

CITY OF ST. AUGUSTINE

Planning and Zoning Board Meeting
April 6, 2010

The Planning and Zoning Board met in a formal session Tuesday, April 6, 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, Vice-Chair
Gerry Dixon
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

Mr. Blow acknowledged the election of Gerald (Gerry) Dixon to the board, and it was confirmed by Mr. Mendoza that Mr. Dixon had been sworn in by the City Attorney, Ron Brown.

2. Approval of Minutes

The minutes of the March 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

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

Mr. Birchim stated that the item had been WITHDRAWN.

4. Use by Exception

4. (a) 2010-0014 - Chris Forrest - Owner/Applicant 171 Riberia Street¹

To allow a professional office as a permissible use by exception.

Mr. Birchim delivered the staff report and said that based on a review of Section 28-29 and without the support of evidence to the contrary, staff found that the Board could APPROVE a use by exception to allow a professional office and a VARIANCE to reduce the required parking maneuverability at 171 Riberia Street.

Exparte Communication:

Ms. Long and Mr. Toner indicated that they had passed and visited the site.

Chris Forrest, Owner/Applicant, indicated that he had owned the home for approximate four-five years and had been unable to sell it for many reasons such as:

¹ Staff report attached to original minutes

- Poor economy
- Cancelled plans for a marina
- Bridge of Lions construction and debris

Mr. Forrest further stated that the situation had caused him a financial burden, and currently he wished to convert the home to a small office with three employees to help alleviate the monetary hardship.

Public hearing opened; however, there was no response.

Mr. Blow acknowledged that the west side of Riberia Street was zoned industrial and the property in question was currently zoned RG-1, but he felt an office would be a nice transition.

Mr. Birchim concurred it would be a low intensity office and generate no more traffic than a single family home.

Mr. Valdes confirmed with Mr. Forrest that there was an eight-foot high fence along the back of the property.

Ms. Long clarified that the neighbors were aware of the Owner's intended use of the property and were supportive of the initiative.

Mr. Blow said 19 certified notices had been mailed and two were returned in favor and one opposed from James and Mary Hall who commented that the property backed up to a residential property, and they did not want a commercial encroachment in their area, and they further requested a Comprehensive Plan for the Lincolnville/Riberia Street corridor.

Mr. Misterly clarified that the primary use for the office would be administrative and clients going to the home would be kept to a minimum.

MOTION

Mr. Valdes MOVED to APPROVE application F2010-0014 as submitted. The motion was SECONDED by Mr. Misterly.

VOTE ON MOTION:

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

NAYES:

MOTION CARRIED UNANIMOUSLY

**4. (b) 2010-0024 – Travis Baar – Applicant
Dennis and Sharon Schmidt – Owners
199 W. King Street²**

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

Mr. Birchim delivered the staff report and said that based on a review of Section 28-29 and without the support of evidence to the contrary, staff found the Board could APPROVE a use by exception to allow a tattoo studio at 199 W. King Street.

Mr. Blow said 13 certified notices had been mailed and one was returned in favor with the comment that there was no off-street parking and two were opposed without comments.

Travis Baar, Applicant, stated that he had not bought the property but would rent it, and he intended to open under a new name.

Mr. Misterly confirmed that the location had previously been a tattoo parlor and there had been no complaints.

Mr. Blow clarified that the application would run with the applicant and not the land.

Public hearing opened; however, there was no response.

² Staff report attached to original minutes

Mr. Dixon said he believed parking issues for the area were being addressed, and the applicant also confirmed that the owner of the building had rented parking from an adjacent business.

Mr. Misterly inquired, and Mr. Birchim confirmed, that the applicant met the parking requirements for the business, and work was underway by the City to provide parking relief for merchants in the area.

MOTION

Mr. Misterly MOVED to APPROVE application F2010-0024 as submitted. The motion was SECONDED by Ms. Long.

VOTE ON MOTION:

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

NAYES:

MOTION CARRIED UNANIMOUSLY

**4. (c) 2010-0027 – Pawel Szatkowski – Applicant
Vista Hotel IV, Inc. – Owners
156 & 158 Cunningham Avenue³
PID#189880 0000**

To allow a passenger balloon as a permissible use by exception for a 90-day time period.

Mr. Birchim delivered the staff report and said that based on a review of section 28-2 and 28-29, staff found that the Board could:

- APPROVE a use by exception to allow a passenger balloon attraction at the location if the use was a positive addition to the neighborhood and community as an “Exception” was defined in section 28-2
- DENY a use by exception to allow a passenger balloon attraction at the location if the use was not a positive

³ Staff report attached to original minutes

addition to the neighborhood or community as an “Exception” was defined in section 28-2

Mr. Blow suggested that they consider whether to waive the one year requirement and hear the application again.

Mr. Birchim confirmed that would be the first step and reminded the board of the proposed ordinance that had been developed in response to Applicant’s original application. He further indicated that while the ordinance had not yet passed, the applicant anticipated that it would, which prompted his request for consideration as a 90-day attraction.

Mr. Misterly questioned the effect zoning changes would have on the attraction after the 90-day period expired. Specifically, whether he would be allowed to appear before the board for another consideration.

Mr. Birchim clarified that, if approved, the applicant could reapply to the board at the end of the 90-day period, but the application would have to comply with the new guidelines. He further pointed out that considering the ordinance had not passed, there was no definition of the 90-day time period; therefore, it would be up to the board to define the 90-day terms.

Ms. Long asked staff when the ordinance was scheduled to go before the Commission and was advised that the second reading would occur at the next Commission meeting.

Mr. Mendoza cautioned the board to base their decision on existing guidelines without considering the pending ordinance. He further suggested that, should they approve the application, they define the 90-day time period.

Mr. Misterly confirmed there was nothing materially different about the application other than the 90-day discussion point and

whether it would be acceptable for a 90-day exception.

Mr. Valdes agreed that the presentation would be the same as the previous one, which had been declined; therefore, consideration was to determine whether to pass a 90-day limitation on the application.

Mr. Dixon asked for clarification whether the ordinance would provide a one time, 90-day perpetual approval or a one time only 90-day approval valid for one year.

Mr. Birchim indicated that since the ordinance had not passed, any advice on the provisions of the ordinance would be speculation, as the ordinance was subject to changes and/or revisions. He did, however, explain that the proposed legislation was an attempt to produce laws in the City's Code that more clearly defined the parameters associated with applications such as Mr. Szatkowski's. He said it was not an attempt to make the application process easier or more difficult.

Mr. Valdes also pointed out that the initial proposal that went to the Commission originated from PZB and the details of the proposal were fairly represented in the minutes.

Mr. Toner declined rehearing the applicant, as nothing had changed since the last presentation.

Mr. Misterly acknowledged that all of the information submitted in the application was the same, except he believed it would be more on a "trial basis". Based on that, he was willing to hear the applicant's presentation but without any technical detail.

MOTION

Mr. Misterly MOVED to WAIVE the one year requirement and hear application F2010-0027 as submitted. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION:

AYES: Misterly, Blow, Dixon, Long

NAYES: Toner, Valdes

MOTION CARRIED 4/2⁴

Exparte Communication:

Mr. Misterly stated that he had casually met the applicant a few times who indicated that he would bring the matter back to the board.

Mr. Szatkowski expressed appreciation and followed with a brief overview of what to expect on one of his balloon rides.

Mr. Misterly confirmed that the technical details of the application had not changed, and the issue to be discussed would be the 90 day proposal.

Mr. Szatkowski clarified that his application was for 90 consecutive days with an additional 10 days for an incimate weather allowance.

Mr. Blow clarified that the applicant's business plan was for 90 days, and if successful another application would be submitted.

Mr. Szatkowski advised that he did not want to think too far into the future and really only wanted the 90 day opportunity. Additionally, he stated that depending on proposed ordinances and potential negative public opinion, he might not re-apply after 90 days. He further stated that even if the attraction was successful, the location was not the most desirable, and he would consider alternatives to US-1.

Mr. Blow inquired as to the cost and length of the ride, the number of passengers the balloon would hold and the hours of operation.

⁴ Mr. McCune and Mr. Knight arrived at approximately 2:30 pm

Mr. Szatkowski replied that the balloon would hold up to five passengers depending on weather conditions and last approximately 10-15 minutes. He also stated that, based on wind conditions, it was his intention to have the ride operate from 7:00 a.m. to noon and re-open around 4:00 p.m. and run until approximately 10:00 p.m.

Public Hearing opened.

Gina Burrell advised that she had been in a hot air balloon and stated it was enjoyable. She questioned the mechanics of applicant's hot air balloon and confirmed that the balloon would remain tethered to a cable. She then indicated that she felt the balloon would be a distraction to traffic, and the idea was more of an amusement park ride.

Public Hearing closed.

Mr. Blow indicated that five certified notices had been mailed and one was returned in favor from Mr. Patel, who was the land owner.

Mr. Dixon pointed out the various tourist attractions and activities that had been proposed in the past, such as Duck (amphibious vehicles) and helicopter tours. He also believed the owner wished to build a hotel on the site, thus the balloon ride would be a temporary attraction. He concluded that the decision to approve applicant's request was difficult.

Mr. Valdes indicated that concerns from the previous application included the potential distraction and the overall height of the attraction. He said the fundamental question was what types of tourist attractions did the City want to promote. He liked the idea of a balloon attraction, but had reservations about the location and the direction it pointed tourism. He agreed that it was a difficult decision.

Mr. Szatkowski advised that he had considered other locations; however, considering the pending ordinance he based his selection on immediate availability. He said other properties considered were:

- Luhrs Marina
- Empty lot at intersection of US-1 and SR-16 (Avenida Inn)
- 301 San Marco Avenue

Mr. Blow expressed concern for the success of the ride, the applicant's investment and general public opinion. He said considering the potential for negative public opinion it would be difficult to approve permanently, plus he would not want the applicant to make a significant investment in a project without a future.

Mr. Mendoza said that if approved the applicant would be met with a plethora of input from the community, which would probably drive the board's decision. He reiterated that a clear, concise definition of 90 days should be established to include extra days for inclement weather as well as a mechanism to determine what constituted an acceptable exception day.

Ms. Long suggested some flexibility within the 90 days for setting up and breaking down the attraction.

Mr. Knight suggested adding language indicating "no longer than 10 days for set up and no longer than 10 days for weather, totaling 110 days".

Mr. Misterly suggested that the attraction would not fit the feel of the City or meet the criteria for an exception, and he noted that the only difference with the new application was the 90-day trial period.

Mr. Dixon remarked that the proposed location for the attraction would be an economic stimulus to some of the businesses in the area; however, he did not

believe it was a suitable location for a permanent attraction.

Mr. Toner felt the balloon attraction was not necessarily a bad idea but expressed concern over the proposed location, and he encouraged the applicant to look for other locations.

Mr. McCune agreed that the location was terrible, and he could not recommend the attraction be set up there for one day.

The board continued a brief discussion on alternative locations and venues for the applicant's attraction that would be better suited to his needs.

MOTION

Mr. McCune MOVED to DENY application F2010-0027 as submitted. The motion was SECONDED by Mr. Toner.

VOTE ON MOTION:

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

NAYES:

MOTION CARRIED UNANIMOUSLY

5. Preliminary Subdivision Platt Approval/Conservation Zone Development

**5. (a) 2010-0026 – Duane Hull, Putnam Bank – Applicant
Putnam State Bank – Owners
Hildreth Drive (PID # 151150 0000)**

To subdivide the property into 12 single family residential lots and to remove trees in conjunction with site development.

Item tabled until the May 4, 2010 board meeting.

6. Rezoning/Land Use Amendment

6. (a) 2010-0017 – William Barber – Applicant

**William and Janice Barber – Owners
59 West Avenue**

To amend the zoning from Planned Unit Development (River's Edge PUD) to Commercial Medium two (CM-2) and to amend the land use from Residential Medium Density/Mixed Use to Commercial Medium Intensity.

Mr. Birchim delivered the staff report and said that the rezoning and land use amendment process was a legislative act of the City Commission upon a recommendation by the Planning and Zoning Board. Staff did not make recommendations concerning the rezoning of land.

Mr. Dixon clarified that the application was site specific, and the property owners had to make individual requests.

Mr. Blow indicated that two other property owners had already been before the board for a PUD modification but not a land use amendment.

Mr. Birchim acknowledged the fact and added that the location was the old Fran and Tam's restaurant. He explained that location had gone through a PUD amendment to re-establish the restaurant and a PUD amendment to allow a law office. He further explained that both uses were consistent with the residential medium density land use; therefore, it was not necessary to modify the land use, thus the PUD amendment was the only requirement. He concluded that the applicant wished to modify the land use, and therefore a land use amendment must be filed.

Paul Barber, son of applicant, indicated that his father had been in business at the location for nearly 20 years and was affected by the unsuccessful land deal. It was his desire to have the property rezoned so he could resume his business.

Public hearing opened; however, there was no response.

Mr. Blow indicated that seven certified notices were mailed and one was returned in favor with no comments.

MOTION

Mr. Valdes MOVED to APPROVE application F2010-0017 as submitted. The motion was SECONDED by Mr. Toner.

Mr. Knight clarified that the motion only served as a recommendation to the City Commission and was not a final decision.

Mr. Valdes modified his motion to say **“MOVED to RECOMMEND the City Commission APPROVE the application”**.

Mr. Blow reminded Mr. Barber that he would have to go before the Commission for approval.

Following discussion related to the expiration of the River’s Edge PUD, Mr. Birchim explained that normally an expired PUD would revert to the previous zoning; however, CM-2 zoning could not be overlaid with a residential land use.

Mr. Toner suggested, that language be added to future PUDs indicating that an expired PUD revert to the original zoning.

Mr. Knight advised that language already existed and was in the PUD; however, a land use plan amendment required State approval, the City could not automatically revert a land use amendment.

VOTE ON MOTION:

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

NAYES:

MOTION CARRIED UNANIMOUSLY

7. Amendment to Planned Unit Development

7. (a) 2010-0028 – Whispering Creek LLC – Owner/Applicant Lewis Speedway (PID # 102820 0008)

To amend the Whispering Creek PUD to allow development of Independent Living Facilities and Assisted Living Facilities.

Mr. Birchim delivered the staff report and said the amendment to a Planned Unit Development involved a zoning change. He said the PUD amendment process was a legislative act of the City Commission upon a recommendation by the Planning and Zoning Board, as staff did not make recommendations concerning changes to zoning.

Mr. Misterly questioned whether it was the same applicant that had previously gone before the board for an affordable housing project.

Mr. Birchim confirmed it was the same property but a different developer and a new project for an assisted living facility. He noted that the site was currently clear for the residential component of the Planned Unit Development (PUD), and most of the site preparation had been completed.

Michael Pullium, Owner’s Representative, brought the development team and proposed buyer to answer questions. He outlined highlights of the new plan as follows:

- Smaller site plan
- Less impervious area
- Less building area
- Traffic reduction based on new use
- Conservation amenities added

Mr. Pullium stated that the original plans and agreements with the city would remain in place including:

- Park area
- Preservation of conservation areas
- Preservation of wetlands areas

Mr. Pullium said additional preparation had been completed such as:

- Fees paid
- Water and sewer extended
- Preliminary grating and drainage plans in place

Overall, Mr. Pullium stated that the modifications related to engineering were minimal, and the most significant change was the use as a senior care facility.

David Portwood, Architect – Charlan-Brock, presented the design elements and aspects of the proposed facility.

Mr. Blow confirmed the maximum height of the building would be 43 feet to the top of the Cupola and clarified the definition of affordable housing, and he asked if they were going to use the guidelines established by the St. Johns County Housing Authority.

Mr. Portwood indicated that it was their intent to follow the established County guidelines, and he added that they could add additional supporting language to further define affordable housing.

Beau Charney, Senior Care Group, presented his company's credentials, history and philosophy in developing senior care living facilities, and he pointed out that their market studies showed St. Augustine had a shortage of senior and assisted living facilities. He further indicated that his company had studied the site, and they had modified their plans to meet the demands of the area.

Public hearing opened; however, there was no response.

Mr. Misterly said there was a high school athletic field bordering the proposed site and expressed concern that field events could be a distraction to residents.

Mr. Charney disagreed that the athletic field close to the facility would pose concerns.

Mr. Blow questioned the parking calculations, as he wanted to ensure reasonable parking accommodations.

Mr. Blow indicated that 26 certified notices were mailed and five were received in favor with one comment stating that the project was a good idea and hoped for great landscaping, and one was opposed with no comments.

Mr. Blow questioned the relationship between the partially completed strip mall and clock tower (a commercial property) and the project.

Mr. Pullium indicated that the bank currently owned and assumed responsibility of the property and completion of the project, which included a 10,000 square foot building associated with the senior living facility.

Mr. Charney indicated that the bank had also approached them about purchasing or leasing the property to use as a medical facility.

A brief discussion followed on elderly care, needs and their comfort as well as the affordability of such care.

MOTION

Mr. Valdes MOVED to APPROVE application F2010-0028 as submitted. The motion was SECONDED by Mr. Blow.

Mr. Knight clarified that the motion would be to recommend the City Commission approve the application.

VOTE ON MOTION:

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

NAYES:

MOTION CARRIED UNAMIOUSLY

8. Other Business

8. (a) Consideration of Ordinance 2010-10 (Amending the Historic Preservation Policy 1.4 of the Comprehensive Plan)

Mr. Knight explained the policy in the Comprehensive Plan that adopted the architectural guidelines for historic preservation. Specifically he addressed the clause in the policy indicating that all new construction in HP-1, HP-2 and HP-3 must be colonial style. He further explained that Ordinance 2010-10 changed the policy from a specific adoption for architectural guidelines to general architectural guidelines and allowed changes to the guidelines at a local level without challenges from the State. He clarified that 2010-10 would need to be presented to the State for review and approval. He explained that ordinance 2010-11 was a local ordinance contingent upon the State approving 2010-10, which addressed other architectural styles in the HP-1 zoning district and allowed alternative styles to continue.

Mr. Knight pointed out that while both ordinances were open for discussion, 2010-10 should be acted upon first. He pointed out that by general consensus the City Commission had agreed to alternative architectural styles in HP-1.

Mr. Dixon expressed concern over changes to the architectural guidelines as related to HP-2 and HP-3.

Discussion continued on the current architectural guidelines and proposed ordinance 2010-10 and 2010-11 for further clarification, and it was decided that HARB should weigh in on the decision prior to PZB's recommendation.

MOTION

Ms. Long MOVED to TABLE consideration of Ordinance 2010-10 (Amending the Historic Preservation Policy 1.4 of the Comprehensive Plan) until the May 4, 2010 board meeting to allow HARB to make recommendations. The motion was SECONDED by Mr. Dixon.

VOTE ON MOTION:

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

NAYES:

MOTION CARRIED UNAMIOUSLY

8. (b) Consideration of Ordinance 2010-11 (Amending the Architectural Standards for zoning district HP-1, redefining the method for amending the AGHP)

Discussed as part of item 8. (a) and referred to HARB with 2010-10 for recommendation as well.

Car Lot Size

Mr. Valdes suggested proposing a minimum size on property used for car dealerships.

After a brief discussion it was recommended that Staff research other cities to determine appropriate lot sizes for car dealerships.

Mr. Misterly asked if the board wanted to update the Code to define and clarify how height was measured on a building.

Following a brief discussion, it was determined that in order to define how height was measured the Comprehensive Plan would need to be amended to clarify the definition, which would eliminate flexibility in construction projects.

6. Adjournment

Having no further business, Mr. Blow adjourned the meeting at 4:34 P.M.⁵

Carl Blow, Chairperson

⁵ Transcribed by Elizabeth Carter