

CITY OF ST. AUGUSTINE, FLORIDA

Regular Planning and Zoning Board Meeting
December 6, 2005

The Planning and Zoning Board met in formal session at 2:00 p.m., Tuesday, December 6, 2005, in The Alcazar Room at City Hall, St. Augustine, Florida. The meeting was called to order by Gerald Dixon, Chairman, and the following were present.

1. ROLL CALL

Gerald Dixon
Carl Blow
Leanna Freeman
Roxanne Horvath
Bill Leary
Deltra Long
John Valdes

City Staff:

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

2. APPROVAL OF MINUTES
(November 1, 2005 – regular meeting)

Ms. Long noted that the date of 2005 should be changed to 2006 on page seven. She asked that on page thirty-two, second column, the sentence should read that the residents would be more supportive.

Minutes from the November 1, 2005 regular meeting were approved as amended.

3. VARIANCES

Item 3(a) 2005-1189

Brian Eckstein

First Coastal Carver, LLC

100 Carver Street East

To reduce the required rear yard building setback to construct a residence.

Mr. Birchim reported that the applicant had requested a variance to encroach into the rear yard building setback. He noted that the minimum rear setback was twenty feet and the owner would like to reduce it to ten

feet so the new proposed building would not move forward of the house next door at 102 Carver Street. He stated that the property was oddly shaped at the back (north) side with an existing dead-end alley at the north side of the property; therefore, the unusual size constituted a physical hardship which was not due to any action by the owner. He stated that, based on review of Section 28-29, staff found that the board could approve a variance to reduce the rear building setback from twenty feet to ten feet at 100 Carver Street East. He noted that the application had been tabled from the November meeting in order for the applicant to provide design drawings of the new proposed structure to the board.

Brian Eckstein, 100 Carver Street East, was sworn in. He stated that he would like to improve the appearance of the streetscape in the Lighthouse Park area. He noted that the property had an irregular shape and an alleyway which cut into its footprint. He said the irregularity did not prevent the construction of a new home; in fact, a

building permit had been issued. He suggested that the house would sit unnaturally on the lot and would interfere with the adjacent neighbors' view. He added that the permitted location greatly reduced the green space as viewed from the road. He advised that the permitted location reduced available off-street parking in front of the house for the inhabitants and encouraged traffic and parking toward the rear which caused a safety concern for fire truck access with the narrow alleyway. He stated that, for those reasons, he was seeking approval of a variance from the board. He explained that two buildings currently existed on the property which represented an even larger encroachment. He stated that the neighboring property owners were in favor of moving the structure further back ten feet. He noted that Ms. Alice Gills lived west of the subject property and was in favor of the application.

Mr. Dixon opened the hearing to public comment.

Alice Gills, 98 Carver Street East, was sworn in. She stated that she would like the board to approve the request to move the structure. She voiced that if the structure was constructed at the location of the current building permit, it would interfere with her view from the dining room which had much meaning for her.

In response to an inquiry from Mr. Blow, Ms. Gills stated that she accepted that the building would be three-stories high. She said the back alley and parking worried her more due to the existing structure by the alleyway.

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

Mr. Blow disclosed that he had received communications from Catherine Culver and Debbie Wicker. He questioned whether City sewer would be available to the property.

Mr. Eckstein advised that applications had been made and approved for City service at all three properties. He said he did not see the connection between his plan to tie into the City's service and moving the structure back ten feet.

Mr. Blow suggested that it was a fair question and it would be good policy to tie into the City's sewer, if available.

In response to an inquiry from Mr. Dixon, Mr. Knight advised that one would be required to tie into the City's service if available. He noted that the sewer would need to be gravity fed at the property line for a single-family property.

Mr. Eckstein reiterated that the permits had been applied for, approved and paid which involved all three lots; therefore, the intent was to place all properties on City sewer.

Mr. Leary asked if the applicant brought design drawings for the board's review.

Mr. Eckstein said he had submitted a site plan at the previous meeting which indicated the location and footprint of the building.

He presented the additional plans to the board members.

Mr. Dixon suggested that moving the building back ten feet would be an asset to the neighborhood. He expressed that it would have appeared nicer if the garage was placed in the rear of the building in order to utilize the alleyway.

Mr. Leary voiced that at the previous meeting he had mentioned concern about the size of the variance being requested. He disclosed that he had visited the site and had taken into account the concerns of Ms. Gills. He expressed that he was more comfortable granting the variance than he was at the previous meeting.

In response to an inquiry from Mr. Leary, Mr. Eckstein affirmed that both existing buildings would be removed from the property. He noted that the two-story building was located directly on the property line. He said the first floor was constructed of concrete block and the neighbors had asked him to retain the concrete wall as a barrier between the two properties.

Ms. Long thanked Mr. Eckstein for submitting the additional information requested by the board. She suggested that the change would be a positive element for the neighborhood.

Ms. Horvath voiced that she did not have a problem with the request and it only involved a portion of the house.

MOTION

Mr. Valdes moved to approve the application for a variance and specified

that the ten foot setback would be measured from the alleyway and granting the variance was based on the irregular shape of the lot. Ms. Long seconded.

Vote on the motion.

Ayes: Valdes, Long, Leary, Horvath, Freeman

Nays: Blow, Dixon

Motion passed 5/2

Item 3(b) 2005-1347

Sam Alkoury

Pizza Hut of St. Johns County and Sam Alkoury

1 San Carlos Avenue

2 Dufferin Street

To reduce the required number of parking spaces and landscaping.

Mr. Birchim reported that the applicant had requested a variance to reduce the required number of parking spaces and landscaping at the two locations. He noted that the property contained two commercially zoned (CM-2) structures and both predated the current Zoning Code. He explained that when the CM-2 zoning was overlaid onto the properties, the site did not contain sufficient area for parking or landscaping. He stated that because of the physical site constraints of the properties, in particular 2 Dufferin Street, adapting to the current zoning requirements became an issue. He said the small size of the properties constituted a physical disadvantage which affected the reasonable use of the properties. He advised that the problem was not created by the owner but created by the zoning overlay. He stated that, based on review of

Section 28-29, staff found that the board could approve a variance to reduce the required number of parking spaces from fifteen to ten spaces, and to eliminate the landscaping requirement at 2 Dufferin Street and 1 San Carlos Avenue.

Les Thomas, 32 Cordova Street, was sworn in. He stated that he had submitted two drawings. He noted that one drawing was of the existing site with stripping indicating the current parking was not legal size. He said the intent was to obtain as many legal size parking spaces as possible and add landscaping where possible. He directed attention to the new site plan which indicated the changes with the parking spaces and landscaping. He explained that they had separated the Dufferin Street drive aisle from the San Carlos Avenue drive aisle which allowed them to create ten parking spaces. He noted that the building on San Carlos Avenue would have a business on the first floor with an apartment on the second floor. He added that the building on Dufferin Street would contain a hair salon. He noted that the loading dock would be removed from the property because it was not necessary for the proposed businesses. He suggested that it was a hardship issue because the space in the building could not be leased due to the required parking and landscaping.

Mr. Dixon opened the public hearing but there was no response from the public. He noted that ten written response forms had been sent to surrounding property owners with none returned in favor and two returned in opposition to the application.

In response to an inquiry from Mr. Dixon, Mr. Thomas stated that he had created ten legal size parking spaces but the required parking totaled fifteen. He noted that the parking count was currently at eleven spaces; although most of the eleven spaces were not accessible.

Ms. Long asked for the number of bedrooms in the apartment.

Mr. Thomas affirmed that two bedrooms would exist. He stated that the office space usage had yet to be determined; although the required parking spaces were based on the size of the office building which involved four-hundred square feet. He explained that without a variance an occupational license could not be obtained through the Planning and Building Department. He noted that part of the building had been used in the past. He explained that the person who wanted to lease the space desired to have a hair salon; however, she was denied an occupational license until the parking requirements were met or they obtained a variance from the board due to the change in use.

In response to an inquiry from Ms. Freeman, Mr. Thomas affirmed that the hair salon building measured 1,673 square feet; although the parking requirement was based on the number of chairs in the salon which would be three with three salon workers. He noted that the workers would park in slots 2, 3, 4, 5, 6 and 7 or they could park off-site. He said a few parking spaces could be on the street; however, he was not sure about that issue. He explained that by creating the handicap space the way he had, it created

one space in front of the building which did not exist prior to the changes.

Ms. Freeman asked for clarification regarding what the applicant was requesting.

Mr. Birchim directed attention to page four of staff's report which specified all landscape and parking requirements.

Ms. Freeman pointed out that when a use changed the applicant needed to comply with the landscaping requirements regarding the current Code.

Mr. Thomas suggested that he could meet Code on the south side. He noted that the east side already had a fence and landscaping in place. He added that the west side involved a fence which blocked the Dunkin Donuts building and no room existed to add landscaping. He advised that the building on the north side was up against the sidewalk.

Mr. Blow suggested that asphalt would need to be removed in order to create the handicap parking space in the front; therefore, landscaping could be placed between the parking lots when the asphalt was removed. He noted that the location between parking space #8 and #6 was available for some landscaping. He pointed out that an elevation difference existed between Dufferin and San Carlos. He agreed that some landscaping could be added to that area but it would not meet the landscape requirements; although any landscaping would improve the area.

Mr. Blow asked if the variance would run with the applicant because of a concern

regarding demolition of either building in the future.

Mr. Knight affirmed that a variance would run with the applicant if the board desired.

MOTION

Mr. Valdes moved to approve the application with the condition that the parking requirement be reduced from fifteen spaces to ten spaces. In addition, he moved that the area between spaces #8, #9, #10, and #7, #6, #5, the portions along San Carlos and the front of the building on Dufferin Street contiguous with the handicap parking be landscaped.

Mr. Dixon seconded but asked that the motion be amended to include additional landscaping at both ends of the property.

Ms. Freeman voiced that she was concerned with the vagueness involved with the motion and its enforceability. She noted that the type of landscaping had not been mentioned.

In response to an inquiry from Mr. Valdes, Mr. Knight advised that the board could dictate the rear and side areas be landscaped. He noted that staff would review whether the applicant had attempted to carry out what the board had intended.

Mr. Thomas advised that he would plant three trees and thirteen shrubs on the south side and would also plant three trees and thirteen shrubs on the north side. He said no landscaping would be added to the west and east sides of the building.

In response to an inquiry from Mr. Valdes, Mr. Thomas expressed that he could place landscaping in the right-of-way on the northeast corner of the two-story building to include four trees at the north, three trees in the middle and three trees at the front.

Mr. Blow suggested that a couple of trees could be placed in the center of both buildings where the asphalt would be removed.

In response to an inquiry from Mr. Leary, Mr. Knight advised that staff would not ask an applicant to demolish a structure in order to meet the landscape requirement; however, if they had the potential to remove asphalt they would be asked to do so. He said staff would attempt to ensure that the applicant followed the intent of the board.

Mr. Thomas expressed that he would follow, if possible, what the board requested regarding the landscaping.

After much discussion it was determined that the applicant would add the following landscaping to the site:

North side: 3 trees, 13 shrubs

South side: 3 trees, 13 shrubs

West side: 3 existing trees

East side: none

Center: 3 trees, 10 shrubs

Ms. Freeman noted that the total involved 49 shrubs and 9 trees.

Mr. Valdes amended his motion to incorporate the mentioned tree and shrub count and the variance to run with the property. Mr. Dixon agreed to the amendment.

MOTION CARRIED UNANIMOUSLY

Item 3(c) 2005-1348

Sally Jo Patton

76 Duero Street

To reduce the required side yard building setback for a residential addition.

Mr. Birchim reported that the applicant had requested a variance to reduce the required side yard building setback for construction of a carport. He noted that the subject property was smaller than nearby properties and the small size was not due to the actions of the owner. He stated that the building had been constructed in 1899 and the property was subdivided in 1923. He said the small size of the property was a physical condition which affected the reasonable use of the property. He stated that, based on review of Section 28-29, staff found that the board could approve a variance to reduce the required side yard building setback from ten feet to six feet.

Sally Jo Patton, 318 St. George Street, was sworn in. She stated that the property was derelict and had been scheduled for demolition prior to her purchase. She said she planned to restore the structure; however, it lacked a place to park her vehicle. She explained that the survey from 2005 did not match the survey that had been completed in 2003; therefore, she had lost some of her land which required a variance request from the board.

Mr. Dixon opened the public hearing but there was no response from the public. He noted that nine written response forms had been sent to surrounding property owners

with one returned in favor and none returned in opposition to the application.

Ms. Patton affirmed that the board had the current survey; however, the 2003 survey gave two feet more of property.

Ms. Long questioned whether the applicant planned to construct a two-story building.

Ms. Patton affirmed that to be correct. She explained that she planned to retain the 1899 structure consisting of four rooms and place an addition in the rear including a carport.

Mr. Valdes noted that he resided across the street from the subject property. He stated that he was glad the applicant planned to restore the property.

Mr. Leary stated that restoration was good and a benefit for the entire community and he complimented Ms. Patton for her efforts.

MOTION

Mr. Leary moved to approve the application as submitted. Mr. Valdes seconded.

MOTION CARRIED UNANIMOUSLY

4. EXCEPTIONS

Item 4(a) 2005-1339

Kanti Patel

St. Augustine Entertainment Concepts

28 San Marco Avenue

To allow a movie theatre and art gallery as a permissible use by exception.

Mr. Dixon recused himself from the application due to his business relationship with Mr. Patel.¹

Mr. Birchim reported that the applicant had requested a use by exception to allow a movie theatre and art gallery at the subject location. He noted that the property was located in the HP-5 District and the zoning allowed motion picture theatre as a permissible use by exception; however, it did not allow retail sales such as an art gallery. He stated that a use by exception must be approved by the board on an individual basis after a public hearing to determine the impact of the use to surrounding properties. He noted that the property was formally known as 3D World, a movie theatre. He stated that, based on review of Section 28-29, staff found that the board could approve a use by exception to operate a motion picture theatre but deny the art gallery use.

George McClure, 170 Malaga Street, stated that he represented the property owner Kanti Patel. He noted that Mr. Patel had closed on the property November 16, 2005. He suggested that exceptions were presumed to be valid and appropriate in the district in which it was located as long as they were controlled by such elements as size, etc. He noted that it was odd that the exception for the 3D World structure was not transferable because the inside was populated with theatre seats and screens. He stated that they were asking that the board approve the exception of the 3D World structure be transferred to Mr. Patel. He suggested that

¹ Ms. Horvath took over the Chairperson position at the table.

the art gallery should be considered an interpretation as opposed to a permissible use by exception. He explained that they would like to display paintings and offer them for sale. He noted that allowable exceptions included such uses as museums that related to the history of St. Augustine, home occupations and movie pictures. He suggested that an art gallery should not fall under the typical operation of retail sales.

Ms. Horvath opened the hearing to public comment.

The following citizens spoke against the application:

- Yvonne Puckett, 30 Grove Avenue
- Nancy Noloboff, 25 Locust Street

Those citizens offered the following reasons for the board to deny the application:

- In 2004 the PZB denied a retail sales application for a business located on Castillo Drive
- The City could not dictate types of retail allowed for sales in whatever district it was permitted according to City staff
- The City corridor should enhance the tourist arrival as a distinctive historic designation to the beautiful Visitor Center, City Gates and Castillo de San Marco
- Allowing retail sales would encourage other property owners to apply for the same type of zoning
- The proposed application was an interim plan until the proposed San Marco Hotel received approved
- Art gallery was not listed as a permissible use by exception

The following citizen spoke in favor of the application:

- George Dann, 22 Avenida Menendez, spoke on behalf of twenty-six B & B Inn owners

Mr. Dann offered the following reasons for the board to approve the application:

- lack of evening entertainment
- movie theatre and art gallery would be a welcomed addition to the subject area

Ms. Horvath closed the public hearing. She noted that eleven written response forms had been sent to surrounding property owners with one returned in favor and none returned in opposition to the application.

Mr. McClure suggested that the decision concerning whether the proposed movie theatre and art gallery was a temporary or permanent use was the discretion of the City Commission. He explained that the pending application for the San Marco Hotel remained and they had filed an application for the project with the HARB. He said Mr. Patel planned to continue with the proposed San Marco Hotel plan but the proposed plan involving a movie theatre and art gallery would be temporary unless the original hotel proposal was not accepted by the City Commission.

In response to an inquiry from Ms. Horvath, Mr. McClure affirmed that the building would remain in its current state.

Ms. Long questioned whether Ms. Puckett was opposed to both the art gallery and movie theatre.

Ms. Puckett voiced that she did not oppose the movie theatre.

Ms. Freeman explained that a business owner, located on the same street, had applied for a use by exception involving an interior design store to place price tags on the merchandise. She noted that the store was not the typical retail sales but just interior design products. She added that the request had been denied by the board. She stated that many restaurants displayed art on their walls which was also for sale but the restaurants were not considered retail. She voiced that if the board allowed retail it could consist of anything from t-shirts to jewelry and postcards which was her concern. She explained that the previous issue was resolved by allowing the applicant to keep her merchandise in the store; however, no price tags were permitted on the items.

Mr. Leary concurred that art was being sold in many restaurants in the City but was not considered retail sales. He stated that he was happy that the Code was being reviewed. He said he recognized the many art galleries along San Marco Avenue were good for the area; however, if following the Code, an art gallery was not permissible in the HP-5 District.

Mr. McClure advised that they would not appeal an adverse decision involving the proposed art gallery. He explained that they had found a user, and the art gallery would be considered a low intensity use that would

fit in with pedestrian traffic. He noted that many B & B Inns sold art work. He said two rooms existed in the 3D World structure and Mr. Patel planned to remove the motion simulator in order to display art.

Mr. Blow said he recalled that the building had been a Gulf service station at one time. He questioned if a more appropriate definition could be used other than art gallery.

Ms. Freeman noted that they could still use the room to display art without placing price tags on the paintings.

Ms. Horvath noted that if someone liked a painting they would contact the artist in order to make the purchase.

Ms. Freeman noted that restaurants sold postcards and t-shirts with the restaurant's name on them. She suggested that Mr. Patel should be able to display the art work, and she would support the request for the movie theatre.

Mr. Valdes said he did not have a problem with the proposed art gallery, and he pointed out that the property faced San Marco Avenue which was a street full of art galleries and shops; however, he expressed that he could not see how the board could allow an art gallery.

Mr. McClure noted that the B & B Inns did not advertise art for sale but they sold paintings which involved the element of incidental use. He said they might pursue a change in the definition in the Code. He noted that art galleries did not have much

traffic or high turnover and customer volume was low.

Mr. Leary noted that the movie theatre would help residents and visitors with the history of St. Augustine.

Mr. McClure affirmed that to be correct. He noted that the movies would be similar to the movies that had been shown at the VIC some years back which involved the history of St. Augustine.

Mr. Leary said he was not comfortable moving forward with the art gallery proposal. He noted that the board had voiced examples of possibilities for the available space other than an art gallery.

MOTION

Mr. Leary moved to approve the exception to allow a movie theatre but denied the request to allow an art gallery. Ms. Long seconded.

MOTION CARRIED UNANIMOUSLY WITH MR. DIXON RECUSING HIMSELF²

Item 4(b) 2005-3282
Danielle J. DeMuro
Dennis and Sharon Schmidt
199 West King Street
(aka 3 Arenta Street)

To allow a tattoo studio as a permissible use by exception.

Mr. Birchim reported that the applicant had requested a use by exception to allow a

² Mr. Dixon returned to the Chairperson position.

tattoo studio at the subject location. He noted that the property was zoned CM-2 and tattoo studios were a permissible use by exception. He explained that a use by exception was a use which must be approved on an individual basis after public hearing to determine the impact of the use on surrounding properties. He said the proposed tattoo studio would be located in a commercial corridor which included a variety of uses such as pawn shop, offices and retail sales. He advised that on July 5, 2005, the board had approved a tattoo studio at 233 W. King Street which was located west of the subject property. He stated that, based on review of Section 28-29, staff found that the board could approve a tattoo studio at 199 W. King Street.

Danielle DeMuro, 199 W. King Street, was sworn in.

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

In response to an inquiry from Mr. Blow, Mr. Birchim affirmed that the board had approved a tattoo studio on the same street in July 2005.

Ms. Horvath expressed that she did not have a problem with the location. She asked for the number of parking spaces available for customers.

Ms. DeMuro stated that three parking spaces were located in front of the studio with some

off-street parking. She noted that only two tattoo artists would be working at the studio and the hours would be from 10:00 a.m. until 9:00 p.m.

Mr. Dixon noted that the use would not generate a high traffic volume.

MOTION

Ms. Freeman moved to approve the application as submitted. Mr. Blow seconded.

MOTION CARRIED UNANIMOUSLY

5. CONSERVATION ZONE DEVELOPMENT

Item 5(a) 2005-1211

David Martinez

Vinray Rathore, etal

Corner of Lighthouse Avenue and Carver Street

To remove trees in order to construct a single family residence.

Mr. Birchim reported that the applicant had requested Conservation Zone Three Development to remove trees for construction of a single-family residence. He noted that the previous application for tree removal was denied without prejudice by the board on July 5, 2005, and the current application had been tabled from the November 2005 meeting at the request of the applicant. He stated that the current plan involved the removal of twelve trees and the preservation of two trees. He explained that total debits for tree removal was twenty and total credits for tree preservation was eight; therefore, the applicant had a total

mitigation figure of twelve credits. He noted that the applicant had altered the development plans in order to save the two trees and had submitted an arborist report and other documentation as part of the plan. He advised that, based on review of Section 11-29, staff found that the board could approve tree removal with the condition that twelve tree credits be replanted as mitigation.

Allison Currie, 1200 Plantation Island Drive, St. Augustine, stated that she represented the property owners and the father of one of the owners, David Martinez, who was in attendance and currently working on the house plans. She advised that Shawn McMann, certified arborist with Environmental Services, was also in attendance and would speak on the condition of the subject trees. She explained that Mr. Martinez, since the boards' denial in the July 2005 meeting, had explored numerous design alternatives for the property. She advised that numerous trees on the lot were clustered together and located toward the middle of the property and the non-conforming lot measured ninety-by-one-hundred and six feet which was two lots joined together. She noted that the size of the proposed house had been reduced from 1,966 to 1,675 square feet and they reconfigured the southeast corner of the structure in order to retain the large thirty-inch oak tree which was the largest tree on the property. She added that the septic tank was eliminated; although they would hook up to the City sewer which cost the homeowner approximately \$7,685.00. She advised that the proposed retaining wall was also eliminated from the plan due to the hook up with City sewer. She explained that

the building plan had been altered on one side of the structure with pier and beam construction in order to preserve the large oak tree. She noted that the proposed lap pool had also been eliminated from the plan.

Ms. Currie stated that the original survey was found to be incorrect on the north side which resulted in the loss of eight feet. She noted that if the house was moved toward the north it would fall under a large tree canopy. She explained that Mr. Martinez had attempted to purchase a strip of land from the adjacent property owner; however, to no avail. She said they had reviewed the option of moving the house to the east but the house would be too close to the neighbors' home. She noted that they had attempted to redesign the house location; however, a large cluster of trees would block access to the garage. She pointed out that a twenty-four inch oak tree located at the southwest corner of the property leaned over Carver Street and would be located near the footprint of the proposed house; however, if the house was placed at that location it would interfere and possibly damage the root system of the large twenty-four inch oak tree. She reiterated that they would be preserving the largest trees on the property which included the thirty-inch oak at the southeast corner of the property. She added that palm trees would be relocated on the site.

Ms. Freeman asked what the minimum side yard setback measured toward the north.

Mr. Birchim noted that the minimum side yard setback was fifteen feet.

Ms. Currie advised that the tree canopy would also be an issue on the north side of the lot. She affirmed that the setback was right at fifteen feet at the north side.

Mr. Dixon opened the hearing to public comment.

Nell Porter, 76 Lighthouse Avenue, was sworn in. She stated that her house was located directly west of the subject property. She voiced that she and her family had owned the property and had enjoyed the view and trees since 1990. Nevertheless, she said that if she placed herself in the owners' shoes, she would want to be able to build a nice home on the property. She asked that the board allow the property owner to remove the trees in order to construct a house on the property.

Wendy Stratton, 441 Ocean Vista Avenue, was sworn in. She acknowledged that the property owner had made an effort to redesign the house in order to save some of the trees on the lot. She stated that the nature of the neighborhood involved live oak trees. She voiced that she was opposed to tree removal. She noted that removal of trees increased air temperatures.

Damon Douglas, 69 Lighthouse Avenue, was sworn in. He concurred that the trees were the character of the neighborhood. He suggested that it was possible to construct a house on the property and remain within the Conservation Zone requirements. He noted that the entire tree canopy was covered in vines. He said removal of the trees would change the character of the neighborhood.

Mr. Dixon closed the public hearing. He noted that eleven written response forms had been sent to surrounding property owners with two returned in favor and three returned in opposition to the application.

Ms. Freeman disclosed ex-parte communications through an e-mail from Ms. Douglas.

Mr. Blow disclosed ex-parte communications through e-mails and one fax which stated that they were opposed to the removal of the trees. He stated that he lived in the neighborhood and had been stopped on the street by residents voicing their concerns about the removal of the trees. He said the residents had suggested that more trees could be retained if the house was designed in a different manner.

Shawn McMann, 2825 Lewis Speedway, was sworn in. He stated that he would attest to the fact that the owner had considered many different house designs for the site. He noted that the natural lean of the trees had resulted in problems at the southern property line. He said if the house was placed on the east side it would sever the tree root system because the trees leaned toward the roadway. He noted that with high winds and possible severe storms the trees could become a safety hazard.

In response to an inquiry from Mr. Dixon, Mr. McMann clarified that a cluster of five live oak trees were located on the west side of the property and leaned away from the property. He stated that the International Society of Arbor Culture recommended one foot of distance, ground space, for every inch of diameter of tree; therefore, nearly

one-half of the root system could possibly be severed.

Mr. Leary disclosed that he had visited the site. He directed attention to photographs #3 and #6 which indicated the trees to be saved. He stated that many trees on the property seemed to be stunted by other trees. He questioned whether the house could be placed on piers in order to prevent the compromise of the root system of the trees.

Mr. Blow noted that, on a previous application, a property owner had asked that a walnut tree at the northwest corner of the old Hardee's Restaurant property be removed because it was less than five feet from the building and surrounded by asphalt. However, he said it had survived at that location for twenty-plus years. Therefore, he pointed out that trees survived under a tremendous amount of issues.

Mr. McMann clarified that the thirty-inch tree at the southeast corner would remain. He noted that the house was proposed to be five to seven feet from the tree; however, the property owner had since moved the footprint of the structure to allow more space of between fifteen or twenty feet from the tree. He added that a six inch layer of mulch would be placed near the trees to buffer any compaction of the root system. He stated that a holly tree at the opposite side of the property would be retained and the palm trees would be relocated on-site.

Mr. Dixon voiced that he commended the efforts being made but was also listening to the neighbors' concerns. He noted that the garage location would cause the removal of six trees from the site. He suggested that if

the garage was closer to the southeast portion of the property it could save at least three additional trees. He stated that the elimination of the septic tank and other elements had improved the situation.

Ms. Freeman agreed that the proposal was much better than the previous submittal; however, it was still not the best design possible.

Mr. Valdes questioned whether a root system from an established large tree growing under a building with no interruption by the foundation and rain diverted from the root system would survive. He asked if placing a structure on piers would help mitigate the potential damage to the tree in the long term.

Mr. McMann affirmed that it would improve the condition of the trees if a structure was placed on a pier system. He noted that the trees would accommodate by sending off roots after an initial shock which would greatly improve the chance of survival for any tree.

Mr. Valdes noted that a pier system had been suggested by the board at the previous hearing but had been overlooked.

David Martinez, 245 SE 4th Avenue, Melrose, Florida, was sworn in. He stated that he wanted to save the best trees on the Carver Street side of the property. He noted that the arborist had advised that the buildable area would be too small for a house. He affirmed that the property consisted of two lots and part of an alleyway which had been aggregated for a total of 9,200 square feet; therefore, the ten percent

setback rule should apply giving a nine foot setback. He acknowledged that a pier and beam design had been investigated and modifications had been made to save the largest trees. He expressed that a significant amount of thought had been done regarding the house design and property but the situation remained difficult.

Mr. Valdes questioned whether the applicant had spoke with an architect or builder.

Mr. Martinez said he had constructed several homes. He stated that he had explored the possibility of pier construction; however, he wanted to construct a concrete house which needed an elevator for his elderly mother-in-law, who would live with them. He assured the board that he had considered all elements of the situation.

Mr. Dixon stated that it was a unique site with many mature trees. He noted that the situation had gone from no trees being saved to two trees saved; however, he said it could be better.

Mr. Blow pointed out that he could not read any dimensions on the submitted documents and it also lacked directional information. He suggested that the application be tabled to allow the applicant to furnish additional information and a scaled tree survey.

Mr. Dixon concurred with Mr. Blow. He stated that a three-story concrete house would not fit in the character of the neighborhood.

In response to an inquiry from Ms. Horvath, Mr. Martinez affirmed that the house would be two-story high with a dormer.

Ms. Currie advised that they did have a boundary survey with the dimensions of the lot and trees configured on the property. She asked the board to allow her client to provide more information.

Ms. Freeman expressed that the applicant should be allowed to construct a house to the size he had submitted that day. She voiced that it did not seem that every avenue had been explored to save as many trees as possible.

Ms. Horvath suggested that it would take a unique approach with the site in order to build a house and save the trees on the property.

Ms. Freeman acknowledged that not all the trees would be saved.

MOTION

Mr. Leary moved to table the application until the January 3, 2006 meeting, in order for the applicant to provide information regarding the north/south direction and the location of the existing trees on the property.

Mr. Valdes asked that Mr. Leary include in his motion that a tree survey completed by an independent surveyor be provided to the board.

Mr. Blow concurred with Mr. Valdes.

Mr. Leary amended his motion to include Mr. Valdes' language regarding the tree survey.

Ms. Freeman asked that a notification (orange) sign be placed on the property prior to the next meeting. She suggested that the applicant furnish to the board any house plans thus far in addition to any new plans.

Ms. Freeman seconded with the amendment that a notification (orange) sign be placed on the property.

Mr. Leary agreed to the amendment.

MOTION CARRIED UNANIMOUSLY

Item 5(b) 2005-1344
Leanna Freeman and Heinz Dauth
Heinz Dauth, etal
207 South Matanzas Boulevard
To install a floating dock.

Ms. Freeman recused herself from the application.

Mr. Birchim reported that the applicant had requested Conservation Zone Development to install a ten-by-twenty-five foot floating dock. He noted that a dock currently existed at the site and the applicant would like to add the floating dock to the north side. He said, based on review of Section 11-29, staff found that the board could approve a floating dock at 207 S. Matanzas Boulevard with the condition that all applicable 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.

Leanna Freeman, 207 S. Matanzas Boulevard, was sworn in. She submitted a written response form from a neighbor which had been faxed to her.

Mr. Dixon opened the public hearing but there was no response from the public. He noted that thirteen written response forms had been sent to surrounding property owners with three returned in favor and none returned in opposition to the application.

Mr. Dixon noted that the subject property was located by a basin which had recently been dredged.

Ms. Freeman affirmed that to be correct. She noted that the T of her dock was only approximately two feet wide and was a dangerous situation. She stated that they owned lot two which had been converted to a playground and the floating dock would be placed closer to lot two.

Mr. Blow noted that the property owners had arranged to have the yacht basin dredged at their own expense.

MOTION

Ms. Long moved to approve the application as submitted. Ms. Horvath seconded.

MOTION CARRIED UNANIMOUSLY WITH MS. FREEMAN RECUSING HERSELF³

Item 5(c) 2005-1346
Way Marine Design
BLT Investments of St. Augustine, Inc.
53 Avista Circle

³ Mr. Dixon called a break at 4:27 p.m. and reconvened at 4:40 p.m.

To construct a dock and two boat lifts.

Mr. Dixon noted that Items 5C and 5D involved the same applicant and would be heard together.

Mr. Birchim reported that the applicant had requested docks to be constructed at two separate single-family residences. He noted that the docks would each be one-hundred and forty-feet in length with one boat lift and one jet-ski lift. He said the docks would be set back twenty-five feet from their neighboring property lines and were approximately the same size as the neighboring docks in the vicinity. He stated that, based on review of Section 11-29, staff found that the board could approve a single-family dock at 53 and 55 Avista Circle with the condition that the boatlifts were no or low profile in design, did not exceed 12,000 lbs. in size and all applicable permits were obtained prior to construction. He added that by approval of the applications, the City did not make representation, approval or claim of riparian rights to any party.

Bobby Federer, 18 N. St. Augustine Boulevard, was sworn in. He stated that they would install two identical docks with a length of one-hundred and forty feet in order to reach navigable waters. He noted that no profile lifts would be installed on the docks. He explained that the docks would be level with the seawall and would be the nicest docks thus far in St. Augustine.

Mr. Dixon opened the public hearing but there was no response from the public. He noted that nine written response forms had been sent to surrounding property owners

with one returned in favor and one returned in opposition to the applications.

In response to an inquiry from Ms. Long, Mr. Federer clarified that they had received permits from the Army Corp. of Engineers for both docks.

Mr. Leary said the opposition had mentioned a shared dock situation on their response form. He noted that at a previous board meeting two neighbors had decided to share a dock by placing the dock on the adjoining property line. He asked Mr. Federer to comment on the shared dock suggestion.

Mr. Federer stated that the property owner planned to sell one of the properties and a shared dock situation might hurt the marketability of the property.

Mr. Blow stated that he had spoken with the shared-dock applicants, who had informed him that they had decided to share a dock because it was in the best interest of Salt Run. He disagreed that a shared dock would hurt property values.

Mr. Valdes noted that he had communications with Mr. Bushnell about the shared dock issue. He explained that Mr. Bushnell had purchased the property and subdivided the lot in order to construct two houses, one of the houses for themselves. He suggested that a shared dock would affect the sale of the property to certain buyers.

Mr. Dixon noted that the board had previously denied dock requests in the vicinity due to obstruction of the vista. He

suggested that one dock would be a more superior solution.

Ms. Freeman voiced that the property owner had the right to divide the property and construct two houses according to Code. She stated that if the opposition was in disagreement, they could approach their City Commissioners.

Mr. Blow agreed with Ms. Freeman. He noted that the shared dock issue was beyond the scope of the board. He voiced that he would not want to impose regulations on waterfront property owners when it had not been imposed on others. He expressed that the aggregation issue should apply to everyone in the City or no one.

Mr. Valdes asked if both lots were conforming in size.

Mr. Birchim advised that lot two was non-conforming; therefore, it would be aggregated. He explained that he would need a survey in order to measure the width of the lot due to the curvature of the property.

Mr. Valdes noted that the property owners were following the letter of the law.

Mr. Blow commented that the dock had not been centered on the properties. He questioned whether the other board members were concerned with that element.

Mr. Dixon noted that the docks had been pushed toward neighboring properties and the documents lacked clarity with how the placement would affect their neighbors.

In response to an inquiry from Mr. Leary, Mr. Federer explained that the docks were placed in order to navigate boats between the docks. He noted that they had followed the DEP and Army Corp. of Engineers permitted locations which included a twenty-five foot setback off the property line. He noted that the docks would be facing each other.

Mr. Valdes asked if any advantage would be seen if the docks faced away from the other.

Ms. Long noted that an additional expense would occur if the plans changed.

Mr. Dixon suggested that the applicant should have obtained the PZB's approval prior to applying to the Army Corp. of Engineers.

Chris Way, 39 Avista Circle, was sworn in. He stated that it remained to be seen whether the applicants who requested a shared dock would work out. He noted that people fight over mailboxes; therefore, the shared dock might be too difficult a situation. He said he would never share a dock due to the many complications that might surface. He suggested that facing the docks outward would have a larger impact on the adjoining lot because they would need to approach their dock from the outside.

Mr. Dixon suggested that the docks had been placed at the perimeters to protect themselves.

Mr. Way suggested that the board look at the placement of the docks individually

because it was the correct position for the individual home.

Mr. Dixon said the board had preferred that docks be placed in the center of a property.

Ms. Horvath noted that the lots might be larger than fifty feet wide.

Mr. Knight advised that lot two only had two feet of play with the twenty-five foot setbacks and a thirty-five foot wide lot which totaled eighty-seven feet; therefore, centering the dock would only allow two feet on each side.

Mr. Way advised that they had reviewed the placement of the docks along with other docks in the vicinity and found that the position of the new docks would not impede on the neighboring docks. He noted that the situation was difficult on Avista Circle, which was circular, compared to Salt Run.

Mr. Blow stated that it appeared that lot 16 had ninety feet of water frontage without a dock.

Mr. Dixon pointed out that the property owner for lot 16 would have a problem if they wanted to place a dock on the property in the future.

Mr. Blow said he was concerned with creating a problem for the other property owner.

Mr. Federer advised that the property owner would need to calculate a twenty-five foot setback and if not enough room existed the Army Corp. of Engineers would not issue a permit.

Mr. Birchim noted that the property owner had ninety feet of frontage.

Ms. Freeman noted that her neighbor had placed a dock on their property without the twenty-five foot setback and only had a thirty-eight foot wide lot.

In response to an inquiry from Mr. Blow, Mr. Federer advised that the applications did not include floating docks.

MOTION

Mr. Leary moved to approve the application as submitted. Ms. Long seconded.

MOTION CARRIED UNANIMOUSLY

Item 5(d) 2005-3292

Way Marine Design

Anthony and Brenda Bushell

55 Avista Circle

To construct a dock and two boat lifts.

MOTION

Mr. Leary moved to approve the application as submitted. Ms. Long seconded.

MOTION CARRIED UNANIMOUSLY

Item 5(e) 2005-3301

Frederick Halback

Halback Design Group, Inc.

Fish Island Communities, LLC

PID# 162210 0010, 162207 0000

To remove trees and develop adjacent to wetlands.

Mr. Birchim reported that the subject property was located at the eastern terminal end and the south side of the SR 312 bridge. He noted that the undeveloped parcel contained thirty-six acres of which eight were wetlands. He advised that the owner intended to develop the site with one-hundred and seventy-seven townhouse units. He stated that the application involved tree removal, wetland impacts and building setbacks to the wetlands. He noted that the application included a tree survey overlaid with the development site plan and a calculation of the total trees to be removed and preserved on the site. He explained that the tree figures included 2,303 trees to be removed, the preservation of 1,629 trees for a total mitigation of 132 trees in addition to the required post development landscape requirement. He stated that the typical landscape plan for a townhouse site was included on page six on the spiral bound submittal from the applicant and also included was the Army Corp. of Engineers permit. He said the property contained isolated interior wetlands which would be impacted by the developer and were primarily located in the area for the proposed retention pond. He stated that the conceptual tree mitigation plan, located on page six of the submittal, also identified a twelve to fifteen foot minimum setback to be identified as a no clear zone. He advised that the Code required a minimum twenty-five foot setback from wetlands for development. He said, based on review of Section 11-29, staff found that the board could approve Conservation Zone Development with the condition that a twenty-five foot minimum buffer be observed and one-hundred and thirty-two

tree credits were replanted as mitigation for tree removal.

Fred Halback, Halback Design Group, 287 St. George Street, was sworn in. He introduced the ownership group which included Jim Young and Jim English, both from Young Land Group, who had been involved in numerous developments in north Florida. He noted that the property included thirty-six acres with twenty-eight acres of upland area and 8.08 acres of wetlands. He added that .68 acres were non-jurisdictional or isolated wetlands which had been identified by the study and the Army Corp. of Engineers through the process of removing .78 wetland acres for the impact of the project. He said they had indicated on the submitted plan the twenty-five foot upland buffer adjacent to all the wetland areas. He explained that they would like to clear fifteen feet for building construction which would not reach into the buffer zone. He noted that fill had been placed on the property and their analysis had suggested that approximately three feet of unsuitable material was under the fill which would need to be removed but they would place the large retention area in the same location due to work already needing to be done in that area. He affirmed that the development included one-hundred and seventy-seven townhouse fee-simple units with individual driveways and consisted of two and three-story units. He explained that the bridge crossings would not be filled with a culvert placed on the land but constructed as bridges; although it cost more it allowed them to proceed in a more timely fashion with regards to permitting and also would be more environmentally sensitive.

Mr. Halback directed attention to the tree survey which indicated the preserved native trees including every tree on the site that was six inches or greater in diameter. He said, due to the impacts to the site, they had included the calculation of two to six inch diameter trees on the property. He noted that they had 4,451 preserved tree credits and 4,583 tree debits which totaled a mitigation requirement of 132 credits. He said the trees would be removed due to bad soils and the need for retention on the property. He noted that they would retain the trees along the upland buffers and waterfront areas. He advised that many sable palms and pine trees existed on the property and a thirty-two inch cedar tree. He stated that they had filed for the Army Corp. of Engineers permit which had been obtained and the St. Johns River Water Management District permit and they expected to receive the permit soon. He said the project, at completion, would be tree lined with a canopy of live oaks and that would far exceed the 132 tree credits required for the project. He added that plantings would be done around the ponds which brought high value to the development. He said they intended to place buffering around the FDOT retention pond and at the abutment by the bridge.

In response to an inquiry from Mr. Blow, Mr. Halback reiterated that they expect to receive the SJRWMD permit at the beginning of January 2006 and had been told that the permit was being handled on a staff basis. He affirmed that the boards' approval would be with the condition of obtaining the permit. He stated that if delays did occur, they would return to the board when necessary.

Mr. Dixon opened the hearing to public comment.

Leah Beck, 15209 Harbor Vista Circle, was sworn in. She stated the following points for the board to consider:

- she had seen many deer in the area which offered a beautiful sight for any family to watch
- large and small birds foraged in the area
- a protected bald eagle lived in the area
- development would result in a loss of natural habitat
- citizens had an obligation to protect the land and its habitat

Mr. Dixon noted that Ms. Beck addressed a difficult issue with any development. He said it was an on-going issue in St. Johns County.

Ms. Beck asked if land had been preserved in the area other than State lands.

Mr. Dixon explained that animals adapted to their surroundings but the State had many regulations regarding the issue.

Mr. Blow commented that one solution involved purchasing land for preservation which anyone could do and the State allocated funds for preservation annually.

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

Mr. Dixon explained that a substantial amount of wetland acreage had been

purchased by the St. Johns River Water Management District for preservation.

Mr. Halback advised that they would not be clear-cutting the property. He said they would plant native trees to reforest the site and the unit price was between \$550,000.00 to \$1 million dollars; therefore, landscaping for the site would be extensive.

Ms. Horvath noted that one written response had mentioned a number of large oak trees would be removed and she asked for clarification.

Mr. Halback said they had thought the larger cedar trees were of the most value. He noted that page thirteen indicated six, eighteen-inch oak trees to be removed.

Mr. Dixon directed attention to the tree survey which showed tree survey ID#1573 was a thirty-inch oak tree to be removed.

In response to an inquiry from Ms. Freeman, Mr. Birchim advised that if the developer wanted a subdivision for townhouses they would return to the board to obtain a recommendation with final approval determined by the City Commission.

Mr. Halback noted that they would indicate the location of tree #1573 when they returned to the board at a later date. He said the property was fairly young as it related to the size of trees on the land.

Mr. Blow asked if the bridges would adhere to County or City specifications.

Mr. Halback affirmed that the bridges would meet City requirements and be strong

enough to handle heavy service trucks. He noted that the bridges would be engineered with steel.

Mr. Blow suggested that the bridge should have a fifty year useful life expectancy. He questioned whether the developer would be cost-sharing for the installation of traffic signals on SR 312.

Mr. Halback said they were not required to be involved in that element and no discussions had occurred regarding the issue.

Mr. Leary disclosed ex-parte communications with Mr. Halback. He asked Mr. Halback to share future plans involving the development with respect to any dockage or island development.

Mr. Halback advised that the parcel also had a peninsula that reached toward the south where the infamous eagle had lived but they would remain well away from those zones that involved a different entity group which might someday develop the parcel but only when and if "the eagle did not land anymore". He directed attention to the map and indicated a piece of property north of the out-parcel which would remain as a protected archeological site. He noted that an area close to that site might consist of a future boat dock for the development but it would remain non-commercial with no gasoline or retail sales. He said the boat slips would be for homeowners in the development and not outside boaters. He noted that it would take many years to permit.

Ms. Horvath noted that two, forty-inch oak trees, #11756 and #11755 on the tree survey, were slated for removal.

In response to an inquiry from Ms. Long, Mr. Halback affirmed that the development would be a gated community.

Mr. Blow suggested that sometime in the future a traffic signal would be warranted at the intersection of the development and SR 312. He said he did not want to see the City be required to fund the installation.

Mr. Wilson advised that the State, if warranted, would install the traffic signal; however, the City would not be responsible for the funding because it involved a State roadway.

Ms. Freeman expressed that the development should not be singled-out and be responsible for the traffic signalization.

Mr. Blow said he was concerned with safety at that intersection and it would be a benefit to the developer to have traffic signals at that location.

Mr. Leary stated that he had previously handled wetland issues which started with avoiding impacts, then minimizing impacts and finally, mitigation with a goal of no net-loss. He questioned whether the board should consider a no net-loss goal regarding trees in the community. He questioned whether the St. Johns River Water Management District required the developer to mitigate the isolated wetlands when impacted by the development and asked if the board thought that when wetlands were lost within the City limits mitigation would

also take place within City limits. He questioned whether the Corps.' decision that the wetlands were isolated and were not subject to Federal jurisdiction. He said he was troubled by the application; although the developer would handle it in a professional manner, it involved one of the last large undeveloped areas in the City.

Mr. Halback advised that he was Chairman of the City's Street Tree Advisory Committee. He noted that the committee had revised the Tree Code requirements. He stated that the Committee had set an agenda to review whether the entire Tree Code needed to be revised. He said any revisions would come before the PZB for recommendation to the City Commission. He added that the committee had eliminated a variety of loopholes in the Code and had revised the tree debit/credit language. He reiterated that they had worked hard to preserve as much of the trees and wetlands as possible.

Mr. Dixon suggested that too much vegetation was not always good as it contributed to fires which the area had experienced a few years earlier.

Mr. Blow stated that the current developer understood the value of the trees on the property.

MOTION

Mr. Blow moved to approve the application with the understanding that a twenty-five foot no-clear zone be maintained. Mr. Dixon seconded.

Ayes: Blow, Dixon, Horvath, Freeman, Long

Nays: Valdes, Leary

Motion carried 5/2.

6. SUBDIVISION PLAT

Item 6(a) 2005-1351

Gregory Crum

Theresa Jean Raines-Gray and

Victoria Ann Guffey

211 Cabeza Street

Mr. Birchim reported that the applicant had requested a preliminary subdivision plat approval. He noted that the subject property was located at the corner of South Comares Avenue and Cabeza Street. He stated that the application had been reviewed by all applicable City departments and found to be in compliance with minimum size standards for single-family platted lots in the RS-2 zoning category. He directed attention to the subdivision plat and said a home was currently being built on Lot 1A. He stated that, based on review of the City's subdivision chapter of the Municipal Code, staff found that the board could approve the application as submitted.

Greg Crum, 3 Sunfish Drive, was sworn in. He stated that the lot was subdivided and the owner was unaware about the need to obtain approval from the board prior to construction.

In response to an inquiry from Ms. Freeman, Mr. Crum explained that the owners were confused and did not understand the process.

Mr. Knight advised that Florida Statutes specified that a subdivision consisted of three lots; however, the City's Code language handled a subdivision with two lots, even through the Florida Statutes specified three lots. He stated that each lot would have separate parcel identification numbers assigned by the St. Johns County Property Appraiser's Office to their respective lot after the sale.

Mr. Dixon opened the hearing to public comment.

Peter Stokes, 32 Mendez Avenue, was sworn in. He voiced that he was concerned with the red cedar trees currently on the property and drainage. He noted that the flyer posted on the property indicated two homes but Mr. Crum said only one would be constructed on the property.

Mr. Crum explained that the document in question indicated where two houses could be on the properties after it had been divided; however, only one house was currently being constructed. He affirmed that two houses would ultimately be constructed on the divided property.

Mr. Stokes said he remained concerned with the trees on the property and drainage which was already an issue in the area.

Mr. Dixon noted that both parcels met minimum lot size requirements. He said lot coverage, setbacks and other elements would need to be considered with construction on the property; however, trees and drainage would be addressed at the next level.

Ms. Freeman disagreed with Mr. Dixon. She stated that one should not assume that a large parcel could be subdivided because the City would not require an application to subdivide a parcel with less than three lots.

Mr. Knight advised that the subdivision process was administrative in nature. He explained that the board's duty was to review as to whether the property conformed to the minimum requirements of frontage, square footage, etc.

Mr. Birchim affirmed that the zoning was RS-2.

Mr. Leary asked staff if anything about the decision the board would be making would result in the violation of setback or area size requirements.

Mr. Knight stated that the answer would be no.

Mr. Birchim explained that the permit process was based and reviewed on one parcel. He noted that RS-2 District had a fifteen foot front setback and ten foot rear setback.

Mr. Blow acknowledged that the lots had met the City's criteria; however, he said he had a problem regarding density and platted subdivisions.

Mr. Dixon suggested that the minimum lot size for each zoning category determined density and not platted subdivisions. He said he had spent two years on an aggregation committee in which the City Commission decided not to follow the committee's recommendations.

Mr. Blow said he had come away with the impression from the City Commission that platted subdivisions determined density in the City.

After some discussion between board members, Ms. Freeman noted that the board would be creating the two smallest lots in the neighborhood.

Mr. Dixon noted that the lots met minimum size requirements of the Code.

In response to an inquiry from Ms. Freeman, Mr. Birchim advised that the City Commission would make the final decision regarding the subdivision plat.

Mr. Stokes said he was a little overwhelmed by all the changes since he had moved away from the area. He stated that his concern regarding drainage had not changed.

Mr. Dixon noted that it was not part of the boards' purview with the current application but the board shared Mr. Stokes' concerns. He closed the public hearing.

MOTION

Mr. Leary moved to approve the application as submitted. Mr. Valdes seconded.

Vote on the motion.

Ayes: Leary, Valdes, Horvath, Long, Dixon

Nays: Blow, Freeman

Motion carried 5/2.

7. OTHER BUSINESS

a) Revised definition of lot area

Mr. Knight stated that the board had before them a draft ordinance regarding a change in the definition of lot area. He explained that the City Commission had asked staff to present the language to the board. He noted that the board had recently reviewed a few oddly shaped lot proposals to gain access to property and to meet the minimum square footage requirements. He said as far as making access to marshland, it could be handled through an easement without coming before the board or the City Commission. He advised that he had used some of the language in the annexation Code to create the definition of lot area which included "*excludes any area that was not reasonably compacted such as serpentine fingers, etc*".

Mr. Knight stated that one would not be able to use a finger type area to create the minimum square footage needed in lot area.

Ms. Freeman voiced that she could not support the proposal because residents were still maintaining the areas as open space, restricted by setbacks and had to keep paying taxes on the land.

Ms. Horvath expressed that she disagreed with Ms. Freeman. She stated that it would allow a bigger house on a smaller piece of property.

Ms. Freeman noted that the land would be in the setback area and remain opened.

In response to an inquiry from Mr. Valdes, Mr. Knight affirmed that it was common for most cities to have setbacks as well as lot coverage regulations.

Mr. Wilson advised that lot coverage was not as common as setback regulations.

In response to an inquiry from Ms. Freeman, Ms. Horvath suggested that the land should be contiguous.

Mr. Leary questioned whether staff thought that the finger shaped land would not be developable.

Mr. Knight clarified that the finger portion of the land could not be used to calculate lot coverage or area of the lot; therefore, the only reason to create such a finger involved access to water which could be handled by using the easement process.

Ms. Freeman questioned whether some lots within the City already had oddly shaped fingers.

Mr. Knight affirmed that to be correct but said the small strip would not be included in lot coverage calculations.

Ms. Horvath expressed that she would only be opposed to using the small finger of land if the property became unbuildable due to the lack of square footage without the piece of land.

Mr. Knight advised that the property would remain buildable.

Mr. Wilson noted that the proposed language would allow the board to deny an applicant the ability to rezone the property.

Mr. Knight reiterated that the City Commission had requested language to prevent finger type land rezoning.

MOTION

Mr. Blow moved to recommend approval of the proposed language to the City Commission. Mr. Dixon seconded.

Vote on the motion.

Ayes: Blow, Dixon, Horvath, Leary, Valdes, Long

Nays: Freeman

Motion carried 6/1.

Non-agenda Item:

Chairperson and Vice-chairperson election.

Ms. Horvath was elected Chairperson and Ms. Freeman Vice-Chairperson by signed ballots.

8. REVIEW OF CONFLICT STATEMENTS FROM PREVIOUS MEETING

Gerald Dixon – 6 Castillo Drive. Mr. Dixon disclosed that he had a business relationship with the property owner.

9. ADJOURNMENT

There being no further business, the meeting
adjourned at 6:39 PM.

Gerald Dixon, Chairman

Pam Halterman, Recording Secretary