

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting February 4, 2020

The Planning and Zoning Board met in formal session Tuesday, February 4, 2020, at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Jon DePreter, Chairperson and the following were present:

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

Absent: Karen Zander, excused

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

Modifications to the Agenda

Mr. DePreter and Mr. Doty advised that item 4(a) had been requested for continuance and items 5(a) and 8(b) had been administratively continued.

MOTION

Mr. Blow MOVED to CONTINUE the applications to the March 3, 2020 meeting. The motion was SECONDED by Ms. Ryan and APPROVED BY UNANIMOUS VOICE VOTE.

2. General Public hearings for Items Not on the Agenda

The Board heard from the following:

- B.J. Kalaidi
- Lou Agresta

3. Approval of Minutes

Mr. Misterly asked for clarification regarding a discussion point on page 8 requesting that the language be modified to reflect potential mitigation of use intensification through a use by exception.

MOTION

Ms. Ryan MOVED to APPROVE the January 7, 2020 minutes as amended. The motion was SECONDED by Mr. Misterly and APPROVED BY UNANIMOUS VOICE VOTE.

4. Rezoning

4. (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).

Applicant requested continuance prior to the meeting. See motion to continue under Modifications to the Agenda.

5. Variance

5. (a) 2020-0005 – Robert Balch, Black Box Design, Inc. – Applicant
Roland Anderson – Owner
4 Lighthouse Ave

A request to reduce the rear yard setback from 10 feet to 5 feet within RS-2 Zoning.

Application was administratively continued per memo provided in the meeting packet.

6. Conservation Zone Development

6. (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 read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the construction of 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 in Conservation Overlay Zone 1 located at **142, 144, 150 Riberia St / PIN 213370-0000.**

Ryan Carter reviewed the application.

The Board provided their ex parte communications.

53 certified notices were sent, 1 was returned in favor, 1 returned opposed and 2 had comments.

Public hearing was opened.

Lauren Giber was concerned with the environmental impacts of this and all the other surrounding development along the river.

Scott Goedert spoke in favor of the application since the applicant was replacing an existing dock with minimal impact to waterway traffic.

George Ellis spoke in favor of the application stating that the impact to the community would be minimal and the property made safer.

Denise Rohdin said she frequented the dock and the proposed improvement was welcomed; however, she was concerned that if the property were sold and used differently it could have a negative impact.

Scott Smithner felt that the area needed further environmental impact studies.

B.J. Kalaidi felt that the application would not benefit the public as the dock would only be accessible for patrons of the proposed restaurant on the property. She spoke against the application and overdevelopment along the river in general.

Public hearing was closed.

Mr. Carter responded to public comments with a review of the proposed dock's dimensions in comparison to the existing dock.

The Board discussed:

- Existing city utility pipes that the applicant would need to be aware of during construction
- Submerged Land Lease required
- Length of the dock in relation to dredging of the navigable channel, which would be reviewed by the Army Corps of Engineers

MOTION

Ms. Ryan MOVED to APPROVE Conservation Overlay Zone application 2019-0131, 142, 144, 150 Riberia Street. The motion was SECONDED by Mr. Blow.

Mr. Misterly asked staff to ensure the dock did not interfere with the existing storm water outfall and force main located on the property and make note of any possible existing easements.

Ms. Ryan AMENDED her motion to include approval pending review of any City easements or interference with City utilities. The amendment was SECONDED by Mr. Blow.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. (b) 2019-0086 – Scott Patrou, GP Salt Run, LLC – Applicant and Owner 435 Flagler Boulevard

To approve the construction of a four hundred sixty five foot (465') long dock with three (3) associated boat lifts Conservation Overlay Zone 1. To approve the construction of three (3) condominium units and a bulkhead within Conservation Overlay Zone 2. Conservation Overlay Zone 1 request was continued per City Commission on 1/13/2020.

Mr. Doty read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the construction of a bulkhead in Conservation Overlay Zone 2 on the subject property located at **435 Flagler Blvd / PIN: 128480-0000.**

Scott Patrou reviewed the application.

Ex Parte Communication:

(None)

78 certified notices were sent, 8 were returned in favor, 15 returned opposed and 14 had comments.

Public hearing was opened.

Clyve Morris on behalf of Corona del Mar, spoke in support of proposed dock as long as it was 95 feet from their dock. He asked whether placement of the bulkhead had any correlation to the placement of the dock to which staff responded that the bulkhead was independent of any future dock construction¹

Charles Pappas spoke regarding the proposed dock and the impacts it would have to public access to the water.

B.J. Kalaidi asked that information submitted by Mr. Morris be part of the record.

Public hearing was closed.

Mr. Patrou responded to public comment, noting that the majority of the speakers were referencing the dock which was not being heard.

¹ Survey attached to original minutes

The Board discussed:

- Written comments were received prior to agreement with Corona del Mar
- Proposed elevation of the building and property would be higher than existing and bulkhead would match that height
- Applicant would have to meet City drainage requirements
- Bulkhead would be landward of mean high water line
- There was an existing bulkhead on property to the south and proposed bulkhead would be higher
- Concern for impact on scenic vistas, particularly in relation to neighboring single-family house
- Adjacent property owner did not speak against the application
- Improved shoreline changes the setback, unimproved shoreline would require a 25 foot buffer

MOTION

Mr. Blow MOVED to APPROVE application 2019-0086 for the bulkhead based on the testimony of the applicant that the top elevation of the bulkhead would match that of the development two properties to the south. The motion was SECONDED by Ms. Opsahl.

There was further discussion regarding potential impacts to the property directly to the south, though that property owner did have a bulkhead as well and had submitted no objections to the project.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. (c) 2020-0002 – Joe Boles – Applicant **Maurine Boles – Owner** **35 Mulberry Street**

To approve a one hundred ten foot (110') dock with a ten foot (10') by twenty foot (20') terminal platform and a eight foot (8') wide platform waterward of the existing bulkhead within Conservation Overlay Zone 1.

Mr. Doty read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the construction of a platform, dock and terminal platform in Conservation Overlay Zone 1 located at **35 Mulberry Street/PIN: 195790-0000.**

Joe Boles reviewed the application.

Ex Parte Communication:

(None)

31 certified notices were sent, 6 were returned in favor, 2 returned opposed and 1 had comments.

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

The Board discussed:

- Proposed dock would be located on north side where previously existing dock was
- Dock would not block channel of the creek
- Proposed eight foot platform was included in 120 foot length
- Platform would not encroach on riparian lines

MOTION

Mr. Davis MOVED to APPROVE application 2020-0002 for a dock as discussed, that it does not impinge on City riparian rights, with minor adjustments if necessary. The motion was SECONDED by Mr. Misterly.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

6. (d) 2020-0008 – Josh Killian,
Culpepper Engineering – Applicant
Florida Power & Light – Owner
179 SR 16

To approve the removal of four (4) significant trees (three southern red cedars and one live oak) within Conservation Overlay Zone 3.

Mr. Doty read the staff report and said based on a review of Section 11-29, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** removal of the trees at the subject property including four (4) significant trees (three southern red cedars and one live oak) within Conservation Overlay Zone 3 located at **176 State Road 16 / PIN 093220-0000**.

Josh Killian was available for questions.

Ex Parte Communication:

(None)

12 certified notices were sent; however, none were returned.

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

The Board discussed the proposed site plan for expansion of the substation with a recommendation of utilizing the existing

improved area on the south side of the property.

Mr. Killian said he would need to defer to an electrical engineer with FPL to detail why the site plan was laid out as proposed. He was amenable to a continuance so he could provide further information to the Board.

MOTION

Ms. Opsahl MOVED to CONTINUE Conservation Overlay Zone Development application 2020-0008 to the March 3, 2020 meeting. The motion was SECONDED by Ms. Ryan.

There was a request from the Board that the applicant return with a detailed explanation from FPL as to why the expansion was designed as proposed.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

7. Use by Exception

7. (a) 2019-0133 – Richard Diaz, 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.

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, limited to 26 bedrooms, within Residential, Single Family-two (RS-2) zoning at **169 M.L. King Ave / PIN 212280-0000**.

Richard Diaz and Molly Butler reviewed the application including proposed parking plan and narrative.²

Ex Parte Communication:

(None)

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

Public hearing was opened.

John Wooldridge felt the project should remain residential in character and encouraged the Board to put controls on any approvals in the absence of State oversight.

B.J. Kalaidi spoke against the application, stating that the property had been donated to benefit black residents in St. Augustine.

Sue Agresta stated that Mr. Diaz spoke at the Lincolnville neighborhood association meeting, describing the project as similar to a gated community. She added that the applicant did not appear to care about the history of the property or the neighborhood. She said perhaps the project was not appropriate for the area.

Patricia Herring spoke against the application as a negative impact to the City. She said input from the citizens and minorities in the City should be considered.

Lauren Giber stated that the applicant had criticized the neighborhood and presented the project as completely fenced and monitored. She felt the project was developed with money in mind rather than the neighborhood.

Bruce McGuire was concerned with the lack of clarity from the applicant. He noted a proposed eight foot fence and high costs for

residents. He asked that the applicant further explain.

Larry Lake, CEO of Bayview Healthcare, noted that moving the program that was previously on the property to Bayview benefitted their assisted living program. He said the sale of the property would help them continue the program and provide financial assistance.

George Ellis felt that the community did not receive enough information about the project. He was concerned with a lack of stability and continuity. He felt that the intent of the Buckingham-Smith legacy was being overlooked.

Ann Murdock understood that the purchase was contingent; however, she felt the information provided to the community was vague and more information was necessary for the surrounding residents to be comfortable.

Denise Rodan was concerned that the project did not match the mission of what the property was originally intended.

Albert Greco was concerned with environmental impact of the development, particularly in regards to paved parking areas proposed which could exacerbate flooding problems.

William Brown reiterated concerns for increased flooding if the parking area was impermeable. He was also concerned with the overall development of the property, traffic impacts, and increased frequency of emergency services. He said that the lack of respect for the history of Lincolnville should be taken into consideration. He felt more information was needed before it could be approved.

Judith Liphardt spoke against the application. She noted that the existing building could not be raised and that the structure had a history of flooding. She said the residential feel of the neighborhood was

² Attached to original minutes

important. She asked that the Board consider the reasons Buckingham-Smith donated the property. She added that increased emergency service traffic would be detrimental to the neighborhood.

Scott Smithner was concerned that a property donated to benefit the black community was being sold for a profit.

Public hearing was closed.

Ms. Butler responded to public comment, noting that the independent living facility proposed was the same as assisted living without skilled nursing care. She said the goal was to keep costs more affordable than what was currently available. She discussed the staffing and noted that security would be on staff to monitor the facility at night.

Mr. Diaz spoke regarding adjacent abandoned homes in the area and a dilapidated fence which he was intending on securing for the safety of the residents in the facility.

The Board discussed:

- Finished floor elevation
- Twenty-six rooms proposed, up-to 39 residents
- Replacement of fence at the rear of the property with no fencing of the entire property
- History of the property and possible deed restrictions were outside the purview of the Board
- If the elevation did not meet freeboard regulations, the structure would need to be raised or flood-proofed
- Required parking
- Age restriction for residents
- Clarification of security measures limited to securing the building, not the entire property
- Lack of City's ability to enforce age restrictions
- Possible conditions including:

- 55+ housing
- Fencing limited to the rear
- Maximum occupancy of 39 within 26 rooms
- On-site community kitchen maintained for residents
- Use-by-exception would run with the applicant, but could run with the structure

MOTION

Mr. Misterly MOVED to APPROVE Use By Exception application 2019-0133 with the following conditions:

- That it has an age restriction of 55 and up
- There be no additional fencing or gates besides the location where the fencing currently exists
- It have a maximum number of residents of 39
- That the community kitchen be maintained for residents
- The exception is tied to the applicant and the building
- And a maximum of 26 rooms

And the nexus of the conditions was to promote the order, comfort, convenience, appearance, and general welfare of the community. The motion was **SECONDED** by Mr. Blow.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY³

³ Brief recess from 4:10p.m. to 4:21p.m.

8. Rezoning

8. (a) 2019-0126 – Ellen Avery-Smith – Applicant

Ellen Avery-Smith and Seavin, Inc. – Owner

Sebastian Harbor Dr – PID 203350-0000, 203350-0010, 203350-0030, 203470-0000

A request to amend the Sebastian Inland Harbor PUD (Ord. 2007-14 & Ord. 2016-15) to allow for a maximum of 165 multi-family units, a maximum of 167 hotel units, a maximum of 26,050 square feet of retail/commercial space, a maximum of 65 marina slips, and the existing San Sebastian Winery (approx.. 24,000 square feet of commercial space).

Mr. Doty read the staff report and said staff did not make recommendations regarding rezoning applications.

Ellen Avery-Smith, Charles Cox, Abbas Abdulhussein, Doug Skyles, and Jeremy Marquis reviewed the application.⁴

The Board provided their ex parte communications.

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

Public hearing was opened.

The following members of the public spoke against the application citing concerns for negative traffic and parking impacts, lack of emergency vehicle access, environmental impacts, potential increased flooding, lack of parking for employees of proposed uses, increased intensity of use in the area, overdevelopment, impacts to scenic vistas, noise and light pollution, affordability of housing, possibility of short-term rentals, and loss of neighborhood character:

- B.J. Kalaidi
- Lou Agresta

⁴ Presentation attached to original minutes

- Bruce McGuire
- Dennis Liphardt.
- George Ellis
- Van Cogley
- Jeffery Leibovitz
- Barbara Brottman
- Gail Wisler
- Lauren Giber
- Peter Engelbrecht
- Sue Agresta
- Melinda Rakoncay
- Stacey Hume
- Norma Novak
- Scott Smithner
- Judith Liphardt
- William Brown
- Denise Rohdin
- Anne Murdock
- Nic Smith
- Karen Pichette
- Chuck Eckstein

Public hearing was closed.

Ms. Avery-Smith responded to public comment, noting the following:

- Property owners had vested rights
- Project was within parameters of existing future land use designation
- Site access from Sebastian Harbor Drive
- Multi-family residential units would be apartments with a private parking garage
- Sebastian Harbor Drive would remain a two-way street with public on-street parking
- Minimum number of parking spaces as required per code at 636 spaces
- Existing Riverwalk that would be extended with the project

Mr. Skyles addressed questions regarding storm water retention and drainage concerns as well as sewage treatment capacity via the City's systems with any required upgrades being done by the developer. He clarified that all storm water

would be captured on site to be attenuated and treated prior to being percolated into the ground or discharged into the river. Sewage from the project would be sent through the City's sewage system. He confirmed that there would be a pump-out station for the marina's sewage.

Mr. Marquis clarified building heights and addressed concerns regarding view shed impacts. He noted several locations along Sebastian Harbor Drive where there would be a view from the road directly to the water. He also noted the consideration of the project from King Street. He described the proposed central greenspace which was also integral to the storm water retention plan. He explained the suggestion that a third-party architectural group review the design of the project along the King Street Corridor.

Ms. Avery-Smith noted that the project would comply with lighting and noise regulations and that she would meet with City Staff to determine which CRA the property fell under.

The Board discussed:

- Additional height request would raise proposed finished floor elevation an additional six inches from PUD finished floor elevation
- Clarification of where maximum heights would be reached including the hotel and apartments
- Parking garages would be no taller than 50 feet
- FPL easement would provide view shed from Iberia Street
- Flooding along Sebastian Harbor Drive would be routed into the projects storm water system
- Original parking requirement was 636 spaces, including 40 public parking spaces
- Employees of businesses on the property would park on-property in the spaces provided per code

- Traffic study with an increase of 4,800 trips per ITE trip generation, a reduction from the original PUD
- No intent to provide subsidized affordable housing
- Funding for the project would not fund the Lincolnville CRA
- Site and parking access along Sebastian Harbor Drive with residential access of Iberia Street
- Study to determine necessity of a right turn lane
- Possibility of vacation rentals needed to be clarified in the PUD narrative with possible restrictions for apartments lease terms
- Need to clarify the definition of apartment within the PUD
- Holistic view of traffic impacts and recommendation to remove ingress and egress from Iberia Street completely
- Proposed river walk and recommendation to interconnect Lincolnville and King Street

Reuben Franklin, Public Works Director traffic concerns along King and Iberia Streets in relation to the City's mobility plan and fielded questions from the Board regarding the following:

- The King Street bridge across the San Sebastian River was slated to be replaced by DOT in the future
- Desire to see a more cohesive streetscape plan for Sebastian Harbor Drive and more detail regarding on-site parking including allocations for employees and patrons of the commercial uses as well as the residential component.
- Project was anticipated to bring in around a million dollars per year for CRA to help fund multi-modal connections
- Hope the project would encourage more multi-modal forms of transportation

- Clarification that parking along Sebastian Harbor Drive would be metered by the City, though a portion of the land for the spaces was provided by the developer
- Intensity of uses could be answered through more detail provided by the applicant
- Applicant would work with City to comply with street design standards beyond just resurfacing of the road
- The sewer lift station and storm water collection system was in poor condition, but the new development would bring the system back to an adequate level of service
- Emergency vehicle access

Board discussion continued regarding the following topics:

- Desire to see more detail defining complete streetscapes
- Restriction of short-term rentals
- Traffic flow on Sebastian Harbor Drive
- Ways to have less traffic coming out onto Riberia
- Possibility of performing a new traffic study
- Clarification of apartments/condos
- Massing/view shed and desire to see elevations in relation to surrounding structures
- Concern that parking structure was too tall
- More info on drainage and repaving of Sebastian
- Amplified music
- Building height clarifications
- Low-income housing
- King Street's history of traffic problems which was not likely to be solved
- Opportunity to lessen traffic impacts
- Providing renderings of how the project would look from varying vantagepoints

- Clearly defining phasing with a recommendation that Phase one build out all necessary infrastructure
- Recommendation of utilizing permeable pavers
- Determining whether winery was included in the current PUD⁵

Ms. Avery-Smith discussed the vested trips associated with the existing PUD, noting that the proposed amendment would reduce those trips by 5%. She questioned whether an additional traffic study would be necessary at the expense of the applicant.

After brief discussion, the Board concluded that a traffic study may be less important than clarifying the massing and scale of project with elevations.

Mr. Franklin noted the Public Facility Impact Study referenced in the packet and wanted to ensure that the document existed as he had not reviewed it.

Mr. Cox spoke regarding why the winery was not included in the original PUD because they had purchased the property from the City, outside the boundaries of the original PUD. He clarified that the proposed Marketplace was on property he had more recently purchased that was within the PUD and that the amendment would need to be passed before he could proceed with design review on the project.

MOTION

Mr. Blow MOVED to CONTINUE application 2019-0126 to the March 3, 2020 meeting. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

AYES: Blow, Davis, Ryan, Misterly, DePreter

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

⁵ Ms. Opsahl departed at 7:12p.m.

8. (b) 2020-0003 – James Whitehouse – Applicant
Sarris Family Trust, Phillip Sarris – Owner
415 S. Ponce de Leon Blvd

A request to rezone the Rivers Edge PUD (Ord. 2006-14) to Commercial Medium-two (CM-2) zoning.

Application administratively continued per memo included in the meeting packet.

9. Other Business

Workshop Meeting

There was discussion regarding a tentative workshop meeting date to discuss propose parking changes to the Land Development Code. The tentative date chosen was March 25, 2020 from 1:00p.m. to 3:00p.m. with a recommendation to confirm availability with absent members of the Board as well.

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

Mr. Doty reviewed the ordinance.

The Board discussed:

- Masonry wall air conditioning requirement with recommended change to wood or composite material
- Side yard fencing height requirements
- Existing fence regulations

MOTION

Ms. Ryan MOVED to RECOMMEND APPROVAL of Ordinance 2020-01 to modify fence, wall and hedge requirements within Chapter 28 of the City Code per our discussion, removing the masonry wall requirement and allowing a composite or wood fence to

the City Commission. The motion was **SECONDED** by Mr. Davis.

VOTE ON MOTION

AYES: Ryan, Davis, Blow, Misterly, DePreter

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

Board Member Comments

Mr. Davis addressed a recent newspaper article regarding chickens in St. Augustine beach and asked staff to clarify regulations regarding chickens within the city limits.

Mr. Birchim responded that chickens were allowed, with a limit of five, and were required to be contained within a coop.

10. Adjournment

Having no further business, Mr. DePreter adjourned the meeting at 7:57 P.M.⁶



Karen Zander, Chairperson

⁶ Transcribed by Candice Seymour