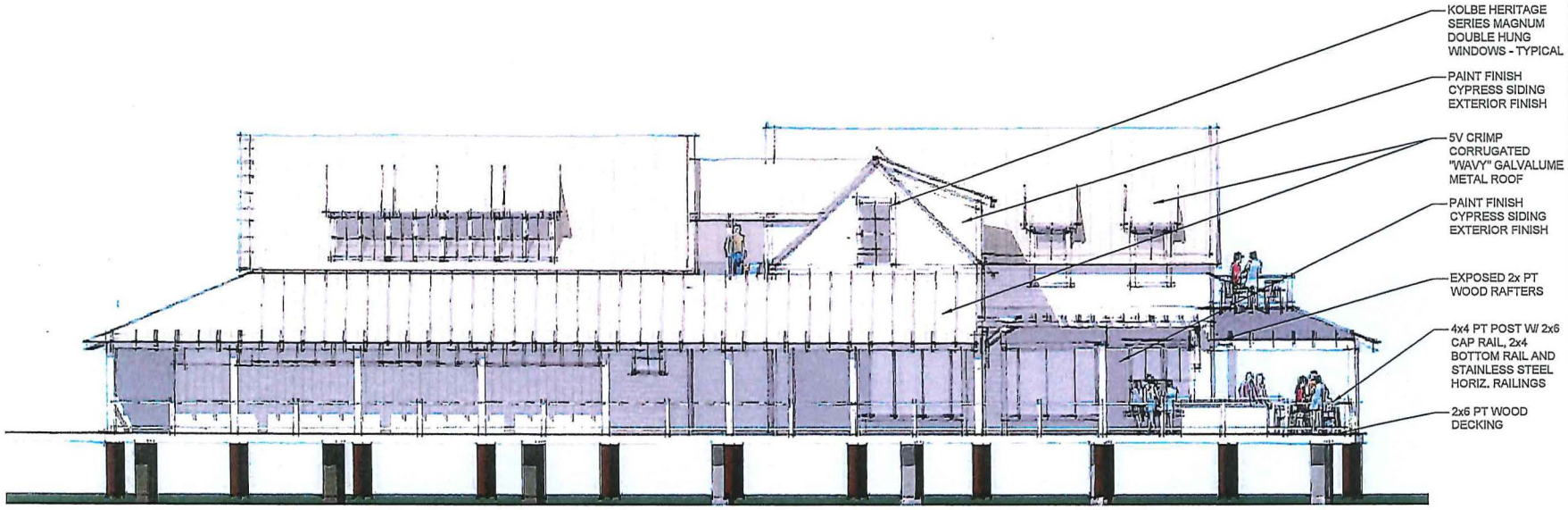


1 NORTH ELEVATION
SCALE: 1/4" = 1'-0"



2 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

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24 Cathedral Place, Suite 105, St. Augustine, Florida 32085
Office: 904.823.8484 Fax: 904.302.2539

CONSULTANTS:
SURVEY:
STRUCTURAL:

REVISION:	DATE

ARCHITECT'S SEAL:

CADD DWG. FILE NO.:
SCALE: AS SHOWN
CADD LIBRARY ID: E4/6
GENERAL DESCRIPTION:
PROJECT PHASE: HARB CERTIFICATE OF APPROPRIATENESS
PROJECT NUMBER:

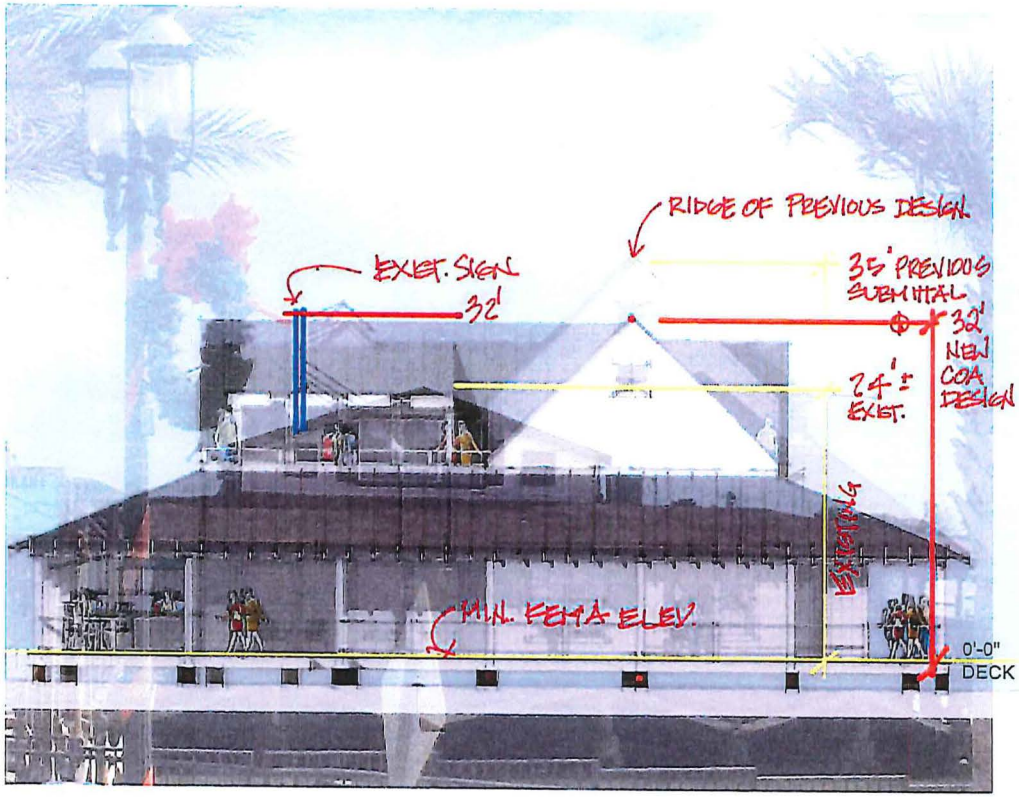
NEW PROJECT

135 AVENIDA MENENDEZ
ST. AUGUSTINE, FLORIDA 32084

SANTA MARIA RESTAURANT

EXTERIOR ELEVATIONS

A2.20



1 ELEVATION HEIGHT REFERENCES

SCALE: 1/4" = 1'-0"

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CRONK DUCH ARCHITECTURE
5222 Timothy Park Circle, Suite 201 Jacksonville, Florida 32246
Office: 904.323.8540 Fax: 904.323.8550
21 Cathedral Place, Suite 105, St. Augustine, Florida 32085
Office: 904.829.3454 Fax: 904.829.3459

CONSULTANTS:
SURVEY:
STRUCTURAL:

REVISIONS	DATE

ARCHITECT'S SEAL

CADD DWG. FILE NO.

SCALE: AS SHOWN

CADD LAYER ID: E-0-E

GENERAL DESCRIPTION:

PROJECT PHASE: HARB CERTIFICATE OF APPROPRIATENESS

PROJECT NUMBER

NEW PROJECT

135 AVENIDA MENENDEZ
ST. AUGUSTINE, FLORIDA 32084

SANTA MARIA RESTAURANT

EXTERIOR ELEVATIONS

A2.30

RECEIVED
DEC 21 2015
Planning/Building

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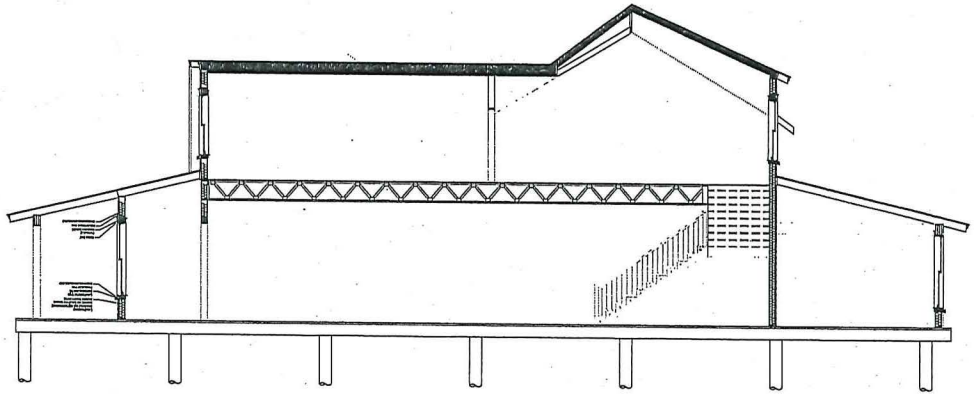

1 BUILDING SECTION
SCALE: 1/4" = 1'-0"

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CRONK DUCH
ARCHITECTURE
9122 Tapestry Park Circle, Suite 201 Jacksonville, Florida 32246
Office: 904.302.9949 Fax: 904.302.9950
24 Cathedral Place, Suite 105, St. Augustine, Florida 32085
Office: 904.825.3454 Fax: 904.302.9950

CONSULTANTS:
SURVEY:
STRUCTURAL:

REVISIONS: DATE:

ARCHITECT'S SEAL:

CADD DWG. FILE NO.:
SCALE: AS SHOWN
CADD USER ID: EdgC
LEGAL DESCRIPTION:
PROJECT PHASE: HARB CERTIFICATE OF APPROPRIATENESS
PROJECT NUMBER:

NEW PROJECT
135 AVENIDA MENENDEZ
ST. AUGUSTINE, FLORIDA 32084

SANTA MARIA RESTAURANT

BUILDING SECTION

A3.10

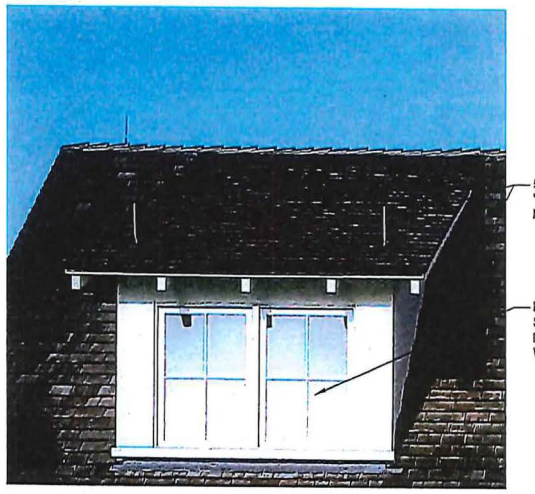
RECEIVED
DEC 21 2015
Planning/Building Dept

5V CORRUGATED "WAVY GALVALUME METAL ROOF

PAINT FINISH CYPRESS SIDING EXTERIOR FINISH

EXTERIOR SIDING AND TRIM COLOR BEJAMIN MOORE "WHITE DOVE"

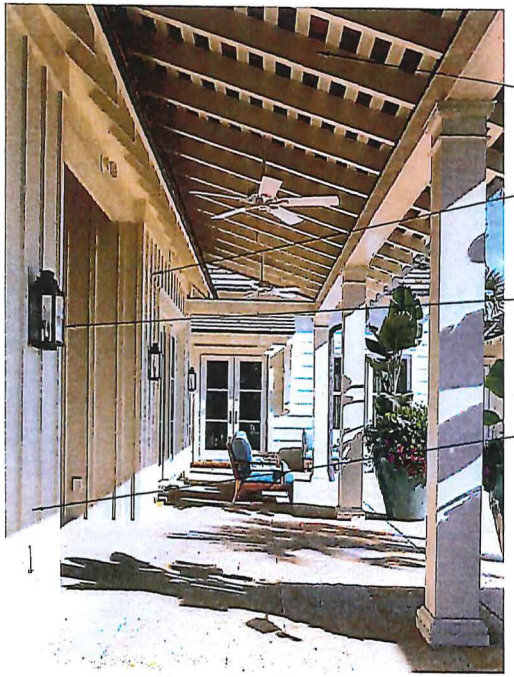
1 GABLE END AND SIDING



5V CORRUGATED "WAVY GALVALUME METAL ROOF

KOLBE HERITAGE SERIES MAGNUM DOUBLE HUNG WINDOWS - TYPICAL

2 DORMER WINDOW



EAVE RAFTER TAILS

EXTERIOR SIDING AND TRIM COLOR BEJAMIN MOORE "WHITE DOVE"

LIGTHING FIXTURE TYPE

BOARD AND BATTEN SIDING

3 PORCH

2x6 CAP RAIL

4x4 WOOD POST

STAINLESS STEEL HORIZONTAL RAILINGS

2x4 BOTTOM RAIL

2x6 PT WOOD DECKING

4 RAILING AND PORCH DECKING

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Planning/Building Dept

CRONK DUCH ARCHITECTURE
5122 Timothy Park Circle, Suite 201 Jacksonville, Florida 32216
Office: 904.363.5515 Fax: 904.363.5653
24 Cathedral Place, Suite 405, St. Augustine, Florida 32084
Office: 904.825.3464 Fax: 904.825.5153

CONSULTANTS:

SURVEY:

STRUCTURAL:

REVISIONS	DATE

ARCHITECT'S SEAL:

CADD DWG. FILE NO.:

SCALE: AS SHOWN

CADD LEGEND: E-0/E

LEGAL DISCRIPTION:

PROJECT NUMBER: HARB CERTIFICATE OF APPROPRIATENESS

PROJECT NUMBER:

NEW PROJECT

135 AVENIDA MENENDEZ
ST. AUGUSTINE, FLORIDA 32084

SANTA MARIA RESTAURANT

DETAILS

A4.10

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EXHIBIT 10

Isabelle Lopez

From: David Birchim
Sent: Thursday, April 6, 2017 8:16 AM
To: Ellen Avery-Smith (eaverysmith@rtlaw.com); Isabelle Lopez; John Regan; Denise May
Subject: FW: Santa Maria Restaurant

Bob,
I will talk to you soon.
David

-----Original Message-----
From: Bob Growick
Sent: Thursday, April 06, 2017 7:07 AM
To: David Birchim <dbirchim@citystaug.com>
Subject: FW: Santa Maria Restaurant

David,

I visited the Santa Maria on Monday and reviewed the areas of existing outside seating. The existing outside seating capacity is calculated at 42 seats. The number of outside seating I advised you previously was based on the new proposed drawing not existing. If you have questions, please contact me.

Robert J Growick,
Division Chief/Fire Marshal
St Augustine Fire Department
101 Malaga Street
St Augustine Florida 32084
P-904 825-1098
F-904 825- 1093
C-954 651-5856

Please Note: Florida has a very broad Public Records Law. Unless specifically exempt by state law, written communications to city officials or staff regarding official city business are public records available to the public and media upon request. If your email communication is related to official government business, it may therefore be subject to public disclosure.

Isabelle Lopez

From:	Carlos Aviles
Sent:	Tuesday, March 21, 2017 7:12 AM
To:	Isabelle Lopez
Subject:	Fw: Santa Maria Restaurant
Attachments:	image002.jpg; image003.jpg; 1473975765681.png

Isabel,
Bob completed an email search and found correspondence with Ron Brown regarding the Santa Maria.

Chief Carlos Aviles
St Augustine Fire Dept.
101 Malaga St.
St Augustine, FL 32084
904-825-1098(office)
904-671-3533(cell)

https://m.facebook.com/citystaugfire/

------ Original message------
From: Bob Growick
Date: Tue, Mar 21, 2017 06:55
To: Carlos Aviles;
Cc:
Subject:FW: Santa Maria Restaurant

Good morning,

I looked in my previous emails with Mr. Ron Brown and found this email referencing the maximum capacity for the Santa Maria.

Robert J Growick,
Division Chief/Fire Marshal
St Augustine Fire Department
101 Malaga Street
St Augustine Florida 32084
P-904 825-1098
F-904 825- 1093
C-954 651-5856

From: Ron Brown
Sent: Wednesday, June 18, 2014 12:49 PM
To: Bob Growick
Cc: JC Costeira; David Birchim; Debra Gibson; Isabelle Lopez; Wil Franke
Subject: RE: Santa Maria Restaurant

Thanjs. Very interesting.

Sent from my Verizon Wireless 4G LTE smartphone

-------- Original message --------
From: Bob Growick
Date:06/18/2014 11:46 AM (GMT-05:00)

Subject: Santa Maria Restaurant

Mr. Brown,

I have reviewed my inspection files as requested for the Santa Maria Restaurant located at 135 Avenida Menendez and could not locate any correspondence referencing the maximum capacity for the business. If you have additional questions, please contact me.

Robert J Growick, Fire Marshal CFI,CFPE
St. Augustine Fire Department
101 Malaga Street
St. Augustine, Florida 32084
Ph: 904 825-1098
Cell: 954 651-5856
Fax: 904 825-1093
bgrowick@citystaug.com<mailto:bgrowick@citystaug.com>

[cid:image003.jpg@01CF8AEA.E5C3F9C0]

To: Ron Brown
Cc: JC Costeira ,David Birchim ,Debra Gibson ,Isabelle Lopez ,Wil Franke
Subject: RE: Santa Maria Restaurant

I completed my visit at the Santa Maria and I came to the conclusion the maximum capacity for the interior seating in business is 156 people. They do display a maximum capacity sign at the front entrance identifying the same.

Robert J Growick, Fire Marshal CFI,CFPE
St. Augustine Fire Department
101 Malaga Street
St. Augustine, Florida 32084
Ph: 904 825-1098
Cell: 954 651-5856
Fax: 904 825-1093
bgrowick@citystaug.com<mailto:bgrowick@citystaug.com>

[cid:image002.jpg@01CF8AEA.E5C3F9C0]

From: Ron Brown
Sent: Wednesday, June 18, 2014 8:45 AM
To: Bob Growick
Cc: JC Costeira; David Birchim; Debra Gibson; Isabelle Lopez; Wil Franke
Subject: RE: Santa Maria Restaurant

Thanks.

From: Bob Growick
Sent: Wednesday, June 18, 2014 7:35 AM
To: Ron Brown
Cc: JC Costeira; David Birchim; Debra Gibson; Isabelle Lopez; Wil Franke
Subject: RE: Santa Maria Restaurant

I will be conducting a review today on location. I will advise you of my findings.

Robert J Growick, Fire Marshal CFI,CFPE
St. Augustine Fire Department
101 Malaga Street
St. Augustine, Florida 32084
Ph: 904 825-1098
Cell: 954 651-5856
Fax: 904 825-1093
bgrowick@citystaug.com<mailto:bgrowick@citystaug.com>

[cid:image003.jpg@01CF8AEA.E5C3F9C0]

From: Ron Brown
Sent: Monday, June 16, 2014 4:02 PM
To: Bob Growick
Cc: JC Costeira; David Birchim; Debra Gibson; Isabelle Lopez; Wil Franke
Subject: RE: Santa Maria Restaurant

Thank you. Did the City ever perform a capacity inspection at the premises?

From: Bob Growick
Sent: Monday, June 16, 2014 3:58 PM
To: Ron Brown
Cc: JC Costeira

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF ST. JOHNS

BEFORE ME, an officer authorized to take oaths under the Laws of the State of Florida, this day personally appeared Carl Wayne Connell, who, being by me first duly sworn, deposes and says that:

1. I am over 18 years of age and have personal knowledge of the facts set forth below and each of the facts below is true and accurate.

2. I am the director of the Carlito Corporation, an inactive and dissolved Florida corporation.

3. The Carlito Corporation owned the Santa Maria Restaurant at 135 Avenida Menendez, St. Augustine, Florida 32084 (the "Restaurant").

4. During my ownership of the Restaurant, it included a restaurant and bar with both inside and outside dining totaling 198 seats for many years.

5. During my ownership of the Restaurant, the Restaurant often hosted special events such as rehearsal dinners, birthday parties, class reunions, family gatherings and the like.

6. During my ownership of the Restaurant, the Restaurant did not provide parking for patrons.

7. During my family's ownership, the Restaurant included docks, where people visited the Restaurant by boat.

8. During my ownership of the Restaurant, we had live acoustic music indoors and outdoors.

Dated: August 9th, 2018.

Affiant: _____
Carl Wayne Connell
239 Coquina Avenue
St. Augustine, Florida 32080

Sworn to and subscribed before me this 9th day of August, 2018 by Carl Wayne Connell. He *(check one)* ☐ is personally known to me, or ☐ has proved to me on basis of satisfactory evidence to be the person who executed this instrument. C540-139-40-018-0 Exp 1-18-26

_____
Notary Public, State and County Aforesaid
Name: ~~Carl Wayne~~ Mark Delaney
My Commission Expires: 10/20/20
My Commission Number is: GG-025553

MARK DELANEY
Notary Public - State of Florida
Commission # GG 025553
My Comm. Expires Oct 20, 2020

ITEM 7.B.

Discussion Charter Amendments

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: Mayor, Vice-Mayor and Commissioners

DATE: October 3, 2019

RE: **AMENDMENTS TO THE CITY CHARTER**

At the June 24th meeting, the City Commission instructed me to place on a future agenda for Commission discussion and public input two (2) charter amendment questions that require a referendum. The first is the possibility of amending the Charter to provide for election of the mayor by vote of fellow commissioners instead of the current method of electing the mayor in a general election. The second is including a minimum residency requirement, no more than one (1) year duration, for running for office.

Enclosed is the following information regarding these amendment questions:

- Residency of those running for city elected positions:
  a. The position of Mayor as either separately elected or determined by the other commissioners. *(Examples of other jurisdictions are included for discussion and direction and a draft referendum question is included for discussion.)*
  b. If maintaining a residency is a requirement, should there be a minimum duration of residency before running for office? *(See case law attached, the residency requirement cannot be more than one (1) year and a draft referendum question is included for discussion.)*
- Additional information included:
  a. Residency qualification information from the Florida Division of Elections.
  b. Memo regarding non-resident voting in municipal elections.
  c. Case law regarding residency to run for office.
  d. Forms of selection of Mayor and examples from other jurisdictions.

The Supervisor of Elections has informed me that any ballot question must be provided in both English and Spanish. In addition, the Supervisor of Elections currently charges the City approximately $1,500 to conduct our elections. As long as our ballot remains within two (2) pages, the additional fee should be nominal. If the election ballot runs to a third page, the cost could be as much as $50,000, as the Supervisor of Elections believes that there will already be a number of pages with State or other municipal questions. An option is to avoid the busier general election ballot and place our charter questions either on the Presidential Preference Election (March 17, 2020) or on the Primary Election (August 18, 2020) in order to avoid the necessity for a third page of the ballot. The additional advantage of holding our city referendum on the March 17, 2020 election day would be that the amendments would be effective at the time of qualifying for running for office (June 2020). In order to place questions on the March ballot, we would need to adopt them by ordinance no later than the December 9th City Commission meeting and have them in to the Supervisor of Elections by January 7, 2020.

Please place this item on the agenda under Items of Great Public Importance for the October 14, 2019 City Commission meeting.

Attachments

xc: John Regan, City Manager
Darlene Galambos, City Clerk

Thank you.

Isabelle C. Lopez
City Attorney

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: October 3, 2019

RE: **ORDINANCE 2019-XX: SELECTION OF THE MAYOR AND VICE-MAYOR**

Please find attached Ordinance 2019-XX that amends the City Charter to provide for a four (4) year term for City Commission Seat Three and to allow the mayor and vice-mayor to be elected by the members of the City Commission.

This proposed amendment requires a referendum proposition be placed on the ballot at the next special or general election of the City.

Please place Ordinance 2019-XX on the regular City Commission agenda for October 14, 2019 under Items of Great Public Importance for public comment, discussion, and direction.

Thank you.

Isabelle C. Lopez
City Attorney

Attachment

xc: Meredith Breidenstein, Assistant City Manager
Darlene Galambos, City Clerk

Agenda Title:

Amends Sec. 2.01 and Sec. 4.09 of the City Charter to provide for a four (4) year term for the candidate elected to City Commission Seat Three, to allow the mayor and vice-mayor to be elected by the members of the City Commission.

ORDINANCE NO. 2019-XX

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CHARTER OF THE CITY OF ST. AUGUSTINE TO PROVIDE FOR A FOUR YEAR TERM FOR CITY COMMISSION SEAT THREE; TO PROVIDE FOR THE SELECTION OF MAYOR BY THE MEMBERS OF THE CITY COMMISSION; REMOVING THE MAYORAL DESIGNATION FOR CITY COMMISSION SEAT THREE; PROVIDING FOR A REFERENDUM PROPOSITION FOR THE NEXT SPECIAL OR GENERAL ELECTION; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City's Charter has not been thoroughly revised since 1925, and the City Commission determined at its April 3, 2019 public workshop that a revision of its Charter was overdue; and

WHEREAS, the City Charter provides for a ceremonial role for the Mayor and administrative authority to the City Manager, with all commissioners having co-equal legislative authority; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amendment to Part I, Article II, Section 2.01. Part I, Article II, Section 2.01 is hereby amended, as follows:

Sec. 2.01. - Composition; qualifications of members; terms of office; manner of election.

The city commission of the City of St. Augustine, Florida shall consist of five (5) members and who shall be qualified electors of said city, with one of the commissioners to be designated as mayor in accordance with this charter. Each commissioner shall be elected at large in the manner hereinafter provided. Commencing with the general election to be held in November, 1992, three (3) commissioners shall be elected, the candidate receiving the highest number of votes cast for Seat One to serve for a term of four (4) years; the candidate receiving the highest number of votes cast for Seat Two to serve for a term of four (4) years; and the candidate receiving the highest number of votes cast for Seat Three to serve for a term of two (2) years, and thereafter, commencing with the general election

to be held in November, 1994, three (3) commissioners shall be elected. The candidate receiving the highest number of votes cast for Seat Four to serve for a term of four (4) years, the candidate receiving the highest number of votes for Seat Five to serve for a term of four (4) years, the candidate receiving the highest number of votes cast for Seat Three, designated as the mayor/commissioner seat, to serve for a term of two (2) years. Thereafter in general elections to be held in November of each even numbered year, successful candidates for Seats One, Two, Four and Five shall be elected for a term of four (4) years and the successful candidate for Seat Three receiving the highest number of votes shall be elected for a term of two (2) years.

Commencing with the general election to be held in November 2020 and thereafter, the candidate receiving the highest number of votes cast for Seat Three to serve for a term of four (4) years, to be designated as a commissioner seat.

Section 2. Amendment to Part I, Article IV, Division 3, Section 4.09. Part I, Article IV, Division 3, Section 4.09 is hereby amended, as follows:

DIVISION 3. – MAYOR AND VICE-MAYOR

Sec. 4.09. - Election; powers and duties.

The mayor and vice-mayor shall be elected by the members of the city commission from their number. Any vacancy in the office of mayor or vice-mayor shall likewise be filled by the city commissioners by the election of one (1) of their number to serve as mayor or vice-mayor, as applicable, for the unexpired term. The ~~commissioner elected to Seat Three shall serve as~~ mayor ~~and~~ shall preside at all meetings of the commission and perform such other duties consistent with the office as may be imposed by it, and shall have a voice and vote in the proceedings of the commission but no veto power. The mayor may use the title of mayor in any case in which the execution of legal instruments of writing or other necessity arising from the general laws of the state so requires, but this shall not be considered as conferring the administrative or judicial functions of a mayor under the general laws of the state. The mayor shall be recognized as the official head of the city by the courts for the purpose of serving civil processes and for all ceremonial purposes. The powers and duties of the mayor shall be such as are conferred by the city commission in pursuance of the provisions of this Charter and no others. In the absence of the mayor, the ~~other members of the city commission shall select one of their number to~~vice-mayor shall perform the mayor's duties~~.~~, and in the absence of both the mayor and vice-mayor, other members of the city commission may be selected to perform those duties.

Section 3. Referendum Proposition. That the next special or general election of the City of St. Augustine, Florida, shall contain the following proposition:

"Shall the Charter Laws of the City of St. Augustine be amended to remove the designation of an elected mayor for a two (2) year term, and instead provide for the candidate to City Commission Seat Three to be elected to a four (4) year term as a commissioner, and to provide for the commissioners to select annually two (2) of their number to perform the duties of mayor and vice-mayor, respectively?"

"Insert Spanish Translation Here"

☐ Yes to the amendment

☐ No to the amendment

☐ Sí a la enmienda

☐ No a la enmienda

Section 4. Confirmation by Referendum Vote. Should the above Section not be confirmed by referendum ballot during the next special or general election, then said Section of this Ordinance shall be null and void and the corresponding Section of the City Charter shall remain as it was prior to the adoption of this Ordinance.

Section 5. Presidential Preference Election or Primary Election May Serve as Special Election. In the event that the Supervisor of Elections informs the City that the costs of the ballot question or questions will result in extraordinary fees if placed on the general election, the City may, consistent with F.S. 166.031(1), request that the Supervisor of Elections place the ballot question at a special election to coincide with the dates and times of the presidential preference election or the primary election.

Section 6. Inclusion in Charter. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Charter of the City of St. Augustine, that repealed language shall be removed and that the sections of this ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 7. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 9. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

ATTEST:

_____
Tracy W. Upchurch, Mayor-Commissioner

_____
Darlene Galambos, City Clerk
(SEAL)

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: October 3, 2019

RE: **ORDINANCE 2019-XX: RESIDENCY REQUIREMENTS FOR CITY COMMISSIONERS**

Please find attached Ordinance 2019-XX that amends the City Charter to provide for a residency requirement for City Commissioners of a period of one (1) year prior to the date of qualification for election and for continuous physical residency and voter registration within the City for the term of their office.

This proposed amendment requires a referendum proposition be placed on the ballot at the next special or general election of the City.

Please place Ordinance 2019-XX on the regular City Commission agenda for October 14, 2019 under Items of Great Public Importance for public comment, discussion, and direction.

Thank you.

Isabelle C. Lopez
City Attorney

Attachment

xc: Meredith Breidenstein, Assistant City Manager
Darlene Galambos, City Clerk

Agenda Title:

Amends Sec. 2.03 of the City Charter to provide for a residency requirement for City Commissioners of a period of one (1) year prior to the date of qualification for election and for continuous physical residency and voter registration within the City for the term of their office.

ORDINANCE NO. 2019-XX

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE II, SECTION 2.03 OF THE CHARTER OF THE CITY OF ST. AUGUSTINE TO PROVIDE FOR A RESIDENCY REQUIREMENT FOR CITY COMMISSIONERS OF A PERIOD OF ONE YEAR PRIOR TO THE DATE OF QUALIFICATION FOR ELECTION; PROVIDING FOR CONTINUOUS PHYSICAL RESIDENCY AND VOTER REGISTRATION WITHIN THE CITY FOR THE TERM OF OFFICE; PROVIDING FOR A REFERENDUM PROPOSITION FOR THE NEXT SPECIAL OR GENERAL ELECTION; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City's Charter has not been thoroughly revised since 1925, and the City Commission determined at its April 3, 2019 public workshop that a revision of its Charter was overdue; and

WHEREAS, the City's Charter does not currently provide a specific time period for residency of City Commissioners prior to qualification for election; and

WHEREAS, residency requirements of no more than one year immediately preceding qualifying for office have been upheld as reasonable, *Nichols v. State, 177 So.2d 467 (Fla. 1965); Daves v. City of Longwood, 423 F. Supp. 503 (1976)*; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amendment to Part I, Article II, Section 2.03. Part I, Article II, Section 2.03 is hereby amended, as follows:

Sec. 2.03. - Members of the city commission to be residents and electors; dual office-holding prohibition and ethics laws.

Members of the commission of the City of St. Augustine, shall ~~be residents of the city, and the members of the commission shall have the qualifications of electors therein~~have been residents and qualified electors of the City of St. Augustine for a period of one (1) year prior to the date of qualification for election, or appointment to fill a vacancy on the city commission as a result of the death, resignation or disqualification of a city commissioner. Once elected, city commissioners must maintain physical residency and voter registration in the city throughout their terms of office. The prohibition against dual office-holding and the regulation of public ethics shall be as required pursuant to Florida law.

Section 2. Referendum Proposition. That the next special or general election of the City of St. Augustine, Florida, shall contain the following proposition:

"Shall the Charter Laws of the City of St. Augustine be amended to require that a candidate for election to the City Commission be a resident and qualified elector of the City of St. Augustine for a period of one (1) year prior to the date of qualification for election, or appointment to fill a vacancy on the city commission as a result of the death, resignation or disqualification of a city commissioner and once elected, must maintain physical residency and voter registration in the city throughout their terms of office?"

"Insert Spanish Translation Here"

☐ Yes to the amendment

☐ No to the amendment

☐ Sí a la enmienda

☐ No a la enmienda

Section 3. Confirmation by Referendum Vote. Should the above Section not be confirmed by referendum ballot during the next special or general election, then said Section of this Ordinance shall be null and void and the corresponding Section of the City Charter shall remain as it was prior to the adoption of this Ordinance.

Section 4. Presidential Preference Election or Primary Election May Serve as Special Election. In the event that the Supervisor of Elections informs the City that the costs of the ballot question or questions will result in extraordinary fees if placed on the general election, the City may, consistent with F.S. 166.031(1), request that the Supervisor of Elections place the ballot question at a special election to coincide with the dates and times of the presidential preference election or the primary election.

Section 5. Inclusion in Charter. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Charter of the City of St. Augustine, that repealed language shall be removed and that the sections of this ordinance may be re-numbered

or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 6. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 8. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

_____
Tracy W. Upchurch, Mayor-Commissioner

ATTEST:

_____
Darlene Galambos, City Clerk
(SEAL)

BACKUP INFORMATION

Guidelines for Determining When Residency Qualifications for Elected Office Must be Met

DE Reference Guide 0008 (Updated 10/2018)

These guidelines are for reference only. They are not to be construed as legal advice or representation. For any particular set of facts or circumstances, refer to the applicable state, federal law, and case law, and/or consult a private attorney before drawing any legal conclusions or relying upon this information.

Residency requirements – General Overview

- **In general.** Unless otherwise provided for constitutionally, legislatively or judicially, any residency requirement for an elected office must be met at the time of assuming office. (For example, the Governor must have resided in the state for 7 years by time of election. *See* s. 5, Art. IV, Fla. Const.)
- **Oath.** State law requires that all candidates at the time of qualifying subscribe to an oath (s. 99.021, F.S.) that they are qualified electors of their county. In order to be a qualified elector, one must be a resident of Florida and the county wherein he or she registers to vote. The oath also provides that the candidate is qualified for the office being sought. However, this oath is considered prospective in nature – it becomes effective at the time of assuming office, unless otherwise provided for constitutionally, legislatively or judicially. *See Davis v. Crawford*, 116 So. 41 (Fla. 1928); *State v. Haskell*, 72 So. 651 (Fla. 1916).
- **Continuous residency.** Any residency requirement for an office is a continuous one. Failure to maintain the residency throughout the term results in vacancy in office. *See* generally s. 3, Art. X, Fla. Const. and s. 114.01(1)(g), F.S. In absence of a statute, constitutional provision, or municipal ordinance that establishes a residency requirement, failure to establish or maintain residency alone does not trigger a vacancy in office. *See* AGO 75-113; AGO 88-11 (exception for redistricting).

Residency requirements – Specific Offices

- **The following represent situations where the law addresses when residency requirements must be met for candidates and elected officials.**

➢ City Commissioner

- **At the time of assuming office, unless provided otherwise by city charter or ordinance.**
- *See* DE 94-04; DE 92-10; *Nichols v. State,* 177 So.2d 467 (Fla. 1965) & *Marina v. Leahy*, 578 So.2d 382 (Fla. 3rd DCA 1991)(re: reasonable durational residency requirements).

➢ Congressional Members (U.S. Senators and U.S. Representatives)

- Must be an inhabitant of the state when elected. (ss. 2 & 3, Art.1., U.S. Constitution)
- States have no authority to add residency requirements to federal offices.
- Questions about residency relating to a U.S. Senator or U.S. Representative should be directed to the respective Congressional chamber which has *exclusive* jurisdiction over the qualifications including the residency of its membership. *See* s. 5, Art. I., U.S. Constitution.
- Addresses: Clerk of U.S. House of Representatives, U.S. Capitol, Room H154, Washington, DC 20515–6601; phone: (202) 225–7000; Secretary of the Senate, United States Senate, Washington, D.C. 20510; phone: (202) 224-3121.

➢ County Commissioner

- **At the time of election.**
- *See State v. Grassi*, 532 So.2d 1055 (Fla. 1988); s. 1(e), Art. VIII, Fla. Const.; DE 92-10, DE 94-04; & AGO 74-293.

➢ Constitutional County Officers (*e.g.*, clerk of court, supervisor of elections, property tax appraiser, sheriff[1], *etc.*)

- **At the time of assuming office.**
- By analogy, *see Advisory Opinion to Governor*, 192 So.2d 757 (Fla. 1966); DE 90-30, DE 92-10, & DE 94-04 (no minimum residency requirements set out in Florida Constitution but there may be county charters that mandate some durational residency).

➢ Governor, Lieutenant Governor, and Cabinet Members

- **At the time of election.**
- Must be resident of State for preceding seven years. *See* s. 5, Art. IV, Fla. Const.

➢ Judges

- **At the time of assuming office.**
- By analogy, see *Advisory Opinion to Governor,* 192 So.2d 757 (Fla. 1966); DE 94-04, & DE 78-31; s. 8, Art. V, Fla. Const. (justice/judge must be elector of state and reside in territorial jurisdiction of court).

➢ Legislators (state senators and representatives)

- **At the time of election.**
- A legislator assumes office on Election Day (*Ruiz v. Farias*, 43 So. 3d. 124, 127 (Fla. 3DCA 2010)).
- *See* s. 15, Art. III, Fla. Const. (for qualifications, including residency). A legislator must be resident of district 'from which elected' and be a resident in state for two years prior to election.
- Further questions about residency should be directed to the respective Florida legislative chamber which has *exclusive* jurisdiction over the qualifications of its members. Senate and House Joint Rule 7.1, which addresses residency, in part, provides: "A member shall be a legal resident and elector of his or her district at the time of election and shall maintain his or her legal residence within that district for the duration of his or her term of office. While a member may have multiple residences, he or she shall have only one legal residence." The rule further provides a non-exclusive list of factors for considering residency. Each member must file a written statement of residency with the respective chamber.

➢ School Board Member

- **At the time of qualifying.**
- *See* ss. 1001.34 & 1001.361, F.S..; and DE 82-02 & 94-04. Note: s. 1000.361 was formerly 230.10, F.S.

➢ School Superintendent

- **At the time of assuming office.**
- *See* DE 94-04; s. 1001.463, F.S.., failure to maintain residency results in vacancy (implies residency requirement); s. 5, Art. IX, Fla. Const. (4-yr term); s. 1001.46, F.S. (elected); s. 1001.461, F.S. (appointed).

➢ Write-in Candidate

- **Refer to particular office listed above.**

Residency Questions

- Any questions regarding residency requirements for officials *not* expressly stated in the Florida Election Code should be addressed to the Florida Attorney General's Office.

Sources: Advisory opinions for Division of Elections (http://dos.myflorida.com/elections/); Attorney General Opinions (http://myfloridalegal.com); statutes, constitutions, and case law.

[1] For Sheriff residency, see DE 18-11 (No residency requirements exist for a county sheriff other than those required by being a qualified elector, *i.e.*, being a legal resident of Florida and of the county in which the sheriff is registered to vote.)

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: Isabelle Lopez, City Attorney

DATE: April 4, 2019

RE: **NON-RESIDENT VOTING IN MUNICIPAL ELECTIONS**

Isabelle, you have asked for a short summary of the law relating to non-city residents voting in municipal elections.

The Florida Constitution provides municipalities "governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services."[1] However, that power is limited "as otherwise provided by law."[2] As an initial matter, the chapter of the Florida Statutes that governs municipalities states that any person who is a resident of a municipalities and qualifies as an elector in the state of Florida and who registers to vote shall be a qualified elector of the municipality.[3] The Florida Election Code[4] preempts qualification and registration of electors to the state.[5] Further, the Florida Election Code specifically preempts any municipal provision that conflicts with or exempts a municipality from any provision in the Florida Election Code that expressly applies to municipalities.[6] The Legislature created a permanent single registration system for the registration of electors, and that system "shall be put into use by all municipalities and shall be in lieu of any other system of municipal registration."[7] The Florida Supreme Court has ruled that this provision means that only residents of a municipality may vote in municipal elections[8] and that there is a general policy in this state against nonresident participation in municipal elections.[9] Therefore, while the federal constitution does not prohibit non-resident voting in municipal elections, and other states may allow it,[10] the City of St. Augustine may not extend voting rights to non-residents by Charter in accordance with state law.

Thank you,

/s/ John M. Cary
John M. Cary
Assistant City Attorney

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[1] Fla. Const., Art. VIII, Sec. 2(b).
[2] *Id.*
[3] S. 166.032, F.S.
[4] The Florida Election Code includes chapters 97 through 105 of the Florida Statutes.
[5] S. 97.0115, F.S.
[6] S. 100.3605, F.S.
[7] S. 97.105, F.S.
[8] *Town of Indian River Shores v. Richey*, 348 So.2d 1 (Fla. 1977).
[9] *Barndollar v. Sunset Realty Corp.*, 379 So.2d 1278 (Fla. 1979).
[10] See, e.g., *May v. Town of Mountain Village*, 132 F.3d 576 (10th Cir. 2009).

423 F.Supp. 503
United States District Court, M. D. Florida,
Orlando Division.

Robert N. DAVES, Plaintiff,
v.
CITY OF LONGWOOD, and Onnie R. Shomate, Defendants.

No. 76-499-Orl-Civ-R.
|
Nov. 29, 1976.

Synopsis

Plaintiff sought declaratory judgment as to constitutionality of one-year residency requirement for candidacy for city council, and mandatory injunction requiring inclusion of plaintiff's name on list of qualified candidates. Following consolidated hearing on application for preliminary injunction and trial on the merits, the District Court, Reed, J., held that special act imposing such requirement did not deny equal protection.

Complaint dismissed.

Attorneys and Law Firms

***504** John B. Liebman, of Carlton, Fields, Ward, Emmanuel Smith & Cutler, P. A., Orlando, Fla., for plaintiff.

Ned N. Julian, Jr., Franklin C. Whigham, of Stenstrom, Davis & McIntosh, Sanford, Fla., for defendants.

ORDER AND MEMORANDUM OPINION

REED, District Judge.

This cause came before the court on a motion for preliminary injunction to enjoin the holding of the forthcoming elections of the City of Longwood, Florida, without the inclusion of the plaintiff's name on the ballot for city council. During the hearing, counsel for the plaintiff asked the court to consolidate the hearing with the trial on the merits. Because of the shortness of time between the preliminary hearing and the date set for the election, the court has concluded that consolidation is appropriate and will treat the hearing on the application for preliminary injunction as the trial on the merits. See Rule 65(a)(2), Fed.R.Civ.P.

The plaintiff sues the City of Longwood and the City Clerk. The relief sought is a declaratory judgment declaring the one year residency requirement for candidacy for the city council of Longwood to be unconstitutional and a mandatory injunction requiring the plaintiff's name to be included among the list of qualified candidates for city council election scheduled for 7 December 1976.

The one year residency requirement is embodied in a 1969 special act passed by the Florida Legislature relating to the City of Longwood. It is stipulated by the plaintiff and the defendants that the plaintiff is qualified to run for the city council except for the residency requirement. According to his complaint, the plaintiff moved to the City of Longwood on 1 April 1976.

It should be noted that the statute in question also requires as a qualification for becoming a candidate the ownership of real property within the city. This requirement is not in issue before the court. The city has evidently abandoned property ownership as a qualification. The only issue before the court is whether or not the statute in question may constitutionally require a one year residency within the city after qualifying to vote therein as a qualification on one's right to seek election to the position of city council.

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Longwood is a municipality in Seminole County, Florida. According to the testimony of the City Clerk, the city has a population of 6,373 persons which includes 2,706 registered voters. The city council consists of five members who are elected by the entire voting populace of the city. A council member's term is two years and the salary is $2,600.00 per year. The city council is the legislative branch of the city's government. It establishes the city's budget and votes on other matters of legislative concern. The budget which has been set for its current fiscal year which began on 1 October 1976 is $600,000.00.

While the jurisdictional allegations in the complaint are not such as to indicate strict compliance with the Rules of Civil Procedure, it appears to the court from the evidence and the allegations in the complaint that the court has jurisdiction over the *505 cause as to the City of Longwood under 28 U.S.C. s 1331. Because of the size of the budget and the revenues that could be generated over an extended period of service on the city council, it is reasonable to assume that the amount in controversy exceeds the sum of $10,000.00. Additionally the court has jurisdiction over the subject matter, to the extent that it relates to the City Clerk, under 42 U.S.C. s 1983 and 28 U.S.C. s 1343.

The issue presented to the court in more specific terms is whether or not the statute referred to above, to the extent that it requires one to be a resident of the City of Longwood for a period of one year as a condition to becoming a candidate for city council, denies the plaintiff equal protection of the law. The statute requires that the candidate be qualified to vote under the general election laws of the State of Florida, be registered to vote in the City of Longwood, and thereafter a one year residency. The general election laws of the State of Florida do not require a durational residency requirement as a condition to registering to vote. See s 97.041, F.S.A. Therefore, the relationship between the registration requirement in the statute under attack and the general election laws of Florida does not extend the durational residency requirement for a candidate. Presumably a newcomer to the City of Longwood, if he were a permanent resident of the State of Florida, could immediately register to vote under the general election laws of Florida and thus become a qualified and registered voter of the City of Longwood and a qualified candidate one year later. The only exception to this would occur if the individual sought to register when the voter registration books are closed. (Florida law permits the books to be closed for a period of thirty days prior to general elections and five days thereafter. See s 98.051(3), F.S.A.)
The initial problem facing the court is the appropriate standard by which the statute should be reviewed. The traditional standard employed in equal protection cases is expressed in McGowan v. Maryland, 1961, 366 U.S. 420, 425, 81 S.Ct. 1101, 1105, 6 L.Ed.2d 393. There the Court held that the equal protection clause is violated only if the statutory classification rests on ". . . grounds wholly irrelevant to the achievement of the State's objective. . . . A statutory discrimination will not be set aside if any state of facts reasonably may be conceived to justify it. . . ."

A different standard for review has been applied in cases where the questioned legislation seriously encroached on what might be considered fundamental rights of citizenship or which created for legislative purposes what are thought to be suspect classifications. Where either of these factors is present a more stringent standard may be applied to measure the constitutionality of the statute in question. For example in Shapiro v. Thompson, 1969, 394 U.S. 618, 634, 89 S.Ct. 1322, 1331, 22 L.Ed.2d 600, the Court held that any classification ". . . which serves to penalize the exercise of that right (the right to move from state to state), unless shown to be necessary to promote a compelling governmental interest, is unconstitutional . . .". (Emphasis added.) The requirement to show necessity under that standard is so difficult to meet that its application conceivably could judicially annul a large segment of the legislature's work product. Hence caution is indicated in the finding of the predicate to support the standard. The Fifth Circuit has rejected the use of this method of review in a number of recent cases. See Tyler v. Vickery, CA5, 1975, 517 F.2d 1089 (challenge by blacks to the constitutionality of the Georgia bar examination); Muzquiz v. City of San Antonio, CA5, 1975, 520 F.2d 993 (attack by city police and firemen on city operated pension plan) and Parrish v. NCAA, CA5, 1975, 506 F.2d 1028 (student athletes' challenge to NCAA rule limiting athletic scholarships).

> ***506** "Because the Texas filing-fee scheme has a real and appreciable impact on the exercise of the franchise, and because this impact is related to the resources of the voters supporting a particular candidate, we conclude, as in Harper, that the laws must be 'closely scrutinized' and found reasonably necessary to the accomplishment of legitimate state objectives in order to pass constitutional muster."

The Court indicated, however, that not every statutory limitation on the right to run requires a review by such a stringent standard.

The turning point of the Bullock case was the impact which the fee system had on candidates and their supporters because of their inability to pay. Thus the Bullock case may be looked upon as one involving a suspect classification.

In the case of Henderson v. Fort Worth Independent School District, 1976, 526 F.2d 286, 292, the Fifth Circuit had before it a local requirement that a candidate for the Fort Worth School Board be a qualified voter resident in the district for a period of three years. Under Texas law at the time of the decision one was required to be a resident in the state for one year before he became eligible for registration. The court, therefore, concluded that a person moving into Texas from another state would be required to wait a minimum period of four years before qualifying as a candidate for the school board. The Fifth Circuit applied a strict standard of review and held the statute unconstitutional. The court said:

> ". . . section 7 denies access to what must be assumed is a significant number of potential school board candidates, and on that basis the statute's impact on voters is substantial. . . ."

The statute here in question, like that in the Henderson case, does impose registration as a requirement, but that requirement does not operate to extend the one year period of residency as did the analogous requirement in Henderson. The present statute, unlike that involved in the Bullock case, does not impact differently on one economic group than on another. Nor does the statute impose such a lengthy period of residency that it may be presumed to preclude a substantial number of potential candidates and thus impact significantly on the registered voters of the city. Hence the statute creates no suspect classification. The imposition of a reasonable residency requirement as a qualification for candidacy to a significant office does not interfere with fundamental rights. As the Fifth Circuit recently pointed out, the Constitution itself adopts certain durational residency requirements for various offices. See Woodward v. City of Deerfield Beach, CA5, 1976, 538 F.2d 1081. This court, therefore, concludes that the statute should be reviewed by the traditional standard. That is to say the statute should be upheld if it bears a reasonable relationship to a legitimate governmental interest.

A residency requirement such as here in question serves reasonably to assure that the candidate will be a bona fide resident of the city he seeks to represent, will have been there long enough to know the issues confronting the city, and will be known by the voters. To promote these qualities in a candidate is a legitimate objective of the state. The residency requirement reasonably tends to secure their attainment. The statute is, therefore, constitutional insofar as the residency requirement is concerned.

For the foregoing reasons, the plaintiff has failed to demonstrate his entitlement to relief and the complaint is dismissed with prejudice.

All Citations

423 F.Supp. 503

End of Document

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616 So.2d 1165
District Court of Appeal of Florida,
Second District.

BOARD OF COMMISSIONERS OF SARASOTA COUNTY, Florida, and Joanne E. Koester, as Supervisor of Elections of Sarasota County, Appellants,

v.

Stephen B. GUSTAFSON, Appellee.

No. 92–02073.
|
April 16, 1993.

Synopsis

Candidate for office of county sheriff sought declaratory judgment invalidating requirement that candidates for elected office be residents of county for two years immediately prior to qualifying for election. The Circuit Court, Sarasota County, Scott M. Brownell, J., found violation of equal protection clause. Board of commissioners and supervisor of elections appealed. The District Court of Appeal, Campbell, Acting C.J., held that requirement was not necessary to compelling state interest and, therefore, violated equal protection clause.

Affirmed.

Attorneys and Law Firms

***1166** Jorge L. Fernandez, **County** Atty., and H. Ray Allen and Maria D. Korn, Asst. **County** Attys., **Sarasota**, for appellants.

Robert E. Turffs of Kanetsky, Moore & DeBoer, P.A., Venice, for appellee.

Opinion

CAMPBELL, Acting Chief Judge.

In this case, we are asked to determine whether a county may require candidates for elected county office to be residents of that county for two years immediately prior to qualifying for the election. The trial court found that the two-year period was not shown to be necessary to the county's stated goal of ensuring an informed electorate and informed candidates, and that, consequently, the requirement violated the equal protection clause. We agree.

Apparently, there had been some public concern in Sarasota County that, due to the mobile nature of the community, not only were voters not able to adequately familiarize themselves with the candidates, but some candidates did not have sufficient knowledge of or commitment to Sarasota County to properly serve the county. In response, the Sarasota County Charter Review Board placed Ordinance 90–69, containing the two-year durational residency requirement at issue here, before the voters. Eighty-three percent of those who voted did so in favor of the amendment, which then became section 6.6 of the Sarasota County Charter. The adopted charter amendment read, in pertinent part, as follows: "Anyone who wishes to qualify for a position that does not require residency within a specific district must have been a Sarasota County resident for two (2) years immediately prior to qualification."

Appellee, a declared candidate for the office of Sheriff of Sarasota County, challenged the amendment by filing a three-count complaint, naming as defendants the appellants here and requesting declaratory and injunctive relief.

The trial court denied appellee's request for injunctive relief, but in a subsequent order, declared the ordinance unconstitutional, finding the right to run for public office "inextricably entwined" with the fundamental right to travel. The court, using an equal protection analysis, applied the rational basis test and found that although ***1167** the county had shown that the residency restriction was based on reasonable and legitimate governmental interests, the county had failed to "show the inadequacy of alternative and less restrictive methods of achieving its goal."

On appeal, appellants, the Sarasota Board of County Commissioners and the Supervisor of Elections, argue that the two-year candidate durational residency requirement did not violate the equal protection clause. It is their position that the traditional equal protection analysis should be applied to such requirements. Under the traditional approach, the legislation may be upheld unless it is "patently arbitrary" and bears no rational relationship to a legitimate governmental interest. *Frontiero v. Richardson,* 411 U.S. 677, 683, 93 S.Ct. 1764, 1768, 36 L.Ed.2d 583, 589 (1973). Appellants argue that the ordinance here had a legitimate legislative purpose: To protect the integrity of the political process. Appellants contend that once a residency requirement is found justified, the precise time period selected need only fall within a reasonable range. Appellee takes the opposite position, arguing that candidate durational residency provisions should be given strict scrutiny. Under the strict scrutiny standard, any legislation that seriously affects fundamental rights or a suspect class must be shown to be necessary to promote a compelling governmental interest in order to be upheld. [1] If neither a fundamental right nor a suspect class is involved, however, the traditional analysis is applied. Appellee takes the position that candidate durational residency requirements seriously affect the fundamental right to travel. Alternatively, appellee argues that even if the traditional rational basis test is applied, the provision at issue in this case still violates the equal protection clause.

While this provision, a two-year durational residency requirement for candidates for elected office, does not affect a suspect class (*United States v. Carolene Products Co.* 304 U.S. 144, 152–153, n. 4, 58 S.Ct. 778, 783–784, 82 L.Ed. 1234, 1242 (1938) [suspect class described as "discrete and insular minority"]; *Frontiero,* 411 U.S. 677, 686, 93 S.Ct. 1764, 1770, 36 L.Ed.2d 583, 591 (1973) [suspect class said to bear an "immutable characteristic determined solely by the accident of birth"]), a similar two-year candidate durational residency requirement has been held to seriously infringe on the fundamental right to travel and thus to violate the protections of the equal protection clause. *Green v. McKeon,* 468 F.2d 883, 884 (6th Cir.1972). Since *Green* is not controlling authority, however, we feel compelled to examine the reasoning employed in *Green* and other cases in order to reach our decision.

Our review of those cases leads us to believe that it is not the existence of the candidate durational residency requirement, by itself, that seriously infringes on a fundamental right so as to require application of strict scrutiny; rather, it is the length of the durational residency requirement that determines which equal protection analysis will be applied. Accordingly, a fundamental right is not considered seriously infringed so as to require a strict scrutiny analysis unless the candidate durational residency requirement is deemed excessive. *Treiman v. Malmquist,* 342 So.2d 972 (Fla.1977); *Marina v. Leahy,* 578 So.2d 382 (Fla. 3d DCA 1991); *Daves v. City of Longwood,* 423 F.Supp. 503 (M.D.Fla.1976). Conversely, a candidate durational residency requirement that is deemed reasonable is not considered to seriously infringe using the traditional equal protection analysis. While this method of considering an equal protection challenge would appear, at first blush, to be putting the cart before the horse, in actuality, it places the emphasis where it should be, on the magnitude of the legislation's effect on the fundamental right or suspect class. Only serious infringements merit resort to the compelling interest test.

***1168** Applying these principles to the instant case, we ask first whether a two-year candidate residency requirement is reasonable. We agree with the trial court that it is not. The evolution of communication and transportation that allows individuals to move easily between communities and states renders such a two-year residency requirement particularly onerous. Appellants could identify no reason for setting the period at two years. There was no evidence that candidates would be any more familiar with county issues for having lived in the county for the preceding two years. In fact, in explaining how the Charter Review Board arrived at the two-year term, as opposed to a three-year or a five-year term,

one of its members testified on cross-examination that it was a "judgmental [sic] call. It's not carved in stone anywhere." As the trial court observed in its written order:

> The Court finds that the County has failed to provide any proof that the residency requirement sub judice has any beneficial effect toward the stated goal of improved knowledge of the candidates by the voter and improved knowledge of the County by the candidate. No proof was adduced to demonstrate why two years was better than one, or better than six months. No proof was adduced that a two year restriction was effective at all.

Having agreed with the trial court that the two-year term is unreasonable, we necessarily must apply strict scrutiny to this durational residency requirement. Pursuant to that standard, the residency requirement cannot be upheld unless it is necessary to a compelling state interest. As set forth above, appellants clearly have failed to show that the requirement was reasonable. They certainly have not shown it to be necessary to a compelling state interest. It has become an established part of public life that residency is not a requirement in those situations where government entities rely on nationwide talent searches to fill key government executive positions. Appellants have not only failed to show why two years is necessarily better than one year or even one day, they have failed to show the inadequacy of alternative or less restrictive methods that would accomplish their stated objective.

We conclude that the trial court was correct that the two-year durational residency requirement here violates the equal protection clause and, accordingly, affirm.

SCHOONOVER and HALL, JJ., concur.

All Citations

616 So.2d 1165, 18 Fla. L. Weekly D1001

Footnotes

1 Close scrutiny is required where the restriction has "a real and appreciable impact on the exercise of the franchise." *Bullock v. Carter,* 405 U.S. 134, 144, 92 S.Ct. 849, 856, 31 L.Ed.2d 92, 100 (1972).

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CHARTER AND CODE CITY OF ST. AUGUSTINE BEACH, FLORIDA

ARTICLE I. - IN GENERAL

Sec. 1-4. - Elective officers.

(b) The mayor and vice-mayor shall be elected by the members of the city commission from their number and the term of office of the mayor and vice-mayor shall be for one (1) year beginning January first of each year and continuing until January first of the succeeding year. Any vacancy in the office of mayor or vice-mayor shall likewise be filled by the city commissioners by the election of one (1) of their number to serve as mayor or vice-mayor, as applicable, for the unexpired term. No member of the commission shall be elected as mayor by the members of the city commission to serve more than two (2) consecutive terms. This subsection shall not be interpreted to preclude a city commissioner from serving as mayor for more than two (2) nonconsecutive terms.

Mayor selected among members.

CODE OF ORDINANCES CITY OF FERNANDINA BEACH, FLORIDA

CITY COMMISSION

Sec. 16. - Mayor—When selected; procedure; term.

(a) In case the members of the Commission are unable to agree on the selection of Mayor, at the time fixed in the Code of Ordinances for the Commission's annual organization meeting, then the Mayor shall be chosen by lot, conducted by the city attorney, who shall certify the result of such lot upon the journal of the commission.

(b) The mayor shall serve a term of two (2) years to coincide with the municipal general election beginning in 2018, unless sooner removed from office by the City Commission as provided below in subsection (c).

(c) The City Commission may, by majority vote and for any reason, remove the Mayor from office and appoint another incumbent commissioner to serve as Mayor for the remainder of the two (2) year term. The person removed from the office of Mayor shall continue to serve as commissioner until the end of their current term as commissioner unless otherwise prohibited from serving as commissioner by state law.

5 commissioners, all elected at large. Commissioners choose a mayor from their membership. No greater powers than other commissioners except for administrative and ceremonial.

GREEN COVE SPRINGS CITY CODE

ARTICLE II. - CITY COUNCIL

Section 2.05. - Organization and selection of certain officers.

After each regular or special election for council member[s], the council shall meet and elect from among their number a mayor and vice-mayor who shall perform the duties of such offices for one (1) year or until his successor is duly elected.

5 commissioners elected city-wide. Mayor elected among members.

CODE OF THE CITY OF MARGATE, FLORIDA

ARTICLE III. – LEGISLATIVE

Section 3.07. - Mayor and Vice-Mayor.

The City Commission shall, at a Commission meeting in November or as soon as practicable thereafter, elect from among its members a Mayor who shall serve for one (1) year. The Mayor, if so elected by the City Commission, may serve another one (1) year in the same office for a total not to exceed two (2) years in succession. The Mayor shall preside at meetings of the Commission and shall be recognized as head of City

government for all ceremonial purposes; by the Governor for purposes of military law and civil disaster; for execution of contracts, deeds and other documents as provided for in Article IV, Section 4.10; for service of process; and as the City official designated to represent the City in all agreements with other governmental entities or certifications to other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein. The Vice-Mayor shall be chosen in the same manner as the Mayor and may serve up to a total of two (2) successive terms if chosen by the City Commission. The Vice-Mayor shall act as mayor during the absence or disability of the Mayor. Should both the Mayor and Vice-Mayor not be present at a Commission meeting, the member of the Commission with greatest longevity shall preside at the meeting.

Mayor selected among members.

CODE OF ORDINANCES CITY OF PALM COAST, FLORIDA

ARTICLE IV. - CITY COUNCIL.

(1) City Council: composition; qualifications for office.

(a) Composition.

1. There shall be a five member City Council consisting of four District members and a Mayor.
2. There shall be four districts within the City, the boundaries of which are as outlined in Article VIII. These districts shall be designated as District One, District Two, District Three, and District Four. Each of the four Council members shall run from the district in which they live, but be elected at-large; and, the Council members elected from each district shall be considered to hold Seat One, Seat Two, Seat Three, and Seat Four.
3. The Mayor shall live within the City boundaries. The Mayor shall run at-large, and be elected at-large.

4 districts and an at-large elected mayor. No greater powers than other commissioners except for administrative and ceremonial.

CODE OF ORDINANCES CITY OF DAYTONA BEACH, FLORIDA

ARTICLE IV. - CITY COMMISSION

Sec. 8. - Election, term, qualifications, etc., of commissioners; mayor.

The elective officers of the city shall be six (6) commissioners and a mayor. The mayor elected in 2007 shall serve a term ending in 2012. Commissioners from zones 1, 3, and 5, elected in 2005 shall serve terms ending in 2010. Commissioners from zones 2, 4, and 6, elected in 2007 shall serve terms ending in 2012. Thereafter, the mayor and commissioners shall be elected to terms of four (4) years. One commissioner shall reside in each of the zones of said city as said zones are designated in Section 2 of this Charter. No person may qualify to run for the office of commissioner except from the zone in which he is a bona fide resident continuously for at least six (6) months immediately prior to the first day of the qualification period for office and be a qualified elector. Candidates for the office of mayor shall be bona fide residents of the city for at least six (6) months immediately prior to the first day of the qualification period and be qualified electors in any of said zones. If the mayor or any commissioner ceases to possess any one of the qualifications set forth herein, the office shall thereupon become immediately vacant. Each qualified elector of said city shall have the right to vote for one candidate for mayor, and shall further have the right to vote for one candidate for the city commission from the zone in which the elector is qualified to vote. No person may qualify for both the office of commissioner and the office of mayor in the same election. The mayor and commissioners elected under this section shall take office on the second Wednesday after the first Monday in November after their election as provided under this Charter and shall hold office to the expiration of their terms as provided above or until their successors are elected and qualified under the provision of this Charter if that be later.

6 districts and an at-large elected mayor. No greater powers than other commissioners except for administrative and ceremonial.

CODE OF ORDINANCES CITY OF DELTONA, FLORIDA

SECTION 5. - CITY COMMISSION.

(1) City Commission: Composition; Qualifications for Office.

(a) *Composition.*

1. There shall be a seven-member City Commission, consisting of a Mayor and six Commissioners each elected from and representing the district in which he or she resides, and with the Mayor elected from and representing the City at large regardless of the district in which he or she resides. For purposes of proper interpretation of this Charter, unless the context otherwise requires, the term "Commissioner" shall be construed to include the Mayor.
2. There shall be six districts within the City, the boundaries of which are as outlined in section 9(2), to be designated as District One (1), District Two (2), District Three (3), District Four (4), District Five (5), and District Six (6). The Commissioners elected from and representing these districts shall hold District Seats one to six respectively. The remaining Commission seat shall be designated as the "Mayor's Seat."

6 districts and an at-large elected mayor. No greater powers than other commissioners except for administrative and ceremonial.

ORMOND BEACH, FLORIDA CODE OF ORDINANCES

ARTICLE III. - LEGISLATIVE

Sec. 3.05. - Mayor and deputy mayor.

The mayor shall be an elector of the city, and shall be elected to serve a two-year term by the electors of the city.

The city commission shall, by a majority vote, elect one (1) of its members to be deputy mayor at the second regular city commission meeting in November of each even-numbered year.

The mayor shall preside at city commission meetings, shall be recognized as the head of city government for all ceremonial purposes, by the governor for purposes of military law, for service of process, execution of contracts, deeds and other documents, and as the city official designated to represent the city in all agreements with other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein. The deputy mayor shall act as mayor during the absence or disability of the mayor, and during a vacancy in the office of mayor until such vacancy is filled in accordance with Section 3.07 of this Charter.

4 districts and an at-large elected mayor. No greater powers than other commissioners except for administrative and ceremonial.

CHARTER CITY OF COCOA, FLORIDA

ARTICLE III. - CITY COUNCIL AND MAYOR

Section 5. - Mayor.

(a) The mayor shall preside at all meetings of the city council and shall have a voice and a vote in the proceedings of the city council. When authorized by the city council, and unless otherwise lawfully delegated to the city manager or provided by this Charter or by law, the mayor shall execute all written instruments to which the city is a party including, but not limited to, deeds, bonds, plats, and contracts.

(b) The mayor shall be the head of the city government for ceremonial purposes, for the purposes of service by civil process, and for the purpose of martial law.

(c) The mayor shall perform such other duties as may be imposed by the city council, to the extent such duties are consistent with the provisions of the Charter.

4 districts and an at-large elected mayor. No greater powers than other commissioners except for administrative and ceremonial.

CODE OF ORDINANCES CITY OF ROCKLEDGE, FLORIDA

ARTICLE II. - CITY COUNCIL

Section 2.03. - Mayor.

At a regular election a mayor shall be elected for a term of three years. The mayor shall be a voting member of the city council, represent the city in intergovernmental relationships, and perform other duties specified by the city council. The mayor shall be recognized as head of the city government for all ceremonial purposes and by the governor for purposes of military law but shall have no administrative duties. The city council shall elect from among its members a deputy mayor who shall act with full authority as mayor during the absence or disability of the mayor.

6 districts and an at-large elected mayor. No greater powers than other commissioners except for administrative and ceremonial.

THE CODE OF THE CITY OF ST. AUGUSTINE, FLORIDA

DIVISION 3. - MAYOR

Sec. 4.09. - Election; powers and duties.

The commissioner elected to Seat Three shall serve as mayor and shall preside at all meetings of the commission and perform such other duties consistent with his office as may be imposed by it, and he shall have a voice and vote in the proceedings of the commission but no veto power. He may use the title of mayor in any case in which the execution of legal instruments of writing or other necessity arising from the general laws of the state so requires, but this shall not be considered as conferring upon him the administrative or judicial functions of a mayor under the general laws of the state. He shall be recognized as the official head of the city by the courts for the purpose of serving civil processes by the government in the exercise of military law and for all ceremonial purposes. He may take command of the police and govern the city by proclamation during times of grave public danger or emergency. The powers and duties of the mayor shall be such as are conferred upon him by the city commission in pursuance of the provisions of this Charter and no others. In the absence of the mayor, the other members of the city commission shall select one of their number to perform his duties.

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177 So.2d 467
Supreme Court of Florida.

Ted NICHOLS et al., Appellants,
v.
STATE of Florida upon the relation of Leslie BOLON, Appellee.

No. 34080.
|
July 14, 1965.

Synopsis

Action by unsuccessful candidate for city commissioner challenging qualifications of successful candidate. The Circuit Court, Brevard County, Wm. G. Akridge, J., entered temporary order enjoining city from administering oath of office to successful candidate and denied his motion to dissolve injunction, and he appealed. The Supreme Court, O'Connell, J., held that statutory provision that city commissioners should be freeholder electors of city for at least one year immediately preceding their qualifying for office was not beyond authority of legislature and was not unreasonable.

Order affirmed.

Attorneys and Law Firms

***468** Palmer W. Collins, Indian Harbour Beach, for appellant.

Eli H. Subin, of Roth, Segal & Levine, Orlando, and W. J. Vaughn, Melbourne, for appellee.

Opinion

O'CONNELL, Justice.

In this interlocutory appeal we are asked to declare unconstitutional that portion of Chapter 29279, Special Acts of 1953, which requires that the City Commissioners of the City of Melbourne shall have been '* * * freeholder electors of the city for at least one year immediately preceding their qualifying for office * * *.'

Appellant, Ted Nichols, and appellee, Leslie Bolon, were opposing candidates for the office of City Commissioner of the City of Melbourne. Nichols was elected, but before he was seated Bolon brought suit in circuit court challenging Nichols' qualifications. On petition of Bolon the circuit court issued a temporary order enjoining the City from administering the oath of office to Nichols. Nichols moved to dissolve the injunction on the ground that the provision of the city charter, inserted therein by ch. 29279, supra, was unconstitutional. The chancellor denied the motion, holding the statute to be valid. This appeal followed.

It is not disputed here that Nichols had not been a freeholder elector of the City for one year prior to his qualifying for office.

Mr. Nichols' argument seems to be that Section 5, Article VI of the Florida Constitution, F.S.A., which directs the Legislature to exclude from 'every office of honor, power, trust or profit' all persons who have been convicted of certain crimes, operates, by the principle of *expressio unius est exclusio alterius*, to prohibit the legislature from establishing any other qualifications for any office, including municipal offices.

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This contention is not sound. Neither precedent nor reason supports it. This court dealt with the precise question in the early case of State ex rel. Moodie v. Bryan, 1905, 50 Fla. 293, 39 So. 929. This court there said:
'Section 5 of article 6 of the Constitution * * * does not deal with the general subject of disqualifications of persons for office, but it simply makes it the duty of the Legislature to enact the necessary laws to exclude from every office within the state the persons falling within the classes therein named. It does not undertake to make such enumerated persons the only persons who may be excluded from offices to be established by the Legislature. * * * [This section] grants no power or authority, but simply prescribes a duty, requiring the Legislature to enact laws excluding from every ***469** office the persons enumerated therein; but the language used cannot be said to forbid the Legislature from enacting laws excluding other persons than those named from statutory offices. The principle of the maxim, 'Expressio unius est exclusio alterius,' should be applied with great caution to the provisions of an organic law relating to the legislative department, and we are of the opinion that it is not applicable here.'

In the Bryan case, supra, we held that the legislature could prescribe qualifications for members of the state board of control. In subsequent cases we have held similarly concerning members of the Board of Commissioners of Overseas Road and Toll Bridge District, Advisory Opinion to the Governor, 1945, 156 Fla. 166, 168, 23 So.2d 158; members of a special taxing district, State v. Ocean Shore Improvement District, 1934, 116 Fla. 284, 156 So. 433; and members of a sanitary district, Town of Palm Beach v. City of West Palm Beach, Fla.1951, 55 So.2d 566. Moreover, the plenary power of the legislature over municipal corporations under Article VIII, Section 8 has been repeatedly affirmed by this court. State v. Dade County, Fla.1962, 142 So.2d 79; Cobo v. O'Bryant, Fla.1959, 116 So.2d 233. And in State ex rel. Gibbs v. Couch, 1939, 139 Fla. 353, 190 So. 723, a majority of this court held, via the concurring opinion of Mr. Justice Whitfield, that the use of the words 'alter or amend' in this section.

> 'gives express authority to change the policy or principles underlying the provisions of a municipal charter in this State, so that officers of a municipality may be appointed by the Governor or otherwise chosen as statutes may enact.'

The precedents primarily relied upon by appellant are not embarrassing to the view adopted herein. In State ex rel. Attorney-General v. George, 1887, 23 Fla. 585, 3 So. 81, the holding was merely to the effect that in the absence of statutory or constitutional provision, a person could not be excluded from holding municipal office because he lacked certain qualifications required by law of voters. The inference is that qualifications may be prescribed by statute. Thomas v. State ex rel. Cobb, Fla.1952, 58 So.2d 173, 34 A.L.R.2d 140, did not relate to municipal office, but to the office of county superintendent of public instruction, an office specifically created in the constitution. The legislature may not prescribe qualifications for a constitutional office unless specifically authorized by the constitution.

The chancellor was correct in holding that the legislature has the power to impose qualifications for municipal office. The qualification in question is not unreasonable.

The order appealed from is affirmed.

THORNAL, C. J., and THOMAS, ROBERTS, DREW, CALDWELL and ERVIN, JJ., concur.

All Citations

177 So.2d 467

End of Document

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CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: August 30, 2019

RE: **ORDINANCE 2019-15: GENDER NEUTRAL TERMINOLOGY**

Please find attached Ordinance 2019-15. Consistent with the City Commission's direction to our office regarding the amendments to the City Charter, we are presenting an ordinance to amend all sections necessary to use gender neutral terminology.

Please place Ordinance 2019-15 on the regular City Commission agenda for third reading on September 23, 2019.

Thank you.

Isabelle C. Lopez
City Attorney

Attachment

xc: Tim Burchfield, Assistant City Manager
Darlene Galambos, City Clerk

ORDINANCE NO. 2019-15

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE CHARTER OF THE CITY OF ST. AUGUSTINE TO AMEND ALL SECTIONS NECESSARY TO PROVIDE GENDER NEUTRAL LANGUAGE THROUGHOUT; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City's Charter has not been thoroughly revised since 1925, and the City Commission determined at its April 3, 2019 public workshop that a revision of its Charter was overdue; and

WHEREAS, public comment was taken, and after presentation by staff and Commission deliberation, the City Commission directed the City Attorney to draft a revision of the Charter to make all language consistently gender neutral; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amendment to Part I, Article II, Sections 2.02 and 2.05. Part I, Article II, Sections 2.02 and 2.05 are hereby amended, as follows:

Sec. 2.02. - Powers generally; members to judge own elections, etc.; forfeiture of office on conviction of crime.

The city commission shall constitute the governing body of the city, with powers as hereafter provided, to pass ordinances, adopt resolutions and appoint an administrative officer to be known as the city manager and to exercise all other powers hereinbefore or hereafter provided. A quorum of the city commission shall consist of three commissioners, but a less number may adjourn from day to day to compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance and no legislative action on the part of the city commission shall be valid unless concurred in by a three-fifths vote of all the members of the city commission. The city commission shall be the judge of the election and the qualifications of its own members subject to review by the courts. Any member of the commission who shall be convicted of a felony or a crime involving moral turpitude while in office shall forfeit ~~his~~ the office.

Sec. 2.05. - Forfeiture of office by commissioner losing qualifications.

Any commissioner who shall cease to possess any of the qualifications required under the six [four] preceding sections [§§ 2.01—2.04] shall forthwith forfeit ~~his~~ the office.

Section 2. Amendment to Part I, Article III, Sections 3.02 and 3.05. Part I, Article III, Sections 3.02 and 3.05 are hereby amended, as follows:

Sec. 3.02. - General powers.

(...)

(r) *Codification of ordinances.* The City of St. Augustine, Florida, shall have the power, and is hereby authorized, by and through its city commission, at any time, to appoint some person or persons and authorize ~~him or~~ them to arrange and codify the ordinances of said city and to publish such codification in an appropriate volume which shall become the laws of said city upon the adoption by ordinance duly passed by the city commission; and provided further, that in the exercise of the power by said commission to adopt said codification, it shall not be necessary to publish said codification, but the publication of the ordinance adopting the same shall be sufficient to make the codification of such ordinances binding as the laws of said city.

Sec. 3.05. - Commission to exercise all powers not delegated; administrative service to be dealt with through city manager.

All powers of the city except such as are vested in the jurisdiction of the municipal court and except as otherwise provided by this charter or by the constitution of the state, are hereby vested in the city commission; and, except as otherwise provided by this charter, or by the constitution of the state, the city commission may, by ordinance or resolution, prescribe the manner in which any power of the city shall be exercised. Neither the commission nor any of its members shall dictate the appointment of any person to office or employment by the city manager or in any manner prevent the city manager from exercising ~~his own~~ their judgement in selecting ~~the~~ administration personnel ~~of his administration~~. The commission and its members shall deal with the administrative service solely through the city manager and neither the commission nor any member thereof shall give orders to, nor make requests of any of the subordinates of the city manager, either publicly or privately. Provided, however, nothing herein shall be taken or construed as a criminal violation or to prohibit the commission or any member thereof from making requests for information only from any of the subordinates of the city manager or the city's administrative service.

Section 3. Amendment to Part I, Article IV, Division 1, Section 4.02. Part I, Article IV, Division 1, Section 4.02 is hereby amended, as follows:

Sec. 4.02. - Investigation of departments, officers; process; procedure.

The city commission, or any committee thereof, the city manager or any advisory board appointed by the city commission for such purposes, shall have power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers and other evidence, and for that purpose may issue subpoenas or attachments which shall be signed by the president or chairman of the body or by the officer making the investigation, and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall have power to cause the testimony to be given under oath, such oath to be administered by some officer

having authority under the law of the state to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any fact within ~~his~~ their knowledge, or produce any book or papers under ~~his~~ their control relating to the matter under investigation.

Section 4. Amendment to Part I, Article IV, Division 3, Section 4.09. Part I, Article IV, Division 3, Section 4.09 is hereby amended, as follows:

Sec. 4.09. - Election; powers and duties.

The commissioner elected to Seat Three shall serve as mayor and shall preside at all meetings of the commission and perform such other duties consistent with ~~his~~ the office as may be imposed by it, and ~~he~~ shall have a voice and vote in the proceedings of the commission but no veto power. ~~He~~ The mayor may use the title of mayor in any case in which the execution of legal instruments of writing or other necessity arising from the general laws of the state so requires, but this shall not be considered as conferring ~~upon him~~ the administrative or judicial functions of a mayor under the general laws of the state. ~~He~~ The mayor shall be recognized as the official head of the city by the courts for the purpose of serving civil processes by the government in the exercise of military law and for all ceremonial purposes~~. He~~ and may take command of the police and govern the city by proclamation during times of grave public danger or emergency. The powers and duties of the mayor shall be such as are conferred ~~upon him~~ by the city commission in pursuance of the provisions of this Charter and no others. In the absence of the mayor, the other members of the city commission shall select one of their number to perform ~~his~~ the mayor's duties.

Section 5. Amendment to Part I, Article IV, Division 4, Sections 4.10, 4.13 and 4.16. Part I, Article IV, Division 4, Sections 4.10, 4.13 and 4.16 are hereby amended as follows:

Sec. 4.10. - Appointment; qualifications; temporary manager during absence, etc.

The city commission shall appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission, and ~~he~~ shall hold office at the pleasure of the city commission. ~~He~~ The city manager shall be chosen solely on the basis of ~~his~~ executive and administrative qualifications, without regard to ~~his~~ political beliefs, and ~~he~~ need not be a resident of the city or state at the time of ~~his~~ appointment. During the absence or disability of the city manager, the city commission may designate some properly qualified person to temporarily execute the functions of the office.

Sec. 4.13. - Powers and duties generally.

The city manager shall be responsible to the city commission for the proper administration of all affairs of the city and to that end, ~~his~~ the city manager's powers are and ~~they~~ shall be:

(...)

(f) To recommend to the commission for adoption such measures as he may deem necessary or expedient in the interest of the city;

(...)

(i) The city manager of the City of St. Augustine, Florida, or ~~his~~ the city manager's designee, shall be the purchasing agent of said city by whom all purchases of supplies

shall be made; and ~~he~~ shall approve all vouchers for the payment of same. ~~In the capacity of~~The purchasing agent ~~he~~ shall also conduct all sales of personal property which has become necessary or unfit for the city's use. Competitive formal bids should be solicited for any single item which exceeds the purchase cost of five thousand dollars ($5,000.00); provided, however, that when such formal bids have been received on public works construction contracts to be let by the city and they are in excess of the estimated construction costs as prepared by independent engineers or architects on behalf of the city then, and in that event, the city manager may, subject to approval of the city commission, negotiate the terms and conditions of such construction contracts with any qualified contractor, whether low bidder or otherwise, so as to bring the cost of the proposed contract within the engineers' and/or architects' estimate or the amount of money available to the city for such contract.

Sec. 4.16. - Additional duties.

The city manager shall manage and control all city owned public utilities operated and managed by the municipality, and the office of the city manager shall be charged with the management and operation of all public works and the regulation by ordinances of the city commission of all charitable and correctional institutions and agencies of the city, enforce all laws, ordinances and regulations relative to the preservation and promotion of public health; shall manage or inspect water, lighting, heating, power and transportation enterprises of the city; shall manage and control the use, construction, improvement, repair and maintenance of all recreational facilities of the city, including parks, playgrounds and public gymnasiums, bathhouses and social centers; ~~he~~ shall manage and supervise all public improvements, works and undertakings of the city, except as otherwise provided in this charter; ~~he~~ shall have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, aqueducts, public highways, sewers, drains, ditches, culverts, streams, watercourses, and all public buildings; ~~he~~ shall manage and control market houses, crematories, sewerage disposal plants and farms, and ~~he~~ shall enforce all the obligations of privately owned or operated public utilities which are enforceable by the city; ~~he~~ shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public work; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of wastes; the preservation of tools and appliances belonging to the city and pertaining to the functions of its several departments.

Section 6. Amendment to Part I, Article IV, Division 5, Sections 4.19 and 4.20. Part I, Article IV, Division 5, Sections 4.19 and 4.20 are hereby amended, as follows:

Sec. 4.19. - Special duties.

The city commission shall appoint a city attorney who shall act as the legal adviser to, and attorney and counselor for, the municipality and all of its officers in matters relating to their official duties. ~~He~~ The city attorney shall prepare all contracts, bonds and other instruments in writing in which the municipality is concerned and shall endorse on each ~~his~~ approval of the form and correctness thereof and no contract with the municipality shall take effect until ~~his~~ the city attorney's approval is so endorsed thereon. ~~He~~ The city attorney shall prosecute and defend for and in behalf of the city all complaints, suits and controversies in which the city is a party. ~~He~~ The city attorney shall also furnish the city commission, the city manager, the head of any department or any officer or board not included in any department ~~his~~ a legal opinion on any question of law relating to their respective powers and duties.

Sec. 4.20. - Additional duties.

In addition to the duties specifically imposed under the preceding section, ~~he~~ the city attorney shall perform such other professional duties as may be required ~~of him~~ by ordinance or resolution of the city commission or as are prescribed for city attorneys under the general law of the state and which are not inconsistent with this charter and with any ordinance or resolution which may be passed by the city commission.

Section 7. Amendment to Part I, Article IV, Division 6, Sections 4.21 and 4.22. Part I, Article IV, Division 6, Sections 4.21 and 4.22 are hereby amended, as follows:

Sec. 4.21. - Appointment; duties generally.

There shall be a city clerk who shall be appointed by and serve during the pleasure of the city commissioners and who, under the supervision of the city manager, shall be director of the department of records. ~~He~~ The city clerk shall attend all meetings of the city commission and shall keep a journal of its proceedings, the correctness of which proceedings as entered in such journal shall be certified to after each meeting by ~~his~~ the city clerk's signature and by the signature of the presiding officer of the city commission. ~~He~~ The city clerk shall be the custodian of the seal of the city and of all records and papers of a general character pertaining to the affairs of a municipality. ~~He~~ The city clerk shall attest to the signature of the mayor-commissioner on all contracts and other documents requiring such attestation.

Sec. 4.22. - Additional duties.

In addition to the duties specifically imposed under this Charter, the city clerk shall perform such other duties as may be required ~~of him~~ by ordinance or resolution of the city commission, as well as such as may be required by the city manager or of city clerks by the general laws of the state applicable to municipalities and not inconsistent with this Charter or with any ordinance or resolution passed by the city commission.

Section 8. Amendment to Part I, Article IV, Division 9, Section 4.44. Part I, Article IV, Division 9, Section 4.44 is hereby amended, as follows:

Sec. 4.44. - Composition; powers and duties generally of fire chief.

The fire force of the City of St. Augustine shall consist of a chief, who shall be a fire warden, and as many subordinate professional officers, professional ~~firemen~~ firefighters and employees, employed on a full time basis, as the city commission shall by ordinance determine is reasonably required to afford fire protection to the city. In determining the level of fire protection to be afforded, the city commission shall consider the recommendations of the Insurance Service Organization, the National Fire Protection Association, the fire chief, the city manager and the level of service afforded cities of a comparable size. The fire chief shall have exclusive control of the stationing and transfer of all ~~firemen~~ firefighters and other officers and employees constituting the fire force, subject to such rules and regulations as may be prescribed by city manager or by ordinance of the city; ~~he~~ and shall have exclusive management and control of such officers and employees as may be employed in the administration of the affairs of ~~his~~ the fire force. In case of riot, conflagration or like emergency, the city manager may appoint additional ~~firemen~~ firefighters for temporary service. The fire chief shall have, subject to the remaining portions of this charter, the right to suspend any officer or employee of the fire force because of incompetency, neglect of duty, drunkenness, failure to obey orders given

by proper authority or for any other just or reasonable cause and shall immediately report the fact of such suspension to the city manager for final action.

Section 9. Amendment to Part I, Article IX, Sections 9.04, 9.05 and 9.06. Part I, Article IX, Sections 9.04, 9.05 and 9.06 are hereby amended, as follows:

Sec. 9.04. - Composition; chief to control force.

The Police Force of the City of St. Augustine shall consist of a chief of police and as many subordinate officers, police~~men~~ officers and employees, employed on a full time basis, as the city commission shall by ordinance determine is reasonably required to enforce the law. The chief of police shall have exclusive control of the stationing and transfer of all ~~patrolmen~~ police officers and other officers and employees constituting the police force, subject to the approval of the city manager and under such rules and regulations as the city commission may prescribe or as may be prescribed by the ordinances of the city.

Sec. 9.05. - Additional police~~men~~ officers during emergencies.

In case of riot or other grave emergency and during elections or similar occasions, the city manager may appoint additional ~~patrolmen and~~ police officers for temporary service. No person shall act as a special police~~man~~ officer~~, special detective~~ or other ~~special police~~ officer for any purpose whatsoever, except on written authority of the city manager. Such authority shall be exercised only under the direction and control of the chief of police for a specified time.

Sec. 9.06. - Powers and duties generally of chief.

The chief of police shall attend all meetings of the city commission and aid in the enforcement of order under the direction of the presiding officer. ~~He~~ The chief of police shall execute the commands of the city commission and all processes issued by authority thereof which shall be issued ~~to him~~ by the mayor~~.~~; ~~He~~ shall perform such other appropriate duties ~~appropriate to his office~~ as may be imposed ~~upon him~~ by law, the ordinances of the city, and by direction of the city manager, consistent with this Act. ~~He~~ The chief of police shall have the right to suspend any officer or employee of the police force because of incompetency, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable cause and ~~he~~ shall immediately report the fact of such suspension to the city manager for final action.

Section 10. Amendment to Part I, Article X, Section 10.045. Part I, Article X, Section 10.045 is hereby amended, as follows:

Sec. 10.045. - City attorney to represent board of trustees.

The city attorney shall give advice to said board of trustees in all matters pertaining to their duties in the administration of said municipal police officers' retirement trust fund whenever requested; and ~~he~~ shall represent and defend said board as its attorney in all suits and actions at law or in equity that may be brought against it, and bring all suits and actions in its behalf that may be required or determined upon by said board; provided, however, that if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary.

Section 11. Inclusion in Charter. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Charter of the City of St. Augustine, that

the sections of this ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 12. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 13. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 14. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

_____
Tracy W. Upchurch, Mayor-Commissioner

ATTEST:

_____
Darlene Galambos, City Clerk
(SEAL)

ITEM 8.A.2.

Ordinance 2019-23

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: September 24, 2019

RE: **ORDINANCE 2019-23: POWERS OF THE CITY**

Please find attached Ordinance 2019-23. Consistent with the City Commission's direction to our office regarding the amendments to the City Charter, we are presenting an ordinance to add state and federal limitations where appropriate, remove reference to municipal courts, use more general language regarding zoning regulations and land ownership for public purposes, and to provide for regulation of transit.

Please note that this ordinance contains gender neutral language proposed in ordinance 2019-15. This ordinance assumes the passage of 2019-15 and therefore incorporates this language accordingly.

Please place Ordinance 2019-23 on the regular City Commission agenda for second reading on October 14, 2019.

Thank you.

Isabelle C. Lopez
City Attorney

Attachment

xc: Tim Burchfield, Assistant City Manager
Darlene Galambos, City Clerk

Agenda Title:

Charter update to Article III, Sections 3.02, 3.04, and 3.05 updating reference to state and federal regulations, removing reference to municipal courts, and conforming language to current usage.

ORDINANCE NO. 2019-23

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE III OF THE CHARTER OF THE CITY OF ST. AUGUSTINE; AMENDING SECTION 3.02, TO PROVIDE FOR STATE OR FEDERAL PREEMPTION AND PROVIDE FOR PROPERTY OWNERSHIP FOR A PUBLIC PURPOSE AND ZONING REGULATIONS; AMENDING SECTIONS 3.04 AND 3.05 TO REMOVE OUTDATED LANGUAGE AND TO PROVIDE FOR REGULATION OF TRANSIT; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City's Charter has not been thoroughly revised since 1925, and the City Commission determined at its April 3, 2019 public workshop that a revision of its Charter was overdue; and

WHEREAS, public comment was taken, and after presentation by staff and Commission deliberation, the City Commission directed the City Attorney to draft a revision of the Charter to amend sections identified as not consistent with state law or current city policy and;

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amendment to Part I, Article III, Section 3.02. Part I, Article III, Section 3.02 is hereby amended, as follows:

Sec. 3.02. - General powers.

The City of St. Augustine, Florida, by and through its city commission, shall have and is hereby granted the right, power and privilege:

(...)

(f) *Aircraft regulations.* To license and regulate all and every manner and kind of air vessels operated over the city; and to stipulate the height at, and the manner in which said air vessels may be operated above the area included in the city limits, and to license and register the pilots thereof; to establish and maintain and equip municipal airports, and to regulate the use thereof and to prescribe and collect fees or tolls for the use thereof, unless otherwise preempted to the state or federal government.

(g) *Plats, fills, conveyances.* To develop by filling, platting, bulkheading, reclaiming, dredging, subdividing or otherwise improving as may be prescribed by the city commission for the health, comfort, convenience and amusement of the inhabitants of said city, all lands acquired by the said city, by purchase or otherwise, and lying and being within or outside the corporate limits of said city as hereinbefore set forth; such development may be carried on under contract with persons, firms or corporations or otherwise as the city commission may deem wise; and in the furtherance of such development of all land acquired by said city, by purchase or otherwise, the said city commission shall have the right and power to make, execute and deliver good and sufficient deeds of conveyance under such restrictions as may be prescribed by the city commission to persons, firms or corporations for private purposes, and to receive and accept money or other valuable considerations, the kind and amount to be fixed by said city commission, in payment for the conveyance of such lands; provided, however, that all moneys derived from the sale of such lands, after the costs of such development have been paid, shall be used for a public purpose. ~~in the building of municipal wharves, docks and terminals, yacht basins, piers, parkways, golf links and suitable buildings to be operated in connection therewith, sanitation and for the furtherance of commerce and navigation.~~

(...)

(i) *Underground wiring—Buildings; zoning.* The City of St. Augustine, by and through its city commission, be and it is hereby authorized and empowered ~~by its~~ to enact zoning ordinances ~~to define the terms "residence," "place of residence," "business," "place of business," "business, residential," "historical park," "parking," "scenic and boulevard areas and districts"~~; to limit, regulate, control or prohibit the erection or construction of any pole, object or thing for carrying, holding or maintaining any overhead wires; to limit and regulate the location, or require the placing underground, of all overhead wires within the boundaries of the City of St. Augustine, Florida; to prohibit, regulate and control the construction, erection, maintenance and use of any and all signs, billboards or displays of any nature over and upon the streets of the City of St. Augustine, Florida, and over and upon the property of any individual, person, firm, corporation or association situated within the corporate limits of the City of St. Augustine, Florida; to regulate, control and limit the architectural design, kind of material, height, size and location of buildings and structures hereafter erected; and to regulate and control the use and alteration of present buildings and structures and those to be hereafter erected and constructed; to require the alteration and razing of present buildings or structures or portions thereof which are in conflict with the zoning ordinance or ordinances of the City of St. Augustine, Florida; to regulate, control and determine the area of yards, courts and other open spaces, and to create and establish, regulate and control business, residential, historical, park, parking, scenic, boulevard and other similar areas and districts and combinations thereof, and to prescribe for each such area and district the business, trades and industries that shall be excluded or allowed and regulated therein. Such regulations shall be designed to promote the public health, safety from fire and other damages, preserve and maintain ancient landmarks, buildings, remains, sites and other property of historical or antiquarian interest, of scenic beauty, recreational and scientific utility for the education, pleasure, benefit and general welfare of the inhabitants of the City of St. Augustine, and their property, and shall be made with reasonable consideration, among other things taking into consideration the location of the districts, its peculiar suitability for particular trade or industrial uses, historical, scenic, recreational, scientific and educational value and the conservation of property and enhancement of property values in such districts and the direction and general supervision of building development in accord with a well-considered and duly

adopted plan; the grant of specific powers in relation to the regulation of buildings and the location of business, trades and industries shall not be dependent upon any state law.

(j) *Traffic.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby granted full power and authority by ordinance or ordinances to regulate and control all traffic of any nature whatsoever, and prohibit where necessary the use of motor vehicles, over, upon and in its streets, roads, parks, parking areas and boulevards; and to regulate and control the width, height and weight of any kind of any and all motor or other vehicles; to establish terminals for passenger and freight motor lines and when so designated said passenger and freight lines shall take on and discharge their passengers and freight at only such designated terminals, unless otherwise preempted to the state or federal government.

(k) *Underground wiring.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby granted the power and authority to regulate, control or prohibit by ordinance the erection or construction of any pole, object or thing for carrying, holding or maintaining any overhead wires, and of the stringing of any wires on any pole, object or thing within the incorporated limits of the City of St. Augustine, Florida, and to compel by legal action all individuals, firms, associations or corporations owning or maintaining overhead wires on poles or other objects or things within the limits of the City of St. Augustine, Florida, to place said wires underground and to raze the poles, objects or things on which they are now strung, unless otherwise preempted to the state or federal government.

(...)

Section 2. Amendment to Part I, Article III, Section 3.04. Part I, Article III, Section 3.04 is hereby amended, as follows:

Sec. 3.04. - City may operate municipal bus line.

An additional power is hereby granted to the city commission and the City of St. Augustine, Florida, to wit: The City of St. Augustine, Florida shall have the power and authority to buy, purchase and sell, to lease and mortgage, to regulate and to maintain and operate a municipal bus, or bus line, or other mode of transit for the carrying of passengers and freight within the city limits of the City of St. Augustine, Florida.

Section 3. Amendment to Part I, Article III, Section 3.05. Part I, Article III, Section 3.05 is hereby amended, as follows:

Sec. 3.05. - Commission to exercise all powers not delegated; administrative service to be dealt with through city manager.

All powers of the city ~~except such as are vested in the jurisdiction of the municipal court and~~ except as otherwise provided by this charter or by the constitution of the state, are hereby vested in the city commission; and, except as otherwise provided by this charter, or by the constitution of the state, the city commission may, by ordinance or resolution, prescribe the manner in which any power of the city shall be exercised. Neither the commission nor any of its members shall dictate the appointment of any person to office or employment by the city manager or in any manner prevent the city manager from exercising their judgement in selecting administration personnel. The commission and its members shall deal with the administrative service solely through the city manager and neither the commission nor any member thereof shall give orders to, nor make requests of any of the subordinates of the city manager, either publicly or privately. Provided, however, nothing herein shall be taken or construed as a criminal violation or to prohibit

the commission or any member thereof from making requests for information only from any of the subordinates of the city manager or the city's administrative service.

Section 4. Inclusion in Charter. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Charter of the City of St. Augustine, that repealed language shall be removed and that the sections of this ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 5. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 7. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

_____
Tracy W. Upchurch, Mayor-Commissioner

ATTEST:

_____
Darlene Galambos, City Clerk
(SEAL)

ITEM 8.A.3.

Ordinance 2019-38

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: September 24, 2019

RE: **ORDINANCE 2019-38: HEMP**

Please find attached Ordinance 2019-38, which creates a new section in the zoning code to provide regulations for the cultivation, distribution, and retail sale of hemp and hemp extract. This ordinance is to comply locally with the new state hemp program, which legalizes and regulates the sale of certain hemp products.

The bill that created the state hemp program provided a definition of allowable hemp, which must contain a concentration of THC that is less than 0.3%. The ordinance adopts the state definitions for hemp and hemp extract. The ordinance also makes it a violation of the code to:

- Cultivate hemp without a license issued by the state;
- Distribute or sell hemp extract at anywhere other than a fixed-location retail business in a zoning category that allows retail sales as a permissible use; and
- Distribute or sell hemp extract without meeting the requirements of the state hemp program.

While the state statute provides potential enforcement mechanisms for the state, this ordinance makes a violation of the ordinance a violation of the city code enforceable by a code enforcement action with respect to a potential zoning violation.

Please place Ordinance 2019-38 on the regular City Commission agenda for second reading on October 14, 2019.

Thank you.

John M. Cary
Assistant City Attorney

Attachment

xc: Tim Burchfield, Assistant City Manager
Isabelle C. Lopez, City Attorney
Darlene Galambos, City Clerk

Agenda Title:

Creates section 28-355, providing regulations for the cultivation, distribution, and retail sale of hemp and hemp extract.

ORDINANCE NO. 2019-38

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, CREATING SECTION 28-355 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING REGULATIONS FOR THE CULTIVATION, DISTRIBUTION, AND RETAIL SALE OF HEMP PRODUCTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City of St. Augustine recognizes that the state of Florida, through Laws of Florida, Chapter Number 2019-132, codified in section 581.217, of the Florida Statutes, has created the "state hemp program" to regulate the cultivation of hemp in the state; and

WHEREAS, the state hemp program requires a municipal officer to enforce or assist in enforcing the state hemp program and any rules subsequently adopted by a state agency; and

WHEREAS, enforcement of the state hemp program is only practical to the extent that the product is sold at fixed retail locations; and

WHEREAS, the Planning and Zoning Board has reviewed and approved this ordinance at the October 1, 2019, meeting.

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety, and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Creation of Chapter 28, Section 28-355. Chapter 28, Section 355 of the Code of the City of St. Augustine is hereby created, as follows:

Sec. 28-355. – Hemp cultivation and retail sale.

(a) "Hemp" and "Hemp extract" are defined by the state of Florida, subsection 581.217(3), of the Florida Statutes.

(b) It is unlawful for a person to cultivate hemp without a license issued by the state of Florida, as required by section 581.217, of the Florida Statutes.

(c) Hemp extract may only be distributed and sold within the city at a retail business at a fixed physical location in a zoning category that allows retail sales as a permissible use and that has a business license or business tax receipt issued by the city. The retail business must meet all of the requirements of subsection 581.217(7), of the Florida Statutes.

(d) Violation of any provision of this section shall be punishable by code enforcement pursuant to chapter 2, article VI of the Code.

Section 2. Inclusion in Code. The City Commission intends that the provisions of this Ordinance shall become and shall be made part of the Code of the City of St. Augustine, that the sections of this Ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severance of Invalid Provisions. In the event that any section, subsection, sentence, clause, phrase, word, term or provision of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly invalid, unconstitutional or unenforceable or involved for any reason whatsoever, any such invalidity, unconstitutionality, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, unconstitutional, illegal, or unenforceable section, subsection, sentence, clause, phrase, word, term or provision did not exist.

Section 5. Effective Date. This Ordinance shall become effective ten (10) days after passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

ATTEST:

_____
Tracy W. Upchurch, Mayor-Commissioner

_____
Darlene Galambos, City Clerk
(SEAL)

ITEM 9.A.1.

Ordinance 2019-24

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: September 18, 2019

RE: **ORDINANCE 2019-24: EXECUTIVE AND ADMINISTRATIVE OFFICERS**

Please find attached Ordinance 2019-24. Consistent with the City Commission's direction to our office regarding the amendments to the City Charter, we are presenting an ordinance updating the powers and authority of executive and administrative officers, removing reference to municipal judges and the department of public safety and welfare, and conforming language to current usage and policies of the City. Similarly, this ordinance incorporates existing resolutions including purchasing manuals, emergency powers, duties of the City Attorney, etc.

Please note that this ordinance contains gender neutral language proposed in ordinance 2019-15. This ordinance assumes the passage of 2019-15 and therefore incorporates this language accordingly.

Please place Ordinance 2019-24 on the regular City Commission agenda for first reading on October 14, 2019.

Thank you.

Isabelle C. Lopez
City Attorney

Attachment

xc: Tim Burchfield, Assistant City Manager
Darlene Galambos, City Clerk

Agenda Title:

Charter update to Article IV, Sections 4.01, 4.07, 4.09, 4.10, 4.12, 4.13, 4.14, 4.16, 4.19, 4.21, and 4.44 updating the powers and authority of executive and administrative officers, removing reference to municipal judges and the department of public safety and welfare, and conforming language to current usage and policies of the City.

ORDINANCE NO. 2019-24

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE IV OF THE CHARTER OF THE CITY OF ST. AUGUSTINE; AMENDING SECTION 4.01 TO PROVIDE THE CITY MANAGER AUTHORITY TO ESTABLISH DEPARTMENTS WITH EXECUTIVE AND ADMINISTRATIVE POWERS AND TO REMOVE REFERENCE TO MUNICIPAL JUDGES; AMENDING SECTION 4.07 TO CLARIFY SALARIES SET BY THE CITY COMMISSION AND SALARIES SET ADMINISTRATIVELY IN THE ANNUAL BUDGET; AMENDING SECTION 4.09 TO REMOVE LANGUAGE REGARDING POWERS OF THE MAYOR DURING EMERGENCIES PREVIOUSLY CONFERRED TO THE CITY MANAGER; AMENDING SECTION 4.10 TRANSFERRING EMERGENCY POWERS TO THE CITY MANAGER; REMOVING SECTION 4.12 AS REDUNDANT TO SECTION 4.10; AMENDING SECTION 4.13 PROVIDING FOR COMPLIANCE WITH THE PURCHASING MANUAL; AMENDING SECTION 4.14 PROVIDING FOR UPDATED GENERAL ADMINISTRATIVE AUTHORITY TO THE CITY MANAGER; AMENDING SECTION 4.16 PROVIDING FOR UPDATED DUTIES FOR THE CITY MANAGER; AMENDING SECTION 4.19 PROVIDING FOR UPDATED GENERAL DUTIES OF THE CITY ATTORNEY; AMENDING SECTION 4.21 PROVIDING FOR APPROVAL OF THE MINUTES BY THE CITY COMMISSION; AMENDING SECTION 4.44 TO REMOVE OUTDATED LANGUAGE AND REFERENCE; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City's Charter has not been thoroughly revised since 1925, and the City Commission determined at its April 3, 2019 public workshop that a revision of its Charter was overdue; and

WHEREAS, public comment was taken, and after presentation by staff and Commission deliberation, the City Commission directed the City Attorney to draft a revision of the Charter to amend sections identified as not consistent with state law or current city policy and;

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amendment to Part I, Article IV, Division 1, Section 4.01. Part I, Article IV, Division 1, Section 4.01 is hereby amended, as follows:

Sec. 4.01. - In whom power vested.

The executive and administrative powers of the city, not herein otherwise provided for, shall be vested in and exercised by the following officers and departments:

A city attorney, a city clerk, and a city manager, and any departments as enumerated by the city manager. ~~a municipal judge, and three departments as follows: Department of public safety and welfare and public works, department of records and taxation and department of finance.~~

Section 2. Amendment to Part I, Article IV, Division 2, Section 4.07. Part I, Article IV, Division 2, Section 4.07 is hereby amended, as follows:

Sec. 4.07. - Salaries fixed by commission; salaries fixed ~~by city manager~~administratively; to be uniform; where reported; disposition of fees and moneys.

The commission shall ~~fix by ordinance~~ determine the salary or compensation of the city attorney, city manager ~~municipal judge, the heads of the departments, members of the police and fire forces~~ and members of boards. The city manager and the city attorney ~~shall~~ will determine ~~fix~~ the number and compensation of all other officers and employees in their respective departments, as approved by adoption of the city commission's annual budget. All such salaries and rates of pay with dates of employment and discharge shall be immediately reported to the director of financial services. All fees and moneys received or collected by officers and employees shall be immediately paid over to the director of financial services on the date of their receipt.

Section 3. Amendment to Part I, Article IV, Division 3, Section 4.09. Part I, Article IV, Division 3, Section 4.09 is hereby amended, as follows:

Sec. 4.09. - Election; powers and duties.

The commissioner elected to Seat Three shall serve as mayor and shall preside at all meetings of the commission and perform such other duties consistent with the office as may be imposed by it, and shall have a voice and vote in the proceedings of the commission but no veto power. The mayor may use the title of mayor in any case in which the execution of legal instruments of writing or other necessity arising from the general laws of the state so requires, but this shall not be considered as conferring the administrative or judicial functions of a mayor under the general laws of the state. The mayor shall be recognized as the official head of the city by the courts for the purpose of serving civil processes ~~by the government in the exercise of military law~~ and for all ceremonial purposes. ~~He may take command of the police and govern the city by proclamation during times of grave public danger or emergency.~~ The powers and duties of the mayor shall be such as are conferred by the city commission in pursuance of the provisions of this Charter and no others. In the absence of the mayor, the other members of the city commission shall select one of their number to perform the mayor's duties.

Section 4. Amendment to Part I, Article IV, Division 4, Section 4.10. Part I, Article IV, Division 4, Section 4.10 is hereby amended, as follows:

Sec. 4.10. - Appointment; qualifications; temporary manager during absence, etc.

The city commission shall appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission, and shall hold office at the pleasure of the city commission. The city manager shall be chosen

solely on the basis of executive and administrative qualifications, without regard to political beliefs, and need not be a resident of the city or state at the time of appointment. The city manager shall take all reasonably necessary administrative action to preserve life, property, and the public welfare pursuant to a declared federal, state, or local state of emergency. During the absence or disability of the city manager, the city commission may designate some properly qualified person to temporarily execute the functions of the office.

Section 5. Repeal of Part I, Article IV, Division 4, Section 4.12. Part I, Article IV, Division 4, Section 4.12 is hereby repealed in its entirety, as follows:

~~**Sec. 4.12. - Term of office.**~~

~~The city manager of the City of St. Augustine, Florida shall serve at the pleasure of the city commission.~~

Section 6. Amendment to Part I, Article IV, Division 4, Sections 4.13 and 4.14. Part I, Article IV, Division 4, Sections 4.13 and 4.14 are hereby amended, as follows:

Sec. 4.13. - Powers and duties generally.

The city manager shall be responsible to the city commission for the proper administration of all affairs of the city and to that end, the city manager's powers are and shall be:

(...)

(i) The city manager of the City of St. Augustine, Florida, or the city manager's designee, shall be the purchasing agent of said city by whom all purchases of supplies shall be made; and shall approve all vouchers for the payment of same. The purchasing agent shall also conduct all sales of personal property which has become unnecessary or unfit for the city's use. Competitive formal bids should be solicited consistent with the city's adopted purchasing manual and state and federal law. ~~for any single item which exceeds the purchase cost of five thousand dollars ($5,000.00); provided, however, that when such formal bids have been received on public works construction contracts to be let by the city and they are in excess of the estimated construction costs as prepared by independent engineers or architects on behalf of the city then, and in that event, the city manager may, subject to approval of the city commission, negotiate the terms and conditions of such construction contracts with any qualified contractor, whether low bidder or otherwise, so as to bring the cost of the proposed contract within the engineers' and/or architects' estimate or the amount of money available to the city for such contract.~~

Sec. 4.14. - To be head of various departments.

The city manager, as the administrative officer of the city shall be the head of each department provided for under this charter and shall be responsible for its successful and businesslike operation. ~~He shall be the active head of the department of public safety and welfare, which department shall have cognizance of all matters making for the welfare of the community such as the control of its charitable and correctional institutions, and the management and supervision of all public improvements, works and undertakings of the city except as otherwise specifically provided for under this charter.~~

Section 7. Amendment to Part I, Article IV, Division 4, Section 4.16. Part I, Article IV, Division 4, Section 4.16 is hereby amended, as follows:

Sec. 4.16. - Additional duties.

The city manager shall manage and control all city owned public utilities operated and managed by the municipality, ~~and the office of the city manager~~ shall be charged with the

management and operation of all public works and the regulation by ordinances of the city commission of all charitable and correctional institutions and agencies of the city, enforce all laws, ordinances and regulations relative to the preservation and promotion of public health; shall manage or inspect water, lighting, heating, power and transportation enterprises of the city; shall manage and control the use, construction, improvement, repair and maintenance of all recreational facilities of the city, including parks, playgrounds and public gymnasiums, ~~bathhouses~~ and social centers; shall manage and supervise all public improvements, works and undertakings of the city, except as otherwise provided in this charter; shall have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, aqueducts, public highways, sewers, drains, ditches, culverts, streams, watercourses, and all public buildings; shall manage and control market houses, crematories, sewerage disposal plants and farms, and shall enforce all the obligations of privately owned or operated public utilities which are enforceable by the city; shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public work; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of wastes; the preservation of tools and appliances belonging to the city and pertaining to the functions of its several departments, and any other duties assigned by the city commission or prescribed for city managers.

Section 8. Amendment to Part I, Article IV, Division 5, Section 4.19. Part I, Article IV, Division 5, Section 4.19 is hereby amended, as follows:

Sec. 4.19. - Special duties.

The city commission shall appoint a city attorney who shall act as the legal adviser to, and attorney and counselor for, the municipality and all of its officers in matters relating to their official duties. The city attorney shall prepare all contracts, bonds and other instruments in writing in which the municipality is concerned and shall endorse on each approval of the form and correctness thereof and no contract with the municipality shall take effect until the city attorney's approval is so endorsed thereon. The city attorney shall prosecute and defend for and in behalf of the city all complaints, suits and controversies in which the city is a party. The city attorney shall also furnish the city commission, its boards and committees, the city manager, employees and officers of the city ~~the head of any department or any officer or board not included in any department~~ a legal opinion on any question of law relating to their respective powers and duties. The city attorney shall be responsible to the city commission for the proper administration of all affairs of the city attorney's department, and to that end, will exercise control and direct supervision over the department and its employees, and may retain outside counsel to assist in the furtherance of its duties under this charter.

Section 9. Amendment to Part I, Article IV, Division 6, Section 4.21. Part I, Article IV, Division 6, Section 4.21 is hereby amended, as follows:

Sec. 4.21. - Appointment; duties generally.

There shall be a city clerk who shall be appointed by and serve during the pleasure of the city commissioners and who, under the supervision of the city manager, shall be director of the department of records. The city clerk shall attend all meetings of the city commission and shall keep a journal of its proceedings, the correctness of which proceedings as entered in such journal shall be certified to after each meeting by the city clerk's signature and by approval of the minutes by ~~the signature of the presiding officer of~~ the city commission. The city clerk shall be the custodian of the seal of the city and of all records and papers of a general character pertaining to the affairs of a municipality. The city clerk shall attest to the signature of the mayor-commissioner on all contracts and other documents requiring such attestation.

Section 10. Amendment to Part I, Article IV, Division 9, Section 4.44. Part I, Article IV, Division 9, Section 4.44 is hereby amended, as follows:

Sec. 4.44. - Composition; powers and duties generally of fire chief.

The fire force of the City of St. Augustine shall consist of a chief~~, who shall be a fire warden,~~ and as many subordinate professional officers, professional firefighters and employees, employed on a full time basis, as the city commission shall by ~~ordinance~~ budget determine is reasonably required to afford fire protection to the city. In determining the level of fire protection to be afforded, the city commission shall consider the recommendations of the Insurance Service Organization, the National Fire Protection Association, the fire chief, the city manager and the level of service afforded cities of a comparable size. The fire chief shall have exclusive control of the stationing and transfer of all firefighters and other officers and employees constituting the fire force, subject to such rules and regulations as may be prescribed by city manager or by ordinance of the city; and shall have exclusive management and control of such officers and employees as may be employed in the administration of the affairs of the fire force. In case of riot, conflagration or like emergency, the city manager may appoint additional firefighter for temporary service. The fire chief shall have, subject to the remaining portions of this charter, the right to suspend any officer or employee of the fire force because of incompetency, neglect of duty, ~~drunkenness~~ being under the influence of alcohol or drugs while on duty, failure to obey orders given by proper authority or for any other just or reasonable cause and shall immediately report the fact of such suspension to the city manager for final action.

Section 11. Inclusion in Charter. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Charter of the City of St. Augustine, that repealed language shall be removed and that the sections of this ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 12. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 13. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 14. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

ATTEST:

_____
Tracy W. Upchurch, Mayor-Commissioner

_____
Darlene Galambos, City Clerk
(SEAL)

ITEM 9.A.2.

Ordinance 2019-25

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: September 18, 2019

RE: **ORDINANCE 2019-25: CITY ATTORNEY APPROVAL AND EMERGENCY ORDINANCES**

Please find attached Ordinance 2019-25. Consistent with the City Commission's direction to our office regarding the amendments to the City Charter, we are presenting an ordinance clarifying the city attorney's responsibility to approve resident petition driven ordinances as to form only prior to consideration before the City Commission and requiring that ordinances passed as emergency measures are subject to federal and state requirements, not referendum type procedures.

Please place Ordinance 2019-25 on the regular City Commission agenda for first reading on October 14, 2019.

Thank you.

Isabelle C. Lopez
City Attorney

Attachment

xc: Tim Burchfield, Assistant City Manager
Darlene Galambos, City Clerk

Agenda Title:

Charter update to Article V, Sections 5.21 and 5.28 clarifying the city attorney's responsibility to approve resident petition driven ordinances as to form only prior to consideration before the City Commission and requiring that ordinances passed as emergency measures are subject to federal and state requirements, not referendum type procedures.

ORDINANCE NO. 2019-25

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE IV OF THE CHARTER OF THE CITY OF ST. AUGUSTINE; AMENDING SECTION 5.21 TO PROVIDE THAT THE CITY ATTORNEY IS RESPONSIBLE TO APPROVE RESIDENT PETITION-INITIATED ORDINANCES AS TO FORM ONLY PRIOR TO CONSIDERATION BEFORE THE COMMISSION; AMENDING SECTION 5.28 TO PROVIDE THAT ORDINANCES PASSED AS EMERGENCY MEASURES SHALL BE SUBJECT TO FEDERAL AND STATE REQUIREMENTS AND REMOVING REFERENDUM TYPE PROCEDURES; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City's Charter has not been thoroughly revised since 1925, and the City Commission determined at its April 3, 2019 public workshop that a revision of its Charter was overdue; and

WHEREAS, public comment was taken, and after presentation by staff and Commission deliberation, the City Commission directed the City Attorney to draft a revision of the Charter to amend sections identified as not consistent with state law or current city policy and;

WHEREAS, resident petition-initiated ordinances currently require the City Attorney to provide legal advice to those initiating these petitions and this appears to create a client conflict with the City Attorney's role; and

WHEREAS, emergency ordinances by their nature cannot be enacted efficiently under a referendum procedure; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety and general welfare that the following amendments be adopted consistent with the requirements of Section 166.021(4), Florida Statutes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amendment to Part I, Article V, Division 2, Section 5.21. Part I, Article V, Division 2, Section 5.21 is hereby amended, as follows:

Sec. 5.21. - Same—Ordinances to be approved by city attorney.

Before any ordinance so proposed shall be submitted to the city commission, it shall first be approved as to its form only, by the city attorney, ~~whose duty it shall be to draft such proposed ordinance in proper legal language if called upon so to do and to render such other service to persons desiring to propose such ordinance~~ as may ~~shall~~ be necessary to make the same in proper form for consideration by the city commission.

Section 2. Amendment to Part I, Article V, Division 2, Section 5.28. Part I, Article V, Division 2, Section 5.28 is hereby amended, as follows:

Sec. 5.28. - Same—Applicable to emergency ordinances.

Ordinances passed as emergency measures shall be subject to federal and state requirements. ~~Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder, but such measures so repealed shall be deemed sufficient authority for the payment in accordance with the ordinance of any expenses incurred previous to the referendum vote thereon.~~

Section 3. Inclusion in Charter. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Charter of the City of St. Augustine, that repealed language shall be removed and that the sections of this ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 4. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 5. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 6. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

ATTEST:

_____
Tracy W. Upchurch, Mayor-Commissioner

_____
Darlene Galambos, City Clerk
(SEAL)

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: September 17, 2019

RE: **ORDINANCE 2019-40: REVIEW AND RESOLUTION OF CONFLICTING DOCUMENTS**

Please find attached Ordinance 2019-40. This ordinance amends the defined development permits to conform to state statute and provides for review and resolution of conflicts between development permit applications and other legal documents.

Please place Ordinance 2019-40 on the regular City Commission agenda for first reading on October 14, 2019.

Thank you.

Isabelle C. Lopez
City Attorney

Attachment

xc: Tim Burchfield, Assistant City Manager
Darlene Galambos, City Clerk

Agenda Title:

Amendment to Sec. 28-37 to modify the defined development permits to conform to state statute and to provide for review and resolution of conflicts between development permit applications and other legal documents.

ORDINANCE NO. 2019-40

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING CHAPTER 28, ARTICLE II, DIVISION 1 OF THE CODE OF THE CITY OF ST. AUGUSTINE; AMENDING SECTION 28-37 TO AMEND THE DEFINED DEVELOPMENT PERMITS TO CONFORM TO STATE STATUTE; PROVIDING FOR REVIEW AND RESOLUTION OF CONFLICTS BETWEEN DEVELOPMENT PERMIT APPLICATIONS AND OTHER LEGAL DOCUMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, § 166.041, Florida Statutes, provides for procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, Florida law defines development permits broadly to include any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land; and

WHEREAS, city code language regarding conflicts with other legal documents has not been updated to include this broader definition of all the types of development permit available, and updated language would better conform to state statutes and interpreting case law, for a more consistent application; and

WHEREAS, the proposed language would provide the city and applicant with a procedure to review and resolve conflicts with other legal documents at the time of application for a development permit; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of public health, safety and general welfare that the following amendments be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amendment to Chapter 28, Article II, Division 1, Section 28-37. Chapter 28, Article II, Division 1, Section 28-37 is hereby amended, as follows:

Sec. 28-37. - Conflict with other legal documents.

It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this

chapter imposes a greater restriction on a development permit, as that term is defined pursuant to section 163.3164, Florida Statutes, ~~upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules or regulations, or by easements, covenants or agreements,~~ the provisions of this chapter shall govern. If an applicant submits an application for a development permit to the city, that requires that the applicant state, affirm, represent, or certify a matter of fact material to the application, and the city at the time of the application has independent actual knowledge, information, documents, or facts that contradict the fact set forth on the application, the city may require the applicant to certify under oath the truth of the fact upon which the application depends and allow the city to audit, inspect, or otherwise verify the certified fact that was formerly the subject of the contradiction or the conflicting information.

Section 2. Inclusion in Code. The City Commission intends that the provisions of this ordinance shall become and shall be made part of Chapter 28, Section 28-37 of the Code of the City of St. Augustine, that the sections of this ordinance may be renumbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 5. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

_____
Tracy W. Upchurch, Mayor-Commissioner

ATTEST:

_____
Darlene Galambos, City Clerk
(SEAL)

ITEM 9.A.4.

Ordinance 2019-43

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John Regan, City Manager

DATE: October 14, 2019

RE: Ordinance 2019-43 – Providing for Lot Coverage Variances for Handicapped Accessibility in Zoning Districts Historic Preservation-one (HP-1), Historic Preservation-two (HP-2) and Historic Preservation-three (HP-3) – First Reading

Ordinance 2019-43 is an update to Section 28-29 of the Zoning Code which will allow owners of existing buildings in the HP-1, HP-2 and HP-3 zoning districts the ability to apply for a lot coverage variance for building improvements related to improving handicapped accessibility to the property.

The current code prohibits lot coverage variances in the HP-1, HP-2 and HP-3 zoning districts for all properties except churches, schools and government agency uses. In 1990, the federal government signed into law the Americans with Disabilities Act (ADA) which requires buildings to eliminate barriers to access by persons with physical disabilities.

The HP-1, HP-2 and HP-3 zoning districts contain hundreds of structures which were built prior to the Federal and State ADA requirements were enacted. Although some historic structures may be able to obtain waivers from some ADA requirements from the State of Florida, other existing structures will not qualify for waivers.

Currently, the only mechanism that exists to address this issue is to rezone the property. For example, in 2008 the building at 100 St. George Street was required to construct an elevator for handicapped accessibility to the second floor for a new restaurant. The existing building exceeded the maximum lot coverage and could not apply for a lot coverage variance, so the property owner had no option but to rezone the property from HP-2 to Planned Unit Development (PUD), simply to add the additional lot coverage associated with an elevator shaft. This ordinance would give property owners another option to address lot coverage rather than rezoning the property.

The Planning and Zoning Board recommended approving this ordinance on October 1, 2019.

Please place Ordinance 2019-43 on the October 14, 2019 City Commission agenda for first reading.

If you have any questions, please let me know.

_____

David Birchim, AICP
Director, Planning and Building Department

ORDINANCE NO. 2019-43

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMEDNING SECTION 28-29 OF THE CODE OF THE CITY OF ST. AUGUSTINE PROVIDING THAT A LOT COVERAGE VARIANCE MAY BE GRANTED FOR HANDICAPPED ACCESSIBILITY IN HISTORIC PRESERVATION DISTRICTS 1, 2 AND 3; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 166.041, Florida Statutes, provides procedures for adoption of ordinances by municipalities; and

WHEREAS, the code currently does not allow for lot coverage variances except for certain uses in Historic Preservation Districts 1, 2 and 3; and

WHEREAS, there are existing buildings within Historic Preservation Districts 1, 2 and 3 that may require additions or modifications to comply with handicapped accessibility requirements; and

WHEREAS, these existing buildings may also exceed lot coverage limitations or require additions which would exceed lot coverage limitations within Historic Preservation Districts 1, 2 and 3 in order to comply with handicapped accessibility requirements; and

WHEREAS, on October 1, 2019, the Planning and Zoning Board (PZB) for the City of St. Augustine made a recommendation to the City Commission for adoption of an ordinance which provides that a variance may be granted for lot coverage in Historic Preservation Districts 1, 2 and 3 related to the provision of handicapped accessibility; and

WHEREAS, the City Commission for the City of St. Augustine finds that providing for the public health, safety and general welfare requires amendment of Section 28-29 of the City Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF ST. AUGUSTINE, AS FOLLOWS:

Section 1. Amending Code Section 28-29. Section 28-29 of the Code of the City of St. Augustine is hereby amended, as follows:

"Sec. 28-29. Zoning exceptions, variances and appeals.

...

(b) Variances:

(1) Requirements for grant of variance. The board may grant a variance only under circumstances where practical difficulty or unnecessary hardship is so substantial, serious and compelling that relaxation of the general restrictions should be granted; provided, however, that no variance may be granted for maximum lot coverage requirements within any historic preservation districts 1, 2 and 3, except variances may be obtained: 1) for school, church and governmental agency uses and 2) to provide for handicapped accessibility for buildings constructed prior to the effective date Ordinance 2019-43. No variance shall be granted unless the applicant shall show and the board shall find that:

a. The particular property, because of size, shape, topography or other physical conditions, suffers singular disadvantage through the operation of this section, which disadvantage does not apply to other properties in the vicinity; and

b. Because of this disadvantage, the owner is unable to make reasonable use of the affected property; and

c. This disadvantage does not exist because of conditions created by the owner or applicant; and

d. Grant 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.

In passing upon a request for variance, the board shall not consider prospective financial loss or gain to the owner or applicant, nor shall the board by variance permit to be established or carried on in any use district an activity, business or operation which is not otherwise allowed in such district by a specific provision of this Chapter."

Section 2. Inclusion in Code. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Code of the City of St. Augustine, that the sections of this ordinance may be renumbered or relettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 3. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4 Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 5. Effective Date. This ordinance shall become effective ten (10) days after passage, pursuant to Section 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this _____ day of _____, 2019.

ATTEST:

_____
Tracy W. Upchurch, Mayor-Commissioner

_____
Darlene Galambos, City Clerk
(SEAL)

ITEM 9.A.5.

Ordinance 2019-46

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John Regan
City Manager

DATE: October 3, 2019

RE: Agenda Item for October 14, 2019 City Commission Meeting; Ordinance No. 2019-46 to Vacate Rights-of-Way in Antigua Phase One subdivision.

In accordance with the petition to vacate street rights-of-way in the "Antigua Phase One" residential subdivision approved by the City Commission at the September 23, 2019 regular meeting; and hence, following the requirements in City Code Sections 22-176 through 22-179, the Public Works Department presents Ordinance No. 2019-46 for first reading, which serves to vacate the street rights-of-way in the "Antigua Phase One" residential subdivision.

Ordinance No. 2019-46, and Exhibit "A" easement for utilities, are attached.

If you should have any questions, please contact me. Thank you.

Sincerely,

_____

Michael G. Cullum, P.E.
Public Works Director

Attachment: Ordinance and easement for utilities

cc: COSA Directors

ORDINANCE NO. 2019-46

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, VACATING, DISCONTINUING AND ABANDONING THAT CERTAIN PORTION OF LEEWARD ISLAND DRIVE, ANCIENT ISLAND DRIVE, SAINT BARTS AVENUE, AND BIRD ISLAND DRIVE LOCATED WITHIN THE CITY LIMITS OF ST. AUGUSTINE AND MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 166.041, Florida Statutes, provides procedures for adoption of ordinances and resolutions by municipalities; and

WHEREAS, Sections 22-176 through 22-179 of the municipal code of the City of St. Augustine, provides a procedure for vacating streets;

NOW THEREFORE, BE IT ORDAINED by the City Commission for the City of St. Augustine, Florida, as follows:

Section 1. Vacation. That the following described portion of the public street, avenue or road in the City of St. Augustine, Florida, more particularly described as follows:

> **THE RIGHTS-OF-WAY DEPICTED AS LEEWARD ISLAND DRIVE, ANCIENT ISLAND DRIVE, SAINT BARTS AVENUE, AND BIRD ISLAND DRIVE IN ST. AUGUSTINE, FL 32080, ON THE PLAT OF ANTIGUA PHASE ONE, RECORDED IN MAP BOOK 93, PAGES 18-25, PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA.**

be, and the same is hereby, vacated, discontinued and abandoned and is hereby declared no longer to be a public street, avenue or road of the City of St. Augustine, Florida. The City is vacating its interest in the rights-of-way, excluding the water and wastewater utilities; an easement for which is attached as **Exhibit "A"** to this Ordinance, and conveying to The Islands at Antigua Homeowners Association, Inc. as a private road for the benefit of the residents. There is hereby reserved unto the City of St. Augustine and to all public utilities a utility easement over, under and across portions of the street hereby vacated for present and future utilities. No permanent structures may be erected over any such utilities, and property within such utility easement shall be used for vehicular parking only. All expense

incurred for relocation or modification of existing utilities on account of any use put to such property by the owners of the servient estate shall be at the expense of such property owners.

Section 2. Repeal of Conflicting Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. Severance of Invalid Provisions. 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 4. Inclusion in the Code. It is the intention of the City Commission that the provisions of this ordinance shall become and be made part of the Code of the City of St. Augustine and that the sections of this ordinance may be renumbered or relettered and the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 5. Effective Date. This ordinance shall become 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, on the _____ day of _____, 2019.

_____
Tracy W. Upchurch, Mayor-Commissioner

ATTEST:

_____
Darlene Galambos, City Clerk
(SEAL)

Exhibit "A" to Ordinance No. 2019-46

This instrument was prepared under the supervision and direction of Isabelle C. Lopez, City Attorney, P.O. Box 210, St. Augustine, Florida, 32085

EASEMENT FOR UTILITIES

THIS EASEMENT executed and given this **10th** day of **September**, 20**19** by ***Ant Jv Owner, LLC***, whose mailing address is **14701 Philips Hwy, Suite 300, Jacksonville, FL 32256**, hereinafter called "GRANTOR", to **THE CITY OF ST. AUGUSTINE, FLORIDA**, a municipal corporation, E.I.D. No. 59-6000420, whose mailing address is P.O. Box 210, St. Augustine, Florida, 32085-0210, hereinafter called "GRANTEE."

WITNESSETH:

That for and in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, GRANTOR agrees as follows:

1. GRANTOR does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto GRANTEE a non-exclusive permanent easement and right-of-way to install, construct, operate, maintain, repair, replace and remove pipes and mains constituting the underground water distribution system, gravity sewer collection system, sewer force main, and all other equipment and appurtenances as may be necessary or convenient for the operation of the underground utility services (hereinafter referred to as "UTILITY LINES AND ASSOCIATED EQUIPMENT") over and upon the real property described in **Exhibit "A"** attached hereto and incorporated herein (the "EASEMENT AREA"); together with rights of ingress and egress to access the EASEMENT AREA as necessary for the use and enjoyment of the easement herein granted. The location of the ingress and egress area to the EASEMENT AREA has been mutually agreed upon by the GRANTOR and GRANTEE. As a result, the ingress and egress area is noted on **Exhibit "B"** attached hereto and incorporated herein (the "INGRESS/EGRESS AREA"). This easement is for water and/or sewer utility services only and does not convey any right to install other such utilities such as cable television service lines.

TO HAVE AND TO HOLD, unto GRANTEE, its successors and assigns for the purposes aforesaid. Said GRANTOR is lawfully seized of said land in fee simple and thereby has the authority to grant said easement.

The Easement herein granted is subject to covenants, restrictions, easements, liens and encumbrances of record.

(a) GRANTOR reserves the right and privilege to use and occupy and to grant to others the right to use and occupy:

(i) The surface and air space over the EASEMENT AREA for any purpose which is consistent with the rights herein granted to GRANTEE; and

(ii) The subsurface of the EASEMENT AREA for other utility services or other purposes which do not interfere with the rights herein granted to GRANTEE, including, without limitation, the right to install, construct, operate, maintain, repair, replace and remove telecommunications, telephone, telegraph, electric, gas and drainage facilities and foundations, footings and/or anchors for surface improvements.

(b) All UTILITY LINES AND ASSOCIATED EQUIPMENT will be installed, operated and maintained at all times beneath the surface of the EASEMENT AREA provided that the same may be temporarily exposed or removed to the surface when necessary or desirable for the purpose of repairing and/or replacing the same. Provided, however, that Associated Equipment that is customarily installed above ground may be installed above ground subject to the right of GRANTOR, consistent with good engineering practices to approve the location of such above ground installation in its reasonable discretion.

(c) The Easement granted by this instrument may be relocated to a location acceptable to the GRANTEE at any time upon GRANTOR's request provided that GRANTOR bears the cost of relocating the underground utility lines and facilities located within the EASEMENT AREA. At GRANTOR's request, and upon relocation of such lines at GRANTOR's expense, GRANTEE and GRANTOR shall execute an instrument in recordable form relocating the easement hereby granted to the new EASEMENT AREA designated by and in the title of the GRANTOR.

(d) GRANTEE shall exercise the easement rights conveyed herein in a manner which will not unreasonably interfere with use and occupancy of residential or commercial improvements constructed upon the adjacent property owned by GRANTOR. In the event that GRANTEE's inspection, construction, maintenance or repair of the utilities interrupts GRANTOR's ability to park on GRANTOR's property, GRANTEE shall provide similar parking spaces to GRANTOR for the duration of the interruption in parking.

2. (a) WATER SYSTEM - The GRANTEE shall maintain all water mains and other elements of the water distribution system up to and including the water meter or meters. GRANTOR or GRANTOR's successors and assigns shall be responsible for maintaining any water lines between the water meter and the improvements served by the utility system.

(b) SEWER FORCE MAINS - GRANTEE, by acceptance of this Easement, hereby agrees to maintain the sewer force mains located within the EASEMENT AREA.

(c) GRAVITY SEWER SYSTEM - GRANTEE, by acceptance of this Easement, hereby agrees to maintain sewer force mains and gravity sewer lines located within the EASEMENT AREA. The GRANTEE'S maintenance of gravity sewer lines shall extend 'manhole to manhole', but shall not include a responsibility for maintenance of sewer service laterals; The GRANTOR or GRANTOR'S successors and assigns shall be responsible for the maintenance of such sewer service laterals. GRANTOR hereby specifically indemnifies and holds GRANTEE harmless from and against costs and expenses associated with installation, maintenance, repair or replacement of sewer service laterals.

3. After any installation, construction, repair, replacement or removal of any utility lines or equipment as to which easement rights are granted, GRANTEE shall refill any holes or trenches in a proper and workmanlike manner to the condition existing prior to such installation, construction, repair, replacement or removal, but GRANTEE shall not be responsible for restoration of sod, landscaping, planting, pavement or other surface improvements which are required to be removed in connection with installation, construction, repair, replacement or removal of utility lines or equipment. To the extent permitted by law, however, GRANTEE shall be responsible for damage to improvements that are caused by GRANTEE's negligence.

4. This Grant of Easement shall inure to the benefit of and be binding upon GRANTEE and its successors and assigns.

5. For the purposes of the terms and conditions of this Grant of Easement, "GRANTOR" means the owner from time to time of the EASEMENT AREA or any part thereof.

.....

* * * ***SIGNATURES APPEAR ON THE FOLLOWING PAGE*** * * *

IN WITNESS WHEREOF, GRANTOR has caused this instrument to be executed by its duly authorized officer as of the day and year first above written.

GRANTOR

Signed, sealed and delivered in the presence of:

By: _____

Print Name: ROBERT RIVA

Title: VICE PRESIDENT

Witness:

_____

Print Name: RONALD A. GUCCIONE

Witness:

_____

Print Name: VICKIE M FIBBE

State of Florida

County of Duval

The foregoing instrument was acknowledged before me this 12 day of September, 20 19, by Robert Riva who is personally known to me or has produced _____ as identification.

CAROLE LESTER
Notary Public - State of Florida
Commission # GG 205811
My Comm. Expires Apr 10, 2022
Bonded through National Notary Assn.

_____
Notary Public

EXHIBIT "A"

EASEMENT AREA

The rights-of-way depicted as Leeward Island Drive, Ancient Island Drive, Saint Barts Avenue, and Bird Island Drive in St. Augustine, FL 32080, on the plat of Antigua Phase One, recorded in Map Book 93, pages 18-25, public records of St. Johns County, Florida.

EXHIBIT "B"

INGRESS/EGRESS AREA

The rights-of-way depicted as Leeward Island Drive, Ancient Island Drive, Saint Barts Avenue, and Bird Island Drive in St. Augustine, FL 32080, on the plat of Antigua Phase One, recorded in Map Book 93, pages 18-25, public records of St. Johns County, Florida.

ST AUGUSTINE PUBLIC WORKS
75 KING STREET
SAINT AUGUSTINE, FL 32084
904-825-1040

ST AUGUSTINE PUBLIC WORKS
00319400080325401094 35

Date: 10/03/2019 02:45:50

CREDIT CARD SALE

VISA
CARD NUMBER: **********5458 K
TRAN AMOUNT: $250.00
APPROVAL CD: 003856
RECORD #: 000
CLERK ID: pwadmin

x Phone Authorization
(CARDHOLDER'S SIGNATURE)

I AGREE TO PAY THE ABOVE TOTAL AMO
ACCORDING TO THE CARD ISSUER AGREE
(MERCHANT AGREEMENT IF CREDIT VOUC

Merchant Copy

PAYMENT SUMMARY RECEIPT

CITY OF ST. AUGUSTINE - LIVE
75 King Street
St. Augustine FL 32084

DATE: 10/03/19 CUSTOMER#: 000000000
TIME: 14:51
CLERK: 1596pwad

RECPT#: 1703746 PREV BAL:
TP/YR: MS/2020 AMT PAID: 250.00
BILL: ADJSTMNT:
EFF DT: 10/03/19 BAL DUE:
MISCELLANEOUS PAYMENT

----------TOTALS----------

PRINCIPAL PAID:	250.00
INTEREST PAID:	.00
ADJUSTMENTS:	.00
DISC TAKEN:	.00
AMT TENDERED:	250.00
AMT APPLIED:	250.00
CHANGE:	.00

PAID BY: Antigua
PAYMENT METH: CREDIT CARD
PAYMENT REF: 5458

FYI. Filing Fee Payment.

ITEM 9.B.1.

Resolution 2019-41

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John Regan, City Manager

RE: Street Closures for Special Events

DATE: October 1, 2019

With the passage of Resolution 2018-13, the St. Augustine City Commission set a number of parameters governing events in the city including one which prevents the closure of any street for more than two hours for a special event.

In the time since the passage of Resolution 2018-13, the Public Affairs Department has become aware that certain events may be more suited to be held in an on-street environment and may last more that two hours.

With the passage of Resolution 2019-41 the City Manager will have the authority to close a street and/or interrupt traffic in order to accommodate a special event.

Please place this resolution on the City Commission's October 14 agenda for consideration.

Thank you,

Paul K. Williamson
Public Affairs Director

RESOLUTION NO. 2019-41

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA, ESTABLISHING THE CITY MANAGER'S AUTHORITY TO CLOSE CITY STREETS FOR CERTAIN EVENTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, special events have long been a part of the cultural environment of the City of St. Augustine, which includes annual parades, festivals, art shows, musical performances, and other events; and

WHEREAS, the City supports a wide variety of special events by making venues available that include Francis Field, the Gazebo in the Plaza de la Constitución, the Municipal Marina, Lightner Courtyard, and rights-of-way throughout the City; and

WHEREAS, certain events may be best-suited to be held on certain city streets; and

WHEREAS, such events may require city streets to be closed for more than two hours; and

WHEREAS, Resolution 2018-13 provided that the City Manager could only permit an event that requires the closing of a street for no more than two hours

WHEREAS, the City Commission recognizes that in certain circumstances, the City Manager should be authorized to close city streets for more than two hours to accommodate special events.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA, THAT

Section 1. Upon the effective date of this resolution, the City Manager is authorized to close a city street and/or interrupt traffic in order to accommodate a special event held on a city street for a duration as determined to be appropriate by the City Manager.

Section 2. This authorization does not include streets owned by the Florida Department of Transportation.

Section 3. The City Commission will be notified of all instances of street closures authorized under this resolution by their inclusion on the next consent agenda following such authorization.

Section 4. This resolution will take effect immediately upon passage.

ADOPTED in Regular Session of the City Commission for the City of St. Augustine, Florida this _____ day of _____, 2019.

CITY OF ST. AUGUSTINE, FLORIDA

_____

Tracy W. Upchurch, Mayor-Commissioner

ATTEST:

_____

Darlene Galambos, City Clerk

(Corporate Seal)

ITEM 9.B.2.

Resolution 2019-42

CITY OF ST. AUGUSTINE

MEMORANDUM

To: John Regan, City Manager

Re: Extension of 2019-2020 *Nights of Lights*

Date: October 1, 2019

The St. Augustine City Commission has the option of extending the Nights of Lights program from its regular ending date of January 31 to the Sunday following that date to allow the holiday lighting displays to conclude on a Sunday, taking advantage of a full weekend at the conclusion of the program.

Since January 31, 2020 falls on a Friday, the City Commission may consider the attached resolution to extend the allowable period of related *Nights of Lights* displays until the following Sunday, February 2.

Making this determination now will allow the minimum lead time for area lodging establishments, restaurants, attractions, retail establishments, St. Augustine, Ponte Vedra & the Beaches Visitors and Convention Bureau, the St. Johns County Chamber of Commerce and the general public to be fully aware of the final date of this popular and successful program.

Attached is Resolution 2019-42 which allows for the extension of the 2019-2020 *Nights of Lights* program. Should the City Commission desire to act on this matter, we ask that it do so at the October 14 meeting.

Thank you,

Paul K. Williamson
Public Affairs Director

RESOLUTION NO. 2019-42

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA EXTENDING THE NIGHTS OF LIGHTS TO AND INCLUDING SUNDAY, FEBRUARY 2, 2020.

WHEREAS, by the enactment of Ordinance 2013-35, the City Commission amended Section 3-23 of the Code of the City of St. Augustine to permit the extension of the last date for display of lights at the termination of the annual Nights of Lights until and including the Sunday following January 31; and

WHEREAS, the City Commission finds it appropriate to extend the last date for display of lights for the 2019-2020 program to be up to and including Sunday, February 2, 2020.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

That the last date for display of lights for the Nights of Lights in the year 2020 is hereby designated as up to and including Sunday, February 2, 2020.

ADOPTED in Regular Session of the City Commission for the City of St. Augustine, Florida this _____ day of _____, 2019.

CITY OF ST. AUGUSTINE, FLORIDA

_____

Tracy W. Upchurch, Mayor-Commissioner

ATTEST:

_____

Darlene Galambos, City Clerk

(Corporate Seal)

ITEM 11.B.

Discussion – Short Term Rentals

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: Mayor, Vice-Mayor and Commissioners

DATE: September 30, 2019

RE: **SHORT-TERM RENTAL COMMITTEE RECOMMENDATIONS**

The City Commission at its September 9th meeting requested that our office draft the Short-Term Rental (STR) Committee's recommendations in ordinance format for further discussion and direction.

A. Recommendations from the STR Committee that provided set standards were reformatted into municipal code format for review and discussion by the City Commission. These include a requirement to register, provided certain information including floor and site plans, provide for an annual inspection, time limitations on ancillary use/guest visiting hours, minimum life-safety equipment, and compliance with existing solid waste regulations.

B. While most recommendations were fairly straightforward and easily transformed into regulatory language, some issues were more nuanced or require further discussion. One example is the issue of property manager complaint response time, and whether the property owner/manager contact information should be shared directly with neighbors, or instead utilize a 1-800 type hotline number directly to a code compliance provider such as Host Compliance. These issues were not drafted into the attached regulations as the options were too diverse and lacked a consistent recommendation. Theoretically, providing the property manager with an opportunity to cure a noise violation, before it is reported to law enforcement, could be provided as a courtesy without the need to codify this process. For example: neighbor calls the 1-800 hotline to complain about noise, the hotline operator contacts the property manager and gives them 20 minutes to notify their customer to turn down the noise or take it indoors, and if this does not resolve the issue, law enforcement is called to the address for a formal police response.

C. The two recommended regulations that may have a heightened risk of dispute are the intensity of use and parking requirements. During the STR Committee hearing, we did not receive many comments from operators of large (over 12-person occupancy) short-term rental units. These do not appear, at least anecdotally, to be prevalent within the City. However, maximum unit occupancy has been a point of contention in other communities, especially large beach houses. Flagler County tried to place a cap on occupancy of large beach short-term rentals, and ultimately settled their dispute with those property owners by vesting those existing properties to their full occupancy. Their ordinance had a time-lapse maximum starting at 14 persons, then lowering to 12 persons for the following three years, and ultimately capped at 10 persons per unit. The STR Committee did not recommend vesting any properties, but this may be something that requires more careful City Commission deliberation. Secondly, the parking requirement for one on-site parking space per bedroom may create another point of contention. Again, although anecdotal evidence seems to show that most City short-term rentals are not large, multi-family/multi-car vacation venues, some houses in our neighborhoods rely on street parking. The recommendations did include the possibility of obtaining approval for off-site parking, or street parking permits.

D. The draft code language does not explicitly include a provision stating that any existing rental contracts are unaffected by the adoption of these new code provisions. This will be inserted after the City Commission provides direction on the other provisions. Court decisions, including the lawsuit involving Flagler County, have held that rental contracts in compliance with the law at the time must be honored and unimpaired.

Please place this item for discussion and direction under City Attorney Items 11.B on the October 14th, City Commission Agenda.

Thank you.

Isabelle C. Lopez
City Attorney

Attachments

xc: John Regan, City Manager
Darlene Galambos, City Clerk

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John Regan, P.E.
City Manager

DATE: September 9, 2019

RE: Short Term Rental Committee Final Report

On July 8, 2019 the City Commission created a short term rental committee composed of 7 citizen volunteers with the task of reviewing potential regulations for short term (vacation) rentals and to make recommendations to the City Commission regarding new regulations. The City Commission gave the short term rental committee 60 days to complete this project.

The short term rental committee held public meetings on August 1, August 7 and August 14. These meetings were productive, they were very well attended by the public and the committee was presented with viewpoints from both residents, short term rental owners and the business community. Technical details were presented to the committee by the City Police Chief, City Fire Marshall and City Building Official.

The committee's final report is broken down into individual "key issues", such as parking, noise, life safety, etc. In the report, each key issue is introduced and includes staff comments as well as the committee's recommendations. There was not unanimous consensus by the committee on each key issue and the final report includes individual board members' dissenting opinions. The committee was also tasked with reviewing policy objectives. A list of potential policy objectives was discussed by the committee, but no recommendation was made.

Included with the final report is the back-up material that was submitted to the committee during their tenure.

Please place the final report of the short term renal committee on the September 9, 2019 City Commission agenda.

If you have any questions, please let me know.

David Birchim

David Birchim, AICP
Director, Planning and Building

Short Term Rental Committee
Final Report

Key Issue - Registration

Introduction

Registration will....

1. Form the database of all properties that are required to comply with new rules;
2. Create a "file" on each individual short-term rental property;
3. Memorialize and track compliance with each new rule for each individual property;
4. Identify a "responsible party" that will be the point of contact for code compliance and citizen complaints. This could be the property owner, long term tenant, or a management company. A time frame in which citizen complaints must be addressed by the responsible party can be identified in the registration document.

Staff Comments...

1. Registration is done on an annual basis, using the city's fiscal year calendar (Oct 1-Sept 30).
2. Failure to register a short-term rental is a code violation.
3. A property's registration can be revoked for non-compliance with the code.
4. A precondition of registration is an annual inspection to verify compliance with all city codes, state codes (building codes), and life-safety codes, etc., that may apply to the property.
5. The registration can require details of compliance with other new rules; such as floor plans to identify bedrooms, a site plan to identify parking, contact information for a responsible party, etc.
6. Effective date, revocation of registration and annual inspection provisions which allow the city access to the property, and which are agreed to by the property owner, are all part of the registration process.
7. An annual registration fee is collected to offset the city's costs for the administration of this program.
8. A component of registration is to cooperate with the County Tax Collector and State by sending rental registration to these agencies.
9. A timeframe will be set for the minimum response time that a host must respond to complaints.

Short Term Rental Committee
Final Report

Key Issue - Registration (continued)

Committee Recommendations

1. Short term rentals shall be registered with the City and the Police and Fire Departments shall have access to the rental registration information.
2. The City shall send registration forms to the appropriate agencies to notify them of a new rental registration.
3. A rental registration form will take the place of a City business tax receipt.
4. Registration will state that property owners will need to comply with County and State regulations if the property is receiving a homestead exemption on the same property that will be used as a rental unit.
5. Registration will state that owners and/or operators of rental units will be required to pay the bed tax through the County Tax Collector's office.
6. The rental registration form will clearly indicate the response time in which complaints will be addressed and resolved. *(30, 60, and 90 minute response times were discussed: Mr. Tom Day and Mr. Brian Funk stated the response time should be 30 minutes maximum; Ms. Pat Dobosz recommended a 90-minutes, Ms. Melinda Rakoncay recommended 60 minutes or less. Mr. Brian Funk added that an owner or agent should be available 24 hours a day)*
7. The City will provide formal notification to adjacent property owners of a new rental unit with contact information of the responsible party.
8. A Code of Conduct for short term rentals that includes operating regulations will accompany the registration form and will be provided on the City's web page for reference.
9. There are no pre-existing rights (grandfathered status) of short term rentals that operated prior to establishment of these requirements.
10. A full interior building sketch must be submitted with the rental registration form to indicate the locations of fire extinguishers, smoke detectors, carbon monoxide detectors, emergency exits and exit signs, and a full floor plan documenting all sleeping areas (including sleeper sofas) for each rental unit.
11. An exterior site plan sketch of the grounds of the rental property must be submitted with the rental registration form to indicate parking, any swimming pools, or other outdoor features.

Short Term Rental Committee
Final Report

Key Issue - Registration

Committee Recommendations (continued)

12. The website address for the rental unit will be included on the registration form and the City license or registration number will be included on any advertisements of the rental unit.
13. No exterior signs will be posted. *(Mr. Brian Funk did not indicate he agreed that there should be no sign posting the contact information of the rental management company)*

Additional Comments:

There was significant concern regarding a potential requirement that sex offenders notify their status on the registration form. Ms. Cindy Wasserbauer, Ms. Pat Dobosz, and Mr. Parrish Jones indicated this may not be realistic. Ms. Debi Sauls added that she would like to be provided language that can be added to a listing legally if a guest is required by law to register and she recognized that it may not be feasible to get them to register. Ms. Melinda Rakoncay believes this is important to pursue.

Short Term Rental Committee Final Report

Key Issue - Intensity of Use

Introduction

The number of guests in a Short Term Rental may influence the impact the property has on neighboring residents. If a property is overcrowded, this could lead to parking, noise and garbage problems for people living nearby. In order to address this, occupancy limits can be created.

Staff comments…

1. Apply limitations to the number of bedrooms per rental unit.
2. Apply limitations for the number of guests per bedroom.
3. Apply limitations to the number of total guests per property.
4. Apply limitations to visitors who are not staying at the property to certain hours on the property.
5. For reference, the City's Special Events Venue Ordinance provides rules governing where special event venue businesses are allowed and the requirements for special event venue businesses.

Committee Recommendations

1. The maximum occupancy is two (2) persons per bedroom plus two (2) additional guests per unit.
2. The minimum requirements for a rental unit include one (1) full bath per two (2) bedrooms.
3. The total maximum overnight occupancy is eight (8) to twelve (12) persons per property. *(Ms. Debi Sauls suggests an exception or a variance to the maximum number of guests be provided based on the nature of the property, for example a 6 bedroom with 16 person short-term rental on Marine Street and Mr. Brian Funk agreed for a case by case basis; Ms. Melinda Rakoncay does not want the occupancy increased)*
4. Non-overnight guests are not allowed on the property between the hours of 10:00 pm on weekdays and 11:00 pm on weekends and 8:00 on all mornings. *(Ms. Debi Sauls recommened that visitor hours be set at 7:00 am for morning based on the noise ordinance; Ms. Melinda Rakoncay indicated that a 10:00 pm time for all evenings be used especially in residentially-zoned areas)*

Short Term Rental Committee Final Report

Key Issue - Life/Safety

Introduction

In conjunction with the Intensity of Use, life/safety rules can be a means to protect short term rental guests and neighboring properties.

Staff comments…

1. Require annual inspections by the City Fire Marshall to address fire hazards, ingress/egress from the building, emergency lights, fire extinguishers, fire sprinklers, etc.
2. Require fire extinguishers in the rental unit as per the City Fire Marshal.
3. Require an automatic fire sprinkler system for buildings over a certain number of stories.
4. Require a posted emergency exit plan in each bedroom.
5. Require a posted E911 phone list in a prominent location in the rental unit.
6. Require illuminated emergency exit lights and lighting with battery back-up for emergency exits.

Committee Recommendations

1. All rental units will be required to follow applicable City Fire and Building code requirements.
2. Submission of a rental registration form to the City will act as the property's owner permission for the City to conduct annual inspections.
3. Smoke detectors, carbon monoxide detectors, fire extinguishers, and a first-aid kit commensurate with the size of the rental property will be provided in the rental unit and maintained to ensure a working condition. Also, two (2) means of egress from the unit will be maintained and operable.
4. An emergency contact template form will be provided for the owner/operator along with hurricane and emergency evacuation information that must be posted in the rental unit.

Short Term Rental Committee
Final Report

Key Issue - Handicap Accessibility

Introduction

The issue of requiring handicapped accessibility to Short Term Rentals has been forwarded as a discussion topic by the City Commission. Full compliance with the Federal (and State) Americans with Disabilities Act may not be feasible, for example, it would require an on-site handicapped parking space. However, there may be some rules that can adopted that eliminate barriers to handicap access.

Staff comments…

1. Require a wheelchair ramp or lift to an entrance/exist of the rental unit and doorway and hallway widths that allow wheelchair access. The ADA requires a 1:12 slope for a ramp and a minimum 32-inch doorway width.
2. Require vertical accessibility for rental units above the first floor.
3. Require stabilized on-site parking with a clear path of travel from the parking space to the ramp/lift leading to the entrance to the rental unit.
4. Require a handicap accessible bedroom and restroom.
5. Require handicap accessibility rules to be enacted if the short-term rental exceeds a certain intensity. For example, the following language could be added: "If a rental property has more than 3 rental bedrooms, then it must provide one handicapped accessible bedroom and bathroom to its guests."

Committee Recommendations

1. The City will enforce any federal or state rules that apply now or in the future for short-term rentals but will not enact local ADA regulations.
2. If a short term rental states on their advertisement that they are ADA compliant, then they must be ADA compliant and the city can verify.

Short Term Rental Committee Final Report

Key Issue - Parking

Introduction

The residential character of a district can be negatively impacted when a Short Term Rental does not have adequate on-site parking for its guests. The use of public parking on the street to accommodate transient rental guests erodes the stability and familiarity of a neighborhood, leading to irritated residents. In conjunction with the Intensity of Use, parking can be a means to limit the impact of Short Term Rental properties on the stable residential character of a neighborhood.

Staff comments…

1. Require on-site parking as a companion to occupancy limitations. For example, if there is a limit to the number of bedrooms and persons per bedroom, then one (1) on-site parking space could be required per bedroom.
2. Require a parking plan that shows the location of parking on the site as part of the property registration.
3. If a neighborhood participates in a residential parking program in which homeowners can purchase a permit to park on the street there may be consideration to allow a permit for the short-term rental property as well as on-site parking.
4. If a property cannot accommodate on-site parking, is there a mechanism for approving off-site parking to accommodate guests if parking is provided elsewhere in a commercial parking lot or garage? Can a front yard be used/converted into a parking lot to comply with on-site parking rules?
5. Clear rules for the parking of RV's and campers should be included in the parking plan. Currently, the city code does not allow people to live in a vehicle and RV's and campers cannot be parked in the front yard, which is the front building setback area.

Short Term Rental Committee
Final Report

Key Issue - Parking (continued)

Committee Recommendations

1. Short term rentals shall provide parking on site.
2. One (1) parking space per rental bedroom will be required. *(Ms. Debi Sauls adds that all other cars, including non-overnight guests, must ferry to public parking)*
3. If parking is not feasible on site, then the property owner may apply to the Planning and Zoning Board for a use by exception for offsite parking within 400ft of the premise or the City Parking Garage as determined by the Planning and Zoning Board.
4. The City Commission should consider the use of street parking under a permit basis as needed for short-term rentals. *(Ms. Debi Sauls added that areas like Lincolnville with narrow streets need limits to street parking)*
5. Unimproved parking in the front yard is not permitted and is only appropriate in the front yard area if it is on a driveway. *(Mr. Tom Day notes that new improvements to a property to create front yard parking meeting these standards will need to be evaluated, Ms. Debi Sauls notes that improvements to front yard parking must include aesthetic requirements requiring review and approval which was echoed by Ms. Melinda Rakoncay, Ms. Pat Dobosz reiterated there should be no yard parking)*
6. It will be clear to the industry of short-term rentals that living in a vehicle on the property is illegal including the use of RVs, or other vehicles.

Additional Comments:

Ms. Debi Sauls pointed out that vehicles parked on the property from on-site hosts and guests may unintentionally increase the number of vehicles on site.
Ms. Melinda Rakoncay suggested that boats in commercial marinas may be used as short-term rentals if they are registered.

Short Term Rental Committee
Final Report

Key Issue - Noise

Staff Comments…

1. If a property has had a certain number of noise complaints, sound monitors may be installed.
2. Adjusting the regulated decibel limits can increase management of noise through code infractions.
3. Outdoor speakers can be prohibited or limited.
4. The outdoor use of the property can be regulated with set hours and limiting the number of guests or visitors.

Committee Recommendations

1. Additional discussion was provided after a presentation and comments by the Chief of Police.

No formal recommendation to change the current noise ordinance was made.

Additional Comments:

Ms. Debi Sauls suggested that the notice to the neighbors of a short-term rental should encourage them to call the owner/manager first, Host Compliance if needed, then to call the Police. She further recommended compliance with the city noise ordinance.

Short Term Rental Committee Final Report

Key Issue - Miscellaneous

Staff Comments

1. Require "truth in advertising" as a condition of registration and making a violation of "truth in advertising" a code violation.
2. Outdoor trash bins can be regulated by size and area and include identifying outdoor trash bin location on a site/parking plan which is required to accompany the short term rental registration.
3. Regulations can address outdoor lighting fixtures to restrict light from projecting into neighboring properties.
4. Include less restrictive regulations for properties that are homestead exempt.
5. Include less restrictive regulations for properties that have on-site hosting. On-site hosting is when the property owner or tenant is physically living on the site when the property is being used as short term rental.

Committee Recommendations

1. The City Solid Waste Department shall monitor and provide recommendations on handling garbage rates at short term rental properties. The host is responsible to ensure that trash cans are taken in and out and in compliance with the trash receptacles locations as indicated on the exterior site plan provided with the rental registration.
2. Safety lighting shall be addressed in residential parts of the zoning code (a general issue).
3. A reduction in the annual registration fee for homestead exempt properties with a host on site can be offered.
4. There will be no rental limits for a host that is on site for at least eleven (11) of twelve (12) months on average. *(Ms. Cindy Wasserbauer recommends that there is no 'minimum' weekly rental limits as does Mr. Parrish Jones and Mr. Brian Funk; Mr. Tom Day had additional comments striking this recommendation entirely and Ms. Pat Dobosz also struck this item, Ms. Debi Sauls suggests no minimum rental limit for an on-site host for 9 months; Ms. Melinda Rakoncay wants to ensure continuation of existing rental limitations unless the host is living on the site at least 11 months of the year)*

Key Issue – Miscellaneous Items

Committee Recommendations (continued)

Additional Comments:

Ms. Debi Sauls included questioned whether RS1/RS2/HP1 with the minimum rental period requires guests on-site for the 7 or 30 days or whether they can have only 1 guest/group for 1-7 or 30 days.
She continues comments to include increasing budget for additional Code Enforcement officer and a Special Magistrate directed to enforcement of these regulations as adopted by the City Commission which Mr. Brian Funk also supports additional staff for enforcement purposes. The violations and consequences need to be identified along with the process and up to and including loss of registration and inclusion of 7 or 30-day minimum stays.

Ms. Pat Dobosz recommends that the City launch an educational component and social media program for all residents regarding short term rental requirements.

CONSENT AGENDA

CONSENT AGENDA – OCTOBER 14, 2019

CA.1. Preview of upcoming Commission meetings.

a) The following ordinances are tentatively scheduled for second reading on October 28, 2019:

- Ordinance 2019-24
- Ordinance 2019-25
- Ordinance 2019-40
- Ordinance 2019-43

b) Reminder of upcoming meetings:

- October 28, 2019, 4:00 p.m., LCRA Regular Meeting
- October 28, 2019, 5:00 p.m., Regular Meeting
- November 12, 2019, 5:00 p.m., Regular Meeting
- December 9, 2019, 5:00 p.m., Regular Meeting

CA.2. Approval of Minutes from prior commission meetings:

- June 24, 2019 Regular Meeting
- September 12, 2019 Community Redevelopment Agency Special Meeting
- September 12, 2019 Special Meeting
- September 19, 2019 Special Meeting
- September 23, 2019 Regular Meeting

CA.3. Releases of Lien for Unit Connection Fee Mortgage(s):

- Sharon L. Badger, Sherry Lynn Badger and Dawn Louann Brown – 2725 South Collins Avenue

CA.4. Proposed Proclamations, Certificates of Appreciation/Recognition. (Commission approval required). (To be read at a subsequent meeting).

- 2019-10CA - Certificate of Recognition to Charlotte Pichotta on her hundredth birthday. *(N. Sikes-Kline, Commissioner).*

CA.5. Invoice in the amount of $4,704.00 dated September 30 from Cavendish Partners, P.A. for legal services regarding the Seavin v. City of St. Augustine matter. *(I. Lopez, City Attorney).*

End of Consent Agenda

ITEM CA.2.

Minutes for Approval

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
Monday, June 24, 2019

The City Commission met in formal session Monday, June 24, 2019 at 5:00 P.M. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Tracy Upchurch, and the following were present:

1. Roll Call: Tracy W. Upchurch, Mayor/City Commissioner
Leanna S. A. Freeman, Vice Mayor/City Commissioner
Roxanne Horvath, City Commissioner
Nancy Sikes-Kline, City Commissioner
John Valdes, City Commissioner

John Regan, City Manager
Timothy A. Burchfield, Assistant City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
David Birchim, Director, Planning and Building
Jim Piggott, Director, General Services
Mike Cullum, Director, Public Works
Mark Litzinger, Director, Financial Services
Meredith Breidenstein, Director, Budget & Performance Management
Paul K. Williamson, Director, Public Affairs
Reuben Franklin, Manager, Mobility Program
Barry Fox, Police Chief
Carlos Aviles, Fire Chief
Robin DiAngelis, Recording Secretary

INVOCATION AND PLEDGE OF ALLEGIANCE

Rabbi Levi Vogel, Chabad Lubavitch of St. Augustine, delivered the invocation, and Commissioner Freeman led the Pledge of Allegiance.

2. ADMINISTRATIVE ITEMS

2.A. Modification and Approval of Regular Agenda

Darlene Galambos requested a Proclamation recognizing June 2019 as Pride Month be added to the consent agenda for approval.

Commission Sikes-Kline requested Resolution 2019-17, supporting the National Flood Insurance Program be added as Item 9.B.3.

MOTION

Commissioner Horvath MOVED to approve the amended Agenda. The motion was SECONDED by Commissioner Sikes-Kline and APPROVED BY UNANIMOUS VOICE VOTE.

3. Special Presentations, Recognitions and Proclamations

- Proclamation 2019-13: Greek Landing Day

Mayor Upchurch read the proclamation and presented it to representatives of the Greek Community.

4. General Public Comments (3 minutes per individual)

The Commission heard from the following members of the public:

- Ed Slavin
- Ed Jaglielski
- Linda Serinoff
- Brian Funk
- BJ Kalaidi[1]

5. Consent Agenda

Mr. Regan read the Consent Agenda.

CA.1. PREVIEW OF UPCOMING COMMISSION MEETINGS.

a) THE FOLLOWING ORDINANCES ARE TENTATIVELY SCHEDULED FOR 2ND READING ON JULY 8, 2019:

- Ordinance 2019-04
- Ordinance 2019-12
- Ordinance 2019-13

b) REMINDER OF UPCOMING MEETINGS:

- July 8, 4:00 p.m., Shade Meeting (Seavin issue)
- July 8, 5:00 p.m., Regular Meeting
- July 22, 5:00 p.m., Regular Meeting

CA.2. APPROVAL OF MINUTES FROM PRIOR COMMISSION MEETINGS:

- Regular meeting March 25, 2019
- Special meeting April 3, 2019
- Workshop meeting May 22, 2019

CA.3. RELEASES OF LIEN FOR UNIT CONNECTION FEE MORTGAGE(S):

- Tiffany and Christopher L. Scott, 2732 South Collins Avenue

CA.4. PROPOSED PROCLAMATIONS, CERTIFICATES OF APPRECIATION/RECOGNITION. (COMMISSION APPROVAL REQUIRED). (TO BE READ AT A SUBSEQUENT MEETING).

Proclamation 2019-14 Nelson Mandela International Day (N. Sikes-Kline, Commissioner)

Proclamation 2019-15 Pride Day

CA.5. NOTIFICATION OF PROCLAMATIONS/CERTIFICATES OF RECOGNITION ISSUED: NONE.

CA.6. Approval of the nomination of Thomas Rahner and Jean Rahner for the Order of la Florida Award. (T. Upchurch, Mayor).

CA.7. Authorization to enter into the Utility Work by Highway Contractor Agreement for the next phase of construction consisting of sidewalk and lighting from north of Fairbanks Street to Big Oak Road. (M. Cullum, Director, Public Works).

CA.8. Invoice in the amount of $1,008.00 dated June 3 from Cavendish Partners, P.A. for legal services regarding the Seavin v. City of St. Augustine matter. (I. Lopez, City Attorney).

CA.9. Memorandum of Understanding between the City of St. Augustine and the St. Augustine Police Benevolent Organization, Incorporated to accept proceeds from the sale of lost or abandoned property. (I. Lopez, City Attorney).

5.A. Additions, deletions or modifications to Consent Agenda

5.B. Approval of Consent Agenda

[1] Written comments attached to original minutes.

MOTION

Commissioner Horvath MOVED to approve the Consent Agenda. The motion was SECONDED by Commissioner Sikes-Kline and APPROVED BY UNANIMOUS VOICE VOTE.

6. Appeals.

(None)

7. General Public Presentations, Items of Great Public Importance, and Other Items Requiring Public Hearings

7.A. General Public Presentations

7.A.1. Presentation by John Arbizanni of the proposed improvement to Cuna Street between Avenida Menendez and Charlotte Street.

Reuben Franklin, Mobility Program Manager, introduced the proposed concept improvements, which included on street dining from 10:00am until 1:15am, commercial loading zone from 2:00am until 10:00am, cost share agreement, accelerated Capital Improvement Plan project, and structure improvements. He noted that the fair market value was implemented when determining the square footage.

John Arbizanni gave a presentation regarding the improvements.[2]

Elijah George of Marquis, Latimer, and Halback continued the review of the design and gave an overview of the project and the license agreement.

The Commission discussed the following regarding the project:

- Reimbursement by the City would be 73.3% of construction costs, not including soft costs such as engineering and planning
- Mr. Arbizanni would front money with City reimbursement upon completion and a goal of splitting the total cost 50/50
- Concern that percentage was not tied to a specific cost and construction costs remained uncertain
- Projected costs
- Desire to see presentation with total project value and simplified 50/50 split and comparable costs if the City undertook the project as previously planned in five years
- Pedestrian area walkway widths and request for clearly defined site plan with measurements
- Contractual violations as defined and the violation process
- Fair market value per square foot
- Desire to see appraisal
- No amplified music or speakers directed towards street-dining area and noise within the on-site courtyard was subject to noise ordinance
- Bollards and street lighting fixtures would be owned and maintained by the City
- Portion of design may need to be reviewed by HARB
- Leasing of the property to business owners and concerns that there were no indications of rent increasing over time
- License agreement should include CPI
- Concern for requested late evening restaurant hours and impacts on drinking economy
- Page 6, paragraph 14 of license agreement allowed for coming into compliance with any changes to applicable city codes
- Possible National Park parking lot beautification
- Road signage in the area
- Right-hand turn only from Charlotte to Avenida Menendez

[2] Attached to original minutes

- Total size of interior was about 7,500 square feet which would have larger impacts than the smaller restaurants along Aviles Street or comparable European-style eating establishments

Mr. Regan asked for consensus to move proceed with formulating the license agreement and project details, with consideration of concerns and requests from the Commissioners. He added that if the alcohol ordinance was passed that evening, then the Commission could expect to see the license agreement again at the July 8, 2019 meeting.

Commissioner Sikes-Kline voiced her concern for food and alcohol service along the street and added that she did not support the project based on those concerns.

Commissioner Freeman asked that there be public comment at the next consideration of the item.

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.A.1. Ordinance 2019-07: Amends Future Land Use Map designation for the property known as the St. Augustine Shipyard from Marine Industrial to Residential Medium Density Mixed Use.

Mayor Upchurch recused himself due to a conflict of interest.[3]

David Birchim, Planning and Building Director, presented Ordinance 2019-07.

Public hearing was opened, and Commissioners heard comments from the following:

- Ed Slavin
- BJ Kalaidi[1]

Public hearing was closed.

MOTION

Commissioner Sikes-Kline MOVED to pass Ordinance 2019-07 on second reading. The motion was SECONDED by Commissioner Valdes.

Isabelle Lopez read the title as follows:

ORDINANCE NO. 2019 - 07

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING THE FUTURE LAND USE MAP OF THE CITY OF ST. AUGUSTINE COMPREHENSIVE PLAN AND ASSIGNING THE LAND USE CLASSIFICATION FOR APPROXIMATELY 14.68 ACRES OF PROPERTY LOCATED ON THE EAST SIDE OF ARAPAHOE AVENUE, NORTH OF DIESEL ROAD, AS MORE PARTICULARLY DESCRIBED HEREINAFTER, FROM ITS CURRENT CLASSIFICATION OF MARINE INDUSTRIAL TO THE CLASSIFICATION OF RESIDENTIAL MEDIUM DENSITY/MIXED USE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

APPROVED BY UNANIMOUS VOICE VOTE.

8.A.2. Ordinance 2019-08: Amends the zoning designation for the property known as the St. Augustine Shipyard from Planned Unit Development (PUD) to Residential General Office (RGO).

David Birchim, Planning and Building Director, presented Ordinance 2019-08.[2]

[3] Form 8B attached to original minutes.

Public hearing was opened, and Commissioners heard comments from the following:

- Ed Slavin
- B.J. Kalaidi[1]

Public hearing was closed.

MOTION

Commissioner Sikes-Kline MOVED to pass Ordinance 2019-08 on second reading. The motion was SECONDED by Commissioner Valdes.

Isabelle Lopez read the title as follows:

ORDINANCE NO. 2019 - 08

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING THE ZONING FOR APPROXIMATELY 14.68 ACRES OF PROPERTY LOCATED ON THE EAST SIDE OF ARAPAHOE AVENUE, NORTH OF DIESEL ROAD, AS MORE PARTICULARLY DESCRIBED HEREINAFTER, FROM ITS CURRENT CLASSIFICATION OF PLANNED UNIT DEVELOPMENT (PUD) TO THE CLASSIFICATION OF RESIDENTIAL GENERAL OFFICE (RGO); PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

APPROVED BY UNANIMOUS VOICE VOTE.

8.B. Ordinances – First Reading (only if required by law)

(None)

8.C. Resolutions – Public Hearing (only if required by law)

(None)

9. Ordinances and Resolutions - No Public Hearing Required

9.A. Ordinances – First Reading

9.A.1. Ordinance 2019-04: Provides for alcoholic beverage consumption on certain City rights-of-way for on-street dining and provides for intermittent closure of certain rights-of-way.

Reuben Franklin, Mobility Program Manager, presented Ordinance 2019-04.

MOTION

Commissioner Horvath MOVED to place Ordinance 2019-04 on first reading, read by title only and passed. The motion was SECONDED by Mayor Upchurch.

Isabelle Lopez read the title as follows:

ORDINANCE NO. 2019-04

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 4-5, PROVIDING FOR ALCOHOLIC BEVERAGE CONSUMPTION ON CERTAIN RIGHT-OF-WAY FOR ON-STREET DINING; AMENDING SECTION 22-13, PROVIDING FOR VENDING AND SALE OF FOODSTUFFS, BEVERAGES AND REFRESHMENTS ON CERTAIN RIGHT-OF-WAY FOR ON-STREET DINING; AND CREATING SECTION 22-178, PROVIDING FOR INTERMITTENT CLOSURE OF CERTAIN RIGHT-OF-WAY FOR PEDESTRIAN AND NON-MOTORIZED TRAFFIC ONLY AND ON-STREET DINING; PROVIDING FOR VIOLATIONS AND PENALTIES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

APPROVED BY UNANIMOUS VOICE VOTE

9.A.2. Ordinance 2019-12: Limits zoning districts of aircraft and public airports within the City limits. Encourages the use of the local airport's facilities and equipment including a seaplane ramp.

Isabelle Lopez presented Ordinance 2019-12. She noted that the Airport Authority expressed support for the ordinance.

MOTION

Commissioner Freeman MOVED to place Ordinance 2019-12 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Sikes-Kline.

Isabelle Lopez read the title as follows:

ORDINANCE NO. 2019-12

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING CHAPTER 28 OF THE CODE OF THE CITY OF ST. AUGUSTINE; AMENDING ARTICLE I, SECTION 28-2 TO INCLUDE DEFINITIONS FOR AIRCRAFT AND PUBLIC AIRPORT; AMENDING ARTICLE III, DIVISION 6, SECTION 28-246 TO ALLOW PUBLIC AIRPORT AS A PERMITTED USE BY EXCEPTION IN OPEN LANDS DISTRICTS; CREATING ARTICLE IV, DIVISION I, SECTION 28-355 TO ESTABLISH ZONING LIMITATIONS FOR AIRPORTS AND AIRCRAFT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

APPROVED BY UNANIMOUS VOICE VOTE.

9.A.3. Ordinance 2019-13: Approves annual end of year salary supplement dependent upon satisfactory work performance and seniority.

Isabelle Lopez presented Ordinance 2019-13.

MOTION

Commissioner Sikes-Kline MOVED to place Ordinance 2019-13 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Horvath.

Isabelle Lopez read the title as follows:

ORDINANCE NO. 2019-13

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING CHAPTER 2 OF THE CODE OF THE CITY OF ST. AUGUSTINE; CREATING ARTICLE IV, DIVISION 3, SECTION 2-127 TO ESTABLISH AN ANNUAL END OF YEAR SALARY SUPPLEMENT FOR CITY EMPLOYEES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

APPROVED BY UNANIMOUS VOICE VOTE

9.A.4. Ordinance 2019-14: Amends the City Charter to remove sections obsolete, preempted or superseded.

Isabelle Lopez presented Ordinance 2019-14.

MOTION

Commissioner Horvath MOVED to place Ordinance 2019-14 on first reading, read by title only and passed. The motion was SECONDED by Commissioner Freeman.

Isabelle Lopez read the title as follows:

ORDINANCE NO. 2019-14

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING THE

CHARTER OF THE CITY OF ST. AUGUSTINE TO REMOVE ALL SECTIONS PREVIOUSLY IDENTIFIED AS BEING OBSOLETE, PREEMPTED AND SUPERSEDED; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

APPROVED BY UNANIMOUS VOICE VOTE

9.B. Resolutions

9.B.1. Resolution 2019-14: Establishes a property registration fee adoption for properties in default.

Isabelle Lopez presented Resolution 2019-14.

MOTION

Commissioner Horvath MOVED to pass Resolution 2019-14. The motion was SECONDED by Commissioner Sikes-Kline and APPROVED BY UNANIMOUS VOICE VOTE.

9.B.2. Resolution 2019-15: Supporting applications for the 2019 Hurricane Irma National Park Service Subgrants.

Jenny Wolfe, Historic Preservation Officer, presented Resolution 2019-15.

Commissioner Sikes-Kline asked if participation in the grant plan would pre-empt the City from applying to other grants to which Ms. Wolfe responded that she did not believe the grants carried such limitations although they were administered through the state.

Commissioner Sikes-Kline confirmed and clarified the two separate projects being applied for grant funding.

MOTION

Commissioner Sikes-Kline MOVED to pass Resolution 2019-15. The motion was SECONDED by Commissioner Horvath and APPROVED BY UNANIMOUS VOICE VOTE.

9.B.3 Resolution 2019-17: Supporting HR 3167 to reauthorize and reform the National Flood Insurance Program

Ms. Lopez read the resolution.

Commissioner Sike-Kline noted the pre-disaster hazard mitigation funding program which could help support the elevating of flood-prone structures.

MOTION

Commissioner Sikes-Kline MOVED to pass Resolution 2019-17. The motion was SECONDED by Commissioner Freeman and APPROVED BY UNANIMOUS VOICE VOTE.

10. Staff Reports and Presentations

(None)

11. ITEMS BY CITY ATTORNEY

11.A. Sunshine, Public Records and Ethics Minute.

No presentation made, provided by the City Attorney's Office for information purposes.

Ms. Lopez announced she would prepare the resolution limiting Commission meetings to four hours for review at the next meeting.

12. ITEMS BY CITY CLERK

12.A. Citizen Board Vacancies.

12.A. Discussion regarding cancellation of July 22, 2019 City Commission meeting due to no available quorum.

Darlene Galambos, City Clerk, announced that there would be no quorum for the July

22, 2019 meeting and staff felt there were no urgent matters requiring the meeting to be rescheduled.

MOTION

Mayor Upchurch MOVED to approve the cancellation of the July 22, 2019 meeting. The motion was SECONDED by Commissioner Horvath and APPRVOED BY UNANIMOUS VOICE VOTE.

12.B. Discussion regarding Budget Workshop Meeting dates.

Ms. Galambos advised of schedule conflicts for the already-scheduled budget meeting of August 22, 2019 and she recommended rescheduling for the Monday or Tuesday prior.

Ms. Lopez advised that Tuesday, August 20, 2019 there was a Planning and Zoning Board workshop scheduled for 1:00 p.m. and the budget workshop would need to be held in the morning.

There was consensus to schedule the budget workshop for August 20, 2019 from 8:30 a.m. to noon with Friday, August 23, reserved for additional discussion if necessary.

12.C. Request for appointment on the City of St. Augustine Audit Review Committee.

Ms. Galambos noted one applicant: Dominic Scine.

MOTION

Mayor Upchurch MOVED to appoint Dominic Scine to the Audit Review Committee. The motion was SECONDED by Commissioner Horvath and APPROVED BY UNNIMOUS VOICE VOTE.

13. ITEMS BY CITY MANAGER

13.A. Selection of committee members to investigate short-term rentals.

Mayor Upchurch recommended limiting the committee to seven members to include those actively involved in short term rentals, bed and breakfasts, and city residents. He suggested the commissioners recommend committee members for consideration.

Commissioner Valdes suggested Melinda Rakoncay as the chairperson of the neighborhood association.

Commissioner Horvath recommended Brian Funk, as a City resident experienced in the tourism industry, and a bed and breakfast owner.

Mayor Upchurch recommended Parrish Jones, a St. Augustine local who hosted a vacation rental in his home.

Commissioner Sikes-Kline recommended Tom Day as a City resident.

Ms. Lopez noted that Tom Day already served on the Code Enforcement Board and she would need to research whether his serving on the Short-Term Rental Committee would be in violation of ethics laws.

Ms. Galambos announced that Charles Pappas had withdrawn his application.

Commissioner Freeman recommended Debi Sauls as a long-term resident with business interests in the vacation rentals.

There was a brief discussion regarding potential Sunshine Law violations between Tom Day and Melinda Rakoncay who both held positions with the Neighborhood Association. The Commission requested for Ms. Lopez to do research and report back to the Commission.

There was additional discussion regarding limiting the timeframe for the Committee to consider short-term rental option without

asking them to develop or make decisions regarding drafting the code.

Ms. Lopez reiterated the Commission's committee member recommendations as follows:

- Melinda Rakoncay
- Tom Day
- Parrish Jones
- Debi Sauls
- Brian Funk

Mayor Upchurch recommended considering Jacqueline Jobert who lives in Lincolnville and manages property along with her father.

MOTION

Mayor Upchurch MOVED to TABLE the discussion to the July 8, 2019 meeting.

There was discussion regarding clarifying the make-up and duties of the committee, particularly addressing concerns such as parking, occupancy limits, fire-safety, and registration. Discussion continued regarding regulations such as signage designating vacation rentals, or some way for neighboring property owners to contact rental owners.

There was discussion regarding ensuring that committee members were City residents and a request that Mr. Regan come back to the Commission with guidance regarding points that the committee would address within a sixty-day timeframe.

14. Items by Mayor and Commissioners

Commissioner Freeman requested to add the Blue Hen parking concerns to the tracking list, which had been completed.

Commissioner Sikes-Kline announced that Jane West had reached out regarding banning plastic bags along with the City of St. Augustine Beach. She recommended that the City implement policies to ensure that the City followed environmentally friendly initiatives concurrent with any resolution the Commission may pass in the future regarding plastic waste.

Ms. Lopez responded regarding pre-emption of banning certain plastic items, specifically straws, due to state laws or current, active litigation. Discussion continued regarding banning plastic straws with exceptions for disabilities.

15. Adjournment

There being no further business, the meeting was adjourned at 7:32 P.M.[4]

Tracy W. Upchurch, MAYOR

Darlene Galambos, CITY CLERK

[4] Transcribed by Candice Seymour

CITY OF ST. AUGUSTINE

Community Redevelopment Agency
Special Meeting
September 12, 2019

The Community Redevelopment Agency met in formal session Thursday, September 12, 2019 at 6:00 P.M. in the Alcazar Room at City Hall. The meeting was called to order by Chairman Tracy Upchurch, and the following were present:

1. Roll Call: Tracy Upchurch
Leanna Freeman
Nancy Sikes-Kline
Roxanne Horvath
John Valdes

Timothy A. Burchfield, Assistant City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
Mark Litzinger, Director, Financial Services
Meredith Breidenstein, Director, Budget & Performance Management
Paul K. Williamson, Director, Public Affairs
Candice Seymour, Recording Secretary

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2. Public Hearing – Consideration of Resolution 2019-26, proposed budget for the Historic Area Community Redevelopment Area for Fiscal Year 2019-2020.

Meredith Breidenstein, Director, Budget and Performance Management, introduced the resolution.

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

MOTION

Commissioner Freeman MOVED to PASS Resolution 2019-26. The motion was SECONDED by Mayor Upchurch.
VOTE ON MOTION

AYES: Freeman, Upchurch, Valdes, Horvath, Sikes-Kline
NAYES: None
MOTION APPROVED UNANIMOUSLY

3. Hearing – Consideration of Resolution 2019-27, proposed budget for the Lincolnville Community Redevelopment Area for Fiscal Year 2019-2020

Ms. Breidenstein introduced the resolution.

Public hearing was opened, and the Commission heard from the following members of the public:

- Sue Agresta
- B.J. Kalaidi

There was a brief discussion in response to public comment regarding the Administrative Expenses line item intended to cover the cost of Tony Brown's contract which was not being renewed and it was determined that the agency could transfer those funds to other administrative expenses or programs after the start of the fiscal year.

MOTION

Commissioner Freeman MOVED to PASS Resolution 2019-27. The motion was SECONDED by Commissioner Horvath.

VOTE ON MOTION

AYES: Freeman, Horvath, Valdes, Sikes-Kline, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

4. Adjournment

There being no further business, the meeting was adjourned at 6:06 P.M.[1]

_____

Tracy Upchurch, MAYOR

_____

Darlene Galambos, CITY CLERK

[1] Transcribed by Candice Seymour

CITY OF ST. AUGUSTINE

City Commission Special Meeting
Thursday, September 12, 2019

The City Commission met in formal session Thursday, September 12, 2019 at 6:07 P.M. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Tracy Upchurch, and the following were present:

1. Roll Call: Tracy Upchurch, Mayor/City Commissioner
Leanna S.A. Freeman, Vice Mayor/City Commissioner
Nancy Sikes-Kline, City Commissioner
Roxanne Horvath, City Commissioner
John Valdes, City Commissioner

Timothy A. Burchfield, Assistant City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
Mark Litzinger, Director, Financial Services
Meredith Breidenstein, Director, Budget & Performance Management
Paul K. Williamson, Director, Public Affairs
Candice Seymour, Recording Secretary

Modifications to the Agenda

Tim Burchfield, Assistant City Manager, requested that the agenda be amended removing Item 6 since storm damage was not severe enough to necessitate the resolution.

MOTION

Commissioner Sikes-Kline MOVED to amend the agenda as requested. The motion was SECONDED by Commissioner Valdes and APPROVED BY UNANIMOUS VOICE VOTE.

2. General Public Comments

The Commissioners heard comments from the following:

- B.J. Kalaidi

3. Consideration of Ordinance 2019-36, establishing the Stormwater rates at $7.50 per Single Family Unit (SFU) for Fiscal Year 2019-2020

Meredith Breidenstein, Director, Budget and Performance Management, introduced the ordinance.

MOTION

Commissioner Freeman MOVED to PASS Ordinance 2019-36, read by title only and moved to second reading. The motion was SECONDED by Mayor Upchurch.

Isabelle Lopez, City Attorney, read the title as follows:

ORDINANCE NO. 2019-36

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING CHAPTER 29, ARTICLE I, SECTION 29-5 TO REVISE THE MONTHLY RATE FOR STORMWATER MANAGEMENT UTILITY FEES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST.

AUGUSTINE; PROVIDING FOR REPEAL OF CONFLCITING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION:

AYES: Freeman, Upchurch, Valdes, Horvath, Sikes-Kline
NAYES: None
MOTION APPROVED UNANIMOUSLY

4. Public Hearing – Consideration of Resolution 2019-37, establishing the tentative millage rate for the Fiscal Year 2019-2020 Budget

Ms. Breidenstein reviewed the resolution.

Public hearing was opened, and the Commission heard from the following:

- B.J. Kalaidi

MOTION

Commissioner Freeman MOVED to pass Resolution 2019-37 read in its entirety. The motion was SECONDED by Commissioner Horvath.

Isabelle Lopez read the resolution as follows:

RESOLUTION 2019-37

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA ADOPTING THE TENTATIVE LEVY OF AD VALOREM TAXES FOR FISCAL YEAR 2019-2020.

WHEREAS, the City Commission of the City of St. Augustine, Florida has conducted a public hearing on its tentative millage rate of 7.500 mills and has determined its rolled back rate is 6.9649 mills as required by Florida Statute 200.065;

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of St. Augustine, Florida that:

The Fiscal Year 2019-2020 tentative millage rate of the City of St. Augustine, Florida is 7.500 mills which represents an increase in the rolled-back rate of 6.9649 mills of 7.68 percent.

ADOPTED at a special meeting of the City Commission of the City of St. Augustine, Florida commenced at 6:00 p.m. this 12th day of September, 2019.

VOTE ON MOTION:

AYES: Freeman, Horvath, Valdes, Sikes-Kline, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

5. Public Hearing, First Reading – Consideration of Ordinance 2019-35, establishing the proposed budget for Fiscal Year 2019-2020

Ms. Breidenstein reviewed the ordinance.

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

MOTION

Commissioner Freeman MOVED to pass Ordinance 2019-35, read in its entirety, and moved to second reading. The motion was SECONDED by Commissioner Horvath.

Ms. Lopez read the ordinance in its entirety as follows:

ORDINANCE NO. 2019-35

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, RATIFYING, APPROVING AND ADOPTING THE ANNUAL BUDGET OR BUDGET ESTIMATES OF REVENUES AND EXPENDITURES FOR THE CITY OF ST.

AUGUSTINE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA AS FOLLOWS:

Section 1. The annual budget estimates of revenues and expenditures of the City of St. Augustine, Florida for the Fiscal Year 2019-2020, as prepared, amended and submitted to the City Commission of the City of St. Augustine, Florida by the City Manager, as considered and acted upon by said City Commission, under and by authority of the Charter of said City and the Laws of Florida, are hereby ratified, approved and adopted by the City Commission of said City, and the amounts of money set forth therein are hereby appropriated.

Section 2. The said budget of revenues and expenditures adopted for the ensuing Fiscal Year 2019-2020 still be spread in full upon the minutes of the City Commission.

Section 3. The appropriations within an activity or sub-activity for Fiscal Year 2018-2019 and Fiscal Year 2019-2020 may be transferred within by the City Manager for the purpose of equalization, when necessary.

Section 4. All funds for the current Fiscal Year 2018-2019 and budgeted Fiscal Year 2019-2020 may over-expend adopted budgets to the extent that actual revenues exceed the adopted budget.

Section 5. All unencumbered appropriations, except for special projects or commitments, be and are canceled as of September 30, 2019, and the City Director of Finance is directed to transfer all appropriation credit balances to unappropriated surplus and place to the credit of all appropriation accounts which show a debit balance for the Fiscal Year 2018-2019 an amount from unappropriated surplus to balance same and to close all such accounts for the Fiscal Year 2018-2019.

Section 6. If any provisions of this Ordinance, or the application thereof to any person or circumstances, are held invalid, such invalidity shall not effect other provisions or applications of the Ordinances which can be given effect without this invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. This ordinance shall become effective upon passage.

PASSED by the City Commission of the City of St. Augustine, Florida, in special session, at 5:05 p.m., this 19th day of September, 2019.

VOTE ON MOTION:

AYES: Freeman, Horvath, Valdes, Sikes-Kline, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

6. Consideration of Resolution 2019-40, establishing authorization to collect storm debris from private roads in the City's solid waste service area

See Modifications to the Agenda for motion to remove from the agenda.

5. Adjournment

There being no further business, the meeting was adjourned at 6:21 P.M.[1]

_____

Tracy W. Upchurch, MAYOR

_____

Darlene Galambos, CITY CLERK

[1] Transcribed by Candice Seymour

CITY OF ST. AUGUSTINE

City Commission Special Meeting
Monday, September 19, 2019

The City Commission met in formal session Thursday, September 19, 2019 at 5:05 P.M. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Tracy Upchurch, and the following were present:

1. Roll Call: Tracy Upchurch, Mayor/City Commissioner
Leanna S.A. Freeman, Vice Mayor/City Commissioner
Nancy Sikes-Kline, City Commissioner
Roxanne Horvath, City Commissioner
John Valdes, City Commissioner

John Regan, City Manager
Timothy A. Burchfield, Assistant City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
Mark Litzinger, Director, Financial Services
Meredith Breidenstein, Director, Budget & Performance Management
Barry Fox, Police Chief
Carlos Aviles, Fire Chief
Candice Seymour, Recording Secretary

General Public Comments

(None)

2. Public Hearing, Second Reading – Ordinance 2019-36, establishing the Stormwater rates at $7.50 per Single Family Unit (SFU) for Fiscal Year 2019-2020

Meredith Breidenstein, Director, Budget and Performance Management, reviewed the Ordinance.

Public hearing was opened, and the Commissioners heard from the following:

- B.J. Kalaidi

MOTION

Commissioner Sikes-Kline MOVED to PASS Ordinance 2019-36 on second reading read by title only and passed. The motion was SECONDED by Commissioner Horvath.

Ms. Lopez read the ordinance title as follows:

ORDINANCE NO. 2019-36

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA AMENDING CHAPTER 29, ARTICLE I, SECTION 29-5 TO REVISE THE MONTHLY RATE FOR STORMWATER MANAGEMENT UTILITY FEES; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Sikes-Kline, Horvath, Valdes, Freeman, Upchurch
NAYES: NONE
MOTION APPROVED UNANIMOUSLY

3. Public Hearing – Consideration of Resolution 2019-38, establishing the final millage rate for the Fiscal Year 2019-2020 Budget

Ms. Breidenstein introduced the resolution.

Public hearing was opened, and the Commission heard from the following:

- B.J. Kalaidi

MOTION

Commissioner Freeman MOVED to PASS Resolution 2019-38 read in its entirety. The motion was SECONDED by Commissioner Horvath.

Ms. Lopez read the resolution as follows:

RESOLUTION 2019-38

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA ADOPTING THE FINAL LEVY OF AD VALOREM TAXES FOR FISCAL YEAR 2019-2020

WHEREAS, the City Commission of the City of St. Augustine, Florida has conducted a public hearing on its final millage rate of 7.500 mills and has determined its rolled back rate is 6.9649 mills as required by Florida Statute 200.065;

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of St. Augustine, Florida that:

The Fiscal Year 2019-2020 final millage rate of the City of St. Augustine, Florida is 7.500 mills which represents an increase in the rolled-back rate of 6.9649 mills of 7.68 percent.

ADOPTED at a special meeting of the City Commission of the City of St. Augustine, Florida commenced at 5:05 p.m. this 19th day of September, 2019.

VOTE ON MOTION

AYES: Freeman, Horvath, Valdes, Sikes-Kline, Upchurch
NAYES: NONE
MOTION APPROVED UNANIMOUSLY

4. Public Hearing, Second Reading – Ordinance 2019-35 proposed budget for Fiscal Year 2019-2020

Ms. Breidenstein reviewed the ordinance.

Public hearing was opened, and the Commission heard from the following:

- B.J. Kalaidi

In response to public comment, Ms. Breidenstein stated that, netting out transfers between funds for accuracy, $60 million was the approximate budget for the City of St. Augustine.

Commissioner Sikes-Kline noted that there were many budget workshops over the course of the year that culminated in this final meeting for approval.

MOTION

Commissioner Sikes-Kline MOVED to PASS Ordinance 2019-35 on second reading, read in its entirety. The motion was SECONDED by Commissioner Valdes.

Ms. Lopez read the ordinance as follows:

ORDINANCE NO. 2019-35

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, RATIFYING, APPROVING AND ADOPTING THE

ANNUAL BUDGET OR BUDGET ESTIMATES OF REVENUES AND EXPENDITURES FOR THE CITY OF ST. AUGUSTINE, FLORIDA, FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2019 AND ENDING SEPTEMBER 30, 2020; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ST. AUGUSTINE, FLORIDA AS FOLLOWS:

Section 1. The annual budget estimates of revenues and expenditures of the City of St. Augustine, Florida for the Fiscal Year 2019-2020, as prepared, amended and submitted to the City Commission of the City of St. Augustine, Florida by the City Manager, as considered and acted upon by said City Commission, under and by authority of the Charter of said City and the Laws of Florida, are hereby ratified, approved and adopted by the City Commission of said City, and the amounts of money set forth therein are hereby appropriated.

Section 2. The said budget of revenues and expenditures adopted for the ensuing Fiscal Year 2019-2020 shall be spread in full upon the minutes of the City Commission.

Section 3. The appropriations within an activity or sub-activity for Fiscal Year 2018-2019 and Fiscal Year 2019-2020 may be transferred within by the City Manager for the purpose of equalization, when necessary.

Section 4. All funds for the current Fiscal Year 2018-2019 and budgeted Fiscal Year 2019-2020 may over-expend adopted budgets to the extent that actual revenues exceed the adopted budget.

Section 5. All unencumbered appropriations, except for special projects or commitments, be and are canceled as of September 30, 2019, and the City Director of Finance is directed to transfer all appropriation credit balances to unappropriated surplus and place to the credit of all appropriation accounts which show a debit balance for the Fiscal Year 2018-2019 an amount from unappropriated surplus to balance same and to close all such accounts for the Fiscal Year 2018-2019.

Section 6. If any provisions of this Ordinance, or the application thereof to any person or circumstances, are held invalid, such invalidity shall not effect other provisions or applications of the Ordinances which can be given effect without this invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. This ordinance shall become effective upon passage.

PASSED by the City Commission of the City of St. Augustine, Florida, in special session, at 5:05 p.m., this 19th day of September, 2019.

VOTE ON MOTION

AYES: Sikes-Kline, Valdes, Horvath, Freeman, Upchurch
NAYES:
MOTION APPROVED UNANIMOUSLY

6. Adjournment

There being no further business, the meeting was adjourned at 5:19 P.M.[1]

_____

Tracy W. Upchurch, MAYOR

_____

Darlene Galambos, CITY CLERK

[1] Transcribed by Candice Seymour

CITY OF ST. AUGUSTINE

Regular City Commission Meeting
Monday, September 23, 2019

The City Commission met in formal session Monday, September 23, 2019 at 5:00 P.M. in the Alcazar Room at City Hall. The meeting was called to order by Mayor Tracy Upchurch, and the following were present:

1. Roll Call: Tracy W. Upchurch, Mayor/City Commissioner
Leanna S. A. Freeman, Vice Mayor/City Commissioner
Roxanne Horvath, City Commissioner
Nancy Sikes-Kline, City Commissioner
John Valdes, City Commissioner

John Regan, City Manager
Isabelle Lopez, City Attorney
Darlene Galambos, City Clerk
David Birchim, Director, Planning and Building
Jim Piggott, Director, General Services
Mark Litzinger, Director, Financial Services
Meredith Breidenstein, Director, Budget & Performance Management
Paul K. Williamson, Director, Public Affairs
Barry Fox, Police Chief
Bob Growick, Fire Marshall
Candice Seymour, Recording Secretary

INVOCATION AND PLEDGE OF ALLEGIANCE

Pastor Earl Glisson, Anchor Faith Church, delivered the invocation, and Commissioner Freeman led the Pledge of Allegiance.

2. ADMINISTRATIVE ITEMS

2.A. Modification and Approval of Regular Agenda

Mr. Regan asked that item 9.B.6. regarding street closures be tabled per staff recommendation.

MOTION

Commissioner Sikes-Kline MOVED to approve the Agenda as amended. The motion was SECONDED by Commissioner Horvath and APPROVED BY UNANIMOUS VOICE VOTE.

3. Special Presentations, Recognitions and Proclamations

- Proclamation 2019-21: Recognizing September 27, 2019 as "Blessings in a Backpack Day"

Mayor Upchurch read the proclamation and presented it to members of the organization.

- Proclamation 2019-25: Recognizing October 6-12 as National Fire Prevention Week.

Mayor Upchurch read the proclamation and presented it to Fire Marshall Bob Growick, Firefighters Nate Evans, Rob

Murphy, Chris Chester, and Captain Mike Betts.

4. General Public Comments (3 minutes per individual)

The Commission heard from the following members of the public:

- John Reardon
- Catherine DeLeo
- Ed Slavin
- B.J. Kalaidi[1]

5. Consent Agenda

Mr. Regan read the Consent Agenda as follows:

CONSENT AGENDA – SEPTEMBER 23, 2019

CA.1. Preview of upcoming Commission meetings.

a) The following ordinances are tentatively scheduled for second reading on October 14, 2019:

- Ordinance 2019-15
- Ordinance 2019-23
- Ordinance 2019-38

b) Reminder of upcoming meetings:

- October 14, 2019, 5:00 p.m., Regular Meeting
- October 28, 2019, 5:00 p.m., Regular Meeting
- November 12, 2019, 5:00 p.m., Regular Meeting
- December 9, 2019, 5:00 p.m., Regular Meeting

CA.2. Approval of Minutes from prior commission meetings:

- September 9, 2019 Regular Meeting

CA.3. Releases of Lien for Unit Connection Fee Mortgage(s): None.

CA.4. Proposed Proclamations, Certificates of Appreciation/Recognition. (Commission approval required). (To be read at a subsequent meeting).

- Proclamation 2019-22 proclaiming October 2019 as Domestic Violence Awareness Month

CA.5. Notification of Proclamations/Certificates of Recognition issued: None.

CA.6. August 2019 monthly financial update. (M. Litzinger, Director, Finance).

CA.7. Ratification of Collective Bargaining Agreements between the City and the Coastal Florida Police Benevolent Association and between the City and the Florida Carpenters Regional Council, Local 20238. (D. Hayes, Director, Human Resources).

CA.8. Invoice in the amount of $4,504.20 dated August 31 from Cavendish Partners, P.A. for legal services regarding the Seavin v. City of St. Augustine matter. (I. Lopez, City Attorney).

End of Consent Agenda

5.A. Additions, deletions or modifications to Consent Agenda

5.B. Approval of Consent Agenda

MOTION

Commissioner Sikes-Kline MOVED to approve the Consent Agenda. The motion was SECONDED by Commissioner Horvath and APPROVED BY UNANIMOUS VOICE VOTE.

6. Appeals.

(None)

[1] Notes attached to original minutes

7. General Public Presentations, Items of Great Public Importance, and Other Items Requiring Public Hearings

7.A. General Public Presentations

(None)

7.B. Items of Great Public Importance

(None)

7.C. Other Items Requiring Public Hearing

(None)

8. Ordinances and Resolutions – Public Hearing Required.

8.A. Ordinances – Second Reading

8.A.1. Ordinance 2019-37: Amends chapter 13 of the City code to conform to statutory changes to the telecommunications permitting process.

John Cary, Assistant City Attorney, presented the ordinance.

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

MOTION

Commissioner Sikes-Kline MOVED to pass Ordinance 2019-37 on second reading read by title only. The motion was SECONDED by Commissioner Horvath.

Isabelle Lopez read the title as follows:

ORDINANCE NO. 2019-37

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING SECTION 13-3 OF THE CODE OF THE CITY OF ST. AUGUSTINE; AMENDING DEFINITIONS; AMENDING SECTION 13-4 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING REGISTRATION REQUIREMENTS FOR COMMUNICATIONS SERVICES PROVIDERS; AMENDING SECTION 13-8 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING A TIME LIMIT FOR DECISIONS ON APPEAL; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Sikes-Kline, Horvath, Valdes, Freeman, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

8.B. Ordinances – First Reading (only if required by law)

(None)

8.C. Resolutions – Public Hearing (only if required by law)

(None)

9. Ordinances and Resolutions - No Public Hearing Required

9.A. Ordinances – First Reading

9.A.1. Ordinance 2019-23: Charter update to Article III, Sections 3.02, 3.04 and 3.05 updating reference to state and federal regulations, removing reference to municipal courts and conforming language to current usage.

Ms. Lopez reviewed the ordinance.[2]

MOTION

Commissioner Horvath MOVED to place Ordinance 2019-23 on first reading, read by title only and passed. The motion

[2] Commissioner Sikes-Kline took a brief recess from 5:30p.m. to 5:32p.m.

was SECONDED by Commissioner Valdes.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2019-23

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, AMENDING ARTICLE III OF THE CHARTER OF THE CITY OF ST. AUGUSTINE; AMENDING SECTION 3.02, TO PROVIDE FOR STATE OR FEDERAL PREEMPTION AND PROVIDE FOR PROPERTY OWNERSHIP FOR A PUBLIC PURPOSE AND ZONING REGULATIONS; AMENDING SECTIONS 3.04 AND 3.05 TO REMOVE OUTDATED LANGUAGE AND TO PROVIDE FOR REGULATION OF TRANSIT; PROVIDING FOR INCLUSION IN THE CHARTER OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Horvath, Valdes, Freeman, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

9.A.2. Ordinance 2019-38: Creates Section 28-355, providing regulations for the cultivation, distribution, and retail sale of hemp and hemp extract.

Mr. Cary presented the ordinance and noted that comments from the Planning and Zoning Board would be brought to the Commission during second reading.

MOTION

Commissioner Sikes-Kline MOVED to place Ordinance 2019-38 on first reading, read by title only and passed. The motion was SECONDED by Mayor Upchurch.

Ms. Lopez read the title as follows:

ORDINANCE NO. 2019-38

AN ORDINANCE OF THE CITY OF ST. AUGUSTINE, FLORIDA, CREATING SECTION 28-355 OF THE CODE OF THE CITY OF ST. AUGUSTINE; PROVIDING REGULATIONS FOR THE CULTIVATION, DISTRIBUTION, AND RETAIL SALE OF HEMP PRODUCTS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERANCE OF INVALID PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

VOTE ON MOTION

AYES: Sikes-Kline, Upchurch, Valdes, Horvath, Freeman
NAYES: None
MOTION APPROVED UNANIMOUSLY

9.B. Resolutions

Discussion with City of St. Augustine Archaeologist, Dr. Andrea White regarding concerns relevant to construction on Charlotte Street.

Andrea White gave an overview of concerns related to construction on Charlotte Street and clarified the following in response to Commission questions:

- Most of the human remains were at a depth lower than two feet
- There were opportunities for historical interpretation and documentation; however, the priority was to respectfully handle human remains
- Archeological monitoring mentioned in the memo was done by the City's Archeology office
- Corrections to dates within the memo: Late fall of 2018 and Reference to future Commission meeting
- Archeological survey may take approximately two months and Ms. White would work with Public works to try and complete work prior to Nights of Lights
- Parameters of the burial area move east to west under Heritage House,

through Charlotte Street, and all the way to Aviles Street
- The archeology department would provide further updates at the Commission's request
- Total length of waterline project was between sixty and eighty feet
- Installation of new water lines was complete, and removal of old waterlines was ongoing
- Necessity of removing old lines to keep from damaging resurfacing equipment and to avoid decay and collapse of the pipes
- Unsupervised excavation area was small, but would undergo review
- Protocols for found bone shards included collection and reburial on-site.
- Top foot of soil would be removed and screened off-site

9.B.1. Resolution 2019-31: Authorizes a temporary easement to the State of Florida Department of Transportation for King Street drainage construction work along parcel number 700.1.

Meredith Breidenstein, Director, Budget and Performance Management, reviewed resolutions 2019-31, 2019-32, 2019-33, 2019-34, and 2019-35.[3]

MOTION

Commissioner Sikes-Kline MOVED to pass Resolution 2019-31. The motion was SECONDED by Commissioner Horvath.

VOTE ON MOTION

AYES: Sikes-Kline, Horvath, Freeman, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

9.B.2. Resolution 2019-32: Authorizes a temporary easement to the State of Florida Department of Transportation for King Street drainage construction work along parcel number 702.1.

MOTION

Commissioner Horvath MOVED to pass Resolution 2019-32. The motion was SECONDED by Commissioner Sikes-Kline.

VOTE ON MOTION

AYES: Horvath, Sikes-Kline, Freeman, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

9.B.3. Resolution 2019-33: Authorizes a temporary easement to the State of Florida Department of Transportation for King Street drainage construction work along parcel number 703.1.

MOTION

Commissioner Sikes-Kline MOVED to pass Resolution 2019-33. The motion was SECONDED by Commissioner Horvath.

VOTE ON MOTION

AYES: Sikes-Kline, Horvath, Freeman, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

9.B.4. Resolution 2019-34: Authorizes a perpetual easement to the State of Florida Department of Transportation for King Street drainage construction work along parcel number 800.1.

MOTION

Commissioner Horvath MOVED to pass Resolution 2019-34. The motion was SECONDED by Commissioner Sikes-Kline.

[3] Commissioner Valdes took a brief recess from 5:54p.m. to 5:56p.m.

VOTE ON MOTION

AYES: Horvath, Sikes-Kline, Freeman, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

9.B.5 Resolution 2019-35: Authorizes a perpetual easement to the State of Florida Department of Transportation for King Street drainage construction work along parcel number 803.1.

MOTION

Commissioner Sikes-Kline MOVED to pass Resolution 2019-35. The motion was SECONDED by Commissioner Horvath.

VOTE ON MOTION

AYES: Sikes-Kline, Horvath, Freeman, Upchurch
NAYES: None
MOTION APPROVED UNANIMOUSLY

9.B.6. Resolution 2019-41: Authorizes the City Manager to close a street and/or interrupt traffic in order to accommodate a special event.

See Modification and Approval of Regular Agenda for motion to table the item.

10. Staff Reports and Presentations

10.A. Petition to Vacate rights-of-way in Antigua Phase One subdivision.

Isabelle Lopez reviewed the petition.

MOTION

Commissioner Horvath MOVED to APPROVE the petition to vacate. The motion was SECONDED by Commissioner Sikes-Kline and APPROVED BY UNANIMOUS VOICE VOTE.

11. ITEMS BY CITY ATTORNEY

11.A. Sunshine, Public Records and Ethics Minute.

No presentation made, provided by the City Attorney's Office for information purposes.

Ms. Lopez gave a brief update regarding the City's Opioid Litigation.

12. ITEMS BY CITY CLERK

12.A. Request for three appointments to the Planning and Zoning Board.

Ms. Galambos reviewed the item.

MOTION

Commissioner Freeman MOVED to REAPPOINT Grant Misterly and Sarah Ryan to the Planning and Zoning Board. The motion was SECONDED by Mayor Upchurch and APPROVED BY UNANIMOUS VOICE VOTE.

Ms. Galambos distributed ballots for the third vacancy.

After ballots were tallied it was determined that Mike Davis was unanimously appointed to the Board.

13. ITEMS BY CITY MANAGER

(None)

14. Items by Mayor and Commissioners

(None)

15. Adjournment

There being no further business, the meeting was adjourned at 6:03 P.M.[4]

_____
Tracy W. Upchurch, MAYOR

_____
Darlene Galambos, CITY CLERK

[4] Transcribed by Candice Seymour

ITEM CA.3.

Release of Lien

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: September 30, 2019

RE: **SATISFACTION AND RELEASE OF UTILITY MORTGAGE – 2725 SOUTH COLLINS AVENUE**

Enclosed is a Satisfaction and Release of Mortgage for 2725 South Collins Avenue regarding the Unit Connection Fee Mortgage and Promissory Note executed between the City of St. Augustine, Sharon L. Badger, Sherry Lynn Badger, and Dawn Louann Brown. The mortgage was recorded in the Public Records of St. Johns County on September 19, 2019. Copies of the Unit Connection Fee Mortgage and Promissory Note are enclosed as well for reference.

Please place this Release and Satisfaction of Mortgage on the consent agenda for consideration and execution at the October 14, 2019 City Commission meeting.

Please contact me if you have any questions or comments. Thank you.

Isabelle C. Lopez
City Attorney

/sl
Attachment

xc: Darlene Galambos, City Clerk (with original)

This instrument was prepared under the supervision and direction of Isabelle C. Lopez, City Attorney, P.O. Box 210, St. Augustine, Florida 32085

SATISFACTION AND
RELEASE OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS:

THE CITY OF ST. AUGUSTINE, a municipal corporation organized and existing under the laws of the State of Florida, whose mailing address is P.O. Box 210, St. Augustine, Florida, 32085-0210 (hereinafter referred to as "Mortgagee"), in consideration of the covenants and agreements set forth hereinafter, hereby releases **SHARON L. BADGER, SHERRY LYNN BADGER, and DAWN LOUANN BROWN**, whose address is 2725 South Collins Avenue, St. Augustine, Florida 32084, their heirs, assigns or successors in title (hereinafter referred to as "Mortgagors"), from the Mortgage entitled, "Unit Connection Fee Mortgage," executed between the parties and dated September 11, 2019, recorded at Official Records Book 4797, Page 1749, of the Public Records of St. Johns County, Florida, and relating to that certain lot, parcel or piece of land situated in the City of St. Augustine, St. Johns County, Florida, described in **Exhibit "A"** attached hereto and incorporated herein.

Mortgagee hereby releases said Mortgagors from any obligations created by or existing by virtue of said Mortgage and the Promissory Note relating thereto recorded at Official Record Book 4797, Page 1754, of the Public Records of St. Johns County, Florida, and such obligations related to said documents have been fully performed and are therefore satisfied.

IN WITNESS WHEREOF, this Satisfaction and Release of Mortgage has been duly signed and executed by the Mortgagee, this _____ day of _____, 2019.

CITY OF ST. AUGUSTINE, FLORIDA,
a municipal corporation

ATTEST:

By:_____
Tracy W. Upchurch, 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, **Tracy W. Upchurch**, who is personally known to me, who is the person who executed the foregoing instrument and who acknowledged before me that he executed the same for the uses and purposes therein expressed.

WITNESS my hand and official seal, this _____ day of _____, 2019.

_____

Notary Public, State of Florida

(S E A L)

EXHIBIT "A"

STARTING AT BOOTH SOUTHEAST CORNER RUNS 100 FEET EAST, TO AN IRON PIPE THEN RUN 135 FEET NORTH TO AN IRON PIPE, THEN RUN WEST 100 FEET TO IRON PIPE, THEN RUN SOUTH 135 FEET TO POINT OF BEGINNING. SECTION 11 TOWNSHIP 7 SOUTH, RANGE 29 EAST.

PARCEL ID: 088970-0000

ADDRESS: 2725 SOUTH COLLINS AVENUE, ST. AUGUSTINE, FLORIDA 32084

Instr #2019069489 BK: 4797 PG: 1749, Filed & Recorded: 9/19/2019 8:37 AM #Pgs:8
Hunter S. Conrad,Clerk of the Circuit Court St. Johns County FL Recording $69.50 Doc M: $6.65 Int. Tax $3.77

UNIT CONNECTION FEE
MORTGAGE

THIS MORTGAGE, by and between **Sharon L. Badger, Sherry Lynn Badger, and Dawn Louann Brown** whose address is 2725 South Collins Avenue, St. Augustine, FL 32084 (hereinafter called "Mortgagor") and **CITY OF ST. AUGUSTINE, FLORIDA,** a municipal corporation organized under the laws of the State of Florida, whose address is P.O. Box 210, Attention Financial Services Dept., St. Augustine, Florida, 32085 (hereinafter called "Mortgagee").

WITNESSETH that for good and valuable consideration, and also in consideration of the Mortgagee's deferment of certain water and/or sewer unit connection fees owed by the Mortgagor to the Mortgagee as evidenced by the Unit Connection Fee Promissory Note hereinafter described, the said Mortgagor does hereby grant, bargain, sell, alien, remise, release, convey and confirm unto the said Mortgagee all that certain piece, parcel or tract of land of which the said Mortgagor is now seized and possessed and in actual possession, situate in the county of St. Johns and state of Florida, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO

Together with all structures and improvements now and hereafter on said land, and the fixtures attached thereto.

To have and to hold the same, together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and also all the estate, right, title, interest, homestead, separate estate, possession, claim and demand whatsoever, as well in law as in equity, of the said Mortgagor in and to the same, and every part thereof, unto the said Mortgagee, in fee simple.

COPY

And the Mortgagor hereby covenants with the Mortgagee that it is indefeasibly seized of said land in fee simple; that it has full power and lawful right to convey the same in fee simple as aforesaid; and that said Mortgagor will make such further assurances to prove the fee simple title to said land to said Mortgagee as may be reasonably required.

Provided always, and these presents are executed and delivered upon the following conditions, to-wit:

The Mortgagor agrees to timely pay the Mortgagee, or order, the payments described in the copy of the Unit Connection Fee Promissory Note attached hereto as Exhibit "B" in the manner and at the times described therein.

And shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every of the stipulations, agreements, conditions, and covenants of said Promissory Note and of this mortgage, then this mortgage and the estate hereby created shall cease and be null and void.

And the Mortgagor further covenants as follows:

BK: 4797 PG: 1750

1. That it will pay all and singular the costs, charges and expenses, including reasonable attorney's fees, and costs of abstracts of title, incurred or paid at any time by the Mortgagee because of the failure on the part of the Mortgagor promptly and fully to perform the agreements and covenants of said Promissory Note and this mortgage, and said costs, charges and expenses shall be immediately due and payable and shall be secured by the lien of this mortgage.

2. That (a) in the event of any breach of this mortgage or any mortgage superior or junior hereto or default on the part of the Mortgagor under this or any other mortgage encumbering the property mortgaged hereby, or (b) in the event that any of said sums of money herein referred to be not promptly and fully paid without demand or notice, or (c) in the event that each and every of the stipulations, agreements, conditions and covenants of said note and this mortgage are not promptly and fully performed, then in either or any such event, the said aggregate sum mentioned in said note then remaining unpaid, with interest accrued to that time, and all moneys secured hereby, shall become due and payable forthwith, or thereafter, at the option of said Mortgagee, as fully and completely as if all of the said sums of money were originally stipulated to be paid on such day, anything in said note or in this mortgage to the contrary notwithstanding; and thereupon or thereafter, at the option of said Mortgagee, without notice or demand, suit at law or in equity May be prosecuted as if all moneys secured hereby had matured prior to its institution. The Mortgagee May foreclose this mortgage, as to the amount so declared due and payable, and the said premises shall be sold to satisfy and pay the same, together with costs, expenses and allowances.

3. That the Mortgagee will make monthly payments in the amount of $35.89 for 60 months, with the first payment due October 15, 2019.

IN WITNESS WHEREOF, the Mortgagor has hereunto set its hand and seal, this 11th, September, 2019.

COPY

Signed, sealed and delivered in the presence of:

Witness
Printed Name: Amanda Anderson

Witness
Printed Name: Cori A Niles

Witness
Printed Name: Amanda Anderson

Witness
Printed Name: Cori A Niles

BY: Sharon L Badger
(Printed Name) Sharon L. Badger
(Address) 2725 South Collins Avenue
(Telephone) 904-824-2962

BY: S L Badger
(Printed Name) Sherry Lynn Badger
(Address) 2725 South Collins Avenue
(Telephone) 904-824-2962

BK: 4797 PG: 1751

Amanda Anderson
Witness
Printed Name: Amanda Anderson

Witness
Printed Name: Cori A Niles

BY: Dawn Brown
(Printed Name) Dawn Louann Brown
(Address) 2725 South Collins Avenue
(Telephone) 904-824-2962

*** * * NOTARY CERTIFICATION APPEARS ON THE FOLLOWING PAGE * * ***

COPY

BK: 4797 PG: 1752

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

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, **Sharon L. Badger,** who is personally known to me or who has produced Driver License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this 11th, September 2019.

AMANDA ANDERSON
Commission # GG 366962
Expires August 19, 2023
Bonded Thru Troy Fain Insurance 800-385-7019

Notary Public, State of Florida

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

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, **Sherry Lynn Badger,** who is personally known to me or who has produced Driver License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this 11th, September 2019.

AMANDA ANDERSON
Commission # GG 366962
Expires August 19, 2023
Bonded Thru Troy Fain Insurance 800-385-7019

Notary Public, State of Florida

COPY

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

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, **Dawn Louann Brown,** who is personally known to me or who has produced Driver License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this 11th, September 2019.

Notary Public, State of Florida

AMANDA ANDERSON
Commission # GG 366962
Expires August 19, 2023
Bonded Thru Troy Fain Insurance 800-385-7019

BK: 4797 PG: 1753

Exhibit "A"

LEGAL DESCRIPTION

Starting at Booth Southeast corner runs 100 feet East, to an iron pipe then run 135 feet North to an iron pipe, then run West 100 feet to iron pipe, then run south 135 feet to point of Beginning. Section 11 Township 7 South, Range 29 East.

Parcel: 0889700000

COPY

BK: 4797 PG: 1754

UNIT CONNECTION FEE
PROMISSORY NOTE

APPLICANT(S) NAME: **Sharon L. Badger, Sherry Lynn Badger, & Dawn Louann Brown**
ADDRESS: **2725 South Collins Avenue**
St. Augustine, FL 32084

$1,885.80 St. Augustine, Florida

FOR VALUE RECEIVED, and as payment for certain unit connection fees on premises located at **2725 South Collins Avenue Augustine, FL 32084**, the undersigned, jointly and severally, promises to pay to the order of **CITY OF ST. AUGUSTINE, P.O. Box 210, St. Augustine, Florida, 32085**, or elsewhere as the holder hereof may from time to time require, the principal sum of **1,885.80 Dollars**, together with interest on so much of said principal sum as remains from time to time outstanding and unpaid, at the rate of **5.35 percent** per annum from the date hereof until paid. Said principal and interest shall be paid in equal consecutive monthly installments of **35.89 Dollars**, commencing on **October 15, 2019** and continuing on the same date each and every month thereafter until paid in full, said installments to be applied first to interest and the balance to principal.

The maker(s) hereof waives presentment for payment and demand. Time is of the essence hereof. It is expressly agreed that if this Note or any part or installment thereof be not paid within ten (10) days after the same becomes due and payable, anything herein to the contrary notwithstanding, the maker(s) hereof understands that all unpaid sums shall immediately be due and payable at once, without notice or demand, together with all costs of collection, including reasonable attorney's fees, whether suit be filed or not.

COPY

The maker(s) hereof may prepay any part of the principal sum hereof in any amount at any time, but any such prepayment shall not relieve the maker(s) hereof from making payment of the installment then due nor any subsequent installment provided hereby, unless at the time of such prepayment the maker(s) hereof pays all sums hereon.

Any waiver of the right to exercise any option by the holder hereof shall not constitute a waiver of the right to exercise said option at any future time.

All notices, demand, presentment, dishonor and requirements under any law of Florida are hereby expressly waived.

Note: Fl. Stat. 159.17 – Lien of services charges – any municipality issuing revenue bonds hereunder shall have a lien on all lands or premises served by any water system, sewer system or gas system for all service charges for such facilities until paid, which liens shall be prior to all other liens on such lands or premises except the lien of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such liens, when delinquent for more than 30 days, may be foreclosed by such municipality in the manner provided by the laws of Florida for the foreclosure of mortgages on real property.

BK: 4797 PG: 1755

Exhibit "B"

This Note is secured by and subject to the terms of a mortgage (or a letter of credit) of even date herewith.

Signed, sealed and delivered **dated as of** September 11, 2019, in the presence of:

Witness
Printed Name: Amanda Anderson

Witness
Printed Name: Cori a Niles

BY: Sharon L Badger
(Printed Name) Sharon L. Badger
(Address) 2725 South Collins Avenue
(Telephone) 904-824-2962

Witness
Printed Name: Amanda Anderson

Witness
Printed Name: Cori a Niles

BY: S L Badger
(Printed Name) Sherry Lynn Badger
(Address) 2725 South Collins Avenue
(Telephone) 904-824-2962

Witness
Printed Name: Amanda Anderson

Witness
Printed Name: Cori A Niles

BY: Dawn Brown
(Printed Name) Dawn Louann Brown
(Address) 2725 South Collins Avenue
(Telephone) 904-824-2962

COPY

BK: 4797 PG: 1756

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

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, **Sharon L. Badger,** who is personally known to me or who has produced Driver License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this 11th, September 2019.

AMANDA ANDERSON
Commission # GG 366962
Expires August 19, 2023
Bonded Thru Troy Fain Insurance 800-385-7019

Amanda Anderson
Notary Public, State of Florida

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

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, **Sherry Lynn Badger,** who is personally known to me or who has produced Driver License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this 11th, September 2019.

AMANDA ANDERSON
Commission # GG 366962
Expires August 19, 2023
Bonded Thru Troy Fain Insurance 800-385-7019

Amanda Anderson
Notary Public, State of Florida

COPY

FOR AN INDIVIDUAL ACTING IN HIS OR HER OWN RIGHT:

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, **Dawn Louann Brown,** who is personally known to me or who has produced Driver License as identification and is the person described in and who executed the foregoing instrument, and acknowledged before me that he executed the same for the uses and purposes therein expressed.

Witness my hand and official seal, this 11th, September 2019.

Amanda Anderson
Notary Public, State of Florida

AMANDA ANDERSON
Commission # GG 366962
Expires August 19, 2023
Bonded Thru Troy Fain Insurance 800-385-7019

ITEM CA.4.

Proclamation 2019-10CA

City of St. Augustine
City Commission

Certificate of Recognition

In Acknowledgement of and

Presented In Honor to

Charlotte Pichotta

In celebration of

Your One Hundredth birthday!

Congratulations on attaining this important milestone in your life!
You have ten decades of great memories constituting a life well lived.
On this special day, the City of St. Augustine wishes you an abundance of happiness and heath.

Wednesday, November 27, 2019

2019-10CA

Tracy W. Upchurch, Mayor

ITEM CA.5

Invoice for Payment

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: John P. Regan, City Manager

DATE: September 30, 2019

RE: **SEAVIN, INC. V. CITY OF ST. AUGUSTINE – INVOICE FOR PROFESSIONAL SERVICES**

Enclosed please find Invoice No. 15-2019-9-1711 dated September 30, 2019, from Cavendish Partners, P.A. for legal services rendered in September 2019, regarding the Seavin, Inc. v. City of St. Augustine matter.

The amount currently due is **$4,704.00**. We have reviewed the billing and submit same to you for placement on the consent agenda for the October 14, 2019 City Commission meeting.

WITH THIS INVOICE THE TOTAL EXPENDED TO DATE FOR ATTORNEY'S FEES AND COSTS ON THIS MATTER EQUALS $51,409.65.

Thank you.

Isabelle C. Lopez
City Attorney

/sl
Attachment

xc: Meredith Breidenstein, Assistant City Manager
John M. Cary, Assistant City Attorney
Darlene Galambos, City Clerk
Mark Litzinger, Financial Services

CAVENDISH
PARTNERS
P.A.

200 West Forsyth Street, Suite 1610
Jacksonville, FL 32202

INVOICE

Date: 09/30/2019
Invoice #: 15-2019-9-1711
Matter: Seavin, Inc.
File #: 1711

INVOICE TOTAL AND BALANCE DUE $4,704.00

Bill To:
Isabelle Lopez, City Attorney
75 King Street
P.O. Box 210
St Augustine, FL 32085
Due Date: 10/30/2019
Please Remit Payment To:
Cavendish Partners. P.A.
200 West Forsyth Street,
Suite 1610
Jacksonville, FL 32202

PAYMENTS RECEIVED AFTER 09/27/2019 ARE NOT REFLECTED IN THIS BALANCE DUE INVOICE