

CITY OF ST. AUGUSTINE

Special Planning and Zoning Board Meeting May 7, 2007

The City Commission met in a formal session Monday, May 7, 2007 at 5:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Leanna S. A. Freeman, Chairperson and the following were present.

Roll Call:

Leanna S. A. Freeman, Chairperson
Deltra Long, Vice Chairperson
Carl Blow
Gerald Dixon
Roxanne Horvath
John Valdes

Absent: Bill Leary (Excused)

City Staff: Ron Brown, City Attorney
Mark Knight, Director, Planning and Building Department
David Birchim, Planning Manager
Robin Upchurch, Assistant City Attorney
Barry Fox, Sergeant, Police Department
Susan Goins, Recording Secretary

2. 2006 – 0933

Frederick Halback – Applicant
Fish Island Development, LLC. – Owner
Plantation Island Drive South
PID # 162210 0001, 162210 0016

To construct a dock with 100 slips and fill in .02 acres of wetlands for construction of a parking lot and covered pavilion.

Ms. Freeman questioned whether there were ex-parte communications.

Mr. Blow replied that he had spoken to city staff since the prior meeting, he had received a letter from Bruce Kendeigh, and he had received a phone call from the Mr. Register, engineer for applicant, regarding a reader service card that he had filled out at the prior meeting, because he was interested in the seaflex system. He stated that Mr. Register represented seaflex and

he contacted him on a sales inquiry; however, they had not discussed the Fish Island Docks.

Ms. Freeman stated that she wanted to clarify a statement she had made during the prior meeting. She said that she had a procedural conversation with Mr. Leary, and she asked him if he was recusing himself from the matter; and that was the extent of the conversation. She said she would answer the applicant's questions regarding the matter. She added that she had received several e-mails regarding the issue.

Richard McGuire, 170 Malaga Street, Rogers Towers, P.A., replied that he had no questions.

Ron Brown, City Attorney, questioned whether Mr. Dixon had reviewed tapes or

transcripts of the prior meeting considering he was absent.

Mr. Dixon replied that he had received a video of the meeting.

Ms. Freeman stated that the board had received a packet from the Coastal Training Program prepared by Mr. Healey during the prior meeting and he was present to discuss the information in the packet.¹

Martin Healey, 290B Floridian Avenue, referred to the following:

- The cumulative effects of projects were not investigated during the permitting process
- The Coastal Service Center encouraged community docks; however, the docks usually had five-ten slips; not one hundred slips
- Marsh loss would occur with a ten foot wide walk-way dock
- The dock would change the habitat and negatively impact oysters, worms, birds, crabs, and crustations
- The ten foot wide dock would cause erosion underneath
- Fuel spills from boats would effect the marsh grass, oysters and animals
- Expressed concern about public safety due to possible bridge damage from strong hurricanes as the 312 bridge was an evacuation route
- Questioned whether the Department of Transportation was consulted about possible damage to the bridge during a hurricane
- The system had been rated to a category two hurricane which was considered a small storm, considering category five storms had hit the state

Ms. Freeman asked for clarification regarding other impacts from boats.

Mr. Healey replied that prop-wash would affect oyster beds and waterlife that needed light to grow.

Mr. McGuire questioned whether he was testifying on behalf of the Department of Environmental Protection.

Mr. Healey replied no. He stated that he was providing technical assistance for the city.

Mr. McGuire questioned whether he had looked at the permit applications and files that had been submitted.

Mr. Healey replied affirmatively.

Mr. McGuire questioned whether both agencies had looked at cumulative impacts when they permitted docks.

Mr. Healey replied that he was uncertain.

Mr. McGuire questioned whether Mr. Healey had other examples of marsh loss besides the dock at Flagler Hospital.

Mr. Healey replied that they were included in his presentation.

Mr. McGuire questioned whether Mr. Healey was concerned that a boat would break lose during a hurricane.

Mr. Healey replied affirmatively.

Mr. McGuire asked how many times that could happen.

Mr. Healey replied several times during a hurricane.

Mr. McGuire asked for clarification regarding the type of commercial traffic that would travel under the bridge.

¹ Attached to original minutes

Mr. Healey replied barges, commercial fisherman and recreational yachts.

Mr. McGuire questioned whether Mr. Healey was qualified to evaluate hurricane impacts.

Mr. Healey replied no. He added that hurricane impact or evacuation routes had not been investigated on either side of the issue.

Mr. McGuire questioned whether he had evaluated the site criteria when considering boating facility sites.

Mr. Healey replied that he had not researched it specifically for the site. He added that he was not in favor or against the project; however, he wanted the city to investigate the different issues.

George Ann Gillespie, 39 Sylvan Drive, referred to the following:

- The project would have a negative impact on the marsh, vista and wildlife
- Ten-foot wide dock was too large
- Tax revenue from the project was not worth destroying the area

Mr. McGuire questioned whether she could see the property from her house.

Ms. Gillespie replied no; however, she saw the area when she drove over the bridge.

Darlene Schmitt, 130 Drake Road, referred to the following:

- Viewed the island twice daily when she walked her dogs along Shore Drive
- The dock would negatively impact the area with noise and light

Mr. McGuire asked for clarification regarding the distance of her house from the proposed dock.

Ms. Schmitt replied that it was across the water.

Mr. McGuire asked for clarification regarding the impact of the light from the bridge traffic at night.

Ms. Schmitt replied that it was minimal. She pointed out that the lights were above the water therefore, the water remained dark.

Mr. McGuire questioned whether she had thought the boats would bring more light than the traffic going over the bridge.

Ms. Schmitt replied affirmatively. She said the lights would be brighter from the boats because they were on the water and reflected in the water, as well as noise from the dock and the boats.

Glen Moore, 134 Riberia Street, referred to the following:

- Supported the project
- The commission should look at private property rights
- Private property owners should have the right to do what they wanted with their property
- Suggested that the city consider public access to water
- Expanding dock access to the water as more people moved into the city

Mc McGuire questioned whether he was a boater and owned a boat.

Mr. Moore replied affirmatively.

Jim Guier, 914 Shore Drive, referred to the following:

- His home directly faced the proposed site
- Boat debris after storms would increase if the marina was developed

Ms. Freeman questioned the length of one side of the water-way compared to the other side.

Mr. Guier replied that the bridge was 8/10 of a mile; however, the experts at the prior meeting said it was 2,500 feet from his house to the proposed property.

Ms. Freeman asked for clarification regarding the view from the proposed site.

Mr. Guier replied that it was single family residences. He said most of the homes were built in the 1950's; however, four had been built since 1995.

Ms. Freeman questioned whether the homes had docks.

Mr. Guier replied no. He added that the builder had informed him that he could have a dock; however, the marsh was beautiful and he had decided against it.

Mr. Blow questioned whether his property was north of the county boat ramp.

Mr. Guier replied affirmatively.

Ken Bryan, 126 Oyster Catcher Circle, referred to the following:

- Represented the Fish Island Citizens Group concerned about the project
- Presented pictures and a PowerPoint presentation²
- Owned a boat and lived in a community that had a pier and slips; half of which were vacant
- If the city approved all of the proposed piers, the area would look like south Florida
- If the marina was approved it would privatize public land the community currently enjoyed
- If the area was built kayakers would be restricted from the area

² Attached to original minutes

- The proposed dock might withstand a category two hurricane; however, they could have a stronger hurricane
- 312 bridge was an evacuation route
- Large boats could break lose during a hurricane and possibly damage the bridge
- The vista was visible from the 312 bridge
- Large boats would extend almost out to the intercoastal
- The mean water level in the area was three feet
- Individuals in the city had a right to enjoy the vista and water access

Mr. Blow questioned whether he was familiar with the no wake zone south of the bridge.

Mr. Bryan replied affirmatively. He said by law there was no wake between a certain distance from each bridge.

Mr. Blow questioned whether he could see the buoys when he drove over the bridge.

Mr. Bryan replied affirmatively. He added that in a low car they possibly could not see the buoy. He pointed out the buoys in one of the pictures from his presentation.

Ms. Long questioned whether the Fish Island Group had been specifically formulated for this issue.

Mr. Bryan replied affirmatively. He stated that there were approximately 25 to 30 members, and the group retained their own attorney.

Ms. Freeman asked for clarification regarding his concerns about the project.

Mr. Bryan replied that he had several concerns and referred to the following:

- There were several manatees and dolphin in the area

- The size of the dock was large and the shade under it would kill the grass
- Once the area eroded it would create a canal and during the hurricane, nothing would retain the water
- Safety was a large concern for the group
- The bridge was strong; however, it was not clear how strong

Mr. McGuire referred to a photograph of marina damage after a hurricane and questioned whether there was design problems or if the marina was built properly, and the response was no.

Bruce Kendeigh, 2110 Redfish Creek Drive, referred to the following:

- The walk-way was ten feet wide and 1,300 feet in length meaning that 13,000 feet of marsh would be shaded
- Detergent from boat cleaners would be dumped into the small area
- The dock would ruin the view

Mr. McGuire questioned whether he could view the proposed site from his house.

Mr. Kendeigh replied no,³ and he added that the proposed dock would not have fuel or pump out capabilities.

Mr. McGuire questioned whether the marina would be more acceptable if there was fueling or a pump out facility was available.

Mr. Kendeigh replied that his boats would not need the capability.

Ms. Freeman stated that she wanted clarification regarding the issue of expert testimony. She questioned whether the experts needed to be qualified for the hearing.

³ End of tape 1

Mr. Brown replied that the basic qualifications were education or experience that allowed an opinion on an item. He added that in the event of experience, education was not necessary when rendering an expert opinion.

Gina Burrell, 27 Seminole Drive, referred to the following:

- Read a letter on behalf of the Northeast Florida Group of the Sierra Club⁴
- The proposed location had been enjoyed by fisherman and women, kayakers boaters, residents and tourists
- The development would detract from the vista
- The Comprehensive Plan and City Code required that structures must benefit the public as a whole and should avoid blocking and disrupting vistas and scenic opportunities; the proposed project would not comply with those requirements
- The proposed development would have a cumulative and adverse impact on marine habitats such as the salt marsh, mangroves, intertidal flats and oyster wreaths, which were used for feeding by brown and pink shrimp, red drum, summer flounder and bluefish

Mr. McGuire questioned whether the property was visible from her home and the response was negative.

Mr. McGuire questioned whether Ms. Burrell lived on the water, and had a permitted dock, and the response was affirmative.

Following a brief discussion regarding the relevance of Ms. Burrell's dock, Mr. McGuire withdrew the question.

Bill Hamilton, 7000 Charles Street, referred to the following:

⁴ Attached to original minutes

- The project would endanger the water
- That type of development had destroyed the shrimp and oyster industry
- Hurricane Dora was a category two storm that impacted the ecosystem and washed away the Marineland pier
- The community had the right to speak against the project, as they were affected by it
- The docks would have a negative affect on the marsh
- Pesticides had a negative affect on marine organisms

Ms. Freeman asked for clarification regarding the docks negative affect on the environment.

Mr. Hamilton replied that it would impact the entire environment. He explained that the plants and organisms that required full sun would be shaded by the dock. He pointed out that the best thing for the environment was to preserve the marsh, and protect the vista. He added that soaps, detergents, solvents and boat paint in the water would negatively affect the environment.⁵

Mr. Brown stated that there had been comments regarding the decorum in the room and the response to testimony. He explained that the meeting was a quasi judicial proceeding, and there should be respect for everyone that participated regardless of opinion.

Ms. Freeman requested that speakers addressing the board be specific regarding their thoughts, opinions and personal observations.

James Wynbrandt, 144 ½ Marine Street, referred to the following:

- Opposed to the proposed dock because it was too long

⁵ Brief recess 7:10 p.m. - 7:30 p.m.

- People not within site of the proposed development were also effected by it
- Concerned about strong hurricane damage

Jay Bliss, 12 Oglethorpe Boulevard, referred to the following:

- Expressed concern about hurricane damage

Lola Carolyn Sorensen, 141 Nautilus Road, referred to the following:

- Lived across from the proposed development
- Vista and environmental degradation would occur as a result of the proposed dock

Brian George Paradise, 13 Arbor Club Drive # 315, Ponte Vedra, Beach, referred to the following:

- Read letter from National Oceanic and Atmospheric Administration⁶
- The construction of the proposed marina would damage oyster beds and salt marsh vegetation
- Accidental discharge of gasoline, oil and trash had a negative impact on living marine resources and habitats
- Cumulative impacts would occur from the proposed project
- The vista should be preserved

Jose Nunez, 46 Ocean Pines Drive, referred to the following:

- Worked as a Biological Scientist and Aquatic Ecologist, co-authored a book on disorders of development in fish, taught Coastal Ecology at Flagler High School
- Spoke as a concerned citizen
- Referred to a PowerPoint presentation⁷

⁶ Attached to original minutes

- Tidal marshes served as nursery areas for countless species of fish of commercial and recreational value
- Tidal marsh served as a refuge and feeding ground for certain birds and mammals including manatees and dolphins
- Mud flats and tidal marsh for the Matanzas River served a vital ecological role, purified the water and protected the coastal land from high tides, winds and waves and must be protected
- Chromium Copper Arsenate (CCA) treated wood had a significant negative cumulative effect on the structure and function of the tidal marshes and aquatic organisms
- The area would suffer damage from boating activity, intentional or accidental fuel spillage, soaps, and trash
- The proposed development would spoil the scenic view and the surrounding tidal marsh

Mr. McGuire stated that if pressure treated lumber was not used; it would remove any problems that CCA caused.

Mr. Nunez replied that CCA was on the permit.

Mr. McGuire stated that it could be removed from the permit.

Mr. Nunez agreed that it would remove the problem.

Ms. Freeman asked for clarification regarding the use of pressure treated wood and whether he still have concerns if something else was used.

Mr. Nunez replied that he was concerned about the shading the marsh vegetation. He explained that shading marsh vegetation fragmented the marsh decreasing it's functionality. He reiterated that the marsh

⁷ Attached to original minutes

was a nursery area for fish and if removed, fishing would collapse.

Mr. Valdes questioned whether he was testifying as a paid expert witness, and the response was negative.

Mr. McGuire questioned whether there was algae on the bottom where the boat slips would be.

Mr. Nunez replied that algae was everywhere.

Ms. Freeman asked for clarification regarding the impact of basic household soaps in the water.

Mr. Nunez replied that small organisms exposed to minute amounts of chemicals would be destroyed.

Ms. Freeman questioned whether noise and light would affect the organisms.

Mr. Nunez replied affirmatively. He stated that the organisms were accustomed to total darkness. He explained that light in certain places would attract certain organisms, become food for others and change the ecological structure.⁸

Joe Lopinto, 529 Ria Mirada Court, referred to the following:

- Referred to a picture of his home with fields of view relative to the proposed site⁹
- Many residents were within 4,000 feet of the proposed dock and had direct views from their backyard
- The vista would be severely impacted and ruin the view of the city
- The boats would produce noise
- The board should examine the risks of the dock including fire safety

⁸ End of tape 2

⁹ Attached to original minutes

Sherry Badger, 2772 South Collins, referred to the following:

- Her children fished at the proposed site
- St. Augustine had the 2nd most dangerous inlet in the east coast of Florida
- Breaking down the shoreline would cause damage during a hurricane

George Getsinger, 202 Hermosa Street, referred to the following:

- Employed as an Ecologist and Fishery Biologist at the National Oceanic Atmospheric Administration, obtained a Masters degree in Environmental Science and Public Policy
- Presented a letter on behalf of the National Marine Fisheries Service¹⁰
- There would be a direct impact from pile driving and other construction related activities such as loss of oyster beds and the salt marsh vegetation

Mr. Dixon stated that even though the letter stated that the proposed dock would have an impact on the environment, the Army Corps issued the permit and had not listened to their comments.

Mr. Getsinger replied that the Army Corp had been required to consult with them; however, they might not have accepted their opinions.

Mr. McGuire questioned whether he was testifying on behalf of the National Marine Fisheries Service.

Mr. Getsinger replied that he had worked for them and he was an expert; however, he was expressing his opinions.

Mr. McGuire questioned whether the National Marine Fishery service had the opportunity to object to the permit.

Mr. Getsinger replied that they had the opportunity to object to the permit; however, they usually would not elevate a project of equal magnitude. He added that there had not been a formal essential fish habitat elevation procedure established.

Sarah Owen, 201 Owens Avenue, referred to the following:

- Obtained a Masters degree in Urban and Regional Planning, reviewed Comprehensive Plans for internal and external consistency, master plans, evaluations, and appraisal reports
- Fish Island Project was not consistent with the city's Comprehensive Plan
- The Comprehensive Plan intended to preserve, promote, and protect public health, safety and comfort and to protect human, environmental, social and economic resources
- The Comprehensive Plan was the constitution for controlling and directing the type and amount of development allowed or encouraged in the community
- Conservation zone one included the most environmentally sensitive areas in the city, which included all wetlands within the states wetlands jurisdictional line and the estuarine environments of the San Sebastian and Matanzas River
- Conservation zone two was the 100 foot buffer between the estuarine and uplands environment
- Conservation zone three contained areas considered to be special flood hazard areas and areas with significant tree canopy
- Conservation coastal management element policy five set forth under the guidelines that structures within

¹⁰ Attached to original minutes

- conservation overlay zones one, two and three would be reviewed
- Only structures and uses determined to be of benefit to the public as a whole and which were determined as having no significant negative impact on natural systems by either individual or cumulative impact shall be permitted
 - The proposed development would not satisfy the criteria; it further stated that the Planning and Zoning Board was authorized to impose limitations on the nature and manner of construction or use as to avoid damage to adjacent salt marshes and the associated vegetative communities, eliminate harm to the animal, fish or shell fish, avoid blocking or disrupting vistas and scenic opportunities and to enhance vistas and scenic opportunities that benefited the public as a whole
 - The Conservation Coastal Element Management objectives 1.4, 1.7 and 1.11 set forth to maintain or improve the quality of the water in the city's estuaries, to protect coastal wetlands, coastal barriers, estuaries, tidal marshes wildlife habitat, marine habitat, and living marine resources
 - The proposed project would create a precedent which would change the opportunity to enjoy the resources, the ability to protect the natural resources and the ability to encourage appropriate public access and use of the coastal areas

Ms. Long questioned whether she had the opportunity to visit the area for comparison purposes.

Ms. Owen replied that she had kayaked in the area several times. She stated that her testimony was based on the Comprehensive Plan.

Patricia M. Lowe de Parets, 67 Marine Street, referred to the following:

- The proposed development was not an environmental disaster
- Opposition to the project was unfair
- People against the project were either malicious or uninformed
- Aquatic creatures enjoy living under boats and docks

Archie Tucker, 221 Argonaut Road, referred to the following:

- Many people in the community were against the proposed dock
- The proposed dock would ruin the scenery

Matthew Anderson, 45 Rohde Avenue, referred to the following:

- Employed by University of St. Augustine for Health Sciences
- The proposed docks would detract from the view of the lounge area at the school
- Students attended the school to enjoy the vista
- Requested denying boat lifts on the dock if the proposed project was built

Ed Slavin P.O. Box 3084, referred to the following:

- Read a list of questions for the applicant¹¹
- Requested disclosure of the total dollar value for the paid experts

Ms. Freeman closed the public hearing.

Following a discussion regarding the shading under the docks, Dr. Mike Harrington, Marine Biologist, Environmental Services, referred to the following:

- There would be a slower growth rate of sportina in the shaded area

¹¹ Attached to original minutes

- Oysters would not be affected by shading, as they did not use light for photosynthesis
- Mud flats would have less light; however, organisms that lived there moved with the tides and storm events

Mr. Valdes referred to various pictures presented by Mr. Nunez, and he questioned whether the lack of marsh could have been caused by the dock.

Dr. Harrington replied that different variables would attribute to lack of marsh under the dock including construction techniques. He explained that one of the channels under the dock appeared to be caused by something mechanical; not by incoming and outgoing tides. He added that it was hard to explain the history from the example.

Mr. McGuire asked for the design criteria regarding the dock.

George Register, Amelia Island Marinas, referred to the following:

- Hurricane Dora was a category three offshore storm; however, it was a category two storm when it hit St. Augustine
- A five hundred year frequency of occurrence for hurricanes indicated that there was a one in five hundredth chance that a hurricane would hit St. Augustine
- Boats coming loose from the dock would not destroy the bridge
- Boats would enter and leave the marina with prop wash toward the west
- CCA was not allowed for decking for marinas in Florida; however, they had not decided what material to use

Ms. Freeman asked for clarification regarding the use of pilings on the dock.

Mr. Register replied that there would be a fixed dock with concrete pilings every fifteen to twenty feet.

Ms. Long asked for clarification regarding the type of materials to be used instead of treated wood.

Mr. Register replied that they would use either concrete or a fiber reinforced polymer. He added that the size of the boats would not create issues of sedimentation and disturbance.

Mr. Dixon asked for clarification regarding the length of the dock crossing the marsh.

Mr. Register replied 1,060-feet long and 10 feet wide.

Mr. Blow questioned whether the present design of the dock would allow shifting it further to the west.¹²

Mr. Register replied that they had already received the permit and they should keep the dock where it was to avoid the risk of interfering with navigation.

Mr. Blow questioned whether there was a stated minimum distance from the edge of the channel to a structure.

Mr. Register replied that it was standardized from the center of the channel. He added that he would not want to get closer to the centerline restriction.

Mr. McGuire summarized the presentation and referred to the following:

- Developers were not evil people
- Consultants and lawyers for the applicant had been paid
- The property had been re-zoned in 1998 allowing a marina
- The developers had eliminated the pump out and refueling station, because they thought it would be a

¹² End of tape 3

problematic portion of the design (fuel spillage in the water); however, it could be added if necessary

- The project had received permits from state and federal agencies
- Mooring pilings would not be used
- The board could consider the category of intensity the dock should be designed to withstand
- The proposed development complied with the Comprehensive Plan
- A portable pump-out facility or a pump-out barge could be used
- Suggested that the board determine what else could be done on the property considering the zoning and the process
- Responsible development and growth was important
- The slips would be built as needed

Frederick Halback, Halback Design Group, provided a summary and referred to the following:

- The experts used by the applicant had been paid
- The case was about ownership, property rights and stewardship
- Requested that the board apply the same standards to the project that they had applied to other dock projects
- The board should consider substantial and competent testimony
- Studies indicate that there was a need for additional boat slips
- The project would have a substantial impact on the property tax base
- Residential and General Office District (RGOA) granted them rights to develop a marina
- The owner paid property taxes on the marsh front
- They would not utilize city property until going into open water
- The project would use 215 density credits; however, they were entitled to 450 units

- Regarding the archeological site, the adjacent property owners had drafted a letter stating that they would go into a deed restriction with the city
- The nearest residential unit was between 2,500 to 3,000 feet away
- City staff said the project would not interfere with the Comprehensive Plan
- PZB had been concerned about vista impact on adjacent neighbors; however, the closest neighbor as approximately 3,000 to 4,000 feet away
- The proposed project had over 3,500 lineal feet frontage and the dock area was 1,000 feet long; therefore, they were covering less than the 50% of the frontage
- Previous vista concerns had been based on views from the historic downtown area; however, the nearest commercial area was half a mile away
- The view going across the bridge was brief because the speed limit was 45 mph and depending on the vehicle, the view would be partially blocked
- State and federal agencies had granted all of the required permits
- The proposed project had approximately four million square feet of marsh front
- The amount of area that the dock covered was two tenths of one percent

Ms. Freeman asked for clarification regarding the request for one hundred boat slips.

Mr. Halback replied that due to market studies, they felt the number was appropriate.

Mr. Blow asked for clarification regarding the memorandum from Rogers Towers dated February 25, 2007.

Mr. McGuire replied that they had reviewed prior PZB decisions to determine the consideration of public benefit issues and how vista was handled.

Ms. Freeman stated that she had questions about the memorandum.

Following a discussion regarding the memorandum, Mr. Blow stated that he wanted it on record that he had challenged the letters' accuracy.

Mr. Dixon stated that the board had looked at several marinas with public boat facilities that also handled repairs and possibly fuel and pump-out. He said they also looked at community docks with two or more boaters sharing a private dock. He stated that the proposed project was not a marina, it was a community dock. He noted that the PZB had discussed the vista in relation to several dock applications. He said a few weeks earlier an 800-foot dock was proposed and the neighborhood complained about the vista and channel and the application had been denied. He added that a 1,500-foot, 92 slip marina on Riberia Street had been denied due to the vista, Comprehensive Plan and environmental affects.

Ms. Horvath pointed out that many of the proposed projects had permits; however, a permitting did not mean the PZB would approve a project or application.

Mr. Dixon stated that the Department of Environmental Protection's position was that the city owned the bottom land. He said that the board approved one hundred to four hundred feet with two-four slips and one community docks as high as 20 slips. He emphasized that the proposed dock would traverse 1,200-feet of pristine wetlands.

Mr. Blow said he believed that waterfront property went to the mean high water mark; however, public record indicated that lots facing the intercoastal waterway did not have title to the marsh.

Ms. Freeman questioned whether Pelican Reef had a sea wall.

Mr. Dixon replied that it had riprap.

Mr. Brown stated that the applicant owned the marshland up to the mean high tide over which the dock would be constructed. He explained that the marsh was controlled by the Thompson family, and they indicated that they would deed restrict the marsh to preclude the construction of docks.

Mr. Blow stated that he wanted to know why they had not bought the marshland and why someone would want the marshland without the upland.

Ms. Freeman stated that the standard of review given to the board was included in the staff report, and the board should focus their discussion on the testimony to make a decision.

Mr. Dixon stated that they had three things to discuss; the impact on environment, vegetation and vista/scenic view.

Mr. Valdes stated that there were 11,000 people in city limits and the proposal represented 215 units. He said they had to balance the needs of the 215 units versus 11,000 residents who had the right to city owned bottom land.

Mr. Dixon stated that because someone lived on or adjacent to water did not mean they had the right to a dock; it was a privilege not a right.

Ms. Freeman questioned the benefits and disadvantages to the public.

Mr. Blow pointed out that there had been testimony that the development would add to the tax base, benefiting the public; however, the legislature discussed exempting homestead property from taxes.

Mr. Dixon stated that he could not see any public benefit to building the marina.

Ms. Freeman stated that the development would open the area to the residents of 215 units; however, it would interrupt the vista and recreational activities such as fishing and kayaking for the community.

Mr. Dixon stated that the proposed project blocked the vista making it detrimental to the public. He added that there was not enough parking for the marina.

Ms. Horvath stated that St. Augustine was a boating community; however, she was not sure if the project was good for the area.

Mr. Blow questioned whether it made sense to move the dock within 500-feet of the bridge. He pointed out that it would address the vista and safety issues because the dock would be within the no-wake zone.

Mr. Dixon stated that they still had to cross the marsh to get to the dock, and that was a concern.

Ms. Freeman pointed out that it would not solve the environmental concerns.

Mr. Dixon stated that vegetation would not grow underneath a ten foot wide dock; moreover, he had not thought the proposal would comply with the Comprehensive Plan.

Mr. Blow stated that there was less marsh to the north; therefore, it would not have as much impact on the marsh.

Following a brief discussion, Mr. Valdes stated that the board had an application to judge but the applicant could modify it if they choose.

Mr. Valdes stated that he was not comfortable with the affect of the proposed project on the environment. He expressed discomfort with most of the items contained in the conservation overlay zone criteria related to the proposal. He added that the proposed project would put one hundred boats in the intercoastal at low tide. He added that the vista was important.

Ms. Long stated that the board was given standards for review and referred to the following:

- The board was authorized to oppose limitations in the nature and manner of construction and/or use to avoid damage to adjacent salt marshes and the vegetative communities
- They were charged with eliminating harm to animals, fish and avoid blocking and disrupting vista and scenic opportunities
- Enhancing the vista and scenic opportunities which were determined to benefit the public as a whole

Ms. Long stated that she had reservations about approving the project as the board had not been given specific information regarding the material to be used for the pilings. She said that receiving a certificate from a state or federal agency did not mean the board had to approve the proposal. She referred to the letter from the Thompson family and stated that the first word stated "if" and that construed a contingency upon what they would do. She said it was not an automatic assertion to giving approval for use of the property. She said that not using wooden piles was positive; however, she was charged with balancing the issues and it was not the time or season for a project of that magnitude.

Ms. Horvath stated that the proposed development was not consistent with the city's Comprehensive Plan. She said the board was charged with protecting environmental resources and if they approved the project, they would not be doing so. She added that there was no public benefit as a whole.

Ms. Freeman expressed concern about the location. She explained that the board had approved a large number of docks; however, they were not on pristine marshland. She said most of the people that testified had personal knowledge of the natural beauty and recreational advantages.

She added that expert witnesses had offered expert opinions on the environmental impact and comprehensive land use, and they agreed that the greater the density, the greater the negative impact.

Mr. Valdes stated that the applicant was willing to meet the definition of a marina by adding a fuel dock and pumping station; however, it would still be a private marina.

Ms. Freeman questioned whether the board should reiterate the testimony.¹³

Mr. Brown replied that the board's job was to apply the testimony to the criteria and decide whether the application met the criteria.

Ms. Freeman suggested that the board go through the criteria and discuss the testimony they had heard for or against the project:

1. Site Specific Conditions - Ms. Long stated that issues presented by owner/applicant, such as materials for the deck was undecided and modifications had been made after the application was presented to the certifying agency; she questioned whether the information had been readdressed
2. The site's relationship to adjacent properties, bodies of water and surrounding conservation zones - Mr. Valdez stated that Mr. Johnson provided testimony that the site was contiguous with high quality wetland in the conservation zone
3. Natural and proposed draining patterns - The board determined that it was not an issue
4. Effect of point and nonpoint discharge in the marine environment - Following a brief discussion with the City Attorney, it was determined that the item referred to the precise source of trash, fuel spills, paint, and

- boat cleaning materials - Ms. Freeman stated that Jose Nunez, Paul Johnson and the applicant had pointed out the effects of wastes
5. Proposed soil stabilization and erosion control methods - Ms. Freeman stated that the item was not relevant
6. Impact on floodplain - The board determined that it was not relevant
7. Impact of development on vegetative and animal communities - Mr. Blow pointed out that three or four experts had testified that there would be significant impact and the applicant said the impact was mitigated in the conservation easement; however, there would be some impact - Ms. Freeman stated that Mr. Nunez testified about the biological communities and Mr. Hamilton testified about the vegetation and plants
8. Potential for contaminated drainage, storage of pollutants and the use of poisonous chemicals and materials -
9. Effect of shade on vegetation and shellfish - Ms. Long stated that Mr. Healey spoke about the cumulative impact and testified about the width of the dock - Ms. Freeman added that Mr. Healey testified about oysters, worms, crabs, erosion, spills and the effect on marsh grass
10. Effect of boat wake and boat traffic on manatees, vegetation, shellfish and wildlife as well as shoreline erosion - Ms. Freeman stated that the matter had been discussed
11. Impact of development on shoreline by linear feet and percent of site - Ms. Freeman stated that the item was favorable for applicant - Mr. Valdes pointed out that a single dock with two slips that took up 50% of lot could not be compared with a dock that was 1,000 feet long with 100 boats slips
12. Impact of development on vistas and scenic opportunities by linear feet, height, mass and percent of site -

¹³ End of tape 4

Ms. Freeman stated that citizens with had first hand knowledge of the vista had testified that the development would have a negative impact - Mr. Blow stated that the vista from the bridge should be weighed heavily, because the bridge was heavily traveled

13. Existing amount of native plants and proposed retention and use of native plants for landscape and open space purposes – Ms. Freeman stated that it was not an issue
14. Impact of development on plant and animal habitat and potential loss in acres and percent of site - Ms. Freeman stated that the matter had already been discussed
15. Impact of development on water quality - Ms. Freeman stated that Mr. Nunez had testified about the negative impact on water quality
16. Impact of development on shellfish and commercial sport fish and waterfowl - Ms. Freeman stated that they had heard testimony from many citizens that used the water in the proposed location - Ms. Long stated that Mr. Hamilton had discussed the commercial aspect - Mr. Blow stated that Mr. Hamilton had discussed the negative impact on the oyster and shrimp industry - Mr. Dixon stated that there were safety concerns regarding navigation around the marina
17. Specific conditions applicable to docks - Ms. Freeman stated that the topic had been discussed

MOTION

Mr. Valdes MOVED to deny application 2006-0933 for the construction of a marina at South Plantation Island Drive for the reasons stated in the discussion. The motion was SECONDED by Ms. Horvath.

Following a brief discussion regarding modifications to the application, Ms.

Freeman stated that it was not the board's position to redesign the application.

VOTE ON MOTION

AYES: Valdes, Horvath, Blow, Dixon, Long, Freeman

NAYES: None

MOTION APPROVED UNANIMOUSLY

3. Adjournment

There being no further business, the meeting was adjourned at 11:50 p.m.¹⁴

Leanna S. A Freeman, Chairperson

¹⁴ Transcribed by Susan Goins