

CITY OF ST. AUGUSTINE, FLORIDA

Regular Planning and Zoning Board Meeting  
December 2, 2003

The Planning and Zoning Board met in formal session at 2:00 p.m., Tuesday, December 2, 2003, in the City Commission Meeting Room at City Hall. The meeting was called to order by Matthew Baker, Chairman, and the following were present.

**1. ROLL CALL**

Matthew Baker, Chairman  
Gerald Dixon  
Todd Grant  
Roxanne Horvath  
Harvey Simms  
James Solana

Excused: Leanna Freeman

City Staff: James Wilson, Esq., City Attorney  
Mark Knight, Director, Planning and Building Department  
David Birchim, Planning Manager  
Pam Halterman, Recording Secretary

**2. APPROVAL OF MINUTES**  
**(November 4, 2003 - Regular Meeting)**

Minutes of the December 2, 2003 regular meeting were approved as presented.

**3. VARIANCES**

**Item 3(a) 2003-1085**  
**Catherine I. DuPont**  
**26 Mulberry Street**

**To exceed the maximum lot coverage and encroach into the required side yard and rear yard setbacks for construction of a carport.**

Catherine DuPont, 26 Mulberry Street, was sworn in.

Mr. Birchim reported that the applicant had requested a variance to exceed the maximum lot coverage and to encroach into the side

and rear yard setbacks to construct a carport. He stated that maximum lot coverage in the RS-2 category was 30% and the applicant had requested an increase to 52% lot coverage.<sup>1</sup> He noted that the required side yard setback was 5-½ feet and the request included a four foot setback. He added that the required rear yard setback was set at ten feet, but the applicant had asked for a four foot setback. He stated that the property suffered a hardship because of its size. He noted that the lot measured 2,585 square feet in size, which was extremely small. He said the minimum lot size in the RS-2 category measured 5,450 square feet; therefore, the subject lot was less than ½ of the minimum lot size. Based on review of the Code, he stated that staff found that the board could approve a variance to exceed lot coverage

<sup>1</sup> Mr. Wilson arrived at 2:05 pm.

and to encroach into the required setback as submitted.

Ms. DuPont stated that the carport was intact when she purchased the house in 1979. She advised that approximately five years ago the house was refinanced and at that time the appraiser had recommended to the mortgage company that the carport be removed due to its condition. She explained that to close on the mortgage she had the carport removed. She noted that she was not financially able to rebuild the carport at that time. She stated that the proposed carport would be built on the original footprint of the previous carport. She said her lot size measured 49-½ by 49-½ feet and was one of the smallest lots in the neighborhood.

Mr. Baker opened the public hearing but there was no response from the public. He noted that twenty-two written response forms had been sent to surrounding properties with five returned in favor and one returned opposed to the application.

In response to an inquiry by Mr. Simms regarding the comment of “what goes around, comes around” noted on a response form, Ms. DuPont stated that several years earlier a number of residents in her neighborhood had built on to their properties without obtaining proper permits. She explained that she had been a member of the PZB when that respondent’s request was denied by the seven member board.

#### **MOTION**

**Mr. Simms moved to approve the application as submitted based upon the**

**proven hardship regarding the size of the property and the recommendation by staff. Mr. Solana seconded.**

#### **MOTION CARRIED UNANIMOUSLY**

##### **Item 3(b) 2003-1125**

**John Valdes**

**Ingrid Robins**

**12 Sevilla Street**

**To encroach into the required rear yard setback and reduce the required drive aisle width and maneuverability for a garage apartment.**

Mr. Baker noted that the applicant had asked that the application be tabled.

In response to a comment by a citizen in the audience, Mr. Baker acknowledged that the board had just been notified of the request to table the application. He apologized to the citizens in attendance that desired to speak on the matter.

It was clarified that no additional notices would be sent to surrounding residents.

Mr. Baker noted that the case would be tabled until the January 6<sup>th</sup>, 2004 meeting.

Mr. Simms suggested that if any audience member desired to comment on the case and would not be able to attend the next meeting they could send letters to the board members prior to the next meeting, and those letters would be taken into consideration.

In response to a citizens concern regarding the application, Mr. Baker suggested that they talk with the applicant prior to the January meeting.

Responding to comments made by a citizen, Mr. Dixon explained that his firm handled the addition to the main structure; however, his firm had neither provided the site plan nor the design for the addition to the garage. He explained that he had objected when the owner had used his site plan for the garage addition and when the owner had drawn his own details on top of the original plans. He reiterated that Dixon and Associates had not furnished the garage plans.

Mr. Baker explained that the mechanism required to send out written response forms would not happen a second time; although the case would be tabled until January 2004. He stated that citizens' concerns were shared by the board members. He noted that the board had placed conditions on the previous request that no kitchen be installed with the garage addition, which would be discussed again at the January 2004 meeting.

Mr. Simms asked that the citizens call him so he could better explain the situation without taking up the board's time that day.

In response to an inquiry from a citizen, Ms. Horvath affirmed that the application request involved a garage apartment.

Mr. Baker explained that the board members had the same concerns regarding the plans, which seemed inconsistent with what had been requested by the applicant.

## **MOTION**

**Mr. Simms moved to table the application until the January 6, 2004 meeting. Mr. Grant seconded.**

## **MOTION CARRIED UNANIMOUSLY**

### **4. VARIANCES / EXCEPTIONS**

#### **Item 4(a) 2003-1027**

#### **Memorial Presbyterian Church**

#### **36 Sevilla Street**

**To allow the expansion of a church and school in a residential district as a permissible use by exception and to exceed the maximum lot coverage and encroach into the required rear yard setback.**

George McClure, 170 Malaga Street, Suite A, stated that during the previous hearing issues were raised, which resulted in the application being tabled. He explained that two issues were involved; one as a permissible use by exception for the church, and the second involved lot coverage, which had included two properties located across the street from the church.

Dick Mohler, 955 Faver Dykes Road, was sworn in. He stated that the church was faced with a congregation that was growing greater, growing older, but reducing in size. He explained that a difficult situation was noticed with the quality of the church's Christian education facility and nursery. He stated that the church felt that they needed to attract young families, which was not an easy task to achieve. He said in addition to the need to improve the facilities, a few safety issues such as exits, a second egress, fire codes and handicap access needed to be addressed. He stated that the day school was certified to handle forty students, but the church averaged between 34 and 36 students on a daily basis. He noted that the

new design would allow forty-two students to attend the school. He explained that the feedback from parents regarding the quality of the day school was such that those parents did not desire to have the school increase its population. He added that the church desired to satisfy those parents and the children currently enrolled at the school.

Mr. Mohler advised that the church committee had met several times in an effort to find the best solution for everyone involved. He stated that the committee had decided to remove the properties on Sevilla Street and property on Valencia Street from the land equation and only approach the request with what the new and current buildings would occupy. He explained that the variance request for lot coverage would increase land coverage from 33.68% to 38.78%, which included a 5.1% increase in lot coverage and a five foot setback at one corner of the building.

**Ex-parte communications:**

Ms. Horvath, Mr. Dixon and Mr. Simms acknowledged that they had spoken with Mr. Mohler and had visited the site. Mr. Baker and Mr. Solana stated that they had received telephone calls regarding the application. Mr. Grant stated that he had visited the site.

Mr. Baker opened the hearing to public comments.

Bill Rose, 33 Valencia Street, was sworn in. He suggested that the church had met the conditions that the board set at the previous hearing and the church would not involve the two residential houses located across the street from the church. He stated that he

was in agreement with the current proposal from the church.

Anne Boccieri, 33 Sevilla Street, was sworn in. She questioned whether the board could guarantee that the two residential houses on Sevilla Street would not be demolished in the future. She voiced that their main concern was the elimination of the residential neighborhood.

Mr. Baker stated that one of the houses on Sevilla Street was over fifty years of age and the owner would be required to obtain a Certificate of Demolition from the HARB prior to the removal of the structure. He explained that at the previous hearing the board had determined that the aggregation of properties was not an appropriate approach, and the applicant had corrected by eliminating those properties on Sevilla Street from the equation.

Ms. Horvath advised that the owner would be required to come before the board with any future plans involving the residential properties on Sevilla Street.

Martha Tinsley, 602 Stafford Lane, was sworn in. She stated that the church was involved with many volunteer efforts such as Meals on Wheels, the Food Pantry and St. Francis House, which the church included in their annual budget. She acknowledged that the church had been concerned about the lack of affordable housing in St. Augustine, which had led the way to establishing the local Chapter of Habitat for Humanity. She stated that the church had served the community for well over one-hundred years and had made an important impact on St. Augustine.

Elizabeth Haynes, 27 Riberia Street, was sworn in. She stated that the church would like to add to the facilities in order to provide more to the needy. She explained that the church did not have an elevator to the second floor, which caused difficulties for the elderly and handicapped congregation.

Mr. Baker closed the public hearing.

Mr. McClure clarified that one of the two structures on the eastside adjacent to the existing parking lot was older than fifty years and to demolish that structure required a Certificate of Demolition from the HARB. He acknowledged that the owners would be required to come before the PZB and seek an exception in order to conduct any use other than residential. He stated that the request involved a 5% increase in lot coverage and suggested that the justification had been articulated regarding the hardship with the need to modernize the structure without the demolition of any of the historic portions of the structures on site.

Mr. Simms questioned why the church would not divest the two structures on Sevilla Street to help the church or neighborhood.

Mr. McClure stated that the property located to the west of the church was already listed for sale to return to private ownership. He explained that none of the people present that day had the authority to commit to sell the property located across from the church on Sevilla Street. He stated that the church would be required to address any change to those properties through the PZB. He

voiced that he could not in good conscious advise the church to make a permanent commitment regarding the use of those properties in exchange for the immediate approval of a 5% increase in lot coverage.

Mr. Simms suggested that the church should be willing to divest themselves from the properties across the street if the proposed expansion took care of all the churches' needs. He noted that the neighborhood had made it clear that they did not desire more residential structures to be converted to parking areas for the church.

Mr. McClure stated that the church committee understood that it would be fruitless to attempt any other use other than continuing with the current residential use.

Mr. Mohler stated that the church had no immediate plans to convert the residential homes into parking areas, although that issue might be one to be discussed by the church committee in the future. He added that the residential houses currently provided revenue to the church.

It was clarified that the written response forms were the same ones received at the November meeting.

Ms. Horvath stated that concerns had been voiced at the previous meeting regarding increased activities at the church. She questioned whether additional classrooms would be added with the expansion.

Mr. Mohler clarified that one additional classroom would be added to the church in terms of the net increase. He affirmed that the school currently had 34 to 36 children

registered for the day school, but the school had been certified to handle up to forty children. He stated that parents had voiced that the reason they continue to bring their children to the school was due to the small size of the classes and the teacher-to-pupil ratio remained low. He said the church did not desire to increase its school population.

Mr. Dixon stated that the expansion involved the utilization of space and not growth, and the church would bring the structure up to Code with regards to bathrooms, handicap accessibility, etc. He said he would support the request.

Mr. Simms stated that after the church tour, he had realized the needs of the church and was in support of the application. He suggested that the expansion would not negatively impact the neighborhood.

Mr. Mohler stated that the church desired to maintain the level of service and to sustain the historical church.

Mr. Simms stated that after some research at the Historical Society, he had found that the church was constructed prior to the residential homes in the area. He suggested that the expansion was not excessive.

Mr. Solana stated that the church had provided the board with adequate information. He suggested that a 5% increase in lot coverage was a reasonable request.

## **MOTION**

**Mr. Simms moved to approve the application as submitted. Mr. Dixon seconded.**

## **MOTION CARRIED UNANIMOUSLY**

### **5. EXCEPTIONS**

#### **Item 5(a) 2003-1126**

**Laura Puckett**

**35 San Marco Avenue**

**To allow off site parking as a permissible use by exception.**

Laura Puckett, 38 Water Street, was sworn in.

Mr. Birchim reported that the applicant had requested a use by exception to allow off site parking in order to accommodate a proposed coffee shop at 35 San Marco Avenue. He stated that the current use at the site was retail and the proposed change of use to a restaurant required additional parking based on the number of seats in the restaurant. He explained that the request involved twelve leased parking spaces at the VIC, which would offer the owner the ability to have a forty-eight seat restaurant. He noted that the VIC was located 330 feet from the subject property; therefore, it fell within the four-hundred foot radius requirement for off site parking as stipulated in the Code. Based on review of Section 28-29, he said staff found that the board could approve the request for off site parking with the condition that the parking lease be recorded prior to the issuance of a business license.

Mr. Simms asked staff for the number of parking spaces currently leased at the VIC.

Mr. Knight advised that approximately five-hundred parking spaces were available at the

VIC; however, he did not know the exact number of spaces that Flagler College had leased from the lot. He noted that between forty-five and fifty spaces had been leased to businesses prior to the current request from Ms. Puckett. He explained that during special events, the people with leased spaces could park at the VIC at no charge, but the City would not openly reserve spaces for those people during special events.

Mr. Baker opened the public hearing but there was no response from the public. He noted that sixteen written response forms had been sent to surrounding property owners with three returned in favor and two returned in opposition to the application.

Mr. Simms stated that he was concerned with the large crowds at special events that filled the VIC parking area quickly, which resulted in forcing people to park in residential neighborhoods. He noted that a lack of parking signage existed and suggested that the applicant be required to install signage to direct her patrons to the VIC location.

Mr. Dixon stated that a signage plan had been accepted by the City Commission and would be implemented in the near future.

Mr. Simms reiterated that the applicant should post a sign directing patrons to the VIC site. He asked that a signage requirement be included with the motion.

Ms. Horvath noted that first time users would not know where to park; therefore, she asked how the applicant planned to inform her patrons of the parking situation.

Mr. Knight advised that a limited number of spaces had been leased from the VIC. He explained that the City did not have a functional parking system currently in place at the VIC; however, a system would probably be implemented when Mr. Randall's project located on 28 San Marco Avenue started.

Mr. Wilson advised that many times when such a lease was implemented, it resulted in employees of the business parking at the VIC with patrons to follow.

Mr. Grant suggested that businesses in that area would see more walking traffic than vehicular traffic.

#### **MOTION**

**Mr. Baker moved to approve the application with the condition that a lease for the parking at the VIC be recorded prior to the issuance of an occupational license and that the granted exception remain with the applicant and was not transferable. Mr. Simms seconded.**

**MOTION CARRIED UNANIMOUSLY**

#### **6. CONSERVATION ZONE DEVELOPMENT**

##### **Item 6(a) 2003-0921**

**Alec Alexander**

**Pierre Thompson**

**501 Plantation Island Drive South**

**To remove trees in Conservation Zone Three and to construct condominiums in Conservation Zone Two.**

Mr. Baker advised that the applicant had requested that his application be withdrawn.

**Item 6(b) 2003-1083**

**Joseph Craven**

**19 Avista Circle**

**To construct a dock.**

Don Craven, 19 Avista Circle, was sworn in.

Mr. Birchim reported that the applicant had requested approval of a dock, one-hundred and thirty feet in length with a twelve-by-sixteen terminal at the end of the dock. He noted that the application did not include a request for a boatlift. He said that after review of Section 11-29 staff found that the board could approve Conservation Zone Development to construct a dock at 19 Avista Circle with the condition that all applicable State, Federal and building permits were obtained prior to construction. He advised that by approval of the application, the City did not make representation, approval or claim of riparian rights to any party.

Mr. Baker opened the public hearing but there was no response from the public. He noted that seven written response forms had been sent to surrounding property owners with two returned in favor and zero returned in opposition to the application.

Mr. Dixon noted that docks had already been approved on both sides of the subject property.

**MOTION**

**Mr. Dixon moved to approve the application as submitted. Mr. Solana seconded.**

Mr. Grant noted that the drawing in the application indicated a boatlift and questioned whether the applicant desired to install a lift on the dock.

Don Kernan, 452 Arricola Avenue, was sworn in. He stated that he understood that boatlifts under 10,000 pounds did not require an approval from the board.

Mr. Knight clarified that an applicant would be required to obtain Conservation Zone Development approval from the board to install any size boatlift.

Mr. Baker noted that the board had implemented constraints regarding the type of lift allowed, but all boatlifts needed to be reviewed by the PZB. He stated that the approval for the dock would not include a boatlift; however, the applicant could apply for a lift on a separate application.

**MOTION CARRIED UNANIMOUSLY**

**Item 6(c) 2003-1130**

**Nicholas H. Xynides**

**258 Riberia Street**

**To install an industrial boat hoist.**

Nicholas Xynides, 2564 Shore Drive, was sworn in.

Mr. Birchim reported that the applicant had requested a Conservation Zone Development One to install a marine hoist at an existing boatyard. He noted that the hoist was a wheeled devise, which picked up boats from the water and moved them on to land for repairs. He stated that the hoist operated on runners that extended into the

water, which would require the existing dock to be removed. He said after review of Section 11-29, staff found that the board could approve Conservation Zone Development to install a boat hoist at 258 Riberia Street with the condition that all applicable Federal, State and building permits were obtained prior to construction and by approval of the application the City did not make representation, approval or claim of riparian rights to any party.

Mr. Baker opened the hearing to public comment.

Mike Drews, 8823 San Jose Boulevard, Suite #211, Jacksonville, stated that he represented the owners of St. Augustine Marine. He submitted photographs and documents to the board members. He explained that his client's concern involved a dock located at the opposite side of where the hoist would be installed. He stated that Mr. Xynides' present operation physically extended beyond its own boundary lines on both sides. He directed attention to the submitted survey and noted that the applicant was operating within the City's nineteen foot area of drainage property. He suggested that Mr. Xynides' dock encumbered St. Augustine Marine's property and burdened their use of the dock. He stated that the installation of the travel hoist would further interfere and impede the use of his client's dock. He said the photographs indicated how the boat at the applicant's dock overlapped and extended four to five feet past their own property boundary. He suggested that the installation of the hoist and its operation would further encumber and impede other vessels in the area. He asked that the application be

denied, or that the board place a condition on the approval such as the removal of the dock prior to the installation of the new hoist, or relocation of the dock fifteen feet back in order to allow normal use of his clients' dock.

Rick Burrell, 5115 Shore Drive, was sworn in. He stated that the tight area and Mr. Xynides' dock had resulted in the limited use of their dock by eight feet. He noted that their dock was heavily used, due to the fire protection, water and utility services located on that portion of the dock. He stated that he would like to use all of his dock, which would offer additional space to allow larger boats to dock.

Mr. Simms questioned whether Mr. Burrell would be in favor of the application if the applicant's dock was removed.

Mr. Burrell affirmed that he would be in favor of the application only if the dock was removed or moved over to allow him use of his entire dock.

Mr. Solana questioned whether the dock and its location were involved with the application currently before the board.

Mr. Wilson advised that the dock and hoist were different issues and noted that the applicant had not requested a dock permit. He suggested that it appeared that a riparian right issue was involved, but that issue was not within the board's or City's jurisdiction.

Mr. Solana suggested that the situation explained by St. Augustine Marine's representative had nothing to do with the issue before the board that day.

Mr. Dixon stated that he disagreed with Mr. Solana's statement. He suggested that St. Augustine Marine had a legal right to ask that the dock be removed or relocated.

Mr. Wilson stated that it was not relevant to the issue. He advised that the board did not discuss riparian rights. He suggested that the St. Augustine Marine could appeal a dock permit from the DEP.

Dave Greer, 30 Sanford Street, was sworn in. He stated that the subject dock was constructed prior to the dock installed by St. Augustine Marine. He suggested that it appeared to be a witch hunt and not a zoning or Conservation issue.

Eleni Demott, 1724 Dartmoor Lane, was sworn in. She stated that the hoist would be installed at the northern side of the property. She suggested that Mr. Dixon should recuse himself from the application, due to a previous working relationship with St. Augustine Marine.

Mr. Dixon affirmed that he had worked with St. Augustine Marine several years earlier; however, he stated that he was also a member of the Port Waterway Authority and knew much about docks and boats. He suggested that St. Augustine Marine had a legitimate concern. He stated that if the applicant attempted to permit the existing dock that day, the owner would not be able to obtain a permit, because it created a problem for the neighboring property owner.

Ms. Demott reiterated that the application only involved the hoist and its installation to

be located on the other side of their property.

Mr. Dixon stated that the situation was similar to when a variance being granted by the board carried a condition with the approval of the application.

Ms. Demott stated that everyone was entitled to make a living, and suggested that they were being squeezed between two larger producers. She asked that the board consider the small businesses and their attempt to make a living at that location. She stated that they were not aware of any problem between St. Augustine Marine and themselves until earlier that day when they had met outside the hearing.

Mr. Simms asked if Mr. Burrell had made any previous attempts to resolve the issue.

Mr. Drews affirmed that they had not made any attempts, because the application indicated that the dock would be removed; therefore, the issue would not have existed. He noted that the problem was the increased burden created by the new hoist, which was the problem. He stated that the usage of the dock would increase tremendously. He suggested that the Applejack boat could be forced closer to the St. Augustine Marine dock to allow more room for other boats. He said that his client did not want the hoist to increase and impede the use of their property.

Mr. Solana questioned why the St. Augustine Marine owners waited until that day to voice their objection and suggested that it appeared as a vendetta in an attempt to slow down Mr. Xynides' operation.

Mr. Drews stated that they were concerned about the increased burden on their dock usage and operation, due to the increased traffic that would come with the new hoist. He noted that his client desired free and clear use of their dock and property.

Mr. Baker closed the public hearing. He noted that twelve written response forms had been sent to surrounding properties with three returned in opposition and zero returned in favor to the application.

Mr. Dixon stated that the Xyindes' boatyard was the oldest in the area. He suggested that the hoist would result in more boats staging in the area and more activity.

Mr. Baker agreed that an issue of impairment could surface; however, he suggested that it was an over broadening of the matter. He noted that the issue was not within the board's purview to discuss.

Mr. Simms noted that legal counsel had also advised that the issue was not within the PZB's purview to review.

**MOTION**

**Mr. Solana moved to approve the application with the recommendation and conditions as stated in staff's report. Mr. Grant seconded.**

Mr. Dixon noted that all returned written response forms were opposed to the application.

**Vote on the motion.**

**In Favor**  
**Solana**  
**Grant**  
**Simms**  
**Horvath**  
**Baker**

**Opposed**  
**Dixon**

**Motion carried with a 5/1 vote.<sup>2</sup>**

**7. MINOR MODIFICATION TO A  
PLANNED UNIT  
DEVELOPMENT**

**Item 7(a) 2003-1128**  
**Karen M. Taylor**  
**Michael Johnigan**  
**11 Tremerton Street**

**To amend the Development Plan Narrative to allow for setback requirements, which were consistent with the approved site plan.**

Karen Taylor, 3070 Harbor Drive, was sworn in.

Mr. Birchim reported that the applicant had requested a minor amendment to an existing PUD. He stated that the board had recently approved the rezoning of the property to a PUD in conjunction with an approved subdivision for single family homes. He explained that the approved PUD included the development plan narrative, which defined building setbacks with a twenty-five foot front yard setback, ten foot setback at the south property line and twenty foot setback at the north property line. He noted that the PUD included the site plan, which indicated the setback with dotted lines

<sup>2</sup> Mr. Baker called a break at 3:30 pm and reconvened at 3:43 pm.

drawn inside each platted lot; however, the setbacks on the site plan did not match the setbacks noted in the narrative. He suggested that the application was simply a clean-up of the inconsistency between the narrative and site plan. He said the applicant had changed the narrative to reflect the setbacks as they appeared on the site plan. Therefore, he said based on review of Section 28-289, staff found that the board could approve the application as submitted.

Ms. Taylor stated that at the time that the text was created, it had involved a multi-family condominium building; however, the project had since changed to single-family residences, which was the reason that the setbacks did not coincide on the narrative and site plan. She noted that the text should match the previously approved site plan.

Mr. Baker opened the public hearing but there was no response from the public. He noted that sixty-nine written response forms had been sent out to surrounding property owners with six returned in favor and one returned in opposition to the application.

#### **MOTION**

**Mr. Simms moved to approve the application as submitted. Mr. Dixon seconded.**

#### **MOTION CARRIED UNANIMOUSLY**

### **8. REZONING**

**Max Suter**  
**North Florida Commerce Center**  
**3395 Lewis Speedway**

### **To rezone the property from county designation to Planned Unit Development for construction of offices.**

Mr. Birchim reported that the applicant had requested a rezoning of land from County Open Rural to City PUD for construction of offices. He noted that the property had been rezoned to a PUD for construction of a 200,000 square foot office building in July 1999, but the PUD was not acted upon and had since expired. He explained that the application before the board that day involved a request for a 160,000 square foot office space project. He said the packet included the development plan narrative, site plan, archeology report and staff report. He noted that the PUD was general in nature and the applicant would return to the board with a final development plan as well as the details concerning Conservation Zone Development at a future date. He advised that rezoning was a legislative act by the City Commission and the board's responsibility was to make a recommendation to the City Commission concerning the rezoning. He noted that staff did not make recommendation regarding legislative acts.

George McClure, 170 Malaga Street, Suite A, stated that he represented The Retus Group and Max Suter. He advised that the project had been scaled down from 200,000 to 160,000 square feet with buildings placed at the exterior and parking to be located in the middle of the structures on the property. He suggested that the project would be consistent with the comprehensive plan. He explained that the north edge boundary was near Red House Branch Creek and located immediately north was Diane Mills'

property and home. He reported that an archeological survey had been conducted and revealed that a portion of the site was historically significant for pre-Columbia artifacts and Indian occupation. He noted that the significant area was located in the jurisdictional wetlands with a small portion located outside the wetlands; however, the owner had been cooperating with the City's archeologist with further investigation of the site.

Mr. McClure stated that he had spoken with Ms. Mills' representative regarding her concerns to protect Red House Branch Creek and the buffering of her residence. He advised that his client had agreed to a modification of the text and map in advance of the presentation to the City Commission. He explained that the owner had agreed to relocate the retention pond from near the southwest boundary of the property to the north in order to create one large retention pond and place the buildings further south on the property. He noted that it would allow more natural buffer north of the pond to help preserve vegetation, mitigate sound travel and limit the visual impact on Ms. Mills' home, which was located nearby. He stated that satisfactory language would be created and agreed upon between his client and Ms. Mills' representative prior to the presentation to the City Commission.

Mr. Baker opened the hearing to public comment.

Deborah Andrews, counsel for Diane and Greg Mills, stated that the Mills' and the owner of the property had been attempting to work on the issues prior to the hearing that day. She reiterated that the pond would

be moved, buildings relocated and the natural buffer extended near Red House Branch Creek and the Mills' property. She noted that the entire archeological site would remain intact. She advised that they would continue to work together with the owner of the property in creating an agreed upon site plan for the PUD.

Mr. McClure affirmed that they sought a recommendation of approval from the board subject to the revisions of the site plan, which would reflect the agreement between the owner and Ms. Mills.

Mr. Baker closed the public hearing. He noted that eighteen written response forms had been sent to surrounding property owners with one returned in favor and one returned in opposition to the application.

Mr. Dixon stated that the project appeared more residential in scale and the applicant had lessened the total square footage of the buildings.

In response to an inquiry from Mr. Simms regarding the school board, Mr. Knight advised that staff had furnished a copy of the packet to the school board, but no comment regarding the school's position on the project had been received.

Mr. Simms questioned whether traffic studies had been completed in the area, due to the school being located close to the project.

Karen Taylor<sup>3</sup> stated that they had not conducted a traffic study, because the

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<sup>3</sup> Ms. Taylor was previously sworn in.

project consisted more of an office type setting, which would not generate much additional traffic. She suggested that individual businesses would set their own office hours based on the activity level in the area.

#### **MOTION**

**Mr. Simms moved to recommend approval to the City Commission subject to the revisions stated during the hearing. Mr. Dixon seconded.**

**MOTION CARRIED UNANIMOUSLY**

#### **9. OTHER BUSINESS**

##### **Ordinance regarding manufactured and modular homes**

Mr. Knight advised that the same ordinance had recently been adopted by the City of Jacksonville. He noted that the ordinance provided some restricted architectural designs regarding single family homes and duplexes. He explained that the intent of the ordinance involving modular structures required the addition of architectural design elements to prevent the box-like appearance of modular structures. He noted that the ordinance would apply throughout the City for any dwelling, because a modular structure could not be treated differently from a single family, site-built home.

Mr. Dixon questioned whether the ordinance was prompted by complaints of the construction project located on Anastasia Boulevard.

Mr. Knight advised that during the Aggregation Ordinance Task Force meeting concerns were voiced regarding two modular structures placed at Moultrie Place located behind Hayes Pharmacy, but it was not the reason for the initiation of the proposed ordinance. He stated that each time a modular structure was brought into the City it generated complaints because some citizens believed that the structures were mobile homes. He explained that modular homes were built to Florida Building Code standards and transported to the City from off site. He noted that Commissioner Jones had voiced concerns regarding modular structures in the West Augustine area. He affirmed that staff had obtained a copy of the Jacksonville ordinance, made a few changes and presented it to the PZB. He advised that Commissioner Jones had asked him to find out how the PZB felt about the ordinance and the architectural elements contained in the proposed ordinance.

Mr. Solana clarified that the ordinance would apply to all residential constructions. He questioned whether construction plans would be reviewed by City staff.

Mr. Knight affirmed that all architectural design plans would be reviewed by staff. He noted that some form of an appeal process would need to be established.

Ms. Horvath stated that she was concerned with the requirement of front porches and a minimum roof slope. She questioned whether one would need to comply in order to receive an approval of their proposed construction plan.

Mr. Knight affirmed that one would need to comply with the ordinance in order to obtain an approval.

Ms. Horvath suggested that the proposed ordinance would require much study prior to a vote on it. She stated that, as an architect, she would not be in favor of requiring a certain slope or porch design on every new structure in the City.

Mr. Solana said that he concurred with Ms. Horvath. He noted that it would add to the many restrictions already placed on architects and contractors.

Ms. Horvath voiced that she understood the desire to have modular structures appear more like a well designed home; however, the restrictions would affect every house design.

Mr. Knight reiterated that modular structures could not be treated differently than on-site built homes. He noted that both were required to meet the Florida Building Code standards and an adopted ordinance must apply uniformly throughout the City.

Mr. Grant asked staff if an option with a variance could be created.

Mr. Knight stated that he had not written a variance, but a variance was an option that could be added.

Mr. Baker explained that the City desired to bring the modular structures up to certain design standards. He concurred that the proposed ordinance would place architectural design constraints on a structure that was not necessarily desired.

Mr. Grant suggested that a variance option was needed with the ordinance, which would allow one to demonstrate the need for a different porch, roof slope or other element that would be more architecturally appropriate with other structures in the area.

Ms. Horvath suggested that a workshop was needed.

Mr. Dixon agreed that a variance or exception was needed for the proposed ordinance.

Mr. Solana suggested that the proposed ordinance would place undue restrictions on the building trade. He stated that adding more red tape would not solve the issue. He noted that the Building Department was more than capable of handling the issue and the ordinance needed more thought, due to the huge impact it would have on all new construction.

In response to an inquiry from Mr. Grant, Mr. Knight advised that he had not received any feedback from Jacksonville on how it affected that city and its builders or homeowners.

Mr. Baker suggested that the ordinance was over-addressing the issue. He agreed that a workshop was needed and was a good idea.

Mr. Knight advised that he would attempt to set a workshop to be held after January 1<sup>st</sup>, 2004. He noted that staff would obtain photographs of modular homes that had recently been permitted in the City.

Mr. Dixon suggested that the public be allowed to voice their concerns during the workshop.

Mr. Grant asked that staff contact the City of Jacksonville to see how they had handled the new ordinance.

Mr. Knight advised that the Jacksonville ordinance had been in effect approximately three or four months.

Mr. Baker questioned whether it made sense to solicit contribution from either the HARB as an entity or include that board in the workshop.

Mr. Knight stated that if a modular home met the AGHP guidelines, then it would be allowed by the HARB and permitted.

Mr. Birchim advised that with the current AGHP guidelines, it would be difficult for a modular structure to receive approval from the HARB.

Mr. Knight advised that he would extent the invitation to the HARB members.

**Resolution “Preserve America”**

Mr. Birchim advised that the National Preserve America award was recently initiated by First Lady, Laura Bush, and was an attempt to recognize communities that had made historic preservation and economic development a learning tool in their communities. He stated that the City was in the process of completing a very lengthy and complex application and were asking for support from the board.

**MOTION**

**Ms. Horvath moved to recommend that the City Commission approve the “Preserve America” resolution. Mr. Simms seconded.**

**MOTION CARRIED UNANIMOUSLY BY VOICE VOTE**

**10. REVIEW OF CONFLICT STATEMENTS FROM PREVIOUS MEETING**

None

**11. APPEALS OF PLANNING AND ZONING BOARD ACTIONS**

- a) 13 River Road – Use by exception to allow a parking area in a residential district
- b) 11 Tremerton Street – Conservation Zone Development to install boatlifts
- c) 244 Riberia Street – Rezoning from OL to RG-1
- d) 501 Plantation Island Drive South – Variance to exceed the maximum height for condominium development

Mr. Knight advised that four appeals would be heard by the City Commission on December 8<sup>th</sup>, 2003.

**12. ADJOURNMENT**

There being no further business, the meeting was adjourned at 4:22 PM.

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Matthew Baker, Chairman

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Pam Halterman, Recording Secretary