

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting January 7, 2020

The Planning and Zoning Board met in formal session Tuesday, January 7, 2020, at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Karen Zander, Chairperson and the following were present:

1. Roll Call: Karen Zander, Chairperson
Jon DePreter, Vice Chairperson
Grant Misterly
Sarah Ryan
Christina Opsahl
Mike Davis
Carl Blow

City Staff: David Birchim, Director, Planning & Building Department
Patrick Doty, Senior Development Review Planner
John Cary, City Attorney
Candice Seymour, Recording Secretary

2. General Public hearings for Items Not on the Agenda

(None)

3. Approval of Minutes

MOTION

Ms. Ryan MOVED to APPROVE the December 3, 2019 minutes as presented. The motion was SECONDED by M. DePreter and APPROVED BY UNANIMOUS VOICE VOTE.

4. Variance

4. (a) 2019-0070 – Troy Blevins & Anish Patel, Best Western – Applicant
Kanti Patel – Owner
16 Avenida Menendez

To approve a variance to decrease the minimum building setback requirement and to increase the maximum lot coverage for ADA compliance.

Ms. Ryan and Mr. Davis recused themselves the hearing.¹

The Board provided their ex parte communications.

6 certified notices were sent; however, there were no responses.

Mr. Doty read the staff report and said based on a review of Section 28-29 and without the support of evidence to the contrary, staff finds that the Board may be able to **APPROVE** a variance to the maximum lot coverage for the main building in HP-2 zoning district at **16 Avenida Menendez / PIN 196250-0000**.

Anish Patel reviewed the application.

Public hearing was opened.

Charles Pappas asked whether the elevator was required or being built under the guise of ADA compliance. He felt that unless more

¹ Forms attached to original minutes

rooms were added to the second story, the elevator may not be a necessary addition.

Public hearing was closed.

Mr. Patel responded to public comment, noting that the amount of accessible rooms required was set by the ADA, but that the hotel could exceed that amount if the wished. He added that there were additional amenities on the second floor, and an elevator would provide handicap accessibility to those, as well as convenience to all guests of the hotel.

The Board discussed the following:

- No parking would be lost with the proposed construction
- Application met the intent of the exception and did not harm the public interest

MOTION

Mr. Blow MOVED to APPROVE Variance application 2019-0070 because it meets the intent for a variance and was in the public interest. The motion was SECONDED by Mr. Misterly.

VOTE ON MOTION:

AYES: Blow, Misterly, Opsahl, DePreter, Zander

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

4. (b) 2019-0129- – Steven Yesner – Applicant and Owner 19 Park Avenue

To approve a variance to reduce the front yard setback in RG-1 from 15' to 12'.

Mr. Doty read the staff report and said based on a review of Section 28-29 and without the support of evidence to the contrary, staff finds that the Board may be able to **APPROVE** a variance to reduce the front yard setback from 15' to 12' in RG-1

zoning district at 19 Park Avenue / PIN 152010-0000.

Steven Yesner reviewed the application.

Ex Parte Communication:

(None)

26 certified notices were sent and 2 were returned in favor.

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

The Board discussed the following:

- Clarification of the proposed covered patio location
- Project would not exceed lot coverage limit

MOTION

Ms. Ryan MOVED to APPROVE Variance application 2019-0129 at 19 Park Avenue to reduce the front yard setback from 15' to 12'. The motion was SECONDED by Mr. DePreter.

VOTE ON MOTION:

AYES: Ryan, DePreter, Blow, Davis, Opsahl, Misterly, Zander

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. Conservation Overlay Zone Development

5. (a) 2019-0131 – Ryan Carter, Carter Environmental Services, Inc. – Applicant Darrell Poli, Fisherman's Harbor Marina, Inc. – Owner 142, 144, 150 Riberia Street

To approve a fifteen-foot (15') by fifteen-foot (15') observation platform, a gangway and a eight foot (8') wide by seventy five foot (75') long floating dock within Conservation Overlay Zone 1.

Mr. Doty advised that the applicant had requested a continuance to the February 4, 2020 meeting.

MOTION

Mr. DePreter MOVED to CONTINUE application 2019-0131 to the February 4, 2020 meeting. The motion was SECONDED by Ms. Opsahl.

VOTE ON MOTION:

AYES: DePreter, Opsahl, Blow, Davis, Ryan, Misterly, Zander

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. Use by Exception

6. (a) 2019-0125 – PJ Patel – Applicant
Umabhagu, LLC – Owner
841 Anastasia Blvd

To approve a use by exception for a drive through for a liquor store within Commercial Low-two (CL-2) zoning.

The Board provided their ex parte communications.

Mr. Doty read the staff report and said based on a review of Section 28-29 and all information provided within and attached to this report for review, Staff will defer to the Board's opinion and judgement to make a determination on the requested use by exception for a drive through for a liquor store within Commercial Low-two (CL-2) zoning at **841 Anastasia Blvd / PIN 158040-0000.**

Shannon Acevedo reviewed the application.

15 certified notices were sent, 1 was returned in favor, 5 were returned opposed, and 6 had comments.

Public hearing was opened.

Charles Pappas did not take issue with the drive through. He was concerned with the

liquor store selling single cans in the drive-thru and potential safety concerns related to such activity.

Jessica Nutter was relieved that the applicant was keeping the trees on the property. She was familiar with the potential traffic of liquor stores and was concerned with the safety of residents in the neighborhood as well as patrons of the store. She asked whether there would be plans to construct a wall to buffer the residences adjacent to the property.

Public hearing was closed.

The Board requested that Chief Barry Fox of the St. Augustine Police Department to address any traffic concerns.

Chief Fox stated he was more concerned with consumption on the property or any related events. He felt that the two-lanes within the drive-thru as well as along Anastasia Boulevard would suffice to prevent traffic impacts from business activities. He reviewed open container laws within the City, noting that open containers would not be allowed on the premises or in the parking lot.

Ms. Acevedo responded to Chief Fox's testimony stating that there would be no sale of beverages to be consumed on-site.

The Board discussed:

- Square footage of proposed building
- Clarification of HARB order
- Concern for lack of a truck delivery area
- Hours of operation would be 10:00a.m. to 9:00p.m. and 1:00p.m. to 9:00p.m. on Sundays
- Applicant met required parking requirements
- Drive through would be able to stack about four to six standard cars
- Safety concerns

- Potential light pollution caused by cars parking and driving through
- Buffering consisted of existing six-foot fence, trees, and shrubs
- Intensity of the proposed use would be less than other uses allowed per the zoning code
- Potential conditions tied to approval including hours of operation, limiting on-site consumption to small complimentary samples, and prohibiting amplified sound on the property
- Concern for amplified music from patrons of the drive-through

MOTION

Mr. Davis MOVED to APPROVE the exception application 2019-0125 for 841 Anastasia Boulevard for drive through for an allowed liquor store with the conditions:

- **Because of the drive through there be a 6 foot buffer along the rear fence.**
- **Hours of Operation be from 10:00a.m. – 9:00p.m. Monday through Saturday and 1:00p.m. to 9:00p.m. on Sundays**
- **No call box or amplification speaker on site**
- **No on-site consumption of alcohol other than complimentary sample sizes**
- **Exception would run with the applicant only for use as a liquor store**

The motion was SECONDED by Mr. Blow.

VOTE ON MOTION:

AYES: Davis, Blow, Opsahl, Misterly, Zander

NAYES: Ryan, DePreter

MOTION CARRIED 5/2

6. (b) 2019-0133 – Richard Diaz, c/o Card Holding, LLC – Applicant
St. Johns County Welfare Federation – Owner
169 M.L. King Avenue

To approve a use by exception for Housing for the Elderly within Residential, Single-Family-two (RS-2) zoning.

The Board provided their ex parte communications.

Mr. Doty read the staff report and said based on a review of Section 28-29 and all information provided within and attached to this report for review, Staff finds the Board can **APPROVE** the use by exception for housing for the elderly within Residential, Single Family-two (RS-2) zoning at **169 M.L. King Ave / PIN 212280-0000.**

There was a brief discussion regarding future changes to the language regarding housing for the elderly and the legal implications of those changes.

Richard Diaz reviewed the application.

69 certified notices were sent, 5 were returned in favor, 1 returned opposed and 4 had comments.

Public hearing was opened.

John Wooldridge spoke in favor of the application. He asked for clarification and details regarding the proposed use of the facility.

Melissa Southwell said she had not received any information regarding the proposed facility and was concerned with parking and traffic impacts. She felt that a single-family use would be more appropriate than the proposed use based on the character of the neighborhood and its existing density.

Anne Murdock also did not receive any information regarding the proposed use. She was concerned that the facility did not appear to be similar to previous operation at the location, but the application appeared to be vague.

Sarah Mc Levy did not receive information about the project. She was concerned with parking and traffic impacts.

Albert Greco, who had also received no information on the project, was concerned with parking impacts and asked where additional parking mentioned by the applicant would be located.

Mick Smith, wanted more information regarding the proposed facility, but liked the idea that it was still geared towards the elderly.

Larry Lake, CEO of Bayview Healthcare and former operator of the subject property which previously provided skilled nursing services, spoke in favor of the application as a positive service to the community that filled a need currently not provided for. He stated that when the property was utilized as an assisted living facility, there were often 34-35 residents plus up to 15 staff members. He clarified previously existing parking for the Board.

Mr. Diaz noted that the proposed use was a step down from an assisted living facility and would service adults ages 55 and over that were still independent but losing the ability to drive or prepare food on their own.

Public hearing was closed.

The Board discussed:

- Maximum of 26 occupants
- Facility would not operate as a facility providing medical care
- There was the potential for residents to have a vehicle and twenty-four parking spaced currently existed on the site with the intent to add more

- Previous parking on site encompassed and forward and rear parking lot
- Parking code required 26 spaces and it was unclear whether the project met the parking requirements as presented
- Support for continuation of elder care on the property
- Condition to allow residents of age 55 or older only
- Desire to see more information regarding parking, interior layout, occupancy, and a defined site plan
- Recommendation that the applicant provide information to and get input from the neighboring community
- Request that staff show a comparison of previous and current intensities on the property

MOTION

Ms. Ryan MOVED to CONTINUE the application 2019-0133, St. Johns County Welfare Federation, to the February 4, 2020 meeting so the applicant can bring back documents per Board discussion including a site plan and sketch floor plan so the Board and public can better understand the concept. The motion was SECONDED by Mr. DePreter.

VOTE ON MOTION:

AYES: Ryan, DePreter, Blow, Davis, Opsahl, Misterly, Zander

NAYES: NONE

MOTION CARRIED UNANIMOUSLY²

7. Use by Exception & Variance

7. (a) 2019-0130 – Ryan Cornelison, Cornelison, LLC – Applicant and Owner 124 King St

To approve a use by exception for off-site parking and to approve a variance to the off-street parking and loading

² Brief recess from 3:53p.m. to 4:04p.m.

requirements for interior drive aisle width and maneuverability for a cafe.

Mr. Doty read the staff report and said based on a review of Section 28-29, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the use by exception for off-site parking at **124 King St / PIN 204750-0000**; and, based on a review of Section 28-29, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the variance to the off-street parking and loading requirements for interior drive aisle width and maneuverability at **124 King St / PIN 204750-0000**.

Andrew Castanheira from Marquis Latimer and Halback and Ryan Cornelison reviewed the application including changes to the site plan reflecting the inability to place a curb-cut along King Street per FDOT.

The Board provide their ex parte communications.

10 certified notices were sent; however, there were no responses.

Public hearing was opened.

Edith Fox was glad that the applicant was rehabilitating the historic structure, but was concerned with the parking and asked that the board require more parking

Charles Pappas was concerned with the uncertainty of the use there and asked that the Board have a clear understanding of what use would be going into the building prior to making a decision.

Virginia Whetstone spoke in favor of the project but was concerned with the off-site parking availability on Sundays when the church was in use, clear demarcation of available parking, and concern that a lease with the church for parking could be terminated with little notice.

Jeffery Leibowitz noted that the neighboring parking lot for 123 Burger House had been fenced off.

Public hearing was closed.

The Board discussed:

- Square footage for the café use
- Agreement for parking with 118 King Street
- Operator for proposed café had not yet been determined
- Loading zone would be at the off-street parking location
- Possibility of other uses on the property
- ADA accessibility for the café
- Two on-site parking spaces for the rental unit were existing
- Request that staff review the required parking for the church to ensure that leasing of parking would not make them non-conforming
- Church parking lot would be ideal location for off-site parking as the nearest available parking
- Definition of fixed seating in the Zoning Code which would determine the correct number of required parking spaces
- Potential for negative traffic impacts
- Application may have met criteria for the off-street parking variance
- Property was too close to the church to obtain a beer and wine license

Mr. Leibowitz stated that the café would encourage the pedestrian use along King Street.

Preference from the Board that the applicant obtain a signed lease for the parking.

MOTION

Mr. DePreter MOVED to APPROVE Use by Exception and Variance application 2019-0130 because the use by exception

promotes the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, and general welfare and the variance meets the criteria as detailed in the staff report and with the following conditions:

- Visible signage indicating the location of available parking spaces
- The applicant obtain a lease for the required parking spaces prior to staff approval of a Business Tax Receipt
- Determination that the lessee has the capacity to grant the required spaces
- Language on each parking spot denoting reservation for the proposed coffee shop use during hours of operation

The motion was **SECONDED** by Mr. Misterly.

VOTE ON MOTION:

AYES: DePreter, Misterly, Davis, Opsahl, Ryan

NAYES: Blow, Zander

MOTION CARRIED 5/2

8. Use by Exception, Variance & Conservation Overlay Zone Development

8. (a) 2019-0132 – Jennifer White and Ryan Carter, Carter Environmental Services – Applicants
White's Wharf LLC – Owner
135 Avenida Menendez

To approve a use by exception for off-site parking, or to approve a variance to eliminate parking requirements for additional restaurant seating and commercial boat slips. To approve an eight foot (8') wide by fifty-four-foot-long (54') switchback gangway to a ten foot (10') wide by one hundred eighty foot (180') long floating dock within Conservation Overlay Zone 1.

The Board provided their ex parte communications.

Mr. Doty read the staff report and said the following:

- Based on a review of Section 28-29, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the use by exception for off-site parking at **135 Avenida Menendez / PIN 196210-0000**.
- Based on a review of Section 28-29, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the variance to parking requirements for additional restaurant seating and commercial boat slips at **135 Avenida Menendez / PIN 196210-0000**.
- Based on a review of Section 11-29, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the construction of an eight-foot (8') wide by fifty-four-foot-long (54') switchback gangway to a ten foot (10') wide by one hundred eighty foot (180') long floating dock within Conservation Overlay Zone 1 located at **135 Avenida Menendez / PIN 196210-0000**.

Mr. Doty also advised that the applicant had obtained a signed bottom-lands lease from the city for the property below the proposed dock.

Mac McLeod, representing the applicant reviewed the application regarding the parking use by exception and variance.

Chief Fox spoke regarding the parking variance and use by exception expressing no concern for additional traffic or parking issues caused by the restaurant use because it would be more of a draw to pedestrian traffic.

14 certified notices were sent; however, there were no responses.

Public hearing was opened.

Henry Whetstone spoke against the parking as expanding a non-conforming use. He was concerned with handicap parking access. He felt that the expanded restaurant use would create parking and traffic issues. He was also concerned with alcohol consumption and noise on the property.

Bruce McGuire was in favor of reconstructing the original restaurant; however, he felt that expansion of the restaurant and utilizing the existing parking lot as proposed would still cause parking issues.

Jeffery Leibowitz felt that if an exception was approved, then the parking should be mandatory valet so that cars could be stacked. He added that those who lived along Marine Street already experienced parking and traffic congestion and the additional seating would exacerbate those problems.

Virginia Whetstone spoke in favor of the dock considered as parking for the restaurant. She spoke against the parking variance due to negative parking impacts to the nearby neighborhood and businesses.

Katharine Brown agreed that the additional seating would cause parking problems in the area. She felt that some seating should be reserved for boating patrons to ensure that additional parking traffic was limited.

Charles Pappas asked whether there would be event space in the proposed restaurant. He felt that utilizing the existing O.C. Whites parking lot would not be a clear solution. He noted that many HP district restaurants survived well without parking.

Mike Wieber, owner of the Bayfront Marin House, spoke in favor of the application

stating that he believed the bulk of traffic into the restaurant would be pedestrian.

Pat Dobosz felt that the proposed restaurant would not heavily impact the parking situation in the downtown area because of the pedestrian traffic and the clear understanding from most locals and visitors that downtown parking was limited and walking to desired areas in town was the best option.

Public hearing was closed.

Mr. McLeod responded to public comment stating that the restaurant would not act as an event space. He added that the O.C. White's parking lot was provided as a courtesy and did not constitute required parking for that restaurant. He noted that there was also a tour trolley drop-off in the area of the proposed restaurant. He felt that the creation of the restaurant was a benefit that outweighed potential negative impacts.

The Board discussed:

- Possible loading area for ride-share near the Plaza area
- Bicycle racks located at the City Marina as well as across the street by the White Room
- Configuration of the 10 Marine Street parking lot with 43 spaces
- Use of the Marine Street lot for parking as proposed would prohibit development of that lot as long as it remains parking
- Potential unfair treatment of the applicant if the Board denied the application for a parking variance
- Concern for intensification of the property with potential mitigation via an exception for off-site parking
- Public support for the reconstruction of the restaurant
- Consensus that parking for the dock should not be required

- Unique situation of the property, surrounded by HP-1, but not zoned as such
- No intent by the applicant to have events or large bands

MOTION

Ms. Opsahl MOVED to APPROVE Variance application 2019-0132 to eliminate parking requirements for additional restaurant seating and commercial boat slips because it meets the criteria for the variance that the particular property because of its size, shape, topography or other physical condition suffers a singular disadvantage and because of the disadvantage the owner is unable to make reasonable use of the affected property, the disadvantage doesn't exist because of conditions created by the owner/applicant, and granting of the variance is not contrary to public interest. The motion was SECONDED by Mr. Davis.

Mr. Misterly stated that he was not in favor of the variance due to the concerns he expressed over the noise and that a use by exception would provide the ability to control such activities.

Mr. DePreter agreed with Mr. Misterly's statement and added that there would still be restaurant patrons seeking parking in the area and causing additional congestion.

Mr. Blow was inclined to approve an exception for off-site parking rather than the variance.

VOTE ON MOTION:

AYES: Opsahl, Davis, Ryan, Zander

NAYES: Blow, Misterly, DePreter

MOTION CARRIED 4/3

Ryan Carter reviewed the application regarding the Conservation Overlay Zone 1 Development for a dock.

Public hearing was opened.

Virginia Whetstone stated that the City had required her to build her dock 25 feet off the southeast corner of the property line and the proposed dock should be no different. She felt that parking boats on the south side of the dock would be an encroachment to the south of the restaurant in violation of an existing court order.

Jeffery Leibowitz asked that there be no amplified music anywhere along the dock. He felt that the City had been catering to tourism and business interests above those of the residents.

Michael Southerland stated that the City was in need of more docks downtown.

Phil Simon stated that the proposed dock would not pose problems to those utilizing it or the neighboring marina.

Public hearing was closed.

Mr. Cary advised the Board that they could not place conditions on the application with exception of the location or orientation of the dock. He clarified that there was no legal requirement to keep the dock 25 feet from the property line.

Sam Adukiewicz was not concerned that the proposed dock as presented would cause any issues in relation to the neighboring City Marina.

The Board discussed:

- Possibility of limiting the width of vessels that could park at the dock was not allowed per code
- Dock was not in violation of the settlement agreement nor could boats along the dock be in violation of the court order because they were not a permanent addition to the subject property

- Recommendation that the dock be designed to withstand storm conditions

MOTION

Ms. Ryan MOVED to APPROVE Conservation Overlay Zone Development application 2019-0132 for an eight foot (8') wide by fifty-four-foot-long (54') switchback gangway to a ten foot (10') wide by one hundred eighty foot (180') long floating dock within Conservation Overlay Zone 1. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION

AYES: Ryan, Blow, Davis, Opsahl, Misterly, DePreter, Zander

NAYES: None

MOTION CARRIED UNANIMOUSLY³

9. Rezoning

9. (a) 2019-0115 – Paul Harden – Applicant
John Wilson, West Sebastian, LLC – Owner
San Sebastian View – PID #: 084560-, 102990, 102810-, 154860-, and 155540-0000

A request to Rezone Flagler Crossing PUD (Ord. 2013-18) to Residential, Low-One (RL-1).

Ex Parte Communication:

(None)

Mr. Doty read the staff report and said Staff does not make recommendations concerning the rezoning of land.

Alex Harden reviewed the application.

22 certified notices were sent, 3 were returned opposed and 2 had comments.

³ Brief recess from 6:46p.m. to 6:55p.m.

Public hearing was opened.

Michael Southerland said that if the Board denied the application then it was not in favor of creating less expensive housing within the City.

Charles Pappas felt that rezoning the property would not guarantee less expensive housing. He preferred that the PUD be modified so the City could control the density and protect conservation areas.

Public hearing was closed.

Paul Harden responded that RL-1 allowed the least intense residential use of any residential zoning category at eight units per acre.

The Board discussed:

- Property was zoned Open Land prior to approval of the PUD
- Conservation easements created within the PUD process would remain
- Development within a Conservation Overlay Zone would have to return to the Board for review
- Average elevation of the site was between six and ten feet
- Need and Justification for the rezoning included the infeasibility of constructing the PUD in today's economic conditions and the attempt to be consistent with Future Land Use intent
- Coastal high hazard area was located mainly within the wetlands on the property
- Recommendation to verify that all conservation lands noted within the PUD were within existing conservation easements

Paul Harden, attorney for the applicant, fielded the Board's questions and clarified the following:

- The conservation easements were not part of the property requested to be rezoned
- The applicant would provide a drawing illustrating the location of the recorded easements as well as existing developable land

MOTION

Mr. Davis MOVED to RECOMMEND APPROVAL of Rezoning application 2019-0115 with the recommendation to obtain confirmation that the conservation easement area that was laid out in the original PUD is the same conservation easement referenced within the application and with the need and justification being economic infeasibility of developing the PUD as it exists and it is consistent with the Comprehensive Plan in that it allows the opportunity for affordable housing while conserving some land. The motion was SECONDED by Ms. Opsahl.

Mr. Misterly stated that he could not support the application, stating that he would rather hear a PUD modification that allowed the board more control over how the parcel was developed.

Ms. Ryan agreed with Mr. Misterly, stating RL-1 zoning did not guarantee the creation of more affordable housing and the PUD could offer the potential for the Board to ensure that less expensive housing was developed.

Paul Harden clarified that it was economically infeasible for the land to be developed with single-family houses as outlined within the PUD and that a PUD modification would more closely resemble the neighboring apartment units. He reiterated that the conservation easements as recorded would remain. He asked that the Board give them 30 days to return with drawings that more clearly define the locations of the existing conservation

easements and areas that were intended for development.

Mr. Davis WITHDREW his motion upon the request of the applicant for a continuance.

MOTION

Mr. Blow MOVED to CONTINUE the application to the February 4, 2020 meeting. The motion was SECONDED by Mr. Misterly.

VOTE ON MOTION

AYES: Blow, Misterly, Davis, Opsahl,
Ryan, DePreter, Zander

NAYES: None

MOTION CARRIED UNANIMOUSLY

10. Other Business

10. (a) Ordinance 2019-50, Ordinance 2019-51, and Ordinance 2019-52 will form the new codified sections of 28-145 through 28-156 encompassing vacation rentals (also known as short-term rentals). This is part of the ongoing review of the effects of vacation rentals initiated by the City Commission, with recommendations from the Short-Term Rental Committee

Mr. Cary reviewed the ordinances.

1. Ordinance 2019-50 provides regulation of short-term rentals including registration, annual inspection, intensity of use, ancillary use, life-safety, parking, solid waste, effects on existing contracts, and violations and penalties
2. Ordinance 2019-51 codifies the findings, intent, purpose, and interpretation found in Ordinance 2010-24 that established regulations for registration and permissible activities for short-term rentals in RS-1 and RS-2 categories

3. Ordinance 2019-52 confirms regulations requiring monthly rentals for HP-1 zoned properties and submerged land leases for commercial use of docks that effect short-term rentals as previously enacted in Ordinance 1995-35 and Ordinance 1989-51

Mr. Cary reviewed the ordinances and requested that the Board provide a recommendation to the City Commission regarding the Ordinances.

The Board discussed:

- Enforcement and fees involved which would be calculated by determining the costs associated with enforcement
- Liability concerns regarding yearly safety inspections
- Plans for staffing which included an additional code enforcement officer and an additional part-time fire safety inspector
- Recommendation to add plus two under 18 years old to occupancy per room
- Charging commercial water rates in addition to solid waste fees
- Requiring a compact exit light
- Parking requirements consistent with other uses in HP zones
- Concern that the ordinances would negatively impact short-term rental owners and the local economy
- Current seven-day minimum did not take into account how rental web-platforms functioned
- Potential legal issues related to requiring finished parking areas for short-term rentals
- Affects of short-term rentals in residential neighborhoods
- Unrealistic response time requirement

- Definition of bedroom according to the Florida building code could lead property owners to utilize other living areas as bedrooms
- Letter threatening lawsuit if the City passed the ordinance
- Creation of ordinances as a way to protect the residential feel of neighborhoods
- Concern that passing the ordinance would cause some short-term rental owners to cease maintenance of their properties due to lack of revenue
- Short-Term Rental Committee which had already vetted the subject matter and made recommendations
- Hour limitations for visitors not staying at the rental were too stringent
- Increasing number of occupants did not necessarily mean more cars would be on the property
- Due to state pre-emption of short-term rental regulations, removing the seven-day minimum rental period would become permanent, with no other regulations allowed
- Most renters stayed less than seven days and regulations reduced profitability for vacation rental owners
- Allowing only homesteaded properties to be rentals which had not been pursued by the Committee or Commission
- Notification to neighbors of Short-Term rentals nearby was not added to the ordinance

Public comment was opened, and the Board heard from the following members:

- Michael Sutherland
- Paul Morris
- Tracy Van Dusen⁴
- Edith Fox

⁴ Handout attached to original minutes

- Blake Sauder
- Len Weeks
- Melinda Rakoncay
- Ronny May
- Stacey Hume

The Board continued discussion regarding:

- No parking requirements in Historic Preservation districts
- Allowing pervious surfaces as improved areas for parking
- Grandfathering for rentals without off-street parking
- Most vacation rental owners and managers were responsible
- Host Compliance services would find any listing advertising less than seven-day rental periods as being in violation of the proposed ordinance
- Possibility of passing the ordinance without the internet monitoring and allowing short-term rental violations to be complaint-driven

MOTION

Mr. Davis MOVED to RECOMMEND APPROVAL of Ordinance 2019-50 providing regulation of short-term rentals including registration, annual inspection, intensity of use, ancillary use, life-safety, parking, solid waste, effects on existing contracts, and violations and penalties with consideration of removing parking requirements in HP districts, and reconsidering intensity of use to include 2 persons per bedroom plus two under 18.

There was discussion regarding a recommendation to remove Host Compliance services wherein it was determined that monitoring of short-term rentals would be infeasible without the use of Host Compliance as well as reconsidering ancillary visitor hours.

The motion was SECONDED by Mr. Blow.

VOTE ON MOTION

AYES: Davis, Blow, Opsahl, Ryan, Misterly, DePreter

NAYES: Zander

MOTION CARRIED 6/1

MOTION

Mr. Davis MOVED to RECOMMEND APPROVAL of Ordinance 2019-51 codifying the findings, intent, purpose, and interpretation found in Ordinance 2010-24 that established regulations for registration and permissible activities for short-term rentals in RS-1 and RS-2 categories. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION

AYES: Davis, Blow, Opsahl, Ryan, DePreter

NAYES: Zander

MOTION CARRIED 5/1⁵

MOTION

Mr. Davis MOVED to RECOMMEND APPROVAL of Ordinance 2019-52 confirming regulations requiring monthly rentals for HP-1 zoned properties and submerged land leases for commercial use of docks that effect short-term rentals as previously enacted in Ordinance 1995-35 and Ordinance 1989-51. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION

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

NAYES: None

MOTION CARRIED UNANIMOUSLY⁶

⁵ Mr. Misterly took a brief recess from 9:45p.m. to 9:46p.m.

⁶ Mr. Misterly had not been present for the motion and thus chose not to vote

**10. (b) Discussion and Recommendation
of Ordinance 2020-01, to modify fence,
wall and hedge requirements within
Chapter 28 of the City Code**

Not discussed.

Comments by Board Members

Mr. Blow advised the Board regarding dock construction to withstand storm conditions.

Ms. Zander asked that the Board consider requiring a title block for professional drawings submitted with applications.

Mr. Davis expressed gratitude for the members of the public that stayed for the duration of the meeting to provide comments to the Board.

11. Adjournment

Having no further business, Ms. Zander adjourned the meeting at 9:49 P.M.⁷



Karen Zander, Chairperson

⁷ Transcribed by Candice Seymour