

## CITY OF ST. AUGUSTINE

### Planning and Zoning Board Meeting April 1, 2008

The Planning and Zoning Board Meeting met in a formal session Tuesday, April 1, 2008 at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Deltra Long, Chairperson and the following were present.

#### **Roll Call:**

Deltra Long, Chairperson  
John Valdes, Vice Chairperson  
Carl Blow  
Leanna S. A. Freeman  
Grant Misterly  
Bill Leary

Absent: Gerald Dixon (Excused)

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

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#### **2. Approval of Minutes**

The minutes of the Planning and Zoning Board meeting of January 9, 2008 were approved as presented.

The following changes were noted for the minutes of February 5, 2008:

- Page 18 stated that the motion was denied unanimously; however, Mr. Misterly voted naye
- Page 15, Ms. Freeman stated that it was unfortunate that neither side was allowed testimony; however, the minutes stated that it was unfortunate that they allowed more testimony from both sides
- Page 17 right column, third bullet under Ms. Long's comments stated that people enjoy walking in St. Augustine "he" should read "she"
- Page 27 Ms. Long stated that she did not recall not asking for ex-parte

communications under item 5.C. 2008-0005 regarding 273 South Matanzas Boulevard

The minutes of the regular Planning and Zoning Board Meeting of February 5, 2008 were approved as amended.

David Birchim, Planning Manager, stated that there had been a request to withdraw the application for variance 2008-0030.

#### **3. Exception**

**3.A. 2008-0024- Joseph Homann – Applicant Scooter Pro, LLC  
Philip Martocci – Owner  
551 Anastasia Boulevard**

**To allow a scooter rental, sales and repairs.**

Jim Wilson, Attorney, stated that the city had requested tabling the matter until the

June 3, 2008 PZB meeting due to prior legal issues with the property.

## MOTION

**Mr. Blow MOVED to table item 3.A. until the June 3, 2008 Planning and Zoning Board meeting. The motion was SECONDED by Ms. Long and APPROVED by UNANIMOUS VOICE VOTE.**

### 4. Variance

#### 4.A. 2008-0004 Roger Kimp – Applicant (Previously Tabled) Thomas and Laura Puckett – Owners 38 Abbott Street (PID# 194720 0000)<sup>1</sup>

#### **To encroach into the required side yard building setback for a residence.**

Robin Upchurch, Assistant City Attorney, suggested that exparte communications be heard following the staff report.

Mr. Birchim provided the staff report as follows:

- Application was for a variance to encroach into the required side yard building setbacks to construct a residence on top of an existing garage
- The property was in the Commercial Low two (CL-2) zoning category
- The required side yard building setbacks were 10-feet
- The garage was approximately 2-feet from the north property line and 9-feet from the south property line
- The existing garage pre-dated the adoption of the Zoning Code
- Constructing a residential unit with the same building setback as the existing garage was not possible without obtaining a variance
- Granting a variance based on the physical location of the existing

<sup>1</sup> Heard following item 4.E. 2008-0036

garage was in harmony with the intent of the Code

- Based on a review of section 28-29, staff found that the board could approve the application

Ms. Long questioned whether there were exparte communications, and the responses were as follows:

- Mr. Blow, Mr. Valdes, Ms. Freeman and Mr. Misterly drove by the site
- Ms. Long walked by the site

Laura Puckett stated that she wanted to preserve the existing structure because it contained citrus equipment from Johnson's Fruit market, and it had historical value.

Ms. Long stated that 16 written response forms had been mailed; one had been returned in favor of the project and one was opposed indicating that additional living quarters would be a poor use of space and would increase parking problems.

Ms. Long opened the public hearing; however, there was no response.

Ms. Puckett pointed out that she could demolish the existing structure and build a new structure up to 35-feet without a variance. She provided a picture of the building and explained the relation to surrounding structures.<sup>2</sup>

Mr. Valdes stated that the Code required a 4-foot minimum setback on non-conforming lots. He said that he would like to see the building elevations, because it was an architecturally historic district. He expressed concern about the applicant obtaining a demolition permit and building a 35-foot structure.

Ms. Freeman stated that accessibility was an issue. She said that she was in favor of the design, because the property was unique and the changes would improve the building and surrounding area. She added

<sup>2</sup> Attached to original minutes

that the second floor was consistent with the neighborhood.

Ms. Long stated that the structure should match the architectural designs of the neighborhood.

Mr. Leary stated that there should be more than a 2-foot setback considering the need for repairs.

Ms. Freeman stated that it was reasonable to want a second story and they could work around the setback. She added that the area had a lot with a similar setback.

#### **MOTION**

**Ms. Freeman MOVED to approve application 2008-0004. The motion was SECONDED by Mr. Misterly.**

Mr. Blow expressed concern about the setback, and he added that the board did not know what the structure would look like. He stated that he would vote against the application.

Mr. Leary suggested providing the applicant 30-days to provide information regarding what the addition would look like, address the 2-foot setback and parking concerns.

Mr. Valdes suggested building the second story to have a 4-foot setback from the property line.

Mr. Leary stated that a 4-foot setback was more favorable.

Mark Knight, Director, Planning and Building, stated that the board could grant the variance with the condition of a 4-foot setback or table the application.

Following a brief discussion it was determined that the board would table the application.

Ms. Freeman withdrew her motion.

#### **MOTION**

**Ms. Freeman MOVED to table application 2008-0004 until the May 6, 2008 PZB meeting. The motion was SECONDED by Mr. Misterly.**

Following a brief discussion the board determined that they wanted to see a site plan, photos of the style and sketch drawings.

Mr. Blow stated that he would like the variance to run with the applicant; not the land and Ms. Long agreed.

Mr. Misterly stated that if the board approved the variance it should travel with the land considering it would have already been approved.

Ms. Long replied that it depended on the intentions of the owner.

Mr. Leary reiterated that the new setback should not be less than 4-feet.

#### **VOTE ON MOTION**

**AYES: Freeman, Misterly, Leary, Blow, Valdes, Long**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

#### **4.B. 2008-0030 Lavetta L. Palmer – Owner/Applicant 247 Riberia Street<sup>3</sup>**

**To encroach into the required side yard building setbacks for a single family home.**

#### **4.C. 2008-0032 Jessica Roberts-Misterly – Applicant Grant and Jessica Misterly – Owners - 3 Alfred Street**

**To reduce the building separation requirement for a new garage.**

Mr. Misterly recused himself from the application.

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<sup>3</sup> Application was withdrawn

Mr. Birchim provided the staff report as follows:

- The application was for a variance to reduce the required building separation between a home and a detached garage
- Section 28-348 stated that if a detached garage was separated from the house by 10-feet, then it could be as close as 3-feet to a side or rear property line
- If the detached garage was closer than 10-feet from the house, it must meet the residential setbacks
- The owner requested reducing the separation between buildings to 6 feet, and maintaining a 6'9" setback from the garage to the property line in order to save three trees on the west side of the property
- The location of the trees on the west side was a physical condition of the property.
- Granting a variance in order to save trees was in harmony with the intent of the Code
- Based on review of section 28-29, staff found that the board could approve the request

Jessica Roberts Misterly requested building a garage; however, they had three trees on the property that they wanted to save. She explained that they would build the garage closer to the house to save the trees. She added that the garage would match the architectural style of the home.

Ms. Long stated that 14 written response forms had been sent out; 6 were in favor and none were opposed.

Ms. Long questioned whether there were any exparte communications and the responses were as follows:

- Mr. Blow, Mr. Leary and Mr. Valdes drove by the site
- Ms. Long visited the site
- Ms. Freeman drove by the site and spoke with Vicky Riana

Ms. Long opened the public hearing; however, there was no response.

#### **MOTION**

**Ms. Freeman MOVED to approve application 2008-0032. The motion was SECONDED by Ms. Long.**

Mr. Blow stated that he was in favor of the application, because it would save trees and beneficial to the public.

Ms. Long stated that there was vacant lot next to the property and the trees would serve as buffer for their property.

Mr. Leary stated that he was in favor of the application. He pointed out that the board had granted variances in the past when it saved trees.

#### **VOTE ON MOTION**

**AYES: Freeman, Long, Valdes, Blow,  
Leary**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

**4.D. 2008-0035 - Lifetime Enclosures, Inc. – Applicant Dean Mann – Owner 478 Arricola Avenue<sup>4</sup>**

**To encroach into the required side yard building setback for a screened enclosure.**

Mr. Leary stated that there had been requests concerning non conforming lots and the person was seeking a variance to conform to an existing setback; extending the building along the line of the existing building, and in his experience the board had always granted similar requests. He asked for board consensus to request that staff draft, for board consideration, a modification to the Code that would allow requests meeting certain criteria to be administratively reviewed. But he continued subject for appeal to the board but limited to cases where with respect to setbacks of a non-conforming lot. He questioned whether

<sup>4</sup> Heard following item 7.D.

other board members would entertain a similar request with respect to minor changes to lot coverage within a certain percentage.

Mr. Birchim provided the staff report and referred to the following:

- The application was for a variance to encroach into the side yard building setback for a screened enclosure
- The applicant wanted to reduce the 10-foot building setback on the north side to 6-feet, which was the same building setback as the existing home
- The existing home was built prior to the adoption of the zoning code and the location on the lot was a unique physical condition of the property which appeared to qualify the project for a variance
- Based on the review of section 28-29, staff found that the board could approve the request

Ms. Long questioned whether there were exparte communications, and the responses were as follows:

- Mr. Blow had driven by the site
- Mr. Valdes visited the site

Ms. Long stated that 15 written response forms had been mailed; 3 had been returned in favor of the project and none were opposed

Dean Mann referred to the following:

- Wanted to improve the house

Ms. Long opened the public hearing; however, there was no response.

## **MOTION**

**Mr. Valdes MOVED to approve variance 2008-0035. The motion was SECONDED by Mr. Leary.**

## **VOTE ON MOTION**

**AYES: Valdes, Leary, Blow, Freeman, Misterly, Long**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

### **4.E. 2008-0036 Henry and Jamie Green – Owner/Applicants** **24 St. Augustine Boulevard**

**To encroach into the required side yard building setback and to exceed the maximum lot coverage for residential additions.**

Mr. Birchim provided the staff report and referred to the following:

- The application was for a variance to encroach into the required side yard building setback and to exceed the maximum lot coverage for additions onto a single family residence
- The lot was non-conforming RS-1 and contained a single family residence that had been built in 1950
- The owner wanted to reduce the required side building setback from 7.4-feet to 5-feet, which was the same setback as the existing home and increased the maximum lot coverage from 29% to 33%
- Based on a review of section 28-29, staff found that the board could approve the variance to encroach into the required side yard building setback and exceed the maximum lot coverage

Ms. Long opened the public hearing.

Wayne George expressed concern regarding setting a precedence for 33% lot coverage.

Mr. Freeman replied that the board reviewed each application on a case by case basis.

Ms. Long closed the public hearing.

Ms. Long stated that 17 written response forms had been sent to the surrounding neighbors; two were returned in favor and one was opposed to the application.

Mr. Green stated that in the past, other lot coverage variances had been approved by the PZB.

Ms. Long questioned whether there were any exparte communications, and the responses were as follows:

- Mr. Misterly, Ms. Freeman, Ms. Long, Mr. Valdes, Mr. Leary and Mr. Blow visited the site and spoke with the applicant

Ms. Freeman reiterated that the board reviewed each application on a case by case basis and considering the property was on a non-conforming lot and would not offend adjoining properties, she would vote in favor of it.

Mr. Leary stated that the board had approved a similar application with a conforming lot within a few doors of the property. He added that it met the criteria in the Code; therefore, he was in favor of the application.

#### **MOTION**

**Ms. Freeman MOVED to approve 2008-0036. The motion was SECONDED by Mr. Leary.**

#### **VOTE ON MOTION**

**AYES: Freeman, Leary, Valdes, Blow, Misterly, Long**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

#### **5. Appeal of Planning and Building Department Action**

##### **5.A. 2008-0022 Wayne and Linda George – Applicant Richard Toomey – Owner 26 and 28 St. Augustine Boulevard**

**To construct two docks.**

Mr. Knight explained that case 2008-0022 was regarding an appeal from a previously heard case at 26 and 28 St. Augustine Boulevard requesting approval of two docks. He said that during the meeting the applicant and neighbor went to the back of the room to come up with a settlement - ~~(#A)~~. He said they had approved the exhibit, and it was made part of the order for approval of the boat docks. He said the property owner had a conversation with staff and it was confirmed that it was the same docks that were approved at the PZB and the building permit had been processed. He said that during construction the neighbor had raised a concern with the Building Department that it was not being built in conjunction with what had been permitted by the PZB. He said staff put a verbal stop work order on the property and asked the property owner and Mr. George to come to an understanding as to what had been approved by the PZB. He said staff met with them; however, they were not able to come to an agreement on what had been approved and could be built and City Attorney's Office sent a notice to the property owner that anything they did beyond that point was at their own risk, after which Mr. George filed an appeal to what had been approved and issued.

Following a brief discussion it was determined that each side would be limited to a 30 minute presentation.

Ms. Long questioned whether there were any exparte communications, and the responses were as follows:

- Mr. Blow received a call from Mr. Toomey and met with both Mr. and Mrs. Toomey; and he also spoke to the Georges by phone
- Mr. Leary had visited the site and met with Mr. Toomey
- Mr. Valdes visited the site and met Mr. and Mrs. Toomey; as well as Mrs. George
- Mr. Misterly met with the Toomey's and briefly discussed it with Mr.

Green who is the neighbor on the southside of the property

- Ms. Long met with the Toomey's and received a call from the George's; however, she was not able to respond to the call
- Ms. Freeman met with the Mr. and Mrs. Toomey

Mike Freed, Attorney, Brennan, Manna & Diamond, stated that notices sent to surrounding neighbors indicated that the George's were the owners of the docks; however, they were the appellants. He expressed concern because it would give the impression that the George's were supportive of the matter.

Ms. Upchurch questioned whether he was preserving an objection to the notice that neighbors were not advised that there was an issue concerning two docks.

Mr. Freed replied that to the extent that the board would find it important when they counted notices and the responses. He said that the notice could be misleading and they had communicated it in writing to Mr. Knight.

Ms. Freeman questioned whether he wanted to continue to another meeting so they could send out a notice indicating the George's as appellants.

Mr. Freed replied that if the board saw it as probative then yes; however, the issue was simpler and public input would not be required as much as the board's insight into whether or not the prior order had been followed. He stated that the application was to determine whether the permit issued was consistent with the board order in 2006. He referred to ~~HA~~ and stated the following:

- Original approval of the board required two foot space in-between the two docks
- In December 2006 hearings PZB indicated that the docks must be

built in accordance with the drawings in ~~HA~~

- Building permit must be obtained prior to construction
- Board must determine whether the issued permit complied with the board ruling
- The rulings of the board should not be ignored
- Read minutes of meeting<sup>5</sup>
- Board should enforce rules for all applicants
- Referred to the Corona case and stated that a permit was issued without the board's approval had never existed<sup>6</sup>
- Asked that the PZB enforce the 2006 ruling

Wayne George referred to the following:

- Referred to ~~HA~~
- Jet ski extended into the boat lift area
- Displayed pictures of the boat docks<sup>7</sup>
- The structure built had not been approved
- Permit issued without a file review

Ms. Long opened the public hearing.

Isabelle Lopez, Attorney, referred to the following:

- Referred to ~~HA~~
- They complied with order
- There was a mathematical miscalculation written by Mr. George
- Order complied with the text
- Displayed a diagram of the property
- The dock master would state that they complied with the exhibit
- The dock was built according to text and under Florida law, if you have pictures and text, the text controls the picture

<sup>5</sup> Attached to original minutes

<sup>6</sup> Attached to original minutes

<sup>7</sup> Attached to original minutes

- Displayed a copy of the approved building permit

Richard Toomey referred to the following:

- The intent of the two dock system was to have two boat lifts twelve feet wide and two working jet ski lifts
- Intent was not 46-feet nor was it in the order
- Difference in concern for the vista with a low profile and no profile lift
- No profile lift created massive decking and brought the boat to deck level and higher out of the water
- Built what they said they would build and what they were bound to build
- Displayed various diagrams of the docks and property including a view from the city<sup>8</sup>

Henry Green referred to the following:

- In favor of the dock

Lee Yelton referred to the following:

- Dock owner
- Would have built the docks down the middle of the property

Christopher Way referred to the following:

- No profile was a trademark name for his lift
- No profile and low profile could be with or without a lift

Mr. George provided additional comments and referred to the following:

- The numbers were written in after the vote
- Mr. Green's wife was the real estate agent that sold the property

Mr. Freed provided additional comments and referred to the following:

- Ms. Lopez stated that the order referred to the drawing; however, the minutes indicated no profile
- The applicant did not give in
- The board offered to table the application; however, Mr. Toomey offered to make concessions

Vicky Zigler referred to the following:

- Referred to the diagram
- There had to be pilons to accommodate the lifts in

Ms. Lopez provided additional comments and referred to the following:

- Mr. Toomey did not change the numbers on the illustration
- The 12x12 ski lift had been discussed several times before the board voted
- The numbers were written by the George's

Ms. Long closed the public hearing.

Mr. Leary stated that page 22 of the December 5, 2006 meeting minutes had indicated that prior to the vote Mr. Valdes stated that the jet ski area would be 12x12- regardless of when it was written in the diagram.

Ms. Upchurch referred to the standards as follows:

- Determine was whether or not the permit issued substantially complied with the order
- Substantial compliance was heard by Mr. Freed and Ms. Lopez
- The board looked at exhibit and Mr. Georges proposals to alternative renderings
- Had been reminded and read minutes from the meeting
- Transcript had not been provided
- The board was permitted to rely on their own memory
- Objection by Mr. Freed regarding potential notice to neighbors

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<sup>8</sup> Attached to original minutes

- Objection by Ms. Lopez regarding issue of no vs. low profile
- Did the permit substantially comply with the drawing by Mr. George
- The drawing is interpreted against Mr. George because he was the drafter

Ms. Freeman suggested that the appellant provide a transcript of the meeting to the board.

Mr. Knight replied that it had been discussed in the past; however, there was no set mandate requiring a transcript.<sup>9</sup>

Chad Merkle responded to a series of questions by the board as follows:

- Built the docks and installed the boat lifts
- Width of boardwalk was ten feet
- Total width of the profile was 60-feet
- Saw the exhibit prior to submitting the permits
- Submitted permits and completed the drawings

Mr. Misterly said that there were two different ways to interpret the drawings and based on that the responsibility would be the draftsman. He added that if he had worked with the drawing, he would have asked someone to clear up the discrepancy.

Ms. Freeman stated that although the math was wrong, the dock was built according to the picture; therefore, the board could not say that Mr. Toomey had not substantially complied. She added that she understood the George's position.

Mr. Valdes stated that Mr. George's drawings contained bad math. He stated that Mr. Toomey agreed to the drawings and the board had voted on the drawing. He said the board should have insisted on scaled drawings checked the math or suggested tabling the item; therefore, all were to blame.

Mr. Leary stated that complying with a no or low profile lift was not a point of the appeal; therefore, it should not be considered. He added that the dock was in substantial compliance and the board could not expect the Toomey's to jump 7-feet to get to their boat. He concluded that it was a misunderstanding.

Mr. Blow stated that if he lived next door to the Toomey's he would not have a problem with the dock, as it looked good; however, he did not live next door. He said that the board had to rely on the record and what would govern would be adding the dimensions of the dock. He expressed concern about setting precedence.

Mr. Leary stated that they should have come back for clarification. He reiterated that the minutes made clear that Mr. Valdes stated that the jet ski area would be 12x12.

Ms. Freeman stated that the board had given the appellant the opportunity to continue to another meeting; however, they said that the neighbors input would not be probative. She said Mr. Toomey wanted a longer dock and scaling it back 10-feet was a detriment to him; however, that was a concession he had made in consideration of moving forward.

Ms. Long said that she could not rely on just the December 2006 meeting minutes, because there had been another meeting with staff and both parties as well as experts. She said there appeared to have been a discrepancy with the numbers while they were negotiating. She said she believed that Mr. Toomey had substantially complied with the revisions. She added that the board should consider there had been another meeting to resolve the issue.

Mr. Valdes stated that he would deny the appeal because there was a lot of fault by all parties due to the lateness of the hour and wanting a response to the urgency of the matter. He agreed with the analysis that a seven foot gap was too large.

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<sup>9</sup> Brief recess 5:00 P.M. to 5:05 P.M.

## MOTION

**Mr. Valdes MOVED to deny the appeal for application 2008-0022 for all reasons stated. The motion was SECONDED by Mr. Leary.**

Mr. Misterly stated that the math could be interpreted two different ways and if there was a discrepancy, it should be the responsibility of the draftsman but he added that if there was a discrepancy it should have been brought up sooner.

## VOTE ON MOTION

**AYES: Valdes, Leary, Blow, Freeman,  
Misterly, Long**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

## 6. Items Remanded to the Board from the City Commission

**6.A. 2007-0266 Doran D. Yelton – Applicant Yelton Construction Company Leslie J. Weinstein – Owner 36 May Street**

### **To reconsider the construction of a Multi-family dock with three boat lifts.**

Jim Wilson, Attorney representing the applicant referred to the following:

- Moved the dock 25 feet north and closer to the bridge to clear the channel for canoe and kayak access
- Displayed diagram of the area<sup>10</sup>
- Put against right-of-way line
- The change addressed the concerns of the board
- Dimensions of the dock remained 575-feet

Following a discussion regarding the dimensions of the dock it was determined that it was 375-feet.

Ms. Long opened the public hearing.

Debbie Sauls referred to the following:

<sup>10</sup> Attached to original minutes

- Her property adjoined the subject property
- Right of water front property owner to have dock
- Property for sale; therefore, questioned approving dock when no current prospect in place
- Question about ownership

Mr. Blow replied that a PUD was detailed to what could be done with the property; therefore, that should address her concerns.

Jessica Roberts Misterly referred to the following:

- Would not want to put a dock there considering that there were no existing docks in the area
- Too close to the bridge and would be would seen from the bridge

Ms. Long questioned whether there were any exparte communications, and the responses were as follows:

- All had driven by the site except for Ms. Freeman
- Mr. Leary added that he was in the Planning and Building Department when Mr. Wilson was discussing the modifications with staff
- Mr. Valdes stated that he had discussed with the matter with Mr. Wilson

Ms. Long stated that 19 written response forms were sent out; 2 had been returned in favor of the project, 5 were opposed and 5 had comments.

Mr. Valdes expressed concern that the dock head was massive.

Ms. Freeman stated that the dock took up a lot of space and access to the water with little benefit to the owner.

Following a discussion regarding further modifications to the lifts, Mr. Wilson stated that the owner did want to delay it any further.

Mr. Blow suggested that a surveyor check the area when working in tight quarters where there was a discrepancy.

Mr. Wilson replied that a surveyor would check the land for the Department Of Transportation permitting. He said that he was waiting for the permit to build close to the right-of-way. He pointed out that they had DOT approval; however, they had to get further approval since they shifted the dock at the city's request.

Twig Yelton referred to the following:

- Had been working with the DOT for three months
- Displayed aerial photographs
- If less than 25-feet away from riparian rights you must have a concurrency from the adjacent property owner, which was the DOT

Ms. Long closed the public hearing.

Mr. Misterly questioned whether they could minimize the foot print of the T-head.

Mr. Wilson said it was standard and they needed access to both sides of the boat for service purposes.

Mr. Yelton replied that the state rule mandated that there must be a minimum of 4-feet at low tide and 8-feet at high tide.

Mr. Misterly suggested making the terminal platform 8-feet wide.

Following a discussion, Ms. Long stated that the board was not happy with the design and had made other suggestions. She said he could ask to table the application and take the suggestions back to his client.

Mr. Wilson stated that he would rather the board vote on the application because the owners did not want to delay it any further. He said the board referred to requirements that had not been mentioned previously. He added that the requirements of board and the city had been met and there was no

testimony on record indicating that the application should not be granted.

Mr. Misterly referred to the motion from the prior meeting and pointed out that the comments from the meeting were along the same lines.

Mr. Valdes continued that he was concerned about the size of the dock head, as well as some of the concerns expressed during the last meeting.

Mr. Leary stated that he was glad that the applicant had moved the dock to allow additional space for kayakers.

Ms. Upchurch pointed out that Mr. Wilson said that he had authority to get the dockhead approved without the lift.

Mr. Leary stated that he was more comfortable approving if changes had been made addressing some of the boards' concerns regarding size, height, width and length of the finger pier area.

Mr. Wilson stated that they could approve the dock with conditions, and the owner could determine whether they wanted to comply.

## MOTION

**Mr. Misterly MOVED to approve 2007-0266 with condition that the floating dock on the T-head and the terminal platform be reduced to 10-feet instead of 12 feet and include drive on floating dry dock and length of access walkway be reduced to accommodate the ramp to meet the floating dock to overall width of 366 by 5 feet with platform of 48 by 10 with 4 finger docks that were 24-feet by 3-feet. The motion was SECONDED by Mr. Blow.**

**VOTE ON MOTION**

**AYES:** Misterly, Blow, Freeman,  
Valdes, Long

**NAYES:** Leary

**MOTION CARRIED 5/1**

**7. Conservation Zone Development**

**7.A. 2008-0002 - Doran D. Yelton – Applicant (Previously Tabled) Yelton Construction Company Barbara J. Pape Living Trust, etal 9 Inlet Place**

**To construct a dock.**

Mr. Birchim provided the staff report and referred to the following:

- Application was for a 200-foot length dock
- Docks must be approved by the Planning and Zoning Board, as well as federal and state agencies
- The criteria for reviewing dock applications was found in section 11-29
- Staff found that the board could approve the application with the condition that all required permits were obtained prior to construction
- By approval of the application, the city did not make representation, approval or claim of riparian rights to any party

There were no exparte communications to report.

Ms. Long opened the public hearing; however, there was no response.

Ms. Long stated that 15 written response forms had been mailed; 5 had been returned in favor of the project and one had comments.

**MOTION**

**Mr. Misterly MOVED to approve 2008-0002. The motion was SECONDED by Mr. Blow.**

**VOTE ON MOTION**

**AYES:** Misterly, Blow, Freeman, Leary,  
Valdes, Long

**NAYES:** None

**MOTION APPROVED UNANIMOUSLY**

**7.B. 2008-0021 Christopher Way – Applicant Jack Zeigler – Owner Bonita Bay Subdivision 1-11 Bonita Bay Drive**

**To install no profile boat lifts at a private community dock.**

Mr. Birchim provided his staff report and referred to the following:

- Application was for the installation of boat lifts at a community dock.
- The staff report referenced 8 boat slips, which was an error, there were 9 boat slips at the community dock
- The board had denied an application for boat lifts at the location in 2003; however, it had been appealed to the Commission
- The Commission had overturned the board's decision and approved low profile boat lifts at the dock
- The Bonita Bay Homeowner's association and the applicant wanted to modify by installing "no profile" lifts
- In the "no profile" design, no pilons projected above the deck
- The particular boat lift design had been approved at other locations in the city
- By approval of the application, the city would not make representation, approval or claim of riparian rights to any party

Ms. Long questioned whether there were any exparte communications, and the responses were as follows:

- Mr. Blow visited the site, received an email and spoke with a neighbor that lived in the condos
- Mr. Valdes had a brief conversation with Mr. Way

Ms. Long stated that 90 written response forms had been mailed; 25 had been returned opposed to the project and 17 had comments.

Christopher Way answered a series of questions from the board referring to the following:

- Moving portion of platform on the lift would be 12 by 32
- Not a lot of outdrive sticking out beyond the level of the platform
- The platform at the stern had a cutout allowing the outboards to move into the footprint of the platform
- The lifts would not block the channel

Mr. Leary asked for clarification regarding the PZB denial in 2003 and Mr. Birchim replied as follows:

- Boatlift at the site had been denied due to comments made by the adjacent condominium owners
- It had been appealed to the Commission and they overturned the denial of the boatlift and approved the low profile design
- The applicant from Bonita Bay Subdivision had satisfied the Commission that there would not be large boatlifts
- No profile had not been available at the time

Following a brief discussion, Ms. Freeman clarified that the dock had been built; however, the applicant wanted a different lift.

Ms. Long opened the public hearing; however, there was no response.

Following a discussion regarding no profile versus low profile lifts, Mr. Way explained that with a no profile lift you only saw the boat; therefore, improving the vista. He added that the lift was invisible.

## **MOTION**

**Mr. Leary MOVED to approve conservation zone element 2008-0021. The motion was SECONDED by Ms. Long.**

### **VOTE ON MOTION**

**AYES: Leary, Long, Valdes, Blow, Freeman, Misterly**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

### **7.C. 2008-0025 Charles Hotchkin – Owner/Applicant 32 Lewis Boulevard**

**To construct a bulkhead and garage in conservation overlay zone two.**

Mr. Birchim reported as follows:

- The owner had recently come to the board with an application to build a single family home on the property, and the board approved the application
- The owner was requesting Conservation Overlay Zone development to build a bulkhead around the isolated wetland and to construct a garage behind his home
- Conservation Overlay Zone development was analyzed based on the criteria found in section 11-29

Ms. Long asked for exparte communications and the responses were as follows:

- Mr. Misterly and Mr. Blow had driven by the site

Charlie Hotchkin referred to the following:

- Across the street from the property
- No objection from the DEP
- Provided a diagram of the property
- Bulkhead the pond to save the trees
- Would improve the area
- Garage would be located behind the house

Ms. Long opened the public hearing; however, there was no response.

Mr. Leary expressed concern that he was turning a tidal wetland into a pool. He said he could not justify bulkheading the entire thing.

**MOTION**

**Mr. Blow MOVED to approve the installation of the bulkhead with the condition that the top of the bulkhead would be even with the mean high water line. The motion FAILED for lack of second.**

Mr. Hotchkin provided a history of the bulkhead.

**MOTION**

**Mr. Blow MOVED to approve the application for the bulkheading of the pond under the condition that the top elevation of the bulkhead would match the elevation of the weir that controlled the elevation of the water and the entire lake area. The motion was SECONDED by Mr. Valdes.**

**VOTE ON MOTION**

**AYES: Blow, Valdes, Freeman, Leary, Misterly, Long**

**NAYES: None**

**MOTION APPROVED UNANIMOUSLY**

**7.D. 2008-0034 John Luhrs – Owner/Applicant W. J. Development Corporation (St. Augustine Marine) 404 Riberia Street**

**To construct a new bulkhead and two finger piers for a marine travel lift.**

Mr. Misterly recused himself from the issue because his company worked for the applicant's company.

Mr. Birchim provided the staff presentation and referred to the following:

- St. Augustine Marine applied for conservation overlay zone 1 and 2 development as part of an overall

redevelopment plan for the marine industrial site

- The application concerned a removal of a failed portion of bulkhead and the construction of a new bulkhead with new rail spurs and a travel lift as well as a boat cleaning station
- Conservation Overlay Zone development was analyzed based on the criteria found in section 11-29
- By approval of the application, the city did not make representation, approval or claim of riparian rights to any party

Ms. Long questioned whether there were any exparte communications, and the responses were as follows:

- Mr. Leary had visited the site
- Mr. Valdes stated that a few months ago he had visited with a representative of the St. Augustine Marina and discussed the project
- Ms. Long had walked past and was familiar with site
- Mr. Blow visited the site and had met with the Environmental Consultant six months ago and discussed the overall development of the facility

Jerry Sisks stated that he was the Environmental Consultant for the project and he added that the bulkhead had been damaged due to heavy rain.

Mr. Blow stated that they were creating more water surface, which was positive.

**MOTION**

**Mr. Leary MOVED to approve conservation zone development 2008-0034. The motion was SECONDED by Mr. Valdes.**

Ms. Long opened the public hearing; however, there was no response.

**VOTE ON MOTION**

**AYES:** Leary, Valdes, Blow, Freeman,  
Long

**NAYES:** None

**MOTION APPROVED UNANIMOUSLY**

**8. Preliminary Subdivision Plat Approval**  
**8.A. 2008-0033 Mike Piesco – Applicant**  
**Ancient City Surveying Emergency**  
**Services and Homeless Coalition of St.**  
**Johns County – Owner Smith Street and**  
**Nesbit Avenue PID # 104375 0130,**  
**104280 0000, 104340 0000, 104375 0140,**  
**104290 0000**

**To replat a parcel for four single family residential lots.**

Mr. Birchim provided the staff report and referred to the following:

- The application concerned the subdivision of the land into four additional single family residential lots in the RS-2 zoning district
- The preliminary plat had been reviewed by all applicable city departments and found to be acceptable
- The proposed lots were conforming by width and area
- The PZB must review and accept the preliminary subdivision plat as correct prior to the final plat being approved by the Commission and then recorded with St. Johns County
- Based on the review, staff found that the board could approve the preliminary plat for the subdivision

Ms. Long questioned whether there were any exparte communications, and the responses were as follows:

- Mr. Blow had driven by the site
- Mr. Valdes had a brief discussion Mr. Ruggeri

John Ruggeri stated that the applications had been modified to four single family homes.

Ms. Long stated that 23 written response forms had been mailed; four had been returned in favor of the project and none were opposed.

Ms. Long opened the public hearing; however, there was no response.

**MOTION**

**Ms. Long MOVED to approve application 2008-0033 to replat a parcel for four single family residential lots. The motion was SECONDED by Mr. Blow.**

**VOTE ON MOTION**

**AYES:** Long, Blow, Valdes Freeman,  
Leary, Misterly

**NAYES:** None

**MOTION APPROVED UNANIMOUSLY**

**9. Other Business**

Mr. Knight stated that staff would schedule a second meeting on the 3rd Wednesday of every month at 2:00 P.M. and move items to that meeting to avoid a long monthly meeting.

**9.A. Evaluation and Appraisal Report (EAR) List of Major Issues Review**

Mr. Knight stated that the regional planning council representative left due to the length of the meeting; however, she would come back and incorporate Mr. Leary's statements at the April 16, 2008 meeting, following the Fish Island discussion.

Mr. Leary provided a summary of the Evaluation and Appraisal Report and referred to the following:

- Suggested that the PZB request that the regional planning staff make changes to their documents for major issues
- PZB and regional counciling each had a public hearing
- Had not heard a broad cross section of people in town

- Wanted the opinion of community leaders of the Comp Plan and major issues
- Talked with community leaders
- Summarized from what he learned from the meeting<sup>11</sup>
- There was nothing in Comp Plan about economic development, tourism, quality of life or annexation

## 10. Appeals

(None)

### Non-Agenda Item

Ms. Upchurch referred to a request by Mr. Leary that staff modify the Code to allow requests meeting certain criteria be administratively reviewed, subject for appeal to the board but limited to certain types of cases.

Following a brief discussion it was determined that Ms. Upchurch would research the matter and compile information for board review.

Mr. Leary stated that when there was an appeal of a PZB decision, he would like the Chairperson or designee of the PZB attend the Commission meeting to ensure that the discussion had been accurately represented.

Following a discussion there was board consensus that legally a transcript provided by the applicant would be mandatory when appealing a decision from the PZB to the Commission.

Mr. Leary suggested that the Commission waive the transcription requirement if someone could not afford it.

Following a discussion Mr. Knight stated that staff would draft language and provide it for board review.

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<sup>11</sup> Attached to original minutes

## 11. Conflict of Interest Statements

(None)

## 12. Adjournment

There being no further business, the meeting was adjourned at 9:20 p.m.<sup>12</sup>

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Deltra Long, Chairperson

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<sup>12</sup> Transcribed by Susan Goins