

CITY OF ST. AUGUSTINE

Planning and Zoning Board Meeting March 2, 2010

The Planning and Zoning Board met in a formal session Tuesday, March 2, 2010 at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Carl Blow, Chairperson and the following were present:

1. Roll Call: Carl Blow, Chairperson
Grant Misterly
Deltra Long
James McCune
David Toner
John Valdes

City Staff: Mark Knight, Director, Planning & Building Department
David Birchim, Planning Manager
Carlos Mendoza, Assistant City Attorney
Elizabeth Carter, Temporary Recording Secretary

2. Approval of Minutes

The minutes of the February 2, 2010 Regular PZB meeting were approved as presented.

3. Variance

3. (a) 2010 - 0006 - Bruce Moss - Owner/Applicant **606 North Ponce de Leon Boulevard**¹

To modify the commercial landscaping requirements for a used car sales business.

Mr. Birchim delivered the staff report and said based on section 28-9, and without the support of evidence to the contrary, staff finds that the board could APPROVE a variance to move the landscaping on the north side of 606 North Ponce de Leon Boulevard (at the intersection of Orange Street and North Ponce de Leon Boulevard) from the required five-foot perimeter landscaping bed to another area on the

property to avoid intersection visibility conflicts.

Bruce Moss, owner/applicant, discussed his application and the impact certain landscaping recommendations had on his business. He advised that the lot was irregular and narrow and elevated approximately two feet above the intersection of North Ponce de Leon Boulevard and Orange Street, and he was concerned that the recommended plants across the front lot would block visibility. He was also concerned for the safety of motorists as well as his liability. He agreed with the variance on the north side of the property, but he wanted a variance for the front hedge row as well. He expressed additional concern as he believed the hedge row impeded his ability to manipulate his vehicles.

Mr. Misterly asked if there were other landscape options available that addressed the applicant's concerns.

Mr. Birchim said the report had suggested the landscaping be moved from the intersection to other parts of the property

¹ Staff report attached to original minutes

but indicated that the applicant had requested container plants. He further advised that containers would not meet minimum landscaping requirements. He agreed visibility was an issue at the intersection, and he had attempted a compromise with the applicant for his landscaping and safety concerns.

Mr. Misterly questioned the benefits of planting in the ground versus containers.

Mr. Birchim said the board could approve container landscaping if they chose to, but typically it was not done, and he referred to the planter photos in the agenda. He also indicated that planters in the ground were acceptable to meet the landscaping requirements as long as they were within five-feet of the perimeter of the property; however, pots placed on the property required approval.

Exparte Communication:

Mr. Blow, Mr. Misterly, Mr. Toner and Ms. Long indicated that they had driven by the property and were familiar with the location.

Mr. Valdes acknowledged the applicant's desire to utilize as much space as possible for his vehicles and sympathized that the site was not appealing; however, he felt proper landscaping would improve the property. He suggested that the applicant remove the asphalt and concrete from the alcoves created by the walls and put plants there, away from the footings. He believed that would make an appealing backdrop for the lot, and he further suggested the use of climbing plants to make the walls less conspicuous.

Mr. Moss referred to the tree line behind the wall to the back of the property, as he felt the back boundary was adequate; however, he was unsure who owned the trees since

he had not done a survey when he bought the property.

Mr. Valdes addressed the open ground behind the structure and suggested the area could be used for planted materials. He also acknowledged the dangers of the intersection and agreed that steps should be taken to prevent it from being blocked by plants or vehicles.

Mr. Moss agreed with the safety concerns and promised he would do everything he could to maintain the intersection visibility.

Mr. Blow asked how long the station had been vacant and what the applicant's plans were for the canopy and sign.

Mr. Moss was not sure how long the structure had been vacant, but indicated that he intended to remove the canopy, sign and underground storage tanks.

Mr. McCune stated that there had been nothing in the building for five years.

Public Hearing opened; however, there was no response.

Mr. Blow said 14 certified notices had been mailed and one was returned in favor, and two were opposed with comments from John D. Bailey, Jr., who opposed granting any modification or variance that was not based on a specific landscape plan and reviewed and approved by staff and the board.

Ms. Long indicated the application probably met the variance criteria; however, she felt the board had a responsibility to balance what was best for the applicant with what was best for the City. She concluded that she was not sure she agreed with the location for the business. She felt Mr. Moss was aware of the tightness of the area and related safety hazards, as well as the

possibility he might not get everything he needed to put his car lot on the property. She further questioned whether the business would be considered presentable on an entry corridor to the City.

Mr. Moss responded that he had been a car dealer for 34 years, and it was always a challenge to find suitable locations for car lots. He pointed out that the lot was zoned for automobile sales, and he clarified that he purchased the property because of the affordability.

Mr. McCune indicated that he knew the property well and agreed the location was poor; however, it was not the board's authority to determine what could be put there.

Mr. Knight confirmed the use of a car lot on the property, as long as the applicant complied with the landscaping requirements.

Mr. McCune had no problem with the board granting a variance; however, not until the applicant submitted detail landscaping plans. He invited Mr. Moss to come back to the next board meeting with his plans.

Mr. Blow agreed that a plan was needed, and he was pleased the applicant was in the process of removing the underground storage tanks, canopy and sign. He suggested that considering it would be a while before cars were moved on the lot that it would be an excellent opportunity to meet with a landscape architect and develop a plan. He suggested tabling the item.

Mr. Valdes said he had no problem granting a variance against landscaping at the intersection, but he wanted shrubs and trees to remain on the property. He agreed the applicant should return with a landscape plan.

Mr. Toner agreed that the applicant should return with an appropriate proposal; however, he was concerned beyond the landscaping issues with vehicle placement and view obstruction.

Mr. Misterly recommended a well thought out plan including a proposal for customer parking.

MOTION

Mr. Blow MOVED to TABLE application F2010-0006 until the April 6, 2010 board meeting. The motion was SECONDED by Mr. Valdes

VOTE ON MOTION:

AYES: Blow, Valdes, Long, McCune, Misterly, Toner

NAYES: None

MOTION CARRIED UNANIMOUSLY

4. Conservation Zone Development

4. (a) 2010-0007 – John Valdes – Applicant
John Valdes and Associates, Inc.
Michael and Kathleen Gurski – Owners
231 Alerto Street²

To remove four trees for construction of a single family residence.

Mr. Birchim delivered the staff report and said based on section 11-19 and without the support of evidence to the contrary, staff found that the Board could APPROVE tree removal at 231 Alerto Street with the following conditions:

- 1.) The cedar tree will be replaced with two Southern Red Cedar Trees (as close to 10 feet in height and two-inch caliper as possible) somewhere on the property and the three Oak Trees

² Staff report attached to original minutes

would be replaced with three shade trees (10 feet in height, two-inch caliper) somewhere on the property

John Valdes recused himself due to a conflict of interest.

C.C. Reigle, owner's representative, explained the owner's desire to locate a new driveway on the back of the property but to do so a small plot of trees required removal. She explained the intention was to maximize the view, allow a swimming pool and minimize obstruction to the neighbors.

Mr. Blow clarified that the swimming pool would be on the east side of the property and the entrance to the garage would be from the west side of the house.

Mr. Misterly asked if access would be from Alerto Street.

Ms. Reigle confirmed the driveway would go around the side of the house with parking in the back to avoid blocking the view of the front of the house. She also indicated that the owner would set the house back on the lot to ensure that neighboring properties' vistas were not compromised.

Mr. Misterly asked if a landscape plan had been developed to show where the new trees would be placed, and he questioned the ability to plant trees along a drainage easement.

Ms. Reigle explained that the trees would be placed along the easement across the back on the west and north sides of the property.

Mr. Knight added that the easement was not a formal drainage easement.

Ms. Long asked if the owner would have access to a small portion of lot 21 as referenced on the survey.

Ms. Reigle confirmed that the lot had been replatted before it was sold and the referenced piece was shown on the survey. She also indicated that the proposed trees for removal were in one location, but the replacement trees would be spread along the back and side of the property creating a more beautiful canopy.

Mr. Blow clarified that the replacement trees would consist of two Southern Cedar Trees with approximately a two-inch caliper, three shade trees 10 feet high with a two-inch caliper, and there appeared to be plenty of room for the trees.

Exparte Communication:

Mr. Blow advised that he had a brief conversation with Mr. Valdes, and he drove by the site.

Mr. Blow said 11 certified notices had been mailed and one was returned in favor from Jacqueline F. Priestler, who commented that she wanted to see underground power to the new residence and proper drainage away from her lot.

Public Hearing opened.

George Getsinger, resident, provided another notice from neighbor, David Johnson, who was opposed to the application, as he wanted the surrounding area to remain natural, plus the trees created privacy to the other occupied properties. He recommended that the applicant build around the trees.

Mr. Getsinger indicated that he was opposed to the application as well and cited three points to his opposition:

- Tree vista: The trees provided a vista and buffer between the residences

- Drainage issue: The trees were at a low spot on the lot and the proposal would increase flooding to the back of the proposed structure
- Wildlife utilization of trees: Indicated that many birds used the trees including wood storks

Mr. Getsinger included several photographs in support of these points.

Ms. Long asked if his concern over tree removal would be satisfied by the replacement trees and if he had reviewed the applicant's plan related to drainage concerns.

Mr. Getsinger said the replacement trees might satisfy wildlife utilization depending on the spacing and location to the residence; however, removing the proposed trees would still impact the vista. He further stated that he had not seen a copy of the plan, and he was provided a copy.

Mr. Knight responded to Mr. Blow's request for clarification on drainage. He stated that there were two issues:

- A property owner could not disburse water onto someone else's property
- If a pathway of water ran through a property, the owner must account for it

Mr. Knight explained that the easement, or "non-fill area" would be left unfilled to provide drainage.

Mr. Getsinger clarified that the non-fill area was along the back and questioned whether there were plans to excavate to increase capacity.

Mr. Knight indicated that excavating would be considered by the Building Official at the

time of construction, and if there were issues with fill, the Building Official had the authority to request an engineer to develop a grating plan, but if there were no issues, limited fill would be permitted.

Mr. Blow confirmed that drainage issues were reviewed with every permit and engineered drainage plans were developed as needed. He further confirmed that the City had a mechanism to ensure new structures would not create drainage issues.

Mr. Getsinger requested a copy of the engineering plans; asked if the plans considered the volume of water that could drain from the surrounding properties; questioned how the plans were developed and who was responsible for handling the matter.

Mr. Knight stated that he was unsure whether engineered drainage plans had been prepared, and he explained that the Code requirements were based on the site conditions and observed by the Building Official at permitting.

Mr. Getsinger presented additional materials to support his claim that storm water retention had been an issue on the lots for many years.

Mr. Blow pointed out that the issue before the board was to approve or deny an application for tree removal and replacement.

Mr. Getsinger wished to pursue his investigation of the drainage issues, and he was advised by Mr. Knight that most everything was public record, which he could review at the Planning and Building Department.

Public Hearing closed.

Ms. Reigle addressed Mr. Getsinger's two concerns over the tree removal:

- Vista: The two properties were separated by an eight-foot fence but parking slabs, cars and the garage doors would not be visible to him; the only view that would be removed would be one canopy of trees, which would be replaced by at least five new trees with separate canopies
- Wildlife Utilization: The replacement of the trees in combination with the abundance of existing trees in the area should satisfy the wildlife utilization concerns, as the birds would use to the new trees

MOTION

Mr. McCune MOVED to APPROVE application F2010-0007 to remove the trees as submitted per the ordinance. The motion was SECONDED by Mr. Toner.

VOTE ON MOTION:

AYES: McCune, Toner, Long, Misterly, Blow

NAYES: None

MOTION CARRIED UNANIMOUSLY

5. Other Business

5. (a) Discussion Regarding Tethered Balloons

Mr Knight presented draft language for a proposed ordinance establishing height restrictions on amusement park rides.

Two issues on the language were open for input and discussion:

- An acceptable time-frame

- Maximum height of the rides – 35-foot versus 55-foot

Mr. Valdes expressed concern about impact to the carnival at the mission grounds considering some of the rides were generally over 35 feet.

Mr. Misterly confirmed that if the carnival operated for less than 30 days in a calendar year, there would be no issue with the height of the rides.

Mr. Knight said the ordinance would regulate the assembly of temporary structures for lift rides (such as a bungee cord ride) that could be taken down at the end of the day and re-assembled the next morning. He explained that the intention was to regulate and prevent those types of structures.

Mr. Valdes and Mr. Misterly believed the language was good, as it addressed the board's intention to regulate.

Mr. McCune questioned the 30-day timeframe, which Mr. Knight explained was determined by the type of events typically scheduled, but the timeframe provided flexibility.

Mr. Blow advised that a citizen wanted to speak on the issue.

Vida Szatkowski addressed the board and said he would resubmit the application for his balloon ride by March 12, 2010 and the new application would further define the issues raised over his attraction and previous application.

Ms. Long clarified the attraction was being proposed for the same location as previously submitted.

Mr. McCune confirmed the application had been presented to the City Commission on

appeal and was denied, and he questioned if the new application was going to be the same.

Mr. Knight indicated that Mr. Szatkowski had approached him about setting up a seasonal use attraction, and he had explained to him that it was still an application for use by exception, and if the board considered it to be the same application as previously submitted, they would not have to consider it.

Mr. Szatkowski stated that he was still waiting for more evidence and testimony to attach to the application, and then it would be filed.

Mr. Valdes confirmed that seasonal use applications must be re-applied for annually, and each application was only good for 90 days.

Mr. Misterly wanted to move forward with the ordinance but requested a change to the language in the last sentence to read "For the purpose of this section, exceeding the height at any time during a 24 hour period constituted a day".

MOTION

Mr. Misterly MOVED to RECOMMEND TRANSMITTAL of ORDINANCE to the City Commission with a change of language in the last sentence to read a 24-hour period constitutes a day. The motion was SECONDED by Mr. Toner.

VOTE ON MOTION:

AYES: Misterly, Toner, Long, McCune, Valdes, Blow

NAYES: None

MOTION CARRIED UNANIMOUSLY

Mr. Valdes confirmed that if Mr. Szatkowski submitted his application by March 12,

2010, it would not be considered under the aforementioned ordinance.

Mr. Misterly further clarified that his motion would not exclude Mr. Szatkowski's application, as he wanted him to have his opportunity to be heard again.

NON AGENDA ITEM:

Mr. Blow acknowledged the resignation of Bill Leary as the Vice-Chairman of the Board and solicited nominations for a new Vice-Chairman.

MOTION

Ms. Long MOVED to NOMINATE Grant Misterly to serve as Vice-Chairperson of the Planning and Zoning Board. Mr. Toner seconded the nomination and the motion was APPROVED by UNANIMOUS VOICE VOTE.

6. Adjournment

Having no further business, Mr. Blow adjourned the meeting at 3:30 P.M.³

Carl Blow, Chairperson

³ Transcribed by Elizabeth Carter